REPORT OF THE NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

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REPORT OF THE NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

THURSDAY, JULY 24, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:55 a.m., in room 1100, Longworth House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
July 15, 1997
No. OV–6

CONTACT: (202) 225–7601

Johnson Announces Hearing on the Report of the National Commission on Restructuring the Internal Revenue Service

Congresswoman Nancy L. Johnson (R–CT), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee will hold the first of a series of hearing to examine the June 25, 1997 report of the National Commission on Restructuring the Internal Revenue Service (IRS) entitled, "A New Vision for the IRS." The hearing will take place on Thursday, July 24, 1997, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include members of the Commission and officials from the U.S. Department of the Treasury. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The National Commission on Restructuring the Internal Revenue Service was established by Public Law 104–52. Its purpose was to review the present practices of the IRS and to make recommendations for modernizing and improving its efficiency and taxpayer services. The 17-member panel was comprised of Members of Congress, Administration officials, representatives from various private sector firms, taxpayer organizations, and the National Treasury Employees Union, a former IRS Commissioner, and a State tax administrator. The Commission was co-chaired by Senator Robert Kerry (D–NE) and Representative Rob Portman (R–OH). Senator Charles Grassley (R–IA) and Representative William Coyne (D–PA), the Ranking Democrat on the Subcommittee on Oversight, also served on the Commission.

Over the past year, the Commission held 12 days of public hearings, 3 field hearings, and numerous private sessions with public and private sector experts, academics and citizen's groups to examine IRS operations and services. It also reviewed thousands of reports on IRS operations, management, governance, and oversight. The Commission's report, which was endorsed by 12 of its 17 members, contains recommendations relating to Congressional oversight and Executive Branch governance; IRS management and budget; IRS workforce and culture; IRS customer service and compliance; technology modernization; electronic filing; tax law simplification; taxpayer rights; and financial accountability.

Its most notable recommendation is that responsibility for Executive Branch governance of the IRS should be placed with a new Board of Directors appointed by the President for staggered five-year terms, and comprised of one representative each from the Treasury Department and from the National Treasury Employees Union, and five private sector individuals with expertise in managing a large service organization. The Board's role would be to guide long-term strategic planning at the

IRS, appoint and remove senior IRS leadership (including the Commissioner), approve the development of IRS's budget and allocation of the agency's resources, and hold IRS management accountable for success. The Commission also recommends that the IRS Commissioner should be appointed for a five-year term and should be given greater flexibility in hiring, firing, and salary decisions.

The Administration has formulated its own plan, entitled the "Five-Point Plan for IRS governance," which includes the establishment of an IRS Management Board (comprised of 20 high-level Federal officials) to improve management and operation of the IRS, and an IRS Advisory Board (comprised of 14 private-sector professionals) to provide advice to the Treasury Secretary, and a National Performance Review to address customer service problems at the IRS.

In announcing the hearing, Chairman Johnson stated: "On a daily basis, the IRS touches the lives of millions of hard-working Americans who provide the very lifeblood of the Federal Government through the taxes they pay. In return, the nation's taxpayers deserve high-quality service and fair treatment. Regrettably, the near-universal view is that the quality of IRS's interaction with the taxpayers has deteriorated over the past two decades. The IRS Restructuring Commission has performed a valuable service to nation by identifying the complex problems facing the IRS and offering constructive recommendations for changing it into an agency which provides world class service and citizen satisfaction."

FOCUS OF THE HEARING:

The purpose of hearing will be to provide Subcommittee Members with a general overview of the Commission's findings and recommendations, as well as the Administration's position on the Commission's recommendations and its five-point plan for improving the IRS. Additional Subcommittee hearings will be scheduled later in the year to examine specific proposals in the Commission Report within the jurisdiction of the Committee on Ways and Means.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text format only, with their name, address, and hearing date noted on a label, by the close of business, Thursday, August 7, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Oversight office, room 1136 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS Text format.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments

by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "HTTP://WWW.HOUSE.GOV/WAYS__MEANS/".

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman JOHNSON. Good morning, and welcome to this important hearing on the report of the National Commission on Restructuring the Internal Revenue Service. Today's hearing is the first of several hearings by the Subcommittee, and we are honored to have with us this morning Hon. Senator Kerrey and Senator Grassley to speak on this report.

I'm going to delay my opening statement—until after the Senators have had a chance to testify, because they do have votes coming up in the Senate.

With that, Senator Kerrey, who was the Senate Chair of this Commission, it's a pleasure to have you with us today. I know that my colleague, Mr. Coyne, would like to welcome you as well.

STATEMENT OF HON. BOB KERREY, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator KERREY. Thank you very much, Madam Chair and Representative Coyne. I appreciate very much the chance to present our testimony and to give you our views on what we believe needs to occur with the law in order to bring the Internal Revenue Service to the standards of the American people.

We started the National Commission on Restructuring the Internal Revenue Service well over a year ago, and next week we will introduce legislation drafted to conform with the report of this Commission. The goal of the legislation is to make the IRS work for the American people.

Let me begin by explaining why I think this legislation is so important. First, there are twice as many people who pay taxes as vote. Citizens' faith that their government can be fair and efficient is dependent on a well-functioning IRS.

Second, the days of the old-fashioned tax collector are over. The core of the Commission's report and the legislation is based on a vision for a new IRS. We believe, Madam Chair, in today's world, the job of the IRS is to operate as an efficient financial management organization.

It is simply a myth that the bulk of the Federal revenue is generated through heavy enforcement. While the IRS must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern organization that can assist taxpayers promptly and efficiently, track account information, and send out clear notices. There is a breathtaking gap between the service levels of the IRS and those of the private sector.

Madam Chair, I would ask consent to include my entire remarks in the record. I'm going to try to summarize them in order that Senator Grassley can get his testimony in before we have to go over and vote.

Chairman JOHNSON. Certainly, Senator Kerrey.

Senator KERREY. Madam Chair, our Commission met, as I said, for well over a year, taking testimony from the private sector, taking testimony from IRS employees, both current and former, taking testimony, most importantly, in the field from citizens who deal with the IRS constantly.

With very rare exception did we hear a witness come forward and bash the Internal Revenue Service. On a very rare occasion did we hear somebody come forward in a disrespectful fashion. This testimony was offered with great respect for the burdens placed upon Internal Revenue Service employees, but with an intense interest in trying, as I said earlier, to close the gap between what they find themselves being able to get, in terms of service in the private sector, and what the Internal Revenue Service is able to do.

Madam Chair, we focused on six main areas in our deliberations and in our legislation. The first is executive branch governance and management; second, work force and civil service flexibilities; third, incentives for electronic filing; fourth is taxpayer rights; fifth, coordination of congressional oversight; and sixth, complexity of the Tax Code itself.

Senator Grassley and my fellow Commission members will each address different areas. My intent today is to focus on the governance, management, and congressional oversight.

Madam Chair, there is one operative paragraph in here, in my testimony, that describes the status quo. We heard it repeatedly from all sources, from current and former employees, stakeholders, both the taxpayer as well as the practitioners. We heard consistently, over and over and over, the following problem identified:

A key problem identified by the Commission was a lack of a coherent accountable structure to implement a long-term vision and goals. We found that we in Congress often send conflicting signals to the agency. We found that Treasury has basically left the IRS to its own devices, leaving a vacuum in the executive branch oversight of the agency. We found executives unable to maintain focus and gain traction with Congress on IRS strategy.

In short, at the top levels of the IRS and Treasury, there are murky lines of accountability, a lack of necessary expertise to operate in the new information age, and no people of authority with significant tenure to get the job done.

We recommend in our legislation, in terms of governance, to create first a Board of Governors, appointed by the President, with staggered 5-year terms. Second, the Commissioner will be appointed for a 5-year term, so he or she will be around long enough to accomplish real change. Third, the Commissioner will be given greater flexibility to hire or fire his or her own team of executives. Fourth, congressional oversight will be coordinated among the authorizing Subcommittees.

Madam Chair, there's a competing proposal, which you will hear later today from the Treasury Secretary and the Deputy Secretary, who disagree with our plan. They have developed an alternative proposal that creates two advisory boards which attempt to strengthen Treasury's governance of the IRS. The first has 20 political appointees, the second has 14, advisors with no real responsibilities.

The Commission considered this proposal seriously but in the end rejected it. We rejected it because Treasury's plan further blurs accountability instead of answering the urgent need for clear lines of accountability. It does nothing to alleviate the continuity problem with political appointees, who traditionally serve for a short period of time. Third, it endangers politicizing the IRS. What the IRS needs is accountability without politicization.

The Treasury's proposal to create an oversight board of officials from Office of Management and Budget, OMB, Office of Personnel Management, OPM, and the Vice President's office could undermine the credibility of the IRS as an apolitical organization.

We continue to work, by the way, with Secretary Rubin and with Deputy Secretary Summers, trying to reach a compromise. But I must, with respect to the diligence of these two individuals, point out some things that have been said, with all due respect, that are simply inaccurate.

They have said that private people should not control law enforcement, and that our Nation's revenue stream will be at risk under our proposal. Madam Chair, those accusations are simply not true. First, we propose that the Board of Governors be presidentially appointed, Senate confirmed, and removable at the will of the President. While members serve on the board, they will be government employees serving in a government function, much like the Postal Board of Governors, who have vast control over the Postal Service. Additionally, the board will not have any role in tax policy. The IRS Commission's proposal would draw clear lines of accountability between tax policy and tax administration.

In addition, Madam Chair, the Secretary of the Treasury will be a member of the new board, subjecting it to scrutiny, were there to be any appearance of impropriety.

Again, we continue to try to work with Treasury, hoping to reach some accommodation, but we believe our legislation, if enacted, will over time narrow the gap between what people get from the private sector and what they get from our Internal Revenue Service.

I thank you very much, Madam Chair, and Members of the Subcommittee. I see that my Cochair is here now, and I will now yield to the senior Senator from Iowa.

[The prepared statement follows:]

Statement of Hon. Bob Kerrey, U.S. Senator from the State of Nebraska

Madame Chairwoman and members of the Committee, it is a distinct honor to share with you the findings and recommendations of the National Commission on Restructuring the Internal Revenue Service. Next week we will introduce legislation drafted to conform with the report. The goal is to make the IRS work for the American taxpayer.

Let me begin by explaining why I think this legislation is so important. First, there are twice as many people who pay taxes as vote. Citizens' faith that their government can be fair and efficient is dependent on a well functioning IRS. Second, the days of the old-fashioned tax collector are over-the core of the Commission's report and legislation is based on a vision for a new IRS. We believe, in today's world, the job of the IRS is to operate as an efficient financial management organization. It is a myth that the bulk of the federal revenue is generated through heavy enforcement. While the IRS must maintain a strong enforcement presence, its core and the core of the federal revenue stream lie in a revamped, modern organization that can assist taxpayers promptly and efficiently, track account information, and send out clear notices. There is a breathtaking gap between the service levels of the IRS and those of the private sector.

The IRS has a 20 percent error rate for processing paper returns and expends an incredible amount of resources and focus to correct these errors. It captures only 40 percent of the data from returns and is still drowning in a sea of paper It is typically 18 months before a return can be matched against 1099s. A private sector business that took on average 18 months to send someone a bill, certainly wouldn't stay in business very long.

The Commission's report and accompanying legislation offer both a realistic goal for those who will take charge of the agency and a credible plan for reaching that goal.

We spent the last year studying the problems and solutions for the IRS. Clearly, our access to the IRS's operations and employees was unprecedented. We spent 12 days in public hearings, interviewed 300 IRS employees in field offices, and interviewed over 500 current and former officials from the IRS, the Treasury Department, congressional committees that oversee the IRS, and other IRS experts. We also commissioned consulting reports and internal reviews of IRS management, governance, workforce, compliance, and customer service. Finally, we heard directly from citizens through town meetings and surveys. The job of the Commission was to provide a reasoned, thoughtful look at how to make the IRS serve the American people.

Our legislation focuses on six main areas:

- Executive branch governance and management
- Workforce and civil service flexibilities
- Incentives for electronic filing, which holds great potential for cost savings
- Taxpayer protection and rights provisions
- Coordinating congressional oversight of the IRS
- Implementing procedures that require analysis of the complexity of new tax legislation

Senator Grassley and my fellow Commission members will each address important areas. I will focus on Governance, Management, and Congressional Oversight.

COMMISSION RECOMMENDATIONS

A key problem identified by the Commission was a lack of a coherent, accountable structure to implement a long term vision and goals. We found that we in Congress often send conflicting signals to the agency. We found that Treasury has basically left the IRS to its own devices, leaving a vacuum in the Executive Branch oversight of the agency. We found executives unable to maintain focus and gain traction with Congress on IRS strategy.

In short, at the top levels of the IRS and at Treasury there are murky lines of accountability, a lack of necessary expertise to operate in the new information age, and no people of authority with significant tenure to get the job done. The officials at the Treasury Department have expertise in tax law, but do not have the expertise in areas of customer service, technology, and management to oversee the IRS. Worse, they are not around long enough to ensure focus on multi-year projects like the Tax System Modernization (TSM) or changing the culture of the agency to be more responsive to taxpayers.

Additionally, Treasury does not coordinate its own oversight: The Commissioner of the IRS must deal with various assistant secretaries on budget, operations, computers, and others. At the end of the day, the IRS Commissioner really reports to the Deputy Secretary who also manages eleven other agencies-not to mention the economy. The recently retired Commissioner of the IRS, Margaret Richardson, told us that she reported to three different Deputy Secretarys during her four-year tenure as IRS Commissioner. Aware of these glaring problems, the Restructuring Commission began developing ideas for a new governance structure. Our criteria for success were: (1) clear accountability, (2) expertise in running a modern customer-oriented organization, and (3) continuity.

To provide for accountability, expertise and continuity the legislation we will introduce will include:

First, a board of governors, appointed by the President for staggered five year terms. The board will: approve the mission, objectives, and annual strategic plans of the IRS; oversee the IRS management; have significant tenure to force change throughout the organization; and have unique public and private sector expertise in managing large service organizations.

Second, the Commissioner will be appointed for a five-year term, so he or she will be around long enough to achieve real change.

Third, the Commissioner will be given greater flexibility to hire or fire his own team of executives, who will bring new expertise into the IRS. While the Board will keep an eye on long-range strategic issues, the Commissioner will run the organization and be given greater authority to do so.

Fourth, congressional oversight will be coordinated among the authorizing committees, the appropriating committees, and the government oversight committees. Our legislation codifies coordinated oversight, stating that committee leaders, majority and minority, meet regularly to ensure that the IRS receives clear guidance from Congress, and that Congress is given the proper information to oversee the IRS.

Competing Proposal

As you may know, the Secretary of the Treasury Bob Rubin and Deputy Secretary Larry Summers disagree with our plan for a board of governors to oversee the IRS. They have developed an alternate proposal, that would create two advisory boards which attempt to strengthen Treasury's governance of the IRS. The first would consist of 20 political appointees from the Administration and the second would be composed of 14 advisors with no real responsibility. While we seriously considered their proposal, in the end the Commission rejected their approach.

Our opinions are, first, that Treasury's plan further blurs accountability when there is an urgent need for clearer lines of accountability. Second, it does nothing to alleviate the continuity problem-political appointees, who traditionally serve for a short time, will continue to oversee IRS operations. Third, it endangers politicizing the IRS. What the IRS needs is accountability without politicization. The Treasury's proposal to create an oversight board of officials from OMB, OPM, and the Vice Presidents Office could undermine the credibility of the IRS as an apolitical institution. The White House has always, in our judgment wisely, tried to keep an arms length distance from the IRS. Finally, it does not guarantee that the people with proper expertise in computers, technology, and service will oversee IRS operations.

Secretary Rubin and Deputy Secretary Summers have been diligent, but with all due respect, inaccurate in their attacks of our proposal. They have said that private people should not control law enforcement, and that our nation's revenue stream will be at risk under our proposal. Those accusations are simply not true. First, we propose that the Board of Governors be Presidentially appointed, Senate confirmed, and removable at the will of the President. While members serve on the Board, they will be government employees serving in a government function, much like the Postal Board of Governors who have vast control over the postal service, including the postal inspectors-their enforcement arm. Additionally, this board will not have any role in tax policy, which will stay with the Secretary of the Treasury.

The Restructuring Commission's proposal will draw clear lines of accountability between tax policy and tax administration. Also, the Secretary of the Treasury will be a member of this new board, subjecting it to scrutiny were there to be any appearance of impropriety. Lastly, the Secretary of the Treasury would continue to have final say over the IRS budget before it is sent to Congress. Under our proposal, the board would send Congress a copy of their budget at the same time they send it to the Secretary, allowing Congress to make the decision of how much money to appropriate.

Congressman Portman and I sent Mr. Rubin a letter two weeks ago addressing his concerns, which is available for the record. We did move significantly to accommodate concerns raised by Treasury. In fact, many of us thought that the IRS should be an independent agency. The only reason we did not go that far was to display to the Treasury Department our willingness to work with them to fix the IRS—an objective we still hold.

CONCLUSION

Madame Chairwoman and Members of the Committee, Congress, the Administration and the American people know that the status quo is no longer tolerable and that the IRS needs fixing. $3.4 billion was wasted on a failed modernization project. Its operations are antiquated and outdated, and taxpayers (close to 90% of whom voluntarily pay their taxes) are generally, and unfairly, treated as if they are guilty of something when they contact the IRS.

The IRS's problems are rooted in the lack of strategic vision and focus, measures that do not encourage employees to treat taxpayers well, operational units that do not communicate with each other, and a systemic lack of expertise and continuity in management and governance. The Commission worked in a bipartisan, bicameral manner to come up with a reasoned, comprehensive approach to fixing these problems. We hope you will work with us over the coming months to strengthen our legislation and implement it into law so that the American people have the IRS they expect and deserve.

Our work to restructure the IRS will go a long way toward restoring taxpayers' faith not only in our tax system, but in our government, as well.

Chairman JOHNSON. Thank you, Senator Kerrey.

Senator Grassley.

STATEMENT OF HON. CHARLES GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Thank you, Madam Chairwoman. Thank you first of all for your leadership. You have demonstrated through this Subcommittee on a taxpayers' bill of rights in the past, because that is also a part of the work—the extension of that is part of the recommendations of our Commission.

Also let me up front say that the product of this Commission would not be as perfect of a document as it is without the hard work and leadership of Congressman Portman and Senator Kerrey, not only because of their ability but because they gave this job over the last 12 months the necessary attention that it needed to get to the bottom of this. So let's all say thank you to their leadership.

Congress is on the verge of a major shift in power from the Federal Government to the people. The recommendations of the Commission are a blueprint for that transfer of power.

Understandably, there is much anxiety within the Federal bureaucracy at this moment. It is in anticipation of this loss of power. The anxiety is at the highest levels of the executive branch.

The American taxpayers have waited a long time for this. They have suffered through decades of encounters with an agency that has been unaccountable, unresponsive, misleading, arrogant, and abusive. The IRS has been granted enormous powers that at times seemed to disrespect, even undermine, civil liberties. The responsibility to our citizens that goes along with such governmental power was not exercised.

Furthermore, IRS management seemed to have taken a vacation. Billions of dollars have been wasted. Performance failures were not met with discipline. Questionable activity was covered up by secrecy, by abusing the authority of section 6103. Congressional oversight of the IRS has been rendered all but impotent because of absurd 6103 restrictions. These 6103 restrictions make the Pentagon's highly secret and highly restrictive Joint Chiefs of Staff "vault" seem like a Freedom of Information office, I might say.

I appear before this Subcommittee asking you, Madam Chairwoman, and the constitutional responsibilities of the Ways and Means Committee, to seize the moment. IRS reform is overdue and vital.

Congress has never had a chance at reform as we have today, thanks to the effective leadership that I have already alluded to.

To restore accountability to the taxpayer, the Commission has made several recommendations. The one attracting the greatest attention has been the Commission's proposal for an independent board to oversee the Service. The Commission's belief is that an independent board will provide an infusion of talent from the private sector to set appropriate performance measures and reward or discipline managers who either meet or fail to meet these performance measures.

In private meetings, the administration appears to be divided on the proposal of a board. But it is unfortunate that some who oppose this proposal are doing so only because it signifies a monumental power struggle that they stand to lose. Treasury officials, who 2 years ago couldn't find the IRS if they were standing at the corner of 11th and Constitution, are suddenly in fits about losing some control over part of their budget and bureaucracy.

They must be reminded that the IRS is one of the few governmental agencies that has a significant impact on almost every American. The American taxpayer deserves a modern IRS that provides taxpayers customer service on a level equal to that provided by private financial institutions throughout the country.

We have seen a lot of promises of reform coming from the Treasury of late, but wholly in response to the work of this Commission. Treasury assures us that the IRS reform is their top priority and their best people are on top of it. But if Congress turns its back now on reforming the IRS and listens to the "siren song" of Treasury, I predict that 1 year from now Congress will face the justified wrath of angry American taxpayers.

Treasury officials who are locked in this power struggle, trying to preserve their bureaucratic empire, would do well to remember the quote of the first Secretary of the Treasury, Alexander Hamilton, who said, "Here, sir, the people govern." That is the essence of what this Commission would do: Return power from the Federal Government to the people of this country.

I am also pleased that the Commission did not call for easy solutions, simply that more money is what is needed to perfect the IRS. One Treasury official privately admitted recently that the IRS never would be serious about embracing reform as long as Congress kept throwing more money at the agency.

The Commission made several findings and recommendations about protecting taxpayers and strengthening taxpayer rights. I know that you, because of your leadership, will be working on that. I would note that in the past the Congress has focused its energies on giving rights to taxpayers who are in dispute with the IRS. The Commission builds on these taxpayer bills of rights.

I'm going to have to stop because we have only 6 minutes remaining in this vote, and I would ask permission to put the remainder of my statement in the record. But it parallels what Senator Kerrey has already said, that it's a matter of emphasis for all these parts and the work of the Commission.

Thank you very much.

[The prepared statement follows:]

Statement of Hon. Charles Grassley, U.S. Senator from the State of Iowa

Madam Chairwoman, members of the Subcommittee, thank you for the invitation to share my views with you. As a member of the National Commission on Restructuring the IRS, as the former Chairman of the IRS Oversight Subcommittee on the Finance Committee, as a current senior member of that subcommittee, as the chief Senate Republican sponsor of the Taxpayers Bill of Rights and Taxpayers Bill of Rights II, and as a taxpayer myself, I have been involved for many years in an effort to finally reach this point.

Congress is on the verge of a major shift in power from the federal government to the people. The recommendations of the Commission are a blueprint for the transfer of power.

Understandably, there is much anxiety within the federal government at this moment. It is in anticipation of this loss of power. The anxiety is at the highest levels of the executive branch.

The American taxpayers have waited a long time for this. They have suffered through decades of encounters with an agency that has been unaccountable; unresponsive; misleading; arrogant; abusive. The IRS has been granted enormous powers that at times seemed to disrespect, even undermine civil liberties. The responsibility to our citizens that goes along with such powers was not exercised.

Furthermore, IRS management seemed to have taken a vacation. Billions of dollars have been wasted. Performance failures were not met with discipline. Questionable activity was covered up by secrecy—by abusing the authority of Section 6103. Congressional oversight of the IRS has been rendered all but impotent because of absurd 6103 restrictions. These restrictions make the Pentagon's highly secret and highly restrictive JCS "Vault" seem like a Freedom of Information office.

I appear before this subcommittee Madam Chairwoman, to urge you to seize the moment. IRS reform is overdue and vital.

Congress has never had a chance at reform as we have today, thanks to the effective leadership of the co-chairmen of the Commission, Senator Bob Kerrey of Nebraska, and Congressman Rob Portman of Ohio. I would also like to recognize the important work and contribution you have made to this effort, Madam Chairwoman, especially ensuring passage of the Taxpayers Bill of Rights II. And I would like to pay tribute to my friend and former colleague, Senator David Pryor, with whom I teamed in the Senate in these efforts for many years.

I would like to highlight just a few important issues recommended by the Commission.

To restore accountability to the taxpayer, the Commission has made several recommendations. The one attracting the greatest attention has been the Commission's proposal for an independent board to oversee the IRS. The Commission's belief is that an independent board will provide an infusion of talent from the private sector to set appropriate performance measurements and reward or discipline managers who either meet or fail to meet these performance measures.

In private meetings, the administration appears to be divided on the proposal of a board. But it appears unfortunate that some who oppose this proposal are doing so only because it signifies a monumental power struggle that they stand to lose. Treasury officials who two years ago couldn't find the IRS if they were standing at 11th and Constitution are suddenly in fits about losing some control over part of their budget and bureaucracy.

They must be reminded that the IRS is one of the few government agencies that has a significant impact on almost every American. The American taxpayer deserves a modern IRS that provides taxpayers customer service on a level equal to that provided by private financial institutions throughout this country.

We have seen a lot of promises of reform coming from the Treasury of late, wholly in response to the work of this Commission. Treasury assures us that IRS reform is their top priority and their best people are on it. But if Congress turns its back now on reforming the IRS and listens to the siren song of Treasury, I predict that a year from now Congress will face the justified wrath of angry American taxpayers.

Treasury officials who are locked in this power struggle, trying to preserve their bureaucratic empire, would do well to remember the quote of the first Secretary of the Treasury, Alexander Hamilton, "Here, Sir, the people govern." That is the essence of what this Commission would do—return power from the federal government to the people of this country.

I am also pleased that the Commission did not call for the easy solution—that more money is what is needed at the IRS. One Treasury official privately admitted recently that the IRS never would be serious about embracing reform as long as Congress kept throwing more money at them. Until two years ago, the IRS had seen continual increases in its budget for 40 years. This Commission uncovered that hundreds of millions of taxpayer dollars were being wasted. Clearly, the problem at the IRS is management, NOT money.

The Commission made several findings and recommendations about protecting taxpayers and strengthening taxpayer rights. Let me say that many of the recommendations build on the work of this subcommittee and that the Commission greatly benefited from the assistance you provided, Madam Chairwoman, as well as from discussions with your staff director. I would note that in the past, the Congress has focused its energies on giving rights to taxpayers who are in a dispute with the IRS. The Commission builds on this. We recommend a strengthening of taxpayers' rights in a number of areas. But I think of equal importance is the emphasis the Commission has placed on protecting taxpayers; that is, preventing problems before they even happen by emphasizing quality of work and customer service.

We all know the story of the small business owner who gets the notice from the IRS that he or she owes $2,000. The business owner goes to his accountant who says that he doesn't owe the IRS $2,000, but its going to cost $5,000 to fight it. So the business owner forks over the $2,000.

Why does this happen? Because the IRS puts such little emphasis on quality control and taxpayer rights. The IRS still measures its managers on dollars assessed, whether or not it is the proper tax owed. Is it any surprise, then, that when a taxpayer does appeal, the IRS loses 72 cents on the dollar. It is wrong that many taxpayers have to spend millions of dollars fighting the IRS because there is no quality control. I know your subcommittee has had the General Accounting Office examine the lack of quality control, Madam Chairwoman, and I look forward to working with you to address this matter.

I am pleased that the Commission also emphasized the need for customer service. We recommend that taxpayers who are subject to examination or collection efforts, or who simply try to contact the IRS to resolve a problem, are provided a chance to comment on the service given. While revolutionary to the IRS, this is old hat for many state tax collection agencies as well as, of course, the private sector. By measuring managers on customer service, we hope to begin to change the culture of the IRS and its employees.

Emphasizing quality service and customer service are ways to protect taxpayers in the first place. It is also a way to measure performance in an appropriate manner that will hold managers and employees at the IRS *accountable* for their action.

I would suggest that the emphasis on quality service and customer service is in keeping with what many saw as the mandate given to the Congress in 1994—moving power from government to the people. The reforms suggested by the Commission certainly emphasize that it is the taxpayer who comes first, and it is serving the taxpayer as a customer that must be the top priority for the IRS.

Madam Chairwoman, let me just touch briefly on a third point—the need for greater openness at the IRS. The Commission found that the IRS was a very closed and insular organization. The Commission put forward a first step to make the IRS more open to Congress and the press. If we are going to be at all successful in changing the culture of the IRS, a key ingredient is greater openness. I think Senator Kerrey was absolutely right when he noted at one of our hearings that the media is one of the key ways in which Congress finds out what is going on at government agencies.

To encourage openness and also ensure accountability, there are three areas:

- The IRS must be timely in responding to Freedom of Information Act (FOIA) requests.
- The IRS should not abuse its authority under section 6103 to cover up embarrassing information about management mistakes. For example, this Commission highlighted that the IRS had abused its 6103 authority to hide from the press the fact that IRS had provided Congress false information.
- The IRS must maintain and preserve documents. The Commission itself discovered first-hand several times that the former IRS historian Shelly Davis is right—that the IRS doesn't preserve records. Many requests by the Commission for documents and data were met with the response that the data no longer existed or the documents could not be found.

Addressing these three areas of openness may not be headline grabbing, but my experience has shown me that they will go far in bringing accountability at the IRS and changing its culture.

My final point is to speak for the co-chairman of our Commission, Congressman Portman. I know if he were at the table with us, he would also emphasize the Commission's findings on the need to simplify the tax code. It is to Congressman Portman's credit that the Commission focused on this matter. We heard from countless witnesses, as well as hundreds of IRS employees and thousands of taxpayers that the complexity of the code is crippling to IRS management.

While I've spent a lot of my time here criticizing IRS, let me make clear that the complex code is not the fault of the IRS, it is a burden placed on IRS management by Congress and the White House. It is clear that if we wish to see improvements at the IRS in customer service and relations with taxpayers, steps must be taken to simplify the code.

Thank you for allowing me the opportunity to speak present my views. The Commission's proposals are not just paper for the shelves. As you know, Senator Kerrey and I both serve on the Finance Committee. We will be introducing next week in the Senate and Congressman Portman in the House a comprehensive legislative proposal to restructure the IRS in accordance with the findings and recommendations of the Commission. I have talked to Chairman Roth and Majority Leader Lott, they are very supportive of trying to pass comprehensive reform of the IRS this year. I look forward to working with you, Madam Chairwoman, and all of the Members of this subcommittee to make that possible.

Chairman JOHNSON. Gentlemen, you're now down to 5 minutes left in your vote, so we are not going to ask you any questions. But I do want to tell you, thank you very much for your testimony. The report that you have brought before us, along with my colleague here, Mr. Portman, and all the Commissioners, is a very serious document. You have made very important recommendations.

I agree with you that this is a moment of opportunity, and your vision of a modern, responsive, customer-oriented IRS, one that serves the people that for the most part voluntarily pay their taxes, is one we share. This is a time when we must make good on the promise that change offers.

So I look forward to working with you in greater detail as we move through this, and certainly with the administration, and thank you very much for your excellent testimony today.

Mr. Portman, would you like to say a word?

Mr. PORTMAN. Just that I had an opening statement where I extensively praised both of you, and since you're leaving, I'm not going to have an opportunity to have you hear it.

Godspeed on your vote, and thank you for all your work.

[The opening statement follows:]

Opening Statement of Hon. Bob Portman, a Representative in Congress from the State of Ohio

I thank our Chair, Mrs. Johnson, for holding this hearing today on the report of the National Commission on Restructuring the IRS. And, I would like to say a special word of thanks to Donna Steele and Beth Vance for their assistance throughout the Restructuring Commission's work.

During the last year, I have been pleased to serve as Co-Chairman of the Commission along with Senator Bob Kerrey, who is with us today. And I would like to extend my appreciation to each of the seventeen members of the Commission for the bipartisan and, indeed, nonpartisan manner in which the Commission conducted its business. Many of the Commission members are with us today, like Senator Grassley, Fred Goldberg, Josh Weston, Bob Tobias, David Keating, George Newstrom and Larry Irving. And, I would like to thank the Treasury Department—including Deputy Secretary Summers who is here with us today—for their service on the Commission and their ongoing input in our work.

The Commission's report is the first comprehensive Congressional blueprint for reforming the IRS in my lifetime—we have not seen fundamental changes to the IRS since 1952. Our conclusions highlight the need for a serious, bipartisan dialogue to simplify our nation's tax system to make the IRS work better for the taxpayer. Our report is truly a roadmap for transforming the IRS into a responsive service organization for the 21st Century—one that makes customer service and customer satisfaction a priority. And, taken as a whole, I believe our proposals will allow the Congress to do something truly remarkable—make the IRS a model for the rest of government.

I am pleased to note that a number of leading organizations that deal with IRS concerns on a daily basis have endorsed our recommendations—including the National Treasury Employees Union (which represents IRS employees), National Taxpayers Union, Americans for Tax Reform, the American Bankers Association, the American Payroll Association, the American Society of Payroll Managers, the American Institute of Certified Public Accountants, the National Association of Computerized Tax Processors, the National Association of Enrolled Agents, the National Association of Tax Practitioners, and the National Society of Accountants.

We will be introducing legislation to implement the Commission's recommendations next week. I look forward to hearing from today's witnesses and to our ongoing efforts to make the IRS work the for the American taxpayer.

Senator KERREY. Thanks.

Chairman JOHNSON. As we await the arrival of Deputy Secretary Lawrence Summers, who is our next witness, let me say that it is a pleasure to welcome the Commissioners here this morning, as well as the administration, to discuss what I consider to be an extremely important report.

Too often work is done in this body and disregarded. This report will not be disregarded. It is my intention, it is my belief that it is the Chairman's intention, that we move forward on this document, that we work through the policy changes that it proposes, and in this Congress help the IRS move into the next millennium.

Our goal today is to provide the Subcommittee with a general overview of the Commission's findings and recommendations, as well as the administration's concerns. We will hear from members of the Commission and the administration, and at future hearings, after the August break, we will go into greater detail on the Commission's specific recommendations and receive input from taxpayers and other stakeholders.

The National Commission on Restructuring the IRS was established in 1996 in response to mounting public concern about performance problems and the lack of accountability at the IRS. It's 17 Commissioners were comprised of Members of Congress, administration officials, members of the private sector, taxpayer organizations, the National Treasury Employees Union, a former IRS Commissioner, and estate tax administrator.

The Commission was Cochaired by Senator Robert Kerrey and my colleague, Representative Rob Portman. I must say, the Cochairmen did an outstanding job of leading a very fine Commission. On that Commission in second position, working closely, was Senator Grassley and my Ranking Member, Bill Coyne. I thank them for the many, many hours that they put in. This was an unusually hard working Commission, with the members very involved, and that always lays a solid foundation for sound action.

The Commission's report was endorsed by 12 of the 17 members, and contains recommendations for reforms in congressional oversight and the executive branch's governance of the IRS, stability of the IRS' budget, and financial accountability on IRS' part for the way it allocates and spends its resources. The report also speaks to the need to modernize IRS' technology base and make real progress toward electronic filing to simplify the tax system and to protect taxpayers rights.

Obviously, not everyone agrees with all of the Commission's recommendations. The administration has concerns about some of them, particularly the independent board of directors, and in response has developed its own plan for institutionalizing executive branch oversight and management of the IRS. My colleagues in the Congress and I will, I'm sure, develop our views about the Commission's recommendations relating to both executive branch oversight and congressional oversight.

Yet, as we begin this second phase of the process of reforming the IRS, the legislative phase, we must remember that we all share the common goal of transforming the IRS into a modern, high-quality service organization where taxpayers can call and resolve problems and get accurate information. We share the vision of the Commissioners, and it is our responsibility to make good on that vision, working with the Commissioners and the IRS.

On a daily basis, the IRS touches the lives of millions of hard working Americans who provide the life blood of the Federal Government through the taxes they pay. In return, the Nation's taxpayers deserve both respect and efficiency. Regrettably, the near universal perception is that both of these qualities have been in short supply in recent weeks.

For the first time since 1952, Congress and the administration are both embarking on a serious effort to reform the IRS. While there are divergent views about some of the individual steps that should be taken, there are many elements of the Commission's recommendations that are strongly supported by everyone here today. As the Subcommittee begins the process of examining the Commission's recommendations and developing our own recommendations to the Full Committee for legislative actions, I hope we can remain focused on the end goal.

I would also like to commend the Commission for its discussion and exploration of the relationship between the increasing complexity of the Tax Code as a result of congressional action and the problems of the IRS, because some of the problems can only be solved by Congress taking responsibility for writing clearer, simpler tax law, and that, too, is a challenge we must be capable of meeting.

I would now like to recognize my Ranking Member, Bill Coyne, one of the Chairs of the Commission and a gentleman who put in many, many hours. I thank you, Bill.

Mr. COYNE. Thank you, Madam Chairwoman.

I want to say that today the Oversight Subcommittee will have an opportunity to discuss proposals to reform the operation and governance of the Internal Revenue Service. Specifically, we will debate the proposals recommended by the National Commission on Restructuring the IRS in its June 1997 report and the proposals recommended by the administration in its 5-point plan to reform the IRS.

As a Member of this Subcommittee and as a Commissioner on the Restructuring Commission, I believe it is timely for the Ways and Means Oversight Subcommittee to conduct a series of hearings on proposals for changing the governance and operation of the IRS. Debate over the successes, failures, and future of the IRS is an oversight responsibility and a fundamental part of our ongoing review of how our tax laws are to be administered.

There is much agreement about how the IRS could be improved. The IRS should improve its customer service, its training of employees, and the development of new technology and technology to grapple with the problems within the agency. Oversight of the IRS needs to be enhanced and institutionalized with significant input from the private sector. Mechanisms should be established to provide direction of long-term strategy at the IRS and IRS management should be held accountable for its decisions.

The IRS Commissioner should run the IRS for a meaningful period of time, and be able to hire expert senior level managers. The Congress could do a better job of coordinating its oversight and funding of the IRS operations. There is fundamental disagreement, however, on how the IRS should be governed in the future and who should be in charge at that important agency.

I object to turning the IRS over to individuals who are not directly accountable to the American people. I believe that the President or the Treasury Secretary should have the power to appoint and dismiss the IRS Commissioner. I suggest that the Congress carefully review the current administration's plan for establishing an IRS management board and an IRS advisory board, and for giving the IRS Commissioner authority to hire a top notch management team to govern the agency.

To ensure long-term IRS reform, I believe that we should amend the Tax Code to make the administration's proposal on governance structure permanent in the Code.

Some of the other recommendations in the Commission's report seem to me to be extraneous to the Commission's statutory mandate and require much more analysis, particularly the sections relating to Taxpayer Bill of Rights, simplification, and creation of a new congressional entity. Also, some of the recommendations in the Commission's report, in my opinion, would have a negative effect on the IRS' interactions with the public and raise tax policy issues of great significance.

I do not agree, for example, with the Commission's conclusion that the child support tax refund offset program is a diversion of IRS resources or creates a risk of undermining the IRS' core responsibilities and capabilities.

Also, I object when the earned income tax credit, EITC, is indirectly characterized in the Commission's report as a credit added to the Internal Revenue Code to target a specific population already served by other Federal agencies. The EITC is a program for the working poor in this country. It is not, as recently characterized by some Members of Congress, a form of welfare.

In conclusion, I want to thank Congressman Portman for his commitment to reforming the IRS, and I also want to thank my colleagues from the National Commission on Restructuring the IRS who are with us here today, and others from the Commission, for appearing as witnesses at this hearing. Without a doubt, our mutual goal is to make the IRS the first-class tax collection agency the public expects and deserves. I intend to work closely with Chairwoman Johnson and others on these issues, and look forward to the Oversight Subcommittee's future hearings on IRS reform, to be held later this year and beyond.

Thank you very much, Madam Chairwoman.

Chairman JOHNSON. Thank you, Bill.

Now I would like to give my colleague, Rob Portman, the opportunity for an opening statement. He was my designee on the Commission, Cochaired the Commission, put in many, many hours, did a very thorough job, and Rob, you have been a coleader in bringing to this Subcommittee a really outstanding, thoughtful, and important report.

Mr. PORTMAN. Thank you, Nancy, and thank you for holding this hearing.

This is a busy time in Congress, as all of us know, and there are plenty of excuses, frankly, for postponing these proceedings today because of all the other activity going on. It's a tribute to you that you were willing to move forward with it, and I think, as Bill Coyne just said, it is a very important and timely hearing on the issues of IRS reform that came up in the Commission's work.

I just want to thank Donna Steele and Beth Vance of the Subcommittee staff for their help in putting this hearing together, but more importantly, for their work over the past year with regard to the Commission's work. They were very involved and active and without them we would not have been able to put together the product that we have before us today.

Mrs. Johnson mentioned that I'm Cochair of the IRS Commission. She didn't really mention the fact that I'm in this position because she designated me. In fact, at the time I wondered how much of an honor that was. A year later, I can say, without any regrets, that I'm very pleased that she chose me to represent her on that Commission, and then becoming Cochair was an honor and it was an honor to work with Senator Kerrey, with whom we worked very closely. You heard from him earlier with regard to his strong views on the final report.

All 17 members of the Commission put an enormous amount of time and effort into this. I see a number of them here. Josh Weston, Fred Goldberg I see here. I know Bob Tobias, David Keating, George Newstrom, and Larry Irving are coming. Jeff Trinca is here, who was Executive Director of the Commission. All of them deserve a great deal of credit for this final product as well.

It was an unusual experience. In a nonpartisan way, not even a bipartisan way, I would say we really rolled up our sleeves and tried to do what was right for the IRS and for the American taxpayer. I think again, as we look at the results today, through the testimony you will hear, that many of you will agree that this was a thorough, comprehensive effort that will result in real change and will really help not only the Service but the taxpayer.

I also want to commend Treasury for its work on this. Ed Knight, who is General Counsel at Treasury, was on the Commission, and that needs to be noted. Treasury's input was very much a part of this. Ed has just arrived, as well as Larry Summers, who is now here with us. I want to thank them for their service and input and work.

Finally Bill Coyne, who was a gentleman throughout this whole process. I will say, to show you how unusual this work product is in the Washington context, almost every one of the concerns that Congressman Coyne mentioned he had input in, and actually changed and moved his way, even though in the end he was not able to sign the report. I think it's fair to say that his input was significant, as was Treasury's, and that in the end Bill Coyne and I agree on about 80 to 90 percent of the final work product, because this really was in many respects a consensus product, with the exception of a few tough issues that we'll get into later today.

This is the first comprehensive blueprint for reform of the IRS in my lifetime. Not since 1952 have we suggested these kinds of fundamental changes. I think it is truly a road map for transforming the IRS into a 21st century taxpayer service and customer service entity. Nancy Johnson forcefully made the comments that we need to do this, it needs to be dramatic reform, if we are indeed to respond to the concerns of taxpayers expressed to us as Members of Congress, and as expressed through various other surveys and evidence that the Commission was able to discover.

I am pleased that a number of organizations, Madam Chair, worked with us on a daily basis in putting together this report, and have now endorsed the recommendations. This includes the National Treasury Employees Union, which as most of you know represents the bulk of the IRS employees. It also includes the National Taxpayers Union, again to show you how unusual this product is. The Americans for Tax Reform, the American Bankers Association, the American Payroll Association, the American Society of Payroll Managers, the American Institute of Certified Public Accountants, the National Association of Computerized Tax Processors, the National Association of Enrolled Agents, the National Association of Tax Practitioners, and the National Society of Accountants all endorse this report.

These stakeholders endorse this product because again they had significant input in it. We listened to them as we listened to the American taxpayer, and I think it is a tribute to them that they were willing, as the Commissioners were, to roll up their sleeves and dig into this issue and come up with a good product, and then in the end to stand behind it.

I would also like to announce that next week we will be introducing legislation to implement the Commission's recommendations. Senator Kerrey, Senator Grassley, and myself and other Members of the House and Senate will be doing so some time probably midweek.

Madam Chair, I look forward to hearing from today's witnesses, and again I want to thank you for giving us this opportunity today.

Chairman JOHNSON. Thank you, Rob.

It is my pleasure now to welcome Hon. Lawrence Summers, Deputy Secretary of the U.S. Treasury.

STATEMENT OF HON. LAWRENCE H. SUMMERS, DEPUTY SECRETARY, U.S. DEPARTMENT OF THE TREASURY

Mr. SUMMERS. Thank you very much, Madam Chairman. Let me apologize to the Subcommittee for the delay in traffic that I experienced on my way up here. I have a longer statement which I submit for the record.

I am pleased to be here today to talk with you about the report of the Commission on Restructuring the IRS and Treasury's plans to implement solutions to the difficulties facing the IRS.

Before saying anything else, I would like to thank the Chairman, the Ranking Member, and other Members of the Subcommittee for their leadership on this critical issue.

Over the last year we have been involved in an important and historic debate about how best to improve the operations of the IRS. The National Commission on Restructuring the IRS, under the leadership of Senator Kerrey and Congressman Portman, has done a great deal to illuminate this debate and to advance thinking as to possible solutions.

We in the administration and the Commission have in many ways traveled similar paths in the search for better IRS. We agree on the need for change for the 21st century. We agree on what needs fixing: More effective oversight, increased continuity, more private sector input, a more flexible and responsive institution that can provide far better customer service. The question is how best to achieve that change.

Last year, in testimony before this body, Secretary Rubin and I recognized the severity of the problems that the IRS faces. We highlighted the importance of improved customer service and noted the serious management problems that have arisen with respect to the modernization program. It was, as we put it at that time, "off track." We called for a sharp turn and made clear our determination to bring about change.

I think there has been change. Under the direction of our new Chief Information Officer, the IRS has released a blueprint for technology modernization, the first attempt to form a strategic partnership on information technology with the private sector.

Outsourcing has increased dramatically, with more than 60 percent of IRS information technology work now carried out by private contractors. The IRS has increased electronic filing and filing by telephone by more than 50 percent, and it has doubled the number of taxpayer calls answered.

There is a lot of debate about just what the right statistics are, but on one set of statistics, the fraction of calls for taxpayers assistance, was increased by a factor of 2½ during 1996. We're still not doing what we should be doing, but real progress is being made.

I think we've made a good start toward building the modern, efficient and accountable IRS that the American people deserve, but we must do more. The administration believes that we should make change on a broad range of fronts. Today I want to focus on legislation that will soon be introduced to improve governance and to improve management flexibility.

As I emphasized, we share with the Commission the view that current governance arrangements are flawed, in not providing adequately for continuity, for accountability, and for increased outside input. That's why we have proposed to appoint the IRS Commissioner for a fixed 5-year term. That's why we've proposed to make permanent the current Modernization Management Board, comprised of senior government officials, to review high level management issues and to require the Secretary and the Deputy Secretary to report to Congress on the IRS in person twice each year.

That's why we have proposed to bring outside expertise to bear on the problems of the IRS by establishing an Internal Revenue Service Advisory Board reporting directly to the Secretary of the Treasury, a board made up of private sector individuals selected to represent a wide range of relevant experience, including information technology and customer service.

In order to ensure that that advisory board functions in a strong and effective way, and in order to ensure that the Treasury maintains its oversight responsibilities, we will ask the requirement be embodied in legislation that that advisory board make a report to the American people on the performance of the IRS and on the performance of Treasury oversight of the IRS each year.

But, however successful we are in improving our oversight, ultimately it is what the IRS does that will be what American taxpayers see. That's why we have focused very intensively on leadership and have identified a candidate now going through the vetting process to be Commissioner of the IRS, with an outstanding private sector management background and extensive experience in the information technology area.

But another crucial piece of this effort has to be to give the IRS much needed flexibility. Our legislation will contain a range of measures to enhance the IRS' capacity to do what we and the Commission both recognize is necessary—to recruit and retain people with critical skills and to streamline procurement procedures.

We also believe that stability and certainty are needed for the IRS' technology and capital investment budgets. The President's fiscal year 1998 budget proposes multiyear investments for technology in order to ensure this stability. We look forward to working with the Congress to implement the Commission's budgeting recommendations.

Finally, Madam Chairman, I would like to comment briefly on the Commission's proposal that an outside board of private citizens take on the governance function at the IRS. We believe this proposal raises grave concerns and subjects 95 percent of our Nation's Federal revenues collected by the IRS to unacceptable risks.

First, we doubt the efficacy of such a proposal. The challenges the IRS faces in its size and complexity demand more than the part time and sporadic attention that such a board could provide. Urgent and complicated decisions, which can now be taken by Treasury officials, might be delayed a month or more. The board of directors model has some successes in the private sector, but experience suggests that it has been notoriously problematic in government.

Second, we believe granting decisionmaking powers to high stature individuals from the business world would expose the Service to dangerous and unacceptable risks of conflicts of interest. Under the Commission's proposal, on at least one interpretation, for example, corporate executives whose companies might automatically be subject to yearly audits would have no recourse at all to their own corporate situation but could have a crucial role in determining the audit budget for the IRS and its strategic approach to enforcement.

Third, we are concerned that a new layer of management would create bureaucratic confusion by dividing core IRS functions into disparate elements. Today, for example, the IRS is able to give Secretary Rubin and me its analysis of the impact of proposed tax changes on tax administrations. Under the Commission's proposal, while there still would be the possibility of communication, we believe that the synergy would be lost.

Fourth, and particularly troubling to us, the Commission's proposal would grant private citizens control over one of the largest law enforcement agencies in our Nation. This is only one of many areas which could expose the new board to constitutional and legal challenges and risk paralyzing the IRS.

Fifth, the proposal would undermine accountability. Right now, accountability for the performance of the IRS rests with the President and rests with the Secretary of the Treasury, one of the most senior members of his cabinet. The Treasury Secretary is accountable to the President, and the President is accountable to the people. Resting accountability with a group of part-time participants, who inevitably would have primary loyalty elsewhere and who would not be subject to the kind of discipline that shareholders provide in the private sector, seems to us to be very, very problematic.

In sum, Madam Chairman, I think there is no disagreement about ends. We all want an IRS that is ready for the 21st century, that can provide the kind of customer service that the American people expect. We all believe that it needs to become a more flexible, more aggressively and effectively managed institution, that harnesses information technology far more effectively than in the past, to achieve those objectives. What we need to do, working together, is find the most effective means of achieving that end.

Thank you very much, Madam Chairman.

[The prepared statement follows:]

Statement of Hon. Lawrence H. Summers, Deputy Secretary, U.S. Department of the Treasury

I am pleased to be here today to talk with you about Treasury's plan to achieve lasting improvements in the performance of the IRS and to discuss the report of the National Commission on Restructuring the IRS on this same subject. Before I begin, I would like to thank the Chairman, the Ranking Member and the other members of this Committee for their leadership on the matter of IRS reform. In addition, I hope you will join me in recognizing and thanking the more than 100,000 loyal and dedicated IRS employees who carry on the unpopular but vitally important task of collecting 95% of our government's revenue.

Madame Chairman, over the last year, we have been involved in an important and historic debate about how to improve the operations of the IRS. The National Commission on Restructuring the IRS, under the joint chairmanship of Senator Kerrey and Congressman Portman, has done much to illuminate that debate and drive it forward. Everyone involved in the Commission has worked hard to understand the complex problems facing the IRS, and the Report contains many constructive suggestions for change.

In fact the Administration and the Commission have traveled very similar paths in their search for a better IRS. We agree on the need for change at the IRS: on the need for more effective oversight, increased continuity, and greater access to outside expertise. This finds us making many of the same recommendations in important areas. However, as Secretary Rubin has said, we part company with the Commission on the crucial question of how the IRS should be governed. Today I will be focusing my remarks particularly on this issue.

First, however, I would like to briefly describe some of the progress we've made on improving the IRS and how we intend to push things forward in our forthcoming legislation. Our aim, Madame Chairman, as always, is to build a modern, efficient and accountable IRS to serve the American taxpayer into the 21st century. As you will see, we believe that objective is getting closer every day. I will then go on to explain why, for all the many areas of agreement between us, the Administration believes that the Commission's proposals for IRS governance are fundamentally flawed; indeed, they would be more likely to aggravate its problems than solve them.

MANAGEMENT REFORM

Madame Chairman, for some time now we have been engaged in a many-sided effort to improve the IRS. Longstanding problems in modernizing the computer systems of the IRS initially focused attention on the shortfalls of the information technology of the Service. At the same time, improvements in customer service in the private sector have led the American people to want interaction with the IRS to be as efficient and straightforward as with credit card companies and other private-sector financial institutions. This has occurred at a time when the IRS is also coping with an increased workload. In 1997, the IRS processed over 200 million returns.

Over the last few years, the Treasury Department has focused intense efforts on improving the IRS. We are committed to change and real change is underway. Our goal is to create a more efficient, modernized and taxpayer-friendly Internal Revenue Service. This Committee and others in the Congress have held extensive hearings on the matter. These efforts and the work of the Commission have helped forged a consensus among a wide group of stakeholders, from business executives to Members of Congress to leaders of the IRS and the National Treasury Employees Union, on the need for change.

I believe that in the next year, we have the opportunity and the obligation to bring about the most far-reaching changes in decades in how the IRS is managed and how it does business.

Indicators of Progress

Last year, in testimony before this body, Secretary Rubin and I recognized that the IRS's modernization program was, as we put it at the time, "off track". We called for a "sharp turn" and made clear our determination to bring about change in the way the IRS uses information technology and provides customer service. And there has been change. The results, while still in their early stages, are already producing benefits and give the IRS a solid foundation on which to build.

SOME EXAMPLES OF THE STEPS WE HAVE TAKEN INCLUDE THE FOLLOWING:

- Our new Chief Information Officer, Art Gross, has cut and collapsed the number of tax systems modernization projects from 26 to nine.
- In May 1997, after many months of intense preparation, Mr. Gross released the IRS's Blueprint for Technology Modernization, which was well-received in the professional information technology (IT) communities both inside and outside the government. This Blueprint represents the first comprehensive attempt to form a strategic partnership on IT with the private sector.
- The IRS has also increased outsourcing. The percentage of work performed by contractors has increased from 40 to 64 percent over the past two years. The number of IRS staff working on tax systems modernization has decreased from 524 to 136.
- The IRS is now working with a top marketing firm on an electronic filing marketing strategy to bolster taxpayer participation in the entire line of IRS electronic filing products, including Telefile, On-line filing, 1040-PC filing, and traditional electronic filing. The bureau is also putting forth a Request for Information (RFI) that will produce opportunities for partnering with the private sector to increase electronic filing.

THE IRS HAS TAKEN MANY STEPS TO IMPROVE CUSTOMER SERVICE. FOR EXAMPLE:

- A joint Treasury, IRS, National Performance Review (NPR) task force is concluding a 90-day study of customer service. The study has drawn on the experience of front-line employees and has focused on the issues that touch customers most deeply. Among other tasks it will identify ways to improve notices sent to taxpayers, the quality of walk-in center assistance, and training.

OUR EFFORTS ARE PAYING OFF. FOR EXAMPLE:

- The GAO found that 50.9% of calls by taxpayers to IRS taxpayer assistance were answered in 1997. Although this percentage remains far too low, it has more than doubled from only 20.1% in 1996.
- In fiscal year 1996, the IRS redesigned, combined and eliminated notices to taxpayers, cutting the number of different notices by 12 which resulted in 18 million fewer taxpayer notices being issued and mailed. In 1997, it eliminated another 20 types of notices, resulting in 3 million fewer notices being mailed.
- As of July 4, the number of returns filed electronically by paid preparers rose from 12.1 million in 1996 to 14.4 million in 1997. Meanwhile, filing over the telephone through the IRS' Telefile program has risen from 2.8 million in 1996 to 4.7 million this year. As a result, the percentage of individual tax returns filed electronically has risen from 13.1% in 1996 to 16.5 % in 1997, or about one in six taxpayer returns.

These improvements, while far from sufficient, are meaningful. Looking ahead, we are committed to raising the standards of IRS performance even higher.

- As part of the Government Performance Review Act process, we have established tougher targets for a variety of performance measures including improvements in telephone service, to which I alluded above, reductions in the cost of collecting revenue and increases in the percentage of revenue collected electronically. For example, in fiscal year 1997, we have set a target of collecting 24.7% of revenues electronically. In 1998, we will increase that target to 48.4%.

In short, we have made a good start toward building the modern, efficient and accountable IRS the American people deserve. But everyone involved in the process—at Treasury, the IRS, Congress and the union—recognizes that problems that have been building for decades do not get solved overnight, or even over a couple of filing seasons. Further structural changes will be needed to propel the reform process forward and build an IRS for the 21st century. Let me turn now to the Administration's plans to make these changes come about.

OUR APPROACH TO REFORM

In March of this year, the Administration unveiled a five-point plan outlining our approach to achieving long-term improvements in IRS performance. Our approach includes measures to strengthen oversight, improve leadership, increase flexibility, improve budgeting procedures and simplify the tax code that the IRS administers. As you know, we have begun to make progress in all these areas. Today, I want to focus on our forthcoming legislative proposals to bring our vision of a modern and responsive IRS even closer. These will guarantee lasting improvements in oversight and accountability at the IRS while giving it greater access to outside expertise and more internal flexibility.

IMPROVING GOVERNANCE

Oversight and Accountability

First, to improve oversight and accountability, we will build on the success of the Modernization Management Board by making it permanent and extending its mandate. The IRS Management Board (as it will be called) will be made up of senior career and non-career officials from Treasury, IRS, OMB, and the Office of Personnel Management. In addition, one board member will be the Taxpayer Advocate, whose presence will give taxpayers a stronger voice in IRS governance.

The board will function much like a corporate board of directors, meeting once a month to assist the Secretary on high-level IRS management issues such as operations, modernization and taxpayer assistance and services. As now, the Board will be chaired by the Deputy Secretary of the Treasury.

It will also prepare semiannual reports to the President and the Congress. An Executive Committee will review strategic decisions, including significant reorganizations, performance measures, budgetary issues, major capital investments and compensation matters.

With greater oversight will come greater responsibility. Our legislation will require the Secretary and Deputy Secretary to come to Congress twice a year to report on the operations of the IRS. This will ensure that future occupants of these positions are required to demonstrate the same full-time commitment to the IRS that Secretary Rubin and I have shown over the past year.

Access to private-sector expertise

Second, the administration's proposals recognize the undoubted need for the IRS to have greater access to private-sector expertise. To achieve this we intend to establish an Internal Revenue Service Advisory Board that reports directly to the Secretary of the Treasury. This Board will include up to 14 individuals, each appointed by the Secretary and serving a staggered 3-year term. Members will be selected so as to represent the broadest range of outside interest and expertise, including taxpayer groups, small and large-scale businesses, nonprofit or educational organizations and tax professionals as well as state tax administrators, technology leaders, and experts in customer service.

The Internal Revenue Service Advisory Board will meet quarterly to help the Secretary find ways to improve the management and operations of the IRS and will provide recommendations about IRS policies, programs and plans. The public will receive a yearly account of the board's contribution in the form of an Annual Report to Taxpayers.

Greater continuity

Finally, like the Commission, we want to provide for increased continuity at the IRS within a framework of clear accountability to the Executive by appointing the IRS Commissioner on the basis of a fixed, five-year term. We have identified a potential candidate for Commissioner of the IRS with a background in management of information technology. The Commissioner, as now, will be appointed by the President with the advice and consent of the Senate and will be removable at will.

To sum up, I am confident that the four steps I have outlined—creating a permanent management board, requiring the Secretary and Deputy Secretary to report to Congress semi-annually, creating an advisory board comprised of outside experts, and appointing the Commissioner to a fixed five-year term—will strike the proper balance between helping the IRS operate more effectively and making it more accountable and responsive to private-sector expertise.

Flexibility

We are all agreed that the IRS needs to have greater flexibility in both selecting and managing personnel and in procurement.

We are exploring options in the area of recruiting and retaining needed technical and professional staff with critical skills. For instance, we intend to seek flexibility to set the pay for a limited number of critical positions at higher than usual salary rates. We will ask for legislation to liberalize the pay limits for outside experts and consultants. In addition, to give the Commissioner greater flexibility to address short-term staffing needs at the most senior levels, the bill will provide greater authority to appoint limited-term and emergency Senior Executive Service staff.

We will also be seeking authority to enable the IRS to work with the Union and the Office of Personnel Management (OPM) to develop and implement personnel management demonstration projects. This authority—a streamlined version of provisions that have been in the law for many years—will support IRS efforts to try out new ways of doing business.

In addition, our legislation will contain a range of mechanisms to make it easier for the IRS to make strategic long-term purchases, streamline the procurement cycle for major acquisitions and encourage the development of long-term strategic partnerships with reliable, competitive contractors. These mechanisms include a two-phase competitive acquisition process that promotes efficient and effective communication to identify the best fit between government needs and marketplace capabilities and allows limited recompetitions for continuing requirements. The legislation would further enhance the bureau's ability to buy information technology in more manageable, modular increments.

Stable budgeting

Finally, let me add briefly that the Administration has not lost sight of the need to obtain more stable and predictable funding for the IRS. The report of the National Commission on Restructuring the IRS was clear on this point. It recommends that "the IRS should receive stable funding for the next three years so that its leaders can undertake the proper planning to rebuild its foundation." This recommendation pertains to the budgets for tax law enforcement and processing, assistance and management.

Similarly, the Commission believes that stability and certainty are needed for IRS' technology and capital investment budgets. The President's FY 1998 budget proposes multi-year investments for technology in order to ensure this stability. We are glad that both the House and Senate appropriations subcommittees have acknowledged this need and that they have proposed funding for FY 1998.

THE RIGHT REFORM MIX

I come now to my more detailed comments on the IRS Commission's Report. At bottom, the Commission's and the Administration's diagnoses of the IRS's problems are strikingly similar. Like the Commission, we believe that more effective governance, flexible management practices, and stable budgeting hold the key to an IRS that can meet the needs and expectations of American taxpayers into the next century. We further agree with the Commission that efforts to improve governance ought to focus on injecting greater accountability, continuity and outside expertise.

As I have shown, the common ground between us and the Commission does not stop at diagnosis. We have also found ourselves coming up with many of the same prescriptions in drawing up our legislation. In our view, however, the Commission's proposal would fail to achieve the objectives we share. What is more, it would endanger the service's ability to serve the public with the efficiency and integrity we demand of such a core part of our government.

The Commission has proposed that the IRS be governed by an outside board of private citizens who serve on a part-time basis. This, on the grounds that it "will bring accountability, continuity and expertise to executive branch governance and oversight of the IRS". While perhaps superficially attractive, we believe the proposal will deliver none of these benefits. Far from increasing oversight and continuity, the change would subject the IRS to a grand and uncertain experiment, fraught with legal and administrative uncertainties. The service, in such a setting, could find it difficult to function at all, let alone do so more effectively. Meanwhile part-time outsiders with neither the time nor the insulation from special interests of full-time public officials would be running a core government agency, with possibly grave implications for public confidence in the IRS and the Service's confidence in itself.

Unacceptable Risks

Instead of enhancing oversight, the insertion of the board into IRS governance arrangements would actually alter the present clear line of accountability between the IRS leadership and the American people as embodied in their elected President.

The Commission has pointed out, correctly, that the Treasury has not always met the IRS's need for consistent strategic oversight and guidance. But to respond to these past failings by inserting a new private-sector management board, would, in our view, be a large step in the wrong direction.

The division of authority between the Secretary and the Board would not only create internal confusion, but would significantly increase the likelihood of litigation; disgruntled taxpayers might well challenge the authority of the entity that had made a decision with which they disagreed. In addition, the Commissioner's authority would be vulnerable to Constitutional challenge on the grounds that his appointment by the Board violates the Appointments Clause.

The Appointments Clause of the Constitution states that principal federal officers must be appointed by the President with the advice and consent of the Senate, but that Congress may provide that inferior officers may be appointed either by the President alone or by "Heads of Department" or "Courts of Law."

It might by considered ironic that a Commission that has done so much to highlight the importance of the IRS to American life should apparently see the IRS Commissioner as an inferior office. At any event, it is clear that the proposed board would constitute a "head of department." Thus, the Commission's proposal does not comply with the mandates laid down in the Appointments Clause.

These and the other structural concerns would leave the IRS' actions open to serious legal challenges that could impede the flow of 95% percent of our nation's revenue. It would be the height of irresponsibility, at a time when we are trying to balance the Federal budget for the first time in a generation and facing difficult decisions about our spending priorities, to create a legally suspect regime that could threaten funding for everything from national defense to the education of our children.

Although the Commission's proposal purports to leave Treasury in charge of developing tax policy and performing the IRS' law enforcement function, it contravenes that notion by giving the board broad authority over the budget-sector CEOs would control the purse strings and hiring practices at one of the most powerful government agencies.

At best, the proposal would split tax policy and law enforcement between Treasury and the Board; at worst, it establishes the Board as a de facto policy voice. Rather than fragmenting accountability, the legislation I have outlined here today will strengthen it.

Our day to day involvement with the IRS' management direction serves a critical purpose that would be undermined by the Commission's proposals. This is the capacity to treat tax policy and tax administration as they should be treated: as two sides of the same, public, coin. It is no accident that close and institutionalized coordination between the IRS and Treasury's Office of Tax Policy has been maintained without interruption for well over 50 years.

Even if the many concerns I have mentioned were to be overcome, I do not believe that a private-sector board would meet frequently enough to address the critical and complicated decisions facing the Service over the next decade. Urgent matters requiring the board's immediate attention and input might have to wait a month or more until the next board meeting, by which time these busy executives would somehow have to have fully prepared themselves to deal with the issue—if, that is, it were not by then too late to act.

The challenges the IRS faces and the size and complexity of the institution demand more than the part-time and sporadic attention that the Commission's proposed board would provide. Clearly, the problems of the IRS show that Treasury in the past failed to exercise appropriate oversight. But things are different now. And the measures we are proposing will make sure they stay different, not merely in this Administration, but in the many to come. Today, Secretary Rubin and I, as well as other Treasury officials, are always available to discuss pressing issues with the IRS—and frequently do so.

The IRS's relationship with Treasury provides an effective mechanism for presenting to senior Administration officials the IRS's analysis of the impact of proposed tax changes on tax administration. Secretary Rubin and I raise such concerns frequently in tax policy discussions in the White House and elsewhere throughout the Administration. Furthermore, Treasury oversight allows the IRS to draw upon Treasury resources for critical projects, as demonstrated by our current cooperation on the Year 2000 conversion. Under the Commission's proposed governance structure, this much-needed synergy between the IRS and the Treasury would be lost.

Outsider control, outsider interests

The Commission's desire to import private citizens to oversee the IRS's operations raises another major worry. Once again, the stated objective is the same as the Administration's—namely to open the IRS to wider sources of outside expertise. But, in our view, attempting to achieve this by granting decision-making powers to "high-stature" individuals from the business world would expose the service to dangerous and unacceptable risks of conflicts of interest. The IRS needs to be managed by officials whose full-time, sworn responsibility is to uphold and enforce the law. Anything else risks creating the appearance, if not the reality, of serious conflicts of interest in the management and oversight of the IRS's activities.

In our view, creating a new management board to run the IRS, comprised mainly of individuals who spend the bulk of their days in private business, would run precisely this risk. The Report states that board members would be subject to the same ethics laws as the individuals now associated with the governance of the IRS, but the Commission failed to recognize that those laws impose significantly diminished restrictions on outside financial interests and conflicting activities of part-time employees.

In any event, it is clear that individual board members—who will continue to draw private-sector salaries—will face an uphill struggle ensuring that their private interests and their newly acquired, part-time public duties do not conflict with one another. Under the Commission's proposal, for example, corporate executives whose companies may be automatically subject to yearly audits could end up determining the audit budget for the IRS and its strategic enforcement activities.

At best, the need for board members to recuse themselves from a wide range of matters facing the IRS to avoid conflicts will reduce their ability to provide effective input, even on a part-time basis. At worst, the new structure could fatally weaken the public's confidence that the IRS administers and enforces the nation's tax system fairly and even-handedly.

In both the report and subsequent correspondence, defenders of the Commission's proposals have denied that such conflicts will arise, on the grounds that the new board would not be involved in specific law enforcement matters. Yet the board's sweeping control over budget and personnel would put it knee deep in law enforcement issues. In fact, decades of experience suggest that, just as tax policy questions cannot be separated from tax administration, tax enforcement and administration are so intertwined as to be, at times, indistinguishable.

The Report claims that the job of the IRS is solely to be an "efficient financial management organization". This claim is both improper and incorrect. The IRS is, rather, an essential governmental agency charged, under the supervision and authority of the Secretary, to enforce the internal revenue laws enacted by Congress and the President.

As Acting Deputy Attorney General Waxman has noted, this legal mandate means that the IRS can be duty-bound to pursue enforcement activities that, while fully justified in terms of the broader public good of protecting society from crime, may not be justifiable on narrow financial grounds. One does not have to go back to Al Capone to find examples of's the IRS was second only to the Drug Enforcement Administration in its participation in Organized Crime Drug Enforcement Task Force investigations.

We share the concerns of the Attorney General's office that a private board along the lines proposed by the Commission might tend to focus solely on generating revenue. This, at the cost of undermining the IRS's longstanding contribution to important law enforcement missions such as combating domestic and international organized crime and money laundering. The long-term social benefits of an active and long-term commitment of IRS personnel and resources to such missions are hard to translate into dollars and cents. The worry must be that they would not be given due weight by private, part-time "special government employees" whose remit is to serve the public purse and not, more broadly, the public good.

Finally, let me add that in the public sector, management by a board is notoriously difficult. In the private sector, financial markets, shareholder voting rights and a well established body of law around corporate governance as well as the imperative of profit, provide checks on the actions of a board of directors. In the public sphere, no such checks exist. For these reasons alone, the GAO counseled against vesting oversight of an agency like the IRS in a separate board.

To sum up, I believe the management board proposed by the Commission will do little to enhance effective oversight or boost continuity within the IRS. Put simply, the collection of the revenues that underpin this nation's government is too important to subject to this degree of risk—particularly in return for such uncertain benefits.

CONCLUSION

In conclusion, this morning I have discussed some of the specific steps we are taking to modernize the IRS. We have already made considerable progress. But we have far more to do. The legislation that I have described is necessary to continue the job of building the IRS of the future. Its key elements—reforming governance and improving management flexibility—will give us the tools we need to improve our tax administration system, not just this year but for years to come.

The subject of governance, in particular, is one where I believe we must exercise extreme care. This morning I have described our approach to this critical issue. I have also highlighted areas where we agree and where we disagree with the proposals of the Commission on Restructuring the IRS. In coming weeks and months, I look forward to working with members of the Commission, with members of this committee, with the union and with other interested groups in building on the many areas of agreement that exist among us, many of which will be reflected in the Administration's legislation.

We have made tremendous progress over the past year in identifying the need for change in the IRS and we are starting to make that change a reality. The task for the years ahead will be to keep this process of renewal moving forward. Between us we can build an IRS that meets the high standards the American people set for it—and the demands of a new century. I hope we can all share a commitment to doing this without at the same time jeopardizing the ethos of dedicated public service that has, rightly, made the US system of tax collection and enforcement the envy of the world.

Thank you, Madame Chairman and members of the Committee. I would welcome any questions.

Chairman JOHNSON. Thank you, Secretary Summers.

We have a vote called and we only have a few minutes now left to vote, so we're going to go vote and recess for about 7 or 8 minutes.

[Recess.]

Chairman JOHNSON. Mr. Secretary, thank you for your testimony. It is a pleasure to look at how much of this work, that consumed a year of dedicated effort on the part of many thoughtful and knowledgeable people, you all agree on. On the issue of governance, however, you do have significant disagreements.

I would like to invite you to discuss in a little bit greater depth why you think that your current board, that includes appointees from the Vice President's office, OMB, OPM, and Treasury, can exercise oversight that brings to the table the level of knowledge and consistency that we all agree we need. Because, in my estimation, the appointee from the Vice President's office raises questions of political influence, and I don't see the expertise specific to the IRS challenge as coming or being there in either OMB or OPM.

I would like to hear you talk about this management board as an alternative, because right off the top it doesn't make it, in my mind.

Mr. SUMMERS. I think you raise a very important set of questions. Let me just clarify one point.

It's really the National Performance Review staff that is represented on the board, not the Vice President's personal staff and——

Chairman JOHNSON. But to that point, if I may, that's a creature of this Vice President. Will the next Vice President have such a board? In the future, will Vice Presidents' offices be dependent——

Mr. SUMMERS. No. I think probably not, so I think what's important is that I would expect any administration would have a locus of people who were concerned with maximizing efficiency in government, and I would expect that group of people to be represented on that board.

In this administration, the National Performance Review has been under the Vice President's responsibilities, but that's why our proposal allows for the possibility of modification of the composition of the board precisely to reflect the fact that where the focus on efficiency in government is will change, or may change a bit, from administration to administration.

Chairman JOHNSON. Mr. Summers, just to stay on this one point, and then move on to the others, first of all, we would have to be very careful about how we wrote that statute, so that we got the right person.

Mr. SUMMERS. I agree with that.

Chairman JOHNSON. But whoever we got—because remember, Vice President Dan Quayle had the first sort of modernization efficiency—I've forgotten what he called his, the National Competitiveness Council—that had the same goal and looked at similar kinds of issues. Those councils always make a contribution. They made a contribution under Vice President Quayle, and Vice President Gore is certainly making a contribution through this council.

But they are, after all, political entities. They are seen by the rest of the world as part of an administration and, therefore, part of a political platform and set of goals.

Do you think it's really wise to bring that kind of entity into, in a sense, a permanent relationship with the IRS, given some of the problems that we've had historically between elected officials and the IRS in those areas?

Mr. SUMMERS. I think it's appropriate for the President and the senior people that the President appoints to be members of his administration, to take on the responsibility for oversight of the IRS.

I think that they should take that responsibility on in a way that is directed at overseeing policy and management, and obviously with no connection to specific cases.

I think it is helpful to the Treasury Department, where that responsibility is centered, to be able to draw on expertise from other parts of the administration. In our administration, we have people with extensive knowledge and experience in the procurement area, in the information technology area, in the labor relations and personnel area, who are located at OMB, who are located at the OPM, and who have in this administration function as part of the National Performance Review staff.

I certainly agree with you that it would be inappropriate to include in IRS governance persons whose primary concerns were political or communications oriented. But just as Congress, by statute, many years ago set up the National Security Council as a grouping of senior officials reporting to the President, charged that grouping with certain responsibilities, just as I think this administration has innovated effectively with the National Economic Council, which is a group of executive branch officials, given an important responsibility.

I believe the same thing can work, and has worked, at the IRS. So that's the reason for going and getting the expertise outside of Treasury.

We have found that, in terms of holding the IRS accountable, having a monthly board meeting and requiring decisions to be presented to a group of senior government officials, is an effective device for achieving IRS accountability. I think that, working through the board, we have been successful in levering a great deal of change, particularly in the management of the information technology program, over the past year. So I believe that this is the right and is an effective approach.

But I would want to stress that we share the Commission's concerns about the issues of continuity, of accountability, and of outside input. As far as continuity is concerned, that's why we have come to believe that the IRS Commissioner should be given a 5-year term, so that you won't get into situations where a Commissioner is appointed right toward the end of a presidential term and is a lame duck, so that there will be a further degree of insulation from the political process. So that's why we have supported the 5-year term.

We believe that outside input is very, very important. That's why we've proposed an advisory board with teeth, an advisory board that just doesn't report to the IRS but reports directly to the Secretary of the Treasury, who is really the person who is going to be on the hook and accountable to the people for the performance of the IRS, and that is asked and, indeed, required to prepare an annual report to taxpayers, so that if that outside input is not being taken, it will be clear to all and the Congress will know who, the Secretary of the Treasury, to hold responsible.

We have emphasized the importance of accountability. I believe that having the Secretary of the Treasury and the Deputy Secretary of the Treasury accountable is an integral portion of their job for the performance of the IRS, accountable to the President, accountable to the Congress, for the performance of the IRS, offers a better prospect for improvement than the appointment of a committee of outsiders whose primary loyalty will lie to their other pursuits and no one of whom will feel that responsibility and will feel that it is their responsibility to have this work.

I think that collective responsibility among people whose primary loyalty is elsewhere is a mechanism that's less likely to achieve the objective of accountability. So we are for major change in governance, but we believe that the approach we've laid out offers the best prospect for continuity, outside input, and accountability.

Chairman JOHNSON. Thank you, Mr. Summers. I know other Members have a lot of questions, so I will not ask more. But I do think that this is a very important issue.

I'm glad to hear that working with people from OMB and OPM and through the process of presenting decisions to them on a regular basis, that you feel you have improved the quality of management of the IRS. Nonetheless, I think one has to be conscious that appointments to a board, like this outside advisory board, on average, those appointees have served about a year and a half on average, if you look across those kinds of boards. That's not encouraging in terms of longevity and expertise and so on.

And then, when you have this as an added responsibility for someone from OMB, who has many other responsibilities, in the long term, in the short term of making change—and we have an agency in trouble here, that's one kind of action. What I will be concerned with in thinking this through is, is the kind of action that you can do under triage something that you can do on a regular, ongoing basis, that doesn't bring the expertise to the table that we need.

Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman. Welcome, Mr. Secretary, and thank you for your testimony.

You didn't have the opportunity to be here earlier when Senator Grassley testified, and I want to read you part of his testimony and have you respond to it. It says, "In private meetings, the administration appears to be divided on the proposal of a board. But it appears unfortunate that some who oppose this proposal are doing so only because it signifies a monumental power struggle that they stand to lose. Treasury officials, who 2 years ago couldn't find the IRS if they were standing at 11th and Constitution, are suddenly in fits about losing some control over part of their budget and bureaucracy."

I wonder if you could respond to that.

Mr. SUMMERS. Let me just say, Congressman, Secretary Rubin has said many times that the easiest thing for him, the easiest thing for us, would be to turn the IRS over to a board and to concentrate on our tasks of financial policy, concentrate on the tax bill, concentrate on what's happening in Thailand and Malaysia, concentrate on the future of the banking system. The easy thing would be to turn away from this and not to be prepared to accept responsibility for what happens in terms of change in a very large organization. That would be much the easier thing.

Secretary Rubin and I have made a judgment that it is profoundly important to this country that this be fixed, that this get better, and that the best way for it to get better is for us to take on a major involvement in overseeing management at the IRS and to put in place a set of procedures that will institutionalize that involvement, so that our successors will feel the same kind of obligation.

I think the objection that for some time Treasury officials, in both parties, in both administrations, have not watched over the IRS with adequate vigor is probably right. Certainly, since the moment I became Deputy Secretary, and the moment Secretary Rubin became Secretary, it was a small number of months from the moment I was appointed until the moment I was up here testifying that this was way off track and that major change had to be put in place, and that the board was underway. Similarly, Secretary Rubin, since he became Secretary, has made this a major responsibility.

But I do think we have a real concern that at some point in the future it might drift back to the way it was, with inadequate oversight. I think we've proposed a set of mechanism that very, very substantially contain that risk, a group of outside advisors of prominent people who will make a report every year to the Congress, which will represent a standard to which the Secretary of the Treasury and the Deputy Secretary of the Treasury will be measured against, a requirement that the Secretary and the Deputy Secretary testify on the progress of their oversight to the Congress every 6 months.

We are building a career staff in the Treasury that has, I think, the potential to be a legacy that we will leave to our successors, in terms of capacity to maintain effective oversight at the IRS.

If I might make just one final observation, Congressman, I think one has to make a comparison, and I think it's probably fair to say that, particularly past moments of crisis, the record of committees appointed by the President, each of whom is going to be serving on a part-time basis, in terms of their effectiveness and responsiveness in addressing various problems, is something that is not totally encouraging. Certainly the GAO looking at experience with boards in the private sector—in the public sector—did not find that they were an effective governance mechanism.

Mr. COYNE. Thank you.

Chairman JOHNSON. Mr. Portman—I'm sorry.

Mr. COYNE. I had one other question.

I wonder if you could respond to the constitutional problems, that have been raised, by having private citizens rather than the President and the Treasury Secretary appoint, hire and fire the IRS Commissioner.

Mr. SUMMERS. I will furnish you with a learned written answer. Let me just say now—learned as prepared by the staff, because I'm not capable of giving a learned one. But the essence of it is that the appointments clause basically provides for the President, or his direct members of the cabinet, to make appointments to the government, not for appointments to Federal Government positions to be made by outside committees of people who are not members of the President's cabinet or heads of departments. So I think that would be a real constitutional question to be posed.

I think that there are other constitutional questions. There's a letter from the Attorney General's office expressing quite serious concerns about the Commission's proposal. I think part of what we have to recognize is that even if there is constitutional uncertainty and questions, you're looking at doubts about the process by which we're raising 95 percent of the revenue. So even taking risks in that area with respect to constitutionality seems to me a problematic course.

Mr. COYNE. Thank you, Mr. Secretary.

Thank you, Madam Chairwoman.

Chairman JOHNSON. Thank you.

Mr. Portman.

Mr. PORTMAN. Thank you, Madam Chair.

I heard Chuck Grassley's comments earlier about 11th and Constitution. I would like to attest that Larry Summers was not in this job 2 years ago today—I don't think, is that correct?

Mr. SUMMERS. Not quite. That's right.

Mr. PORTMAN. And you're the third Deputy Secretary in this administration; is that right?

Mr. SUMMERS. It is.

Mr. PORTMAN. But I have been at 11th and Constitution with Larry Summers. He knows where it is now, so although he wasn't around 2 years ago, per Mr. Grassley's comment, I happen to know from personal experience that he knows where it is and knows how to find his way there.

Secretary Summers, thank you again for all the interaction we've had over the last year. We've had a healthy give and take, I think, but disagreed on one of the fundamental recommendations. But do you think it's fair to say—and I think this is already stated, at least indirectly, in your testimony—that the majority of the recommendations you and the Treasury Department support?

Mr. SUMMERS. Certainly there are many, many recommendations—I haven't done a count, but certainly there are many, many——

Mr. PORTMAN. I think there are 52 recommendations. I would guess the vast majority of them, the Treasury Department would support. Let's put aside governance recommendation at this point.

Mr. SUMMERS. I think, outside of the governance area, I think we're certainly going in the same direction. I think there are a number of very interesting proposals, such as what's said about staggered filing and the like, that in our view are interesting proposals that would require further study before we would be prepared—before certainly we would be comfortable in endorsing those proposals.

The Commission has a fairly wide range of tax policy proposals within its simplification section, many of which would be things we could support, but I think some of which are——

Mr. PORTMAN. Half of which were taken from you, and they aren't part of the recommendation, as you know.

Mr. SUMMERS. No, as I say, many, many which we could——

Mr. PORTMAN. It would be a shock to me if I were to hear you say that you do not support a majority of the recommendations, but maybe you don't now. But that would be a shock, given how closely we worked with you.

You mentioned the simplification proposals, which are not a recommendation but simply suggestions that Congress look at them, and half were taken from Treasury specifically.

Would you agree also that the status quo is simply not acceptable—again, I'm just sort of paraphrasing your own testimony—and that major structural change is needed?

Mr. SUMMERS. I think there's no question that we need to make major changes.

Mr. PORTMAN. Let me say, as you know, at every public occasion, I have made the point this is not about the Clinton administration. This goes back to the Bush administration, where I served; it goes back to the Reagan administration and before. My view, and the view clearly of a majority of the Commissioners, is that there's an inherent flaw in the system and it needs to be changed. But this is not about Larry Summers or Bob Rubin or the Clinton administration.

Would you say that the Commission report has resulted in Treasury making some of the changes that you have outlined today?

Mr. SUMMERS. Oh, I don't know. I think we've certainly valued the dialog that's taken place with the Commission, but certainly the kinds of pressures that led to the setting of the Commission, and the kind of concerns that led to the setting of the Commission, were concerns that we very much felt in the Treasury—and we've been moving along on a whole set of changes, outsourcing to a much greater extent, the information technology management, converting the management partnership that existed previously to a management board.

But certainly I think the interaction we've had with the Commission, and the sense of the seriousness of this problem, which I think the Commission has done very much in bringing to public attention, has certainly been——

Mr. PORTMAN. That sounds like a "No." OK. Which is also a shock to me, given the interaction we've had and the previous testimony and so on. But I just wanted to kind of see where you all were fitting in.

I'm going to have a chance later to talk to you more about the management board. You talked about continuity, expertise, and accountability, and I would like to go over that with you.

Madam Chair, can I have some time now, or would you prefer me to come back on a second round?

Chairman JOHNSON. Yes, go right ahead, Mr. Portman.

Mr. PORTMAN. The first question I guess I would have is along the lines of what Nancy Johnson talked about, which is the political aspect of the board. If you're going to put this in legislation, which you announced today you are going to do, then you're going to have the Office of the Vice President in there, OPM and OMB and so on, Executive Office of the President.

Clearly, we don't want to politicize the IRS. I assume you agree with that. We don't want political appointees involved in the day-to-day management of the IRS from the White House; is that correct, and are you going to change that proposal? I was a little unclear about your earlier response.

Mr. SUMMERS. Anyone who is appointed by the President, whether it's the current Commissioner of the IRS, whether it's myself——

Mr. PORTMAN. So having the White House——

Mr. SUMMERS [continuing]. Whether it's members of the proposed board, is——

Mr. PORTMAN. Having members of the White House, the Executive Office of the President involved, doesn't bother you? I took it from your earlier comments that you had some concerns.

Mr. SUMMERS. I do not anticipate—I do not anticipate that members of the White House, political members of the White House staff——

Mr. PORTMAN. Is the Vice President's Office not part of the White House?

Mr. SUMMERS [continuing]. Would have a role in IRS governance.

Mr. PORTMAN. So you will probably change the legislation——

Mr. SUMMERS. Just to make clear that it's the National Performance Review staff, rather than——

Mr. PORTMAN. Of the 20 members of your board, I question them with regard to qualifications. Let's start with number one, expertise. What expertise do they bring? Arguably, your advisory commission brings some expertise. They're from the outside world. But then you have two boards. You said they're going to have teeth. I guess they're going to have teeth because they don't report to the Commission, as the current Commissioner Advisory Group, CAG, does. Rather, they report to the Secretary, and that gives them teeth.

Is that the difference?

Mr. SUMMERS. That, and the fact that they make an annual report to the public on the performance of the IRS, which will form a basis for holding——

Mr. PORTMAN. Will they have any authority with regard to the IRS—if their recommendations to the Secretary are not accepted, do they have any recourse? It's an advisory group, right?

Mr. SUMMERS. Their recourse is to make their recommendations and their evaluation of IRS' performance and the Secretary's performance public. That is their recourse.

Mr. PORTMAN. With regard to your board, again, there are 20 board members, including—we talked about the Office of Vice President, OPM, OMB. Do you think they bring that kind of expertise to bear that is needed? Do you think they bring information technology expertise, the private sector customer service orientation that we've talked about throughout the course of the last year, and as I think you said earlier, Treasury agrees needs to be part of the IRS?

Mr. SUMMERS. I think they provide an effective mechanism for oversight. I think people like John Koskinen who served on our board, who's had extensive experience in turning around private sector companies, people like Ray Kelly, who have enormous experience in the law enforcement area, do bring to bear very valuable perspective.

Mr. PORTMAN. Some of the private sector expertise that we all acknowledge is needed?

Mr. SUMMERS. They do bring to bear expertise. But I would not want to tell you that the principal source of outside input to the IRS is envisioned to be this management board. That's why——

Mr. PORTMAN. So you wouldn't get the expertise—OK, that's fine. So let's forget expertise then. We need expertise, but we don't get it through your board.

Continuity, is another point that I think we agree on. We need more continuity. We mentioned earlier that you're the third Deputy Secretary, and you have focused on the IRS, in my view, more than any Deputy Secretary in history, particularly in the last 6 months, from what I can tell historically. Maybe some of the IRS historians in the room here can correct us on that.

But continuity we agree is a very big part of the problem. It's a management issue. As I look at it—and I just looked at this again this morning—only 2 of the 15 of the specifically designated proposed members of this advisory group have been on the job for the last 5 years. Only 2 of the 15.

What kind of continuity is that? Seven of the positions have had three or more occupants in the same period, including yours, your position. I don't see how the Treasury plan improves continuity. I think it worsens continuity. You're going to have an incredible amount of turnover. Just looking at your very plan, the numbers are very clear.

So expertise we've kind of discounted. In continuity, you have to look at the facts. And I guess the last issue is accountability.

Now, do you have a response on the continuity issue? I want to give you a chance to respond.

Mr. SUMMERS. Thank you. It seems to me there are three responses on the continuity issue.

First, the most important continuity is in the day-to-day chief executive leadership of the IRS.

Mr. PORTMAN. I couldn't agree with you more. That's why the Commission recommended a 5-year term for the Commissioner.

Mr. SUMMERS. That's why I think the 5-year term recommendation——

Mr. PORTMAN. And you all picked that up. That's great. Although you don't agree with most of the recommendations, apparently, and we didn't affect your proceedings or your thinking on it, a few months ago you decided that that was a good idea, after we recommended it—which is great. That does help in terms of continuity.

But does your board provide continuity?

Mr. SUMMERS. Congressman, if I could just——

Mr. PORTMAN. Does the board provide continuity?

Mr. SUMMERS. If I could just return to the earlier—I want to be very clear. I think the Commission has made an enormous contribution. There are a very large number of recommendations that the Commission has made that we share. I just haven't done a numerical count to know whether it's a majority or a large number——

Mr. PORTMAN. Maybe we can do it afterward.

Mr. SUMMERS. There are important recommendations that we share, and I think it's been an enormous contribution to this process. Certainly its thinking has helped to guide where we all are now. So if I was understood as saying something different, I should not have. I think the Commission has made an enormous contribution.

Mr. PORTMAN. But your board does not provide any continuity. It doesn't solve the problem of continuity. In fact, it exacerbates it.

Mr. SUMMERS. No, I think the 5-year term for the Commissioner is very effective with respect to continuity. I think the outside advisers who are making an annual report, who will serve in terms that are staggered, is a very important response to continuity.

I think the most important thing that any of us can do is to build a career staff that will provide the real long-term continuity and who are there every day, who are involved in the oversight function. That's something we're very much focused on.

Mr. PORTMAN. Again, as you know, we have a lot of specific recommendations in the report, many of which I think you would agree with, about how to get that senior team additional expertise——

Mr. SUMMERS. Absolutely.

Mr. PORTMAN [continuing]. Some outside expertise, and more continuity and more expertise is important. I hope to get back to you later, but I want to pass along to my other colleagues.

Thank you, Madam Chair.

Chairman JOHNSON. Thank you.

Since Mr. Portman and Mr. Coyne invested so much time on the Commission, I thought it appropriate that they have a chance to expand a little bit on their questions. I appreciate Mr. Portman passing on now to other Members of the Subcommittee.

Since there are quite a few Members of the Subcommittee present, and we have another panel, I would appreciate it if the rest would stay within the 5 minutes.

Mr. Kleczka.

Mr. KLECZKA. Thank you, Madam Chair.

Madam Chair and Members, first of all I want to acknowledge the work of the National Commission. Here's a group of citizens who spent a lot of time and effort to come up with some recommendations, resolving a problem at an agency that I must say at the outset will never be popular. The IRS could send everyone of us a Christmas card and we still would not think nicely of them.

What troubles me about the report, the mainstay of the report, is that because we don't like the way they operate, we are going to turn the management over to a citizen board, knowing full well this is a government function. If, in fact, other agencies in the future fall into disfavor with the public, I ask the authors of this proposal whether or not they're going to come forward and suggest a citizens board for that agency.

I can see Health and Human Services, HHS, not the most popular, but they serve the needs of needy people, so there is some sympathy for them. But they could fall in disfavor and all of a sudden we come up with the citizens board to run them. Department of Defense, DOD, a couple of stories on $600 toilet seats, and there's a proposal before Congress to have a citizens board run them.

After we have all the agencies run by citizen boards, my question is, what is the sense of electing a President to formulate an administration, one who is responsible to all the voters, to all the residents in all 50 States, I think at that point you make that job kind of meaningless.

I'll tell you, if you want to talk about disfavor, we can look at ourselves in Congress. Why not, my colleagues, have a citizen board to run the day-to-day operations of the Congress? Clearly, the schedule is not family friendly. Let's get some housewives on the citizen board running the schedule of Congress. Let's get a bunch of chief executive officers in and have them run the Ways and Means Committee, because clearly there are too many bumps and rough edges when the tax bill is being put together.

You can see how absurd this keeps going on and on and on, until all of a sudden we have no government.

I'm not here to defend the IRS. In fact, if I might, I will relate to you a recent problem I had with the agency, Mr. Secretary. It involves my campaign account, wherein interest is taxable, like any other interest for any other tax filer. So I filed the necessary form and paid my debt, and lo and behold, a month later, I get a notice saying "you underpaid by some $900." Well, I pull out the form, looked at the percentage, looked at the interest income, and said no, these folks are wrong.

Well, when they sent me the letter, they didn't say, "Jerry, look this over. You might have a problem." They convicted me and hung me on the first paragraph. Then they added another two pages indicating to me what the severe penalties were, based on various amounts and lengths of deficiency. I thought it's all over. This account is going bankrupt and I'm going to have to resign my seat. It's all over for the guy.

So then we write them a letter, and the upshot was that they were in error, and I received a $15 check for an overpayment. So no one is here to defend the IRS.

But I think the important thing with this hearing, with the proposal, is that maybe now we'll have some decent public discussion on how to change it. Will it be a citizen committee? Don't know. I'm very leery about it, and I think that's one of the major issues to be decided by this Subcommittee and by the Full Committee eventually. Nevertheless, at least we're going to start giving this the talk and the dialog that it needs.

There are other options that I think we can explore. If, in fact, we don't like the attachment of the IRS to the Treasury, let's make it a separate entity of the government, controlled by a Secretary who will be a Cabinet member. If we're fearful that that Secretary might be a political crony, let's put some specifics on who can get that job—10 years in the private sector, or whatever other criteria you want to make. So there are other options we can explore.

The bottom line is the importance, Madam Chair, of a public discussion of the issue, and hopefully we'll put our minds together and come forth with the best proposals that would satisfy the public's need to have an agency who will always do an unsavory thing; i.e., take our money, but I think they can do it in a friendly manner. It's always easier to pay a bill to a smiling face than someone who's frowning. So if we can put the big smile on IRS and some accountable administration, I think that's the job we should be up to.

As far as the proposal goes, I will be asking the actual Commissioners who will be appearing next specific questions on how this operation is going to work, what these folks are going to be paid.

But nevertheless, we've heard a lot of talk over the last couple of minutes about conflict of interest, people not being partial, or impartial, and my question to you, Mr. Secretary, is—and Mr. Portman criticized some of the proposals that you are bringing forth and putting online now. But what guarantee do we have that this 7-member Commission is going to be impartial? What guarantee do we have that they won't bring with them any conflict of interest, and what guarantee do we have that they will serve out their full term and not resign prior to filling out the term because of a job change or some other family situation? Could you respond to that, Mr. Secretary?

Mr. SUMMERS. I don't think we have those guarantees with respect to the Commission's proposal. That's part of why we find the Commission's proposal so troubling. We think there will be major appearance issues raised by people whose primary loyalty is large, private sector organizations, being put in charge of enforcing the tax law. We think that such people will serve as long as they will serve and there's no guarantee of continuity and input.

We think, if you're talking about continuity of input, the continuity of input that comes from the fact that Secretary Rubin and myself and our Assistant Secretary of Management, the people who work with our Assistant Secretary of Management, go into the Treasury Department every day and are available to work on IRS issues, respond to IRS questions, every day, is a kind of continuity of input that is very important.

It would be lost by moving to a proposal where this would be a side activity for the people who are put in charge of the Nation's tax system. We think that putting the Nation's tax system in charge of a committee, for whom it is a side activity, with real appearance questions, is not the right thing to do.

Mr. KLECZKA. Thank you.

Thank you, Madam Chair.

Chairman JOHNSON. Thank you.

Mr. Kleczka, this is a core issue, whether or not you're going to get greater continuity, and minimize conflict of interest problems through presidential appointees, approved by the Senate, which is a very serious business, we all know, or whether you would get greater continuity and fewer conflicts of interest through appointees to an advisory board that do not go through that process. This is a core issue that Members of the Subcommittee will give a good deal of time to.

Congresswoman Dunn.

Ms. DUNN. Thank you very much, Madam Chairman.

Mr. Secretary, I am getting a confusing message from you. I've been told that you worked closely with the Commission in their development of recommendations, and yet now, as we start talking about a core recommendation, the board of directors, I'm hearing you say it's not necessary and that accountability should rest with the Secretary of the Treasury and the President.

I have a real problem with that. I mean, that's who it has always rested with, and that's who allowed IRS to spend $4 billion of public funds on a computer system that doesn't work. That's what people at home whom I represent understand. So I don't see the validity, and you're saying we can continue under this same system of accountability which has demonstrably failed.

You said that the board of directors would be exposed, in your testimony, to dangerous and unacceptable risks of conflict of interest. As Mr. Portman and our Chairman have said, under the Commission's recommendations, these would be private sector members who are special government employees, nominated by the President, approved by the Senate, subject to the same ethics and conflict of interest protections that cover all political appointees. They would have no interest or involvement in tax policy decisions. It would not be available to receive income tax information.

I would just like to know what risks are you referring to?

Mr. SUMMERS. Congresswoman, obviously the rules would have to get drafted if such a board came to pass. As we understand the rules governing special government employees, who serve on a temporary basis, the nature of the ethics restrictions are far less serious and far less binding than the ethics restrictions that apply to me, for example, as a full-time government employee.

I would just ask the question, what the inherent conflict is between someone's service as a chief executive officer of a Fortune 500 company and their responsibility for the enforcement of the Nation's tax law. When questions of strategy, with respect to auditing of corporations comes up, how would a member of the business roundtable avoid, even with the best and most totally honorable of intentions, being in a situation that would create an appearance of conflict, as that question was faced. When questions relating to the quality of taxpayer service provided to corporations were to arise, the similar kinds of conflicts of interest would arise. When questions with respect to enforcement of laws on cash transfers came up, how would the head of a large bank be in a position to provide the appropriate appearance of neutrality.

Of course, one could say, I suppose, that nobody who was in any of those kinds of situations would be eligible to serve on the board. But then it seems to me the kind of person that's being envisioned as a board member would be ruled out.

Ms. DUNN. We're all adults; we're all professionals. Those of us who come to Congress to represent our constituents have particular interests. Many of us are small business people. There could be potential conflicts of interest. A Senate-confirmed appointee could be expected in some manner to set aside a potential conflict of interest, or would recuse himself or herself if that issue came to the table.

It sounds like what you're saying is that there's a potential for private sector folks to actually influence the IRS in some way, to affect their own company audits, for example. I hope that's not what you're saying, Secretary Summers, because I think that's a really weak position to go at this very considerably considered and thoughtfully presented board of directors proposal, that we have recommended and are very interested in pursuing on a very objective level, because we think that finally there will be some accountability at the IRS and, on behalf of my constituents—and I would guess on every other Members of Congress constituents on this panel—we've got to recognize the reality that right now there is no accountability.

That's why you've changed Commissioners of the IRS, and that's why we want to take a good look at this, and we want to have oversight that's going to pay attention to the IRS and is going to shape that agency up.

Now, I hope in the future there will be an opportunity to completely redo the IRS. You know, there's talk of tax systems that would replace the income tax system. Many of us favor that sort of thing. But we want to do it thoughtfully and carefully. We don't want to leave in place a system that penalizes the people that we're here to represent.

Thank you, Madam Chairman.

Chairman JOHNSON. Thank you, Congresswoman.

Congressman English. We do have a vote, but we're going to go ahead, I hope, with two members, 5 minutes each.

Mr. ENGLISH. Thank you.

Mr. Summers, I have a couple of questions of my own, but frankly, I wanted to follow along the line of questioning that Representative Dunn had pursued, because I find some of your comments to be, where they are not ambiguous, astonishing.

Under the Commission's recommendations, the private sector members of the board would be special government employees, nominated by the President, confirmed by the Senate, and subject to all the same ethics and conflict of interest provisions applicable to all other political employees. They would have no involvement in tax policy decisions, and would not be eligible to receive tax return information.

So can you clarify what these risks are that you're talking about?

Mr. SUMMERS. As a full-time government employee, confirmed by the Senate, I'm not allowed to earn income by working for any other employer, other than the Federal Government. As I understand the Commission's proposal, that restriction would not be a restriction that would apply to members of the board.

That is a very fundamental kind of difference. My primary loyalty is to the Federal Government. The only person paying any salary to me is the Federal Government. If I am the head of a private company serving on the board, I am receiving the bulk of my income, the bulk of my professional career activity, the bulk of my professional loyalty is directed to the institution for which I work. Inevitably, the job I do as a board member, 1½ days every month or——

Mr. ENGLISH. Reclaiming my time, my ability as a private sector board member would be very limited to effect any specific policies that would affect my company.

I notice also you stated that corporate executives whose companies may be automatically subject to yearly audits could end up determining the audit budget for the IRS in its strategic enforcement activities.

Now, are you seriously suggesting that these private sector board members would actually cut IRS enforcement resources to affect their own companies' audits?

Mr. SUMMERS. I'm seriously suggesting that I think people would be led to ask whether a group of corporate executives, deciding how much resources were going to be devoted to corporate auditing, and how much resources were going to be devoted to other things, might, would develop a view—not with bad motives at all—would develop a view that was related to what their primary loyalty was. Yes, I think that's a question many people would ask.

Mr. ENGLISH. Mr. Secretary, I'm glad you're conceding the point on motives.

Let me move on. You say that the independent board would pose an unacceptable risk to our Nation's revenue stream. That has been the position of the Treasury. How would it do that exactly?

Mr. SUMMERS. I think, by undermining the day-to-day supervision and executive responsibility that the Treasury Department now exercises, and is exercising with increasing effectiveness and real results, by undermining all of that, I think it would put at risk the capacity of the IRS to function effectively, and that, in turn, would put at risk the Nation's revenue stream.

Mr. ENGLISH. Well, then, I'll move to a final question, because obviously we have a fundamental disagreement on this.

There is a recommendation in this report also having to do with tax simplification. Do you agree with the comments, with the recommendations of the Commission on tax simplification? Specifically, should there be a complexity analysis of every tax proposal, and would the Treasury be willing to submit its own proposals to a complexity analysis before they are submitted to Congress?

Mr. SUMMERS. I think there's no question that an analysis of their implications for complexity should play a role, should play a role in every tax bill. Certainly we think simplification is an important objective. That's why the Treasury put forth a package of tax simplification measures, which Congressman Portman and many others have endorsed. We have been pleased that many of those provisions, which I think do represent significant simplification, are contained in the bills that passed the House and the Senate, and we hope and trust that many of them will survive and make it through the conference process.

Mr. ENGLISH. Do you then support the Commission recommendation on tax simplification?

Mr. SUMMERS. We support the broad approach of focusing on simplification, yes.

Mr. ENGLISH. I'll take that as a qualified yes. Thank you for testifying today.

Chairman JOHNSON. I'm going to recognize Mr. Tanner. Some Members have gone over to vote. I do not intend to suspend the panel, if I can avoid it, out of respect for the time schedules of the following panel.

Mr. Tanner.

Mr. TANNER. Thank you very much, Madam Chairman.

I appreciate your time, Mr. Secretary. Let me ask one question conceptually. I have read parts of the Commission report, and in the report language it seems to try to carve out tax policy and law enforcement functions as not being a part of the Commission.

Now, conceptually, I think there ought to be more discussion about how much of the tax policy of the country should be turned over to an independent agency not directly accountable to the people. I don't think that has been fully communicated in the country, to the citizens. I think we ought to spend a little time on that, as I said, conceptually.

But could you give us an example or two of how, one, if we accepted the Commission as presented, how does one carve out the tax policy and law enforcement function and have that work as intended or as conceptualized?

Mr. SUMMERS. Honestly, I think one of the reasons why we're as troubled as we are about the Commission's proposal, and believe that while completely well intentioned, it would represent a grave mistake, is that we don't think it's possible to separate tax policy from tax administration, or to separate tax policy from law enforcement.

Every several—Very frequently, Secretary Rubin and I are in the White House, and we have an opportunity to discuss some tax policy question, and somebody's got some scheme to do something or other, using the tax system, and we say that can't work. It just can't work because it's too great a burden on the IRS and it's not feasible.

Frankly, an independent IRS wouldn't have representatives at that meeting to make that argument, and if they did have representatives, they wouldn't get the kind of weight that the Secretary of the Treasury gets. So I think by lodging this responsibility for actually administering the taxes and collecting the revenues with the Secretary of the Treasury, you internalize much more into the government's decisionmaking that administration and administrative ability consideration.

I don't think, since so much crime—You know, Al Capone went to jail for tax evasion—that so much crime is detected and enforced via tracing the money and tracing the financial trail through the tax system, and many of those things start as very routine audits but then something comes up in the tax audit, discovers and leads to a more serious problem. I don't see how you can really divorce law enforcement from tax administration.

I think you can write rules, and I think this is the point that the Commission emphasizes, and I think they're right. I think you can write rules that cavern off responsibility and involvement in specific cases from specific people. Just as I can't get involved in a specific case, I think you can write a rule that says that the private board member can't get involved in specific cases.

But I think the problem is that so many of the strategic policy decisions that the IRS makes are decisions that influence private interests. That's where it seems to me you get into the serious problem.

Mr. TANNER. So am I correct in, I guess, interpreting your answer to say that, although the Commission report has merit with respect to some of the changes, some of the modernization and so forth, that conceptually the idea of turning over tax policy and law enforcement to unelected, independent members of this commission or agency is troubling in terms of it being overbroad with respect to these specific items of tax policy and law enforcement function?

Is that a fair characterization?

Mr. SUMMERS. That is very fair, Congressman Tanner. I would just say that we believe that the Commission's governance proposal would represent a grave mistake that would seriously threaten law enforcement, tax policy, and effective customer service.

Mr. TANNER. Maybe we can continue to work on that together and see if we can reach agreement.

Thank you. I must run and vote.

Mr. SUMMERS. Thank you.

Mr. PORTMAN [presiding]. I didn't hear the beginning of Congressman Tanner's question, and I will have a chance to visit with him later when he comes back. But I took it from his question to you that his supposition is that the board is involved in tax policy and enforcement, which as you know it is not. It specifically stated so in the Commission's report, and there are safeguards in place for that. So I hope we'll have a chance to go over the report in more detail in the legislation. But there is a specific bar to that.

In fact, when you look at what Mr. Kleczka said, why not make it an independent agency—and I would love your comments on that generally—but the main reason that our Commission, I think it's fair to say, did not move to the independent agency model is because we do believe there are some synergies with Treasury, and one of the synergies, of course, is tax policy. Treasury would continue to have tax policy under this proposal.

For you to say, in response to questions about the political appointees, including those of the Executive Office of the President being involved on your board, that while those folks, to quote you, would focus on policy and management—this is what I wrote down from your statement—and they would have no impact on specific cases, and then for you to turn around and say, "but this other board would have strategic decisionmaking that would have an impact on tax policy" seems to me to be entirely inconsistent.

Mr. SUMMERS. No. Could I explain for a moment?

Mr. PORTMAN. I would be happy to have you explain. This is your worst nightmare. It's you and me. Everybody else is gone. [Laughter.]

If another Member doesn't come back, we'll have to move to the next panel because I see a lot of the Commissioners and other experts are here to testify. But we are going to wait and see if a couple other Members come back in the next few minutes, in that case, because I know they wanted to talk to you, too.

Go ahead.

Mr. SUMMERS. Congressman, I always enjoy discussing these issues with you.

What I tried to say, in answering Representative Tanner's question, is that I think it is possible to, whether it's a government board or whether it's a private board, I think it is possible to cavern off involvement with cases facing specific taxpayers. I think we know how to do that and I think that can be done. I think involvement in specific cases isn't a problem on either side.

Mr. PORTMAN. But earlier you did raise that as a concern, specifically with regard to——

Mr. SUMMERS. I think what is a problem, I think——

Mr. PORTMAN. What's the conflict of interest problem if it's not——

Mr. SUMMERS [continuing]. As one gets to policy questions—for example, a policy question of the allocation of IRS audit resources between corporations and individuals——

Mr. PORTMAN. Let's talk about that. Let's talk about that for just a moment.

Mr. SUMMERS. I think it's questionable to have a member of the business roundtable have a central role in making that decision.

Mr. PORTMAN. OK. Let me ask you a specific question about that. As you know, in the Commission's report the allocation of resources for enforcement, precisely what you just said would be the problem, is determined by the budget. Who determines the budget of the Internal Revenue Service under this report?

Mr. SUMMERS. Well, I'll leave you to be the authority——

Mr. PORTMAN. No, it's very clear. The Department of the Treasury. The Secretary of the Treasury approves the budget. It becomes part of the unified budget. It goes through the same process the budget does now, with OMB, and it comes to the Hill as part of the President's budget.

Why would that be any different—Secretary Summers, I'll wait until you finish hearing it from Ed there—but with regard to the current situation? I don't get it. I see that as one of many red herrings you're raising.

When you go through and look specifically at the way we came at this, which was a balanced approach—frankly, as you know, about half the Commissioners would have loved independence. But we tried to move toward you, including the very important issue of allocation of resources for the IRS.

Mr. SUMMERS. Well, I think that when you get into all of the decisions that your board will shape, how information technology will be used——

Mr. PORTMAN. So it's not the budget issue. That was——

Mr. SUMMERS [continuing]. Where the focus will be——

Mr. PORTMAN. Hold it. Let's get back to the budget one. What's your answer?

Mr. SUMMERS. The answer to the budget—even in the case of the budget ones, the Commission will exercise considerable leverage over the personnel at the IRS, who will be the people who provide the information——

Mr. PORTMAN. So it's leverage over the personnel now, not the budget. It's not allocation of resources.

Mr. SUMMERS [continuing]. To provide the information——

Mr. PORTMAN. Let's just target on what your concerns are and then we can try to address them. But on the budget side you're satisfied?

Mr. SUMMERS. I didn't say that. I didn't——

Mr. PORTMAN. What are your concerns?

Mr. SUMMERS. I think I'll have a better chance of clarifying my concerns if you let me speak for just a——

Mr. PORTMAN. Sure. I just want to stick on one, and then we'll go to the next one and try to address that one, and kind of move our way down.

Mr. SUMMERS. The concern about the budget goes to several levels. First, it is important that the decisionmaking about the microstructure of the IRS budget, which in turn drives the IRS employment locations, in turn drives the information technology, strategy, in turn drives the way in which taxpayers—there's interaction with taxpayers—it is possible to envision that all of those decisions are made at the Treasury level and that all decisions that impact on the budget are made at the Treasury level.

But once all decisions that are made that impact on the budget are made at the Treasury level, I would be left to wonder just what the decisions were that the board is going to make. That's one point.

Mr. PORTMAN. Wait a minute. Currently are you saying——

Mr. SUMMERS. Second and separately——

Mr. PORTMAN. I'm confused. Let's just clarify what you're saying.

You said micromanagement decisions about the budget are made at the Treasury level now? Doesn't the Commissioner put together the budget?

Mr. SUMMERS. The Commissioner puts together the budget——

Mr. PORTMAN. Which is what the Commission report provides for as well.

Mr. SUMMERS. Which is reviewed—the Commission puts together the budget, which is reviewed in very considerable detail in the Treasury Department, and is responded to in very considerable detail in the Treasury Department, as a central tool of oversight helping to set the organizational priorities for——

Mr. PORTMAN. Why wouldn't Treasury have that ability under this proposal?

Mr. SUMMERS [continuing]. For the IRS.

Well, if the Treasury has that ability, then if that——

Mr. PORTMAN. Treasury does have that ability under this report. I would hope that the Secretary of the Treasury is not making micromanagement decisions about the budget. If he currently is, I don't know how he has time to do all the other things he's doing with regard to the domestic and international economy. That certainly is not our intent, that either the Secretary or the board would do that. The Commissioner does that, and her designees or his designees.

I think on the allocation issue of resources we have determined that that is not a legitimate issue.

What's the——

Mr. SUMMERS. As I understand the Commission's proposal, the Commission would propose a budget which it would send directly to the Hill.

Mr. PORTMAN. Yes. There would also be an informational budget, just as Social Security does now. The Social Security Administration puts together a budget and sends it to the Hill for informational purposes, which I think will be very helpful to know what these overseers think about where the allocation should be.

Mr. SUMMERS. But, of course, that budget——

Mr. PORTMAN. But it will then become part of the President's budget. Treasury signs off on it. Treasury has to approve it.

Mr. SUMMERS. Which the board——

Mr. PORTMAN. And it then becomes part of the unified budget. That is the President's budget to the Hill for the IRS. That's the budget that you work from, just as we do with Social Security. There's a model here.

Mr. SUMMERS. Of course, the budget that is—of course, Social Security is not run by anyone whose primary loyalty is to the outside.

Of course, in Social Security, there are not the same prospects for——

Mr. PORTMAN. The board sends its approved budget to us. It's the same model. It's an advisory board, the Social Security board. Social Security has a board. They don't have accountability or teeth because they're advisory, along the lines of the Commissioner's advisory group, and along the lines of your proposed outside board.

Mr. SUMMERS. Social Security has trustees.

Mr. PORTMAN. No, not the trustees. The board. They send forward a budget proposal for information purposes. I'm just saying there's a model for that, but the budget proposal from the President is the one that goes through the regular unified budget process.

Mr. SUMMERS. There's a budget process. The Commission——

Mr. PORTMAN. That's the one that you're going to continue to have approval authority over at Treasury.

Mr. SUMMERS. I understand that. I also understand, that I believe it is the intent of the Commission's proposal that the outside board exercise influence over the allocation of resources within the IRS. If it is in a position to exercise influence over the allocation of resources in the IRS, the question will naturally arise whether they will want to allocate resources in a way that favors their primary loyalties. That seems to me to be inherent in the structure that you pose, unless one took the position that the Commission wouldn't—that the board would not influence the allocation of resources within the IRS, in which case it would seem to me to be difficult to achieve significant improvement without influencing the allocation of resources.

So I think it is—and I'm sorry that I was not as sharp as I might have been in addressing the precise details of your proposal—but I think it is inherent in the proposal that the Commission exercise authority, or exercise influence, over the allocation of resources within the IRS. Once you have that, it seems to me you have the conflicts.

Mr. PORTMAN. Let's just make it clear again that the way the budget works is that it's going to the Secretary of the Treasury for approval and become a part of the unified budget, so that for future reference—and we talk about this in our letter to Secretary Rubin, Senator Kerrey and I, and that issue can be addressed on a factual basis.

I'm being told we have to go on to the next panel. Congressman Coyne has agreed not to ask any further questions, I guess. Thank you very much, Dr. Summers, for being with us.

Mr. SUMMERS. Thank you very much.

Mr. PORTMAN. We would now like to call forward the next panel.

Fred T. Goldberg, Commissioner from the National Commission on Restructuring the IRS, and currently a partner with Skadden, Arps, Slate, Meagher & Flom, in Washington, DC.

Robert Tobias, also a Commissioner on the Restructuring Commission, and president of the National Treasury Employees Union.

Assistant Secretary Larry Irving, who also is a Commissioner, and is currently Assistant Secretary for Communications and Information at the U.S. Department of Commerce.

George Newstrom, another Commissioner, who is the corporate vice president and group executive of Electronic Data Systems, EDS, in Herndon, VA.

Josh Weston, another Commissioner, chief executive officer, Automatic Data Processing, Inc., ADP, Roseland, NJ, former CEO of ADP.

Finally, David Keating, the executive vice president of the National Taxpayers Union, and also a member of the Commission.

Gentlemen, welcome. Thank you for your patience. We understand that Mr. Weston has a flight, so with your indulgence, we will ask Josh to go first.

Other Members of Congress will be trickling in after these votes, but I would ask you to proceed, Mr. Weston. I think we're on the 5-minute rule, is that right. OK. We'll be on a 5-minute rule, and then we will have time for some dialog back and forth.

Mr. Weston.

STATEMENT OF JOSH WESTON, COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; AND CHAIRMAN, AUTOMATIC DATA PROCESSING, INC.

Mr. WESTON. Mr. Chairman, thank you. If it would serve the convenience of the Subcommittee, I don't mind waiting 5 minutes, if your colleagues are coming back.

Mr. PORTMAN. Well, I would recommend, Mr. Weston, that you begin, because you never know about these Members of Congress. They may or may not come back. But your testimony, of course, will be made a part of the record, and they will have an opportunity to review it.

Mr. WESTON. Thank you, Mr. Chairman, and Members of the Subcommittee. My name is Josh Weston. I am chairman of Automatic Data Processing, or ADP for short, where I have been a senior executive for over 25 years. President Clinton appointed me as one of the Commissioners on the National Commission to Restructure IRS.

ADP is a $4-plus billion computer services company, with over 50 computer centers, over 30,000 employees, and by far the longest consecutive annual growth record of any American company—36 consecutive growth years in a row.

We currently pay well over 20 million Americans every payday, on behalf of some 300,000 employers. And we electronically interface with over 2,000 U.S. taxing authorities, from the IRS to the smallest school district in Ohio.

Our side of the relationship with IRS is paperless, as we transmit $200 billion per year to the IRS. We also give them 35 million paperless W–2 forms each year, and millions of electronic tax returns from those employers.

ADP handles over 100 million client phone calls per year, almost as many as the IRS. And while 40 to 60 percent of the IRS phone calls get to their intended destinations, well over 90 percent of our calls do so.

We also support 100,000 stock quotation terminals for Wall Street, where critical response time is measured in milliseconds.

Our computers process 20 percent of all Wall Street trades, where timing and accuracy are very critical, as is the case with payrolls.

So I think our company and I both know a lot about service, efficiency, computerization, and employee motivation.

In addition, I serve on the boards of four other very large service companies. In each such case, I think I am very well informed, focused, and an influential part timer. Although those boards generally pay me $30,000 to $40,000 annually for my efforts, they do get my dedicated attention. My fellow board members in the private sector, on average, serve noticeably longer than appears to be the case in IRS and Treasury executive positions and advisory boards.

Those companies on whose boards I serve also get free supplemental help from my ADP colleagues whenever I think it can be helpful. Those boards neither micromanage nor implement policy. In fact, they do not manage. But they do maintain clear focus, oversight, priorities, continuity, and a demand for measurable results and outcomes.

The President recently identified a very qualified and capable private sector executive to be the next IRS Commissioner. Because of my Commission activities and knowledge, and my private sector activities, it was I, as a private sector part timer, who was able to identify and recommend this next likely chief executive officer of the IRS to both Bob Rubin and Larry Summers.

I give you all this background because it illustrates the kind of public-minded talent and help that is available for the type of IRS governance board that our National Commission has recommended to Congress. And there are many other senior private sector execs like me. My self-description also illustrates why I disagree with the Treasury Department's view that a mostly external IRS board of experienced senior service execs would not be an appropriate, qualified, or dedicated governance entity for the operational and service portion of the IRS.

As a further indicator of the relevance and abilities of senior, private sector executives to guide IRS on operational matters, I will tell you that in just 4 months I voluntarily made five, indepth visits to five different tax centers. Frankly, I doubt that any or many of the current internal Treasury Department advisors to IRS have seen and learned from as many IRS field personnel and tax processes as have I as a part-time, unpaid outsider. And there are other non-Treasury Department executives like me who could bring very relevant and consistent guidance to the IRS if our Commission's recommendations on a governance board are adopted by Congress. Incidentally, I am not applying for the job.

By contrast, on the subjects of relevant experience and consistency, the past 20 years clearly indicate that the various existing IRS and Treasury Department governance and oversight processes have suffered from a glaring and continual lack of relevant executive experience, focus, consistency, and knowledge on a scale that's necessary for the IRS.

The present, past and prospective consistency and continuity in IRS oversight by the Treasury Department were and are flawed because the relevant officials, often political appointees, generally have low longevity and limited relevant experience that is necessary to guide the IRS and its chief executive officer in dealing with better service, better efficiency, and state-of-the-art electronics that aligns technology with the business mission.

The recent Treasury proposal of a 14-person advisory board hardly approaches the prospective value and punch of our recommended board. The Treasury's large advisory board would include only four senior executives from the private sector and would only meet quarterly. It would not have intensity. It would not have clout. It would not have accountability. It would be more like a townhall meeting.

The Treasury's proposed 20-percent internal management and review board consists mostly of interagency, mid-level department heads who would generally lack the degree and scale of senior-level experience to truly create and guide a $1.5-trillion, 100,000-employee, computerized service environment that handles 1 billion transactions and 150 million phone calls a year. Nor could such a heterogeneous additional board, as recommended by Treasury, likely have a shared, sustained strategic vision with clear authority and accountability.

Some people have characterized our Commission's proposal as setting up a freestanding, privatized, nonaccountable tax enforcement agency. Those allegations are not accurate. Each board member would be selected by the President, who could also terminate him or her. The Senate would have a say on each appointee. The Secretary of the Treasury would be on that board. The board's budget requests would flow through both the Treasury Secretary and the Congress. This board would have no say on tax policy and tax enforcement, which would continue to flow through Treasury.

The bulk of the IRS employees are not in heavy-duty enforcement. Most IRS employees are in service and operations because well over 75 percent of revenues come in almost automatically from employee withholding taxes and employer payroll taxes, where tax enforcement and tax policy are not primary issues.

Before concluding, I would like to emphasize to this Subcommittee some significant, non-governance observations. As you probably well know, our tax collection system is based on voluntary self-assessment. It produces $1.5 trillion per year. The voluntary compliance is around 85-percent accurate, which is very high by most international comparisons.

Voluntary self-assessment is very sensitive to taxpayer attitudes and taxpayer treatment. A mere 1-percent compliance shift in either direction affects Federal proceeds by $15 billion a year.

Current IRS service standards, behavior, and audit methodology are much below the best private sector standards and probably cost the government huge shortfalls in revenue potential and goodwill. Better, more qualified top-level board governance, not daily management by the board, could make a big difference.

I thank you for your attention.

[The prepared statement follows:]

Statement of Josh Weston, Commissioner, National Commission on Restructuring the Internal Revenue Service; and Chairman, Automatic Data Processing, Inc.

Madam Chair and members of the Committee. My name is Josh Weston and I am chairman of Automatic Data Processing, Inc., or ADP, where I have been a senior executive for over 25 years. President Clinton appointed me as one of the commissioners on the National Commission to Restructure IRS.

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Some people have characterized our Commission's proposal as setting up a free-standing, privatized, non-accountable tax enforcement agency. Those allegations are utter nonsense. Each board member would be selected by the President, who could also terminate him or her. The Senate would have a say on each appointee. The Secretary of the Treasury would be on the board. The board's budget requests would flow through both the Treasury Secretary and the Congress. The board would have no say on tax policy and tax enforcement, which would continue to flow through Treasury.

The bulk of IRS' employees are not in heavy-duty enforcement functions. They are in service and operations, because well over 75% of revenues come in almost automatically from employee withholding taxes and employer payroll taxes, where tax enforcement and tax policy are not primary issues.

Before concluding, I would like to emphasize to this Committee some significant, non-governance observations that are important to your deliberations.

1. As you know, our tax collection system is based on voluntary, self-assessment. It produces $1.5 trillion per year. That voluntary compliance is around 85% accurate, which is very high by most international comparisons.

2. Voluntary self-assessment is very sensitive to taxpayer attitudes and treatment. A mere 1% compliance shift in either direction affects federal proceeds by $15 billion.

3. Current IRS service standards, behavior, and audit methodology are much below the best private sector standards, and probably cost the government huge shortfalls in revenue potential and goodwill. Better, more qualified top-level board governance (not daily management by the board) could make a big difference.

4. Congress also needs better coordinate its oversight and interference with the IRS. In a typical year, at least seven different committees interrogate and guide the IRS. They typically hold 20–30 hearings per year. In each of these past ten years,you have authorized over 40 different GAO investigations and reports on the IRS, most of which have been far more burdensome than useful. In a typical IRS year, there are over 12,000 Congressional calls and letters to IRS requesting some kind of action. The Congressional process can be much improved.

5. I strongly recommend, as does our Commission report, that the House and Senate have one joint, senior body to better coordinate the direction, focus, and consistency of Congressional and GAO guidance.

6. Because there are no complexity tests or cost/benefit analyses applied to each incremental piece of tax policy, legislation, or IRS regulation, IRS and taxpayers are both very heavily burdened with unnecessary and unproductive complexities and inefficiencies. All proposed tax policy and regulatory changes should require a concurrent complexity analysis.

In addition, the IRS Commissioner should be directed to annually submit to some joint House/Senate committee a list of best candidates for further simplification that would have little effect on either tax policy or tax revenues.

7. Finally, I have a few comments on technology:

a. It is imperative that you fully fund and monitor IRS progress on fixing the Year 2000 challenge well before December 1999, or chaos will ensue.

b. It is equally imperative that IRS be allowed and encouraged to build and retain an experienced, capable senior technology leadership team that is not solely home grown talent.

c. Electronic filing and other simplifications are critical to enhanced accuracy, efficiency, and auditing. This project needs funding, clear targets, and legislative revisions to make electronic more attractive and simpler.

I thank you for your attention and would be pleased to further help you.

Chairman JOHNSON. Thank you, Mr. Weston.

In view of your schedule, we are going to proceed with questions at this moment, and I am going to recognize Mr. Portman.

Mr. PORTMAN. Mr. Weston, thank you for your testimony today. Mostly, though, thanks for your work on the Commission. You were tough, hardnosed, nonpartisan, sometimes monopolizing the hearings for us, but honestly, it was a pleasure to work with you, and I think all of the Commissioners share in that commendation because you brought that private-sector expertise, knowledge, and commitment to the task. So thank you for all you did.

I have one question for you, and it has to do with your experience on both the ADP board and other boards you have been on because I think that goes to a lot of the concerns that the Treasury has raised.

You serve on a couple of major boards now, you said, and you have been on the ADP boards. Do you all micromanage these companies? Do you get involved in decisions that would be the equivalent of an individual taxpayer's decision? Tell us a little about what you do.

Mr. WESTON. I think the polite answer is "heck no," and I could substitute two other letters if I did not have to be polite.

Most board members I serve with clearly recognize that a board does not manage, cannot manage, should not manage, and will not manage. It just does not happen that way except in some crazy, freak situation that I do not know about.

Most board members have senior-level executive experience someplace else, and they clearly understand the difference between oversight and guidance on the one hand and management on the other, and I cannot recall in any of the five boards I am on, all of which are large service organizations, a single instance of a board zeroing in on micromanagement versus insisting and getting from the chief executive officer clear plans, clear accountability, and intermittent updates on status versus those plans. If the chief executive officer is not performing according to those plans, then the board holds the chief executive officer accountable and in some regrettable situations gets a different chief executive officer, but a board cannot and does not micromanage, does not manage at all, and every time I heard the word "manage" earlier this morning, it seemed to me to be a gross misconnect between reality of boards and theoretical hypotheses.

Mr. PORTMAN. As one follow on, would you say that the IRS can use some of that oversight and guidance that a board does supply?

Mr. WESTON. Well, let me give you just a few examples. Every board I am on, once a year, receives a very clear, long-term plan from the chief executive officer and this plan is massaged, critiqued, and if necessary, the plan is amended.

Once there is a long-term plan and direction, every board I am on receives an annual operating plan which is more than just a budget. It has all other key objectives, key organization needs, and once approved by the board, it is the chief executive officer's job, not the board's job, to achieve that performance, and every board I am on gets a quarterly update at least on how the company is doing versus those particular plans. If an issue is not going well, the board asks the chief executive officer to come back with a clear course of action to remedy the shortfall as compared to a board trying to manage around the chief executive officer.

I do not know if I answered your question.

Mr. PORTMAN. You did. Thank you.

Chairman JOHNSON. Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman, and thank you, Josh, for your testimony. I appreciate your being here today.

I just wanted to followup on your testimony relative to the boards that you serve on. You stated that the members of these boards do not intervene in the day-to-day operations of the boards. Do you see any circumstances under which someone who would serve on the proposed IRS board would be asked to act on behalf of a constituent or taxpayer relative to IRS problems

Mr. WESTON. My comment on that, Congressman, is that on any board I am on, if occasioned by accident some individual board member appears to be going off on a toot, whether it is self-serving or just hysterical, the other board members have sufficient respect and recognition that they will cut off that board member and say, "Kindly take that thing offline. We want to talk to you."

One of the things that an external board does is monitor the performance of its individual associated board members, and if you have people of experience and clout who have served on boards like that, they are a self-correction device for any other board member who might by accident be going off on an inappropriate tangent.

If for some reason the board members did not recognize it quickly, it is certainly the chief executive officer's prerogative to call to the attention of the board or the chairman of the board that this particular item is better handled in some different way. It can be done, Congressman.

Mr. COYNE. So the potential intervention exists?

Mr. WESTON. Well, if it arose, I would think all of the following would be remedially operative. Within the context of the 7-member board, including the Secretary of the Treasury, there would be at least somebody who would say that particular proposal is off limits. If for some reason the board did not self-correct, the President, under our proposal, would literally have the power to fire that particular board member.

So I think the checks and balances are such that if there by accident arose an inappropriate initial direction, it would not survive the scrutiny of the fellow board members, the Secretary of the Treasury, the chairman of the board, and the President who would have the right to fire such inappropriate board member.

Mr. COYNE. Thank you.

Chairman JOHNSON. Mr. Weston, I have had a chance to review your testimony, and I appreciate your speaking to so many of the issues that have been discussed here today, but on the issue of continuity, which I think is one of the most important, do you think we can get people to serve 5 years on something that takes this much attention?

Mr. WESTON. I have served on one board of a very large company that pays me somewhere between $30,000 to $40,000 a year. I have served on that board for 12 years. I think my inputs to the board far exceeds my income, if you want to measure it monetarily.

I think, although I have never done the arithmetic, on every board I am on, the average longevity of the incumbent board members is greater than 5 years. Some may have 2 years. Some may have 9, and I think the idea of serving something outside of your own private company is not strange music to senior chairmen and senior chief executive officers in the private sector. They do not do it for money because $30,000 to $40,000 a year, although to some people it is significant, is not the driving force in getting board members on large entities.

Chairman JOHNSON. Honestly, knowing this sort of environment in which public issues are discussed at this time in our country, do you think that we could get the caliber of people we need willing to go through the Senate confirmation process?

Mr. WESTON. Well, I do not know about the Senate confirmation process, but I——

Chairman JOHNSON. Well, they could, at the worst, be subject to rather ugly conflict-of-interest questions.

Mr. WESTON. Well, my comment would be more general in this proposed board. I think in many important areas of the public sector, very good private-sector people are discouraged from participating because of the hearing process, but that is not an observation particularized to our recommendation. I think it makes all aspects of public service somewhat handicapped.

Chairman JOHNSON. I agree with you on that. I also think the issue of continuity in the kind of board the Treasury is proposing is a very, very big issue, but I wanted to at least get your opinion.

Mr. WESTON. If I could add a comment, Madam Chairwoman, to what you just said. Aside from the private boards that I have already discussed that I serve on, I am involved in several very well-known pro bono nationwide boards. The board members on those boards, such as the Committee for Economic Development, CED,—the board members are generally chief executive officers and chairmen of wherever they come from. They get paid zero at CED and other organizations that I serve in the pro bono sector. They do it for the betterment of our society. They do it to return to society, thank you for our good luck, and I do not think that the fact that the pay is not high or other things really determines how many senior executives would react.

I can think, although this is the wrong place, of at least a half-a-dozen people who are equal or better than I am in qualifications for this kind of a board who I believe, if invited, would serve.

Chairman JOHNSON. Thank you.

This is not a question, but I do want to put on the record a part of your testimony that you skipped over in deference to the time.

You mentioned that there are seven different committees that interrogate and "guide" the IRS, and one of the things that this report does do is to recommend that we improve the quality of oversight in the legislative branch of the IRS and eliminate some of the duplication and tensions and contradictory guidance that we give the IRS. I think that is a very important part of this report that this body is all too likely to ignore, and I intend to go into that at greater length in future hearings, and I hope that we will succeed in a way that will please you in that regard.

Mr. Cardin has joined us, and I am pleased to have him. He had a very important meeting this morning down at the White House and was unable to be here earlier.

Would you like to question at this time? Mr. Weston has a plane to get.

Mr. CARDIN. Thank you, Madam Chairman. I appreciate the courtesy of being included. I have no questions for Mr. Weston. I look forward to the other witnesses' testimonies.

Chairman JOHNSON. I thank you, Mr. Weston, for your being with us this morning. We will move on now to the rest of the panel.

Mr. WESTON. Thank you, Madam Chairwoman.

Chairman JOHNSON. Mr. Goldberg, it is a pleasure to have you, friend. You have brought a lot of experience to this Commission, and we look forward to hearing your comments.

STATEMENT OF HON. FRED T. GOLDBERG, JR., COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; PARTNER, SKADDEN, ARPS, SLATE, MEAGHER & FLOM; AND FORMER COMMISSIONER OF THE INTERNAL REVENUE SERVICE

Mr. GOLDBERG. Thank you, Madam Chair.

I served as IRS Chief Counsel from 1984 to 1986 under President Reagan. I served as IRS Commissioner from 1989 to 1991 and as Assistant Secretary for Tax Policy during 1992 under President Bush. I was appointed to the Restructuring Commission by Senate Minority Leader, Tom Daschle. I am appearing today as a member of the Commission and not on behalf of any client interest.

In light of the time constraints and my own view that the Commission's report pretty much speaks for itself, I would just like to comment briefly on a couple of matters that I would urge the Subcommittee to keep in mind as it goes through these deliberations. Before turning to those points, however, I would like to thank Congressman Portman and Senator Kerrey for their work in Chairing the Commission. I think they did an extraordinary job. I think that Congressman Coyne, Senator Grassley, and those of you who serve on these elected positions and have many pulls on your time, I found it, as a citizen, a very encouraging experience because I think there is a shared bipartisan commitment to making this thing work better, and I would like to express my gratitude to each of you.

I think the first point that I would like to make is that in considering the recommendations, as you go forward, it is critically important to keep in mind the criteria for the decisions you are about to make, regardless of the problems we were looking at, regardless of whether we were talking about computers or tax gap or telephone service. Every issue we examined, we came back to the same conclusions, and I believe, based on Secretary Summers testimony this morning, they have reached the same conclusion.

Wherever we look, whatever issue we are looking at, what is missing is an explicit agreement on what the administration and Congress want from the IRS, and what is missing is the expertise, accountability, and continuity to deliver on those expectations. So that, whatever recommendations you move forward with, I urge you to test them against those standards.

When you apply those standards, I believe that the case for the Commission's recommendations regarding management, governance, and oversight is overwhelming. A commissioner for a 5-year term, giving that commissioner the authority and the tools to build his or her own team, and to hold his or her colleagues accountable for performance, a Board of Governors fully accountable to the President of the United States with the expertise and continuity to focus on strategic and long-term objectives, and the ability to hold the commissioner accountable for performance, coordinated congressional oversight among the seven Committees responsible for all aspects of the IRS, stable financing over a 3-year period, these recommendations comprise an integrated package.

Each of these elements is essential to provide for a clear statement of vision, for the expertise, the accountability, and the continuity necessary to give the American people what they have every right to demand and expect from the IRS.

With respect to how you think about the IRS, the Commission's report contains two recommendations that have not received a great deal of attention, but I believe are of critical importance.

First, the IRS should not, should never contact a taxpayer unless the IRS is prepared to provide that taxpayer with a prompt, high-quality resolution of the matter in question.

Second, the government should not, should never force a citizen to deal with an Internal Revenue Service employee who is not trained to do the job and who does not have the tools to do the job properly.

These may sound obvious. This is business necessity and, I believe, a moral imperative in our system of government, but it is not happening. It has not happened for many years. If you were to accept this view of how the IRS is to work, it would transform the agency.

Most of the controversy has focused on the Commission report's recommendation, creation of a Board of Governors. Several points. First, I urge you to bear in mind that it is part of a comprehensive package. Having served as Commissioner and having served in the Treasury, I can certainly understand the Treasury's discomfort with this particular recommendation, but I am absolutely certain that that discomfort is well worth enduring for the sake of the other reforms being recommended. In my view, it is not even a close question.

With respect to the concerns that have been raised by Treasury, it is critically important to be clear on what the Commission is and is not recommending.

First, the President of the United States remains ultimately and unambiguously accountable for tax administration. The President appoints the board members, and the President has the unfettered power to remove those board members. Those board members are confirmed by the Senate of the United States.

Second, by statute, the board would have no involvement in, much less authority over, tax policy matters, tax law enforcement, procurement decisions, or day-to-day administration of the tax laws. These responsibilities are and these responsibilities should remain vested in the Secretary of the Treasury, the Commissioner of Internal Revenue and others to whom authorities have been appropriately delegated. Nothing would change in this regard.

Third, and this is a point that Josh made far more eloquently and based on far more experience than I have personally, but the function of the board is to provide overall governance and to help hold the commissioner accountable for delivering strategic and long-term objectives.

In my judgment, one of the primary areas of expertise that this board would bring to bear is the ability to distinguish between strategic objectives, long-term objectives, overall accountability, and the day-to-day management of affairs of the enterprise. In my judgment and in my experience, the ability to distinguish between those two types of activity is sorely lacking in the Federal Government.

Though well aware there is no perfect answer to these issues, what is important is to keep in mind that we are trying to achieve a balance. We have to make choices between competing good and laudable objectives, and I think that the Treasury's recommendations, management board are instructive in this process.

Yes, the recommendation avoids an issue that is of concern to the Treasury Department, but ask yourself about the criteria against which the recommendation should be attested. Does that 20-person board do anything to provide the kind of expertise that is required, including the expertise to distinguish between oversight and day-to-day management? I do not think so.

Does that board bring to bear an ability to impose accountability? I do not think so.

Does that 20-person board provide for the continuity that is essential to make the IRS work? Whether you are talking computers or training or customer service or access or improved enforcement and compliance, making a 100,000-person organization get the job done, buy into the kind of change that has to happen is a process that requires years of energy and focus and attention. Will you get that kind of energy focus and attention out of that 20-person board? In my judgment, the answer is no.

What you are likely to get is more micromanagement, more diffusion of attention, and while I believe utterly unintended, absolutely unintended by the administration, if you step back and you say we are talking 20 political appointees and giving them monthly contact and monthly responsibility over the activities of the IRS, with no apparent restrictions on access to tax return information, no apparent restriction on access to specific case matters, none of the safeguards that were built into our recommendations, I believe that you are courting disaster.

Thank you very much.

[The prepared statement follows:]

Statement of Hon. Fred T. Goldberg, Jr., Commissioner, National Commission on Restructuring the Internal Revenue Service; Partner, Skadden, Arps, Slate, Meagher & Flom; and Former Commissioner of the Internal Revenue Service

Madam Chair and Members of the Committee: My name is Fred Goldberg. I served as IRS Chief Counsel from 1984–1986, as IRS Commissioner from 1989–1991, and as Assistant Secretary of the Treasury for Tax Policy during 1992. I was appointed to the IRS Restructuring Commission by Senate Minority Leader Tom Daschle. I am appearing today as a Member of the Commission and not on behalf of any client interest.

For the most part, I believe the Commission's Report speaks for itself, and I will limit my comments to several observations that I urge you to keep in mind as you review our recommendations.

The Context

The IRS is the one institution of government that directly affects everyone. It is essential that it meet the demands and expectations of the American public. It does a very difficult and important job; that job is made close-to-impossible by a complicated and unworkable Internal Revenue Code. Most IRS employees are hard-working and well-meaning, and the IRS still collects most of the revenue that is due and owing at a lower cost than its counterparts around the world.

At the same time, however, there is widespread frustration that something is terribly wrong—from phones that aren't answered and audits that go on forever to correspondence that is often incomprehensible; from employees who lack the training and tools to do the job to employees that view all citizen-taxpayers as crooks and cheats; from a large and growing tax gap to legendary computer troubles. Above all, there is one, incontrovertible fact: the IRS fails to meet the minimum acceptable standards that citizens have come to expect and demand from service companies in the private sector. This failure does not mean that the IRS is doing "worse"—it means that the IRS has not kept pace with changes that are transforming the private sector.

The Causes and Criteria for Change

By and large, the problems result from two causes. First is the complexity of the tax law. This issue was beyond the scope of the Commission's charge, but it is important to emphasize our finding that simplification of the tax law is essential.

Second is the need for fundamental change in the management, governance and oversight of the IRS. Regardless of the "problem" under review, the same themes kept recurring. What's missing is agreement on what the Administration and Congress want from the IRS—and the expertise, accountability, and continuity to deliver on those expectations.

This is the most important point to bear in mind. All of our recommendations were focused on these criteria: what do we want from the IRS, and how can we provide for the expertise, accountability and continuity to get the job done? I urge you to test our recommendations—and consider alternatives—against these standards.

The Commission's Recommendations

When viewed in this light, I believe that the case for the Commission's recommendations in the areas of management, governance and oversight is overwhelming:

- Appoint the Commissioner for a five-year term
- Give the Commissioner authority and tools to build his or her own senior management team, and hold those individuals accountable for performance
- A Board of Governors—fully accountable to the President of the United States—with the expertise and continuity to focus on strategic, long-term objectives, and hold the Commissioner accountable for performance
- Coordinated Congressional oversight among those responsible for all aspects of the IRS, with a specific focus on strategic and long-term issues
- Stable financing over a three year period and explicit Congressional authority to provide additional IRS funding outside the budget caps, subject to the express understanding that the IRS will use that three year period to get its house in order, develop appropriate performance measures and obtain "clean" financial audits.

These recommendations comprise an integrated package. Each of these elements is essential to provide the requisite expertise, accountability and continuity; no single recommendation standing alone would be sufficient.

With respect to the question of vision—what's expected of the IRS—the Commission believes that this is ultimately a matter for the Administration and Congress to decide, on behalf of the American people. A primary purpose of the reforms we are recommending is to create a structure that will force agreement on this all-important issue.

Nonetheless, most Commission members share the vision laid out by Senator Kerrey in his statement earlier today. There are many ways to describe this consensus—for example, customer service comparable to the best that is available from the private sector. What needs emphasizing is that this choice has consequences. For example, we recommend that the IRS adopt two fundamental principles in its dealings with the American public:

- The IRS should not contact a taxpayer unless the IRS is prepared to devote the resources necessary to provide the taxpayer with a prompt, high quality resolution of the matter in question.

• The IRS should not force the taxpayer to deal with an IRS employee unless that employee is adequately trained and has the tools to do the job properly. These standards are a business necessity and a moral imperative in our system of government. They may sound obvious, but make no mistake about it: at present, and for all too many years, the IRS has failed to live up to these standards. I can tell you from personal experience, if the IRS did adhere to these standards, it would transform tax administration.

The reasons for this failure go to the essence of our recommendations: First, there has been no explicit acceptance—by either Congress or the Executive Branch—that these standards embody first principles of tax administration. Second, management, governance and oversight of the IRS does not provide the expertise, accountability and continuity that would be necessary to meet these standards.

To prove the point, ask yourselves the following questions: What if adhering to these standards meant lower audit coverage and a short-term reduction in revenue? What if adhering to these standards meant increased funding for the IRS? What measures are in place to assess whether the IRS is meeting these standards? How do the Administration's budget request and Congressional appropriations align themselves with these standards? How many Congressional oversight hearings have focused on these standards? Who's accountable for meeting these standards?

THE BOARD OF GOVERNORS

Most of the controversy surrounding the Commission's Report has focused on the recommendation for a Board of Governors. As a preliminary matter, it is important to reemphasize that this is only one in a series of integrated recommendations to provide expertise, accountability and continuity. Having served as IRS Commissioner and as Treasury Assistant Secretary, I can understand why this particular proposal makes the Treasury Department uneasy. But I am absolutely certain that any discomfort would be well worth enduring for the sake of the other reforms being recommended by the Commission. In my view, it's not even a close question.

With respect to the concerns that have been voiced by Treasury, it is important to be quite clear on what the Commission is—and is not—recommending.[1] First, the President remains ultimately and unambiguously accountable for tax administration. The President would appoint Board members, and could remove those members at will. Second, by statute, the Board would have no involvement in (much less, authority over) tax policy matters, tax law enforcement, procurement decisions, and day-to-day administration of the tax laws. These responsibilities are—and would remain—vested in the Secretary of the Treasury, the IRS Commissioner or others to whom appropriate authority has been delegated. Thus, nothing would change in this regard. Third, the function of the Board is to provide overall governance, and hold the Commissioner accountable for delivering strategic and long-term objectives. One of the primary areas of expertise that Board Members from the private sector would bring to their job is the ability to distinguish between legitimate governance and oversight activities and the type of micromanagement that plagues much of government.

The Commission was well aware that there is no perfect answer to this (or any other) issue we considered. It requires a balance among competing concerns and objectives. What's important to keep in mind is what we are trying to accomplish: provide IRS with the expertise, accountability and continuity—while avoiding the pitfalls that accompany any change.

The IRS management board that was created by the Administration last month illustrates this point. The Executive Order creates a 20 person group led by political appointees from throughout Treasury, other Federal agencies, and the Office of the Vice President. This board will assume some significant (but ill-defined) responsibility for management and oversight of the IRS. This approach may avoid some issues, but it raises others. In particular, this approach may fail to satisfy the three criteria that should be used to evaluate any reform proposal. First, there is no reason to believe that this group will bring to bear the kinds of expertise that the IRS requires. Second, it may diffuse, not focus accountability. Finally, constant turnover in the positions identified by the Executive Order may engender more confusion than continuity. On the downside, there is nothing in the Executive Order that precludes the management board from involving itself in tax policy, law enforcement, procurement decisions, and day-to-day management of the IRS. To the contrary, the

[1] It is worth noting that other, highly regarded tax administration systems go much further than the Commission's recommendations. For example, the California tax system is administered by independent agencies governed by elected officials. Revenue Canada, which is undergoing its own restructuring, is independent of the Ministry of Finance.

net result may be less focus on priorities and more micromanagement. It also appears that these individuals (most of whom are political appointees, including two from the Office of the Vice President) would have access to tax return information. While this may not have been intended, it is a frightening thought, at least for those who recall why Section 6103 was enacted in the first place.

CONCLUSION

I have spent most of my professional life dealing with taxes and tax administration; I consider myself extremely fortunate to have served in a number of senior government positions in the world of taxes. Based on my experience, I am certain of the following:

Fundamental change in IRS management, governance and oversight is essential.

That change must result in a shared vision of what we want from the IRS, and the expertise, accountability and continuity to deliver that vision.

You and your colleagues, and the Administration, have a unique opportunity—one that doesn't come along very often. A well-functioning IRS is not a partisan issue, or a turf issue, or a question of hidden agendas. The IRS occupies a unique role in our system of government. It is essential that it meet the legitimate demands and expectations of the American people.

Chairman JOHNSON. Thank you, Mr. Goldberg.

Mr. Tobias, thank you for your service on this Commission, and it is a pleasure to have you as the president of the National Treasury Employees Union.

STATEMENT OF ROBERT M. TOBIAS, COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; AND NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Mr. TOBIAS. Thank you very much. I am very pleased to be here as the president of NTEU and a member of the Commission to Restructure the IRS. I am extremely proud to have served as a member of that Commission.

We all know, everyone in this room knows, that the IRS is an important government agency because it raises 95 percent of the revenue funding for the Federal Government, and we know it is important because it touches the lives of every citizen who must decide every year, do I owe the government money.

The IRS is in the mind of every citizen every year. The IRS, however, has, in my view, lost a lot of its credibility with the public, the press, and Congress, and the Commission report provides a blueprint for restoring that credibility and that trust.

The report accurately portrays IRS employees as competent, hard working, and motivated individuals who want to deliver a high-quality product to the American taxpayers. It underscores the need for stable and steady funding levels, improved and expanded training programs, continuity of leadership and direction, and it recognizes the importance of the agency's employees having an active voice in operations beyond that available now.

It suggests personnel flexibilities, a redesigned salary, incentive program to reward employees for meeting objectives and providing quality service. It provides the basis for a truce, a much needed cease fire in the hostility against the IRS and its employees.

Now, 85 percent of the IRS employees interviewed by the Commission requested that Congress stop bashing the IRS. They rightly stated that broadsiding the institution for difficulties and controversies surrounding Federal tax policies makes their job much, much more difficult, and the Commission wholeheartedly agreed with that assessment.

The guiding principle of the Commission's report was that IRS customer service and taxpayer satisfaction must be the primary strategy to fulfill the IRS mission, and I totally concur with that.

The available research cited in my full statement confirms what we believe intuitively. The quality of service delivery lies in the environment created by the organization of the service deliverer; that the atmosphere that surrounds service delivery is the key to service quality. Critical policies include the organization demonstrating concern for the customer by soliciting and using customer feedback, and providing staffing and training programs that emphasize service quality.

Equally important is a demonstrated concern for the employees—Considerate supervision, training, career development, being proud of the organization and what it stands for, and facilitating, not inhibiting, work effectiveness.

Their report that I cite in my full testimony continues, "When these two sets of conditions exist, employees are surrounded by cues and clues that service quality is not only appropriate, but expected. The very conditions of the work and workplace breed an atmosphere in which the delivery of superior service quality is the norm, and the situation promotes the message that service quality is valued. This belief on the part of employees is based on the conditions management creates in the workplace. The belief is not based on what management says it believes in."

The study continues, "When employees report that such a climate for service quality exists, customers report they receive superior service quality. In short, employees know when they deliver effective customer service, and if asked, they will tell the employer. Further, the greater the discrepancy between the customer service employees actually provide and the amount of services customers demand, the greater the employee emotional stress in the workplace. Employees know what customers want, and when they are not allowed to provide the service, employees' stress levels skyrocket."

An internal IRS research document shows that decreased employee satisfaction results in decreased employee productivity and higher employee satisfaction leads to higher employee productivity. The direct correlation between employee job satisfaction and satisfied customers cannot be ignored.

In addition to the correction in strategic direction, the Commission and NTEU both believe that taxpayers should deal only with IRS employees who are adequately trained. Training is key to customer satisfaction. Training must include not only substantive information, but also the cues and the clues that service quality is expected.

The IRS has been in a period of great uncertainty regarding funding, making it impossible to allot resources in a coherent manner, never mind establish a stable and directed training program that would provide employees with the skills and tools to best perform their jobs.

Changing strategic direction requires stability and funding, the ability to plan expenditures over a period of time, coupled with stable leadership, leadership that has a vision and the time to implement a vision. Neither of these factors are present in the IRS today, but both need to be present in the IRS of the future.

The key to long-term planning at the IRS, to improve customer service, to improve taxpayer and employee satisfaction, to gain continuity and stability in management at the very highest levels of the agency depends on commitments being made on at least two important fronts: First, consensus among public leaders and elected officials on the direction the agency should pursue; and second, adequate, stable funding levels to allow the agency to move forward and continue to make progress. I think the Commission report addresses these areas quite clearly and quite persuasively.

I would be happy to answer any questions. Thank you very much.

[The prepared statement follows:]

Statement of Robert M. Tobias, Commissioner, National Commission on Restructuring the Internal Revenue Service; and National President, National Treasury Employees Union

Madam Chairwoman, Members of the Subcommittee, thank you very much for this opportunity to appear before you today to discuss the Report of the National Commission on Restructuring the Internal Revenue Service (IRS). As the National President of the National Treasury Employees Union (NTEU), the exclusive representative of IRS employees, I was proud to serve on this panel for more than a year studying IRS operations. I look forward to participating in the ensuing discussions that I hope will lead to a better understood, better valued and more appropriately funded IRS.

The Internal Revenue Service interacts with more citizens than any other government agency or private sector business. Twice as many people pay taxes as vote. No one fact better underscores the importance of restoring both credibility and stability to the IRS.

The Commission Report provides an avenue for restoring the IRS' credibility—with Congress, with the press, with the public and perhaps most importantly, with the majority of Americans who comply with our Nation's tax laws. The Report accurately portrays IRS employees as competent, hardworking and motivated individuals who want to deliver a high quality product to the American taxpayer. It underscores the need for stable and steady funding levels, improved and expanded training programs, continuity of leadership and direction, and it recognizes the importance of the agency's employees having an active voice in operations beyond that available now. It suggests personnel flexibilities and redesigned salary and incentive programs to reward employees for meeting objectives and providing quality service. It provides the basis for a truce, a much needed cease-fire in the hostility against the IRS—and its employees.

Eighty-five percent of the IRS employees interviewed by the Commission requested that Congress stop bashing the IRS. They rightly stated that broadsiding the institution for difficulties and controversies surrounding federal tax policy makes their jobs more difficult. The Commission wholeheartedly agreed with that assessment.

IRS bashing by public figures and some Members of Congress is unfortunately well documented. Quotes such as we should kill the IRS, "drive a stake through its heart, bury it and hope it never rises again," or "we should blow it up," or the IRS building should be sold "so the roaches can't come back in" are irresponsible at best and dangerous at worst.

These comments quite literally endanger the lives of the men and women of the IRS whose job it is to enforce the laws Congress creates and collect the accurate amount of taxes owed. Attacks on IRS Revenue Officers attempting to perform their duties are well documented. Carole Jones and Stephen Golder, IRS Revenue Officers from Wilmington, Delaware were forced to flee from an attempt to seize property when the taxpayer's daughter threatened that she was going to blow their (expletive) heads off. She retreated to the house and returned pointing a gun at the officers, forcing the two to abandon their efforts.

Sherman Stanley, a Twin Falls, Idaho Revenue Officer, was threatened by a demolition expert during the seizure of heavy construction equipment for taxes owed. This particular taxpayer filed liens against the IRS employee's personal property and threatened to blow up his home. Mr. Stanley and his family were forced from their home until police were able to determine the seriousness of the threat. The taxpayer and his wife were later convicted and sentenced to prison. They will be released soon.

Wanlyn Burnet, a Revenue Officer from Missoula, Montana was the victim of a drive by shooting last summer. He was also intentionally run off the road last September. Mr. Burnet believes tax protestors were behind both these incidents. In May of l995, the IRS Office in Denver issued an internal memorandum warning that l0 Montana individuals associated with the United Apostolic Brethren, a group with armed militia links that believes it has sovereign immunity from federal income tax law, had sworn an oath to kill any IRS agent who attempted to arrest them.

Incidents such as these occur with increasing frequency in all areas of our country.

The guiding principle of the Commission's Report was that IRS customer service and taxpayer satisfaction must become paramount. I concur. The IRS collects the taxes that run our government and increased compliance with tax laws will only occur when Americans find the IRS to be fair and efficient.

But, the employees charged with carrying out the IRS' mission must stop receiving conflicting messages from Congress, from the press, and from the public that seem to indicate that the services they perform have no merit and serve only to harass the taxpaying public.

A recent study of service quality by University of Maryland professor Dr. Benjamin Schneider and Dr. Beth Chung, reported in Trends In Organizational Behavior, presents an interesting perspective on the conditions that promote quality service. Their research has shown that the quality of service delivery lies in the situation created by the organization for the service deliverer; that the atmosphere that surrounds service delivery is the key to service quality. Critical policies include the organization demonstrating concern for the customer by soliciting and using customer feedback, and providing staffing and training programs that emphasize service quality. Equally important, is a demonstrated concern for the employees—considerate supervision, training and career development, being proud of the organization and what it stands for and facilitating, not inhibiting, work effectiveness.

Their report continues, "When these two sets of conditions exist, employees are surrounded by cues and clues that service quality is not only appropriate but expected. The very conditions of the work and workplace breed an atmosphere in which the delivery of superior service quality is the norm; the situation promotes the message that service quality is valued . . . this belief on the part of employees is based on the conditions management creates in the workplace; the belief is not based on what management says it believes in." The study continues, "when employees report that such a climate for service quality exists, customers report they receive superior service quality."

In short, employees know when they deliver effective customer service and, if asked, they will tell the employer. Further, the greater the distance between the customer service employees actually provide, and the amount of service customers demand, the greater the employee emotional stress in the workplace. Employees know what customers want, and when they are not allowed to provide the service, employee stress levels skyrocket.

The direct correlation between employee job satisfaction and satisfied customers cannot be ignored. In addition to the correction in strategic direction, the Commission and NTEU both believe that taxpayers should deal only with IRS employees who are adequately trained—training is key to customer satisfaction. Training must include not only substantive information, but also the "cues and clues" that service quality is "expected." Yet, the IRS has been in a period of great uncertainty regarding its funding, making it impossible to allot resources in a coherent manner, nevermind establish a stable and directed training program that would provide employees with the skills and tools to best perform their jobs.

Moreover, for more than a year now, IRS employees across the country have lived under a cloud of potential reductions in force (RIFs). There is little question in my mind that employees focus less on providing the best customer service and satisfaction when they are consumed by threats of losing their jobs.

The field reorganization RIF proposed by the IRS will result in decreased service to the public by consolidating offices and eliminating skilled personnel, only to rehire fewer individuals to perform the same tasks in other locations. It is especially ironic that under the IRS proposal, skilled problem resolution office personnel are scheduled to be RIF'd and replaced in the new locations with employees with presumably no problem resolution experience. IRS personnel responsible for taxpayer education and electronic filing coordinators responsible for providing information and encouragement to taxpayers and tax preparers to file electronically are scheduled to be RIF'd. Field information technology employees who maintain telephone and computer systems are scheduled to be RIF'd.

All total, fewer employees will be available to answer taxpayer inquiries. IRS imposed liens on taxpayer properties will not be released as timely. Interest costs to taxpayers will increase because their cases will not be processed as timely. Inexperienced personnel will generate incorrect bills and there will be fewer experienced personnel to correct the errors. In addition, this proposed RIF occurs in a context of an 8 percent reduction in the IRS workforce just since Fiscal Year 1995. Moreover, the IRS has no data and no plan to refute the logical inference that 1312 new, inexperienced employees cannot provide the same level of customer service as the 2371 current experienced employees that the IRS proposes to RIF. There is little question in my mind that if the IRS proceeds with this RIF, compliant taxpayers and those seeking to be compliant will not receive the service they need and deserve. This threat of further service quality erosion is significant and should not be ignored by this panel.

If Congress intends to treat the recommendations of the Report of the National Commission on Restructuring the IRS as a serious document worthy of careful scrutiny, Congress must immediately halt the proposed IRS RIF. Congress stopped it once already, demanding that the IRS show just how customer service could be maintained with fewer employees and fewer locations. The IRS has not addressed those concerns. Does the IRS need to reorganize? I think we all agree that the answer is yes. Does the IRS need to conduct a RIF in order to reorganize? No. In fact, the Commission's findings are quite clear on this point: "Unless the agency is in a fiscal crisis so deep that it simply cannot afford to do so, the IRS should minimize reductions in force. Employees did not create the bureaucracies in which they work, and they should not pay the price of reinventing those bureaucracies. . . "

The Report demands that restoring confidence, improving customer service and taxpayer satisfaction are paramount. The proposed RIF will have the opposite effect. The Report states that two of the greatest needs at IRS are stability and continuity. The proposed RIF will cause the opposite to occur. The Report understands that tax systems modernization and increased electronic filing will not only reap financial rewards, but increase compliance as well. Yet, the IRS RIF proposal calls for eliminating some of the very employees who provide electronic filing guidance and technological support.

As further evidence of the havoc the proposed RIF will cause, taxpayers interviewed by the Commission expressed mounting frustration with the lengths to which they must go to obtain IRS materials and information. Many complained that the number of IRS offices and available hours are decreasing, that the IRS has closed or reduced functions in many local offices resulting in either no access or a long drive to the nearest IRS office. Taxpayers report that they sometimes wait four to six weeks for IRS forms or publications to come by mail. If there is one message I wish to share today, it is this. If the IRS RIF is allowed to go forward, these frustrations expressed by taxpayers will increase. Confidence will not be restored. Taxpayer satisfaction will not improve.

Despite its obvious shortcomings, however, the IRS has come a long way in improving its operations. The IRS and the employees who make it run perform remarkably well despite its faults. Some of its achievements, in fact, have been outstanding.

As of March 7 of this year, the number of electronic filings by phone and computer had increased by 24 percent over last year. As of March 21, the IRS had received more than 12.1 million standard electronic returns. The IRS estimates that 19.2 million Americans will file electronically in 1998, almost double the number who filed electronically in 1995.

Most importantly, while revenues continue to increase, IRS costs continue to fall. In FY 1992, the cost of collecting $100 in revenue was 60 cents. By FY 1996 that cost had dropped to 54 cents and for FY 1997, the cost of collecting $100 in revenue stood at 50 cents. The IRS has also made significant improvements in telephone accessibility and accuracy. During the 1996 filing season, the IRS answered only 21 percent of incoming calls. Yet, between October of 1996 and April of 1997, the IRS responded to 51 percent of incoming calls. As the Commission Report points out, this is still unacceptable compared to private sector service performance.

However, as the Commission Report also details, Congress, the General Accounting Office, the press and even the Department of the Treasury tend to focus only on the IRS' failures; rarely acknowledging its successes. The IRS has been the subject of 140 GAO Reports over the last four years. Forty-three audits of the agency are currently underway. While GAO is quick to point out problems, rarely do they promote solutions.

What the IRS needs more than anything is stability in its funding and consistency in its leadership and direction. When any agency receives mixed messages, its ability to perform at its best is hampered. The IRS, for example, is told one day that its most important priority is customer service and that its customers must be treated with the utmost in politeness. At the same time, others are stressing that the IRS is not collecting revenue aggressively enough. Increasingly, the IRS has been subject to contracting out of tax collection efforts to the private sector because of the belief by some in Congress that they are not being aggressive enough in collecting revenue owed to the Treasury.

The Commission Report underscores my own view that contracting out IRS functions to the private sector is not the panacea some think. The Report states: "The most important question is not whether to outsource a public activity, but how to get the most effective and efficient performance for the taxpayers' dollar." The Commission also recognized that "Deciding which powers of the IRS are so sensitive that private industry cannot hold them..." is equally important.

There are some functions that federal agencies should look to the private sector to perform. And, this applies to the IRS as well. I would include in this group, particular types of specialized expertise, such as computer technology. However, I believe strongly that tax collection does not belong on this list. The federal government should perform its own tax collection.

Contracting out tax collection serves only to diminish the public's confidence in the IRS. Private sector employees—working on commission—aren't going to care whether their actions antagonize taxpayers or erode IRS credibility. Private sector managers are likewise unlikely to invest resources in ferreting out misdeeds against taxpayers with anywhere near the same vigilance as the IRS. In fact, IRS employees working the 1–800 service lines have reported taxpayer complaints concerning how they were treated by contractor employees as part of a private sector debt collection pilot program. Some of the reported taxpayer comments that have been shared with me include, "I was treated like scum," "I was threatened and abused," and perhaps most telling, "I want the IRS back, at least they treat us well."

There are valid reasons why federal income taxes have been collected exclusively by federal employees in the past and why federal income tax information remains so closely guarded. Privacy. There is no single issue that will more quickly erode the public's confidence in the IRS than a breach of individual privacy. And IRS employees are constantly reminded of that fact not only by the union, but by management and through Congress' passage of legislation from the Taxpayer Bill of Rights to imposition of severe penalties for willful browsing.

There is another highlight of the Commission Report on which I want to specifically comment. There was virtually unanimous agreement among those who testified before the Commission that the tax code is overly complex and must be simplified. The Commission discovered as well that there is a clear connection between the complexity of the IRS Code and the difficulty of tax law administration and taxpayer frustration. The frequency with which the Legislative and Executive branches change tax law only compounds the problem. Each tax law change requires the IRS to reprogram computers, retrain employees and update forms, publications and guidance. Yet, funding restrictions rarely provide the funding necessary to accomplish these goals. The temptation is then to blame IRS employees for the complexity of the law, when in fact they are only the messengers of that law.

Recognizing this, the Commission recommends a mechanism to ensure that elected officials understand how proposed tax legislation will impact the IRS and taxpayers. The Commission recommends the development of a framework to provide Congress with a better understanding of the impact of tax proposals on taxpayers, the IRS and IRS resources before they are implemented. This approach is long overdue. Constant incremental changes to the tax law have a significant negative effect on taxpayers' understanding of the law and the IRS' ability to enforce that law.

The complexity of the tax law is an area many have used to further individual tax policy goals. While I continue to believe that tax policy should always be decided on the merits of a particular proposal, I want to stress the importance of providing the IRS with the resources necessary to insure that the training and implementation procedures necessary to enforce tax code changes are provided to them.

In conclusion, NTEU takes great pride in its cooperative relationship with the IRS which dates back to l987. Today, our partnership efforts are being tested by unprecedented budget cuts, furloughs, proposed reductions in force and increased contracting out of IRS work to the private sector. Nonetheless, NTEU remains committed to this partnership and committed to working with this Congress to bring about positive changes at the IRS.

The key to long-term planning at the IRS, to improved customer service, to taxpayer and employee satisfaction, to continuity and stability in management at the very highest levels of the agency depends on commitments being made on at least two important fronts: First, consensus among public leaders and elected officials on the direction the agency should pursue and second, adequate, stable funding levels to allow the agency to move forward and continue to make progress.

I would be happy to answer any questions. Thank You.

Chairman JOHNSON. Thank you, Mr. Tobias.

Mr. Larry Irving, Assistant Secretary for Communications and Information from the U.S. Department of Commerce.

Let me say to the Subcommittee Members, we are going to hear Mr. Irving. After that, we will break and come back for the other two. I am anxious for the Members of the Subcommittee to have a chance to actually hear the testimony, and while that may cut into the amount of time Members have to stay and ask questions, I think it is important to hear from you in your words.

Mr. Irving.

STATEMENT OF HON. LARRY IRVING, COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION; AND ADMINISTRATOR, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. IRVING. Thank you, Madam Chair.

It is a pleasure to be here today to testify concerning the recommendations of the National Commission on Restructuring the IRS. It was an honor and a privilege to serve as a member of the Commission, and I want to commend all of my colleagues, in particular, Congressman Coyne, Senator Grassley, and our Chairman, Senator Kerrey, and Congressman Portman. They did outstanding work, and I believe that we have made an outstanding report.

Madam Chair, I do agree with the vast majority of the recommendations in the report, and I feel particularly strongly about the recommendations regarding electronic filing and modernization, and consequently, it was with deep regret that I was not able to join with a majority of the Commission in endorsing the final Commission report because of my strong opposition to the recommendations on governance.

The IRS is incredibly important to every person in this Nation. It collects 95 percent of the revenue, and I think the recommendations taken as a whole by this Commission will strengthen the IRS by increasing the agency's focus on customer service, but ensuring taxpayer compliance, by increasing the agency's effectiveness and efficiency, and the report's emphasis on tax implication, taxpayer rights, and financial management will be an important contribution to this Nation.

The recommendations on modernization are essential to the ability of the IRS to move effectively into the next century, the century date change issues, the integration of technology with strategic objectives, an increasing intellectual capital resource available to the

IRS, strengthen the IRS so that it can respond quickly and accurately to taxpayer needs.

The Commission's report appropriately emphasizes the importance of electronic filing. Electronic filing will facilitate IRS compliance efforts. It will allow the IRS to receive information in tax returns and match data within the same calendar year. Electronic filing will improve the speed of processing returns. It will reduce errors on the part of the taxpayer. It will be cheaper to process than paper filing.

In sum, electronic filing holds a great potential to increased cost savings and compliance with only a small investment by the IRS, but as was noted repeatedly today and repeatedly during the Commission's deliberations, the fundamental issue at the heart of the Commission's report is governance, and I simply cannot and do not support the majority's recommendations on this issue.

I do not believe that the governance of the IRS should reside in an outside board of directors composed principally of part-time, private-sector executive officers who would keep their private-sector jobs and salaries, and I also do not agree that the board should not have the level of direct accountability that the Treasury Secretary presently has to an elected President.

The report hands the board's responsibilities and characteristics that I believe blur the lines of accountability to the IRS. The board would appoint and compensate senior executives at the IRS, including the Commissioner and the Chief Counsel. The board would be "independent," and the board would review and approve the commissioner's recommendations regarding the budget.

Any entity that has the ability to hire and fire, to make hiring and firing decisions, to look at a budget, I believe, has a significant effect, and we will have some problems with regard to issues such as law enforcement and policy direction.

I do not believe that law enforcement and the tax policy of this Nation should rest with an outside board. I do believe it should rest with people directly accountable to the President.

The board, according to the report, would be responsible for the oversight of the IRS and not be involved in law enforcement of tax policy or day-to-day management, but I run a Federal agency every day, and I do not know how a board can do its job the way it is outlined in this report and not get involved in those crucial issues.

I see that my time has expired, and I want to conclude by restating my strong support for the vast majority of the recommendations put forward in the Commission's report. I cannot, however, Madam Chair, endorse the recommendation where the agency that collects 95 percent of the revenue that funds our government will be subject to the control of a part-time board composed principally of members from the private sector.

I thank you for your time this afternoon.

[The prepared statement follows:]

Statement of Hon. Larry Irving, Commissioner, National Commission on Restructuring the Internal Revenue Service; Assistant Secretary of Commerce for Communications and Information; and Administrator, National Telecommunications and Information Administration, U.S. Department of Commerce

It is a pleasure to be here today to talk with you about my views on the recommendations of the National Commission on Restructuring the IRS. My name is Larry Irving and I am the Assistant Secretary of Commerce for Communications and Information and the Administrator of the National Telecommunications and Information Administration (NTIA) at the Department of Commerce.

It was an honor and a privilege to serve as a member of the Commission. Senator Kerrey and Congressman Portman deserve to be commended for their hard work over the past year. Their hard work and dedication to the process served as examples to all of us on the Commission. I also would like to thank my fellow Commissioners from whom I learned much in the process. Under the distinguished leadership of Chairmen Kerrey and Portman, the members of the Commission have worked hard to understand the complex problems facing the IRS.

I agree with the vast majority of the recommendations in the report, and feel particularly strongly about many of the recommendations regarding electronic filing and modernization. Consequently, it was with deep regret that I was not able to join with the Commission's majority in endorsing the Final Commission Report because of my strong opposition to the recommendations on governance.

We all realize how important the IRS is to this nation. The agency collects 95 percent of the revenue of our government. Most of the Commission's recommendations, taken as a whole, will strengthen the IRS by increasing the agency's focus on customer service, ensuring taxpayer compliance and increasing effectiveness and efficiency. The report's emphasis on tax simplification, taxpayer rights and financial management also are important sections.

The recommendations on modernization are essential to the ability of the IRS to move effectively into the next century. The century date change, the il capital, all go to the essence of strengthening the IRS so that it can respond quickly and accurately to taxpayer needs.

And the Commission's report appropriately emphasizes the importance of electronic filing. Increased utilization of electronic filing will facilitate IRS compliance efforts, allowing the IRS to receive information and tax returns and match data within the same calendar year. Better data capture capability also will facilitate customer service. At present, only 40 percent of the data on individual income tax returns is entered into IRS computers.

Electronic filing also will improve the speed of processing returns by the IRS and the burden on taxpayers. Furthermore, numerous studies indicate that electronic filing greatly reduces errors on the part of the taxpayer, and is cheaper to process than paper filing. On the taxpayer side, most tax practitioners charge for electronic filing today because they incur additional expenses, including the cost of communications and third party transmitters. Surveys suggest that the cost of electronic filing is a disincentive to taxpayers to file electronically. Yet, as the volume of electronically filed returns increases, demand in the marketplace will drive down prices for electronic filing. In sum, electronic filing holds great potential to increase cost savings and compliance with only a small investment by the IRS.

Madam Chairwoman, the report deserves commendation for many of the Commission's recommendations. Nevertheless, as was noted repeatedly during the Commission's deliberations, the fundamental issue at the heart of the Commission's report is governance, and I simply cannot and do not support the majority's recommendations on this issue. I do not believe that the governance of the IRS should reside in an outside Board of Directors composed principally of part-time private sector chief executive officers who would keep their private sector jobs and salaries. This Board would be an extremely powerful body, affecting every American citizen, yet without the level of direct accountability that the Treasury Secretary has to an elected President.

The IRS is an essential government agency. I am concerned about blurring the lines as to who is in charge at the agency—the outside Board, the IRS Commissioner or the Secretary of the Treasury. The report hands the Board responsibilities and characteristics that blur the lines of accountability at the IRS. For example, (1) the Board would *appoint and compensate* all senior executives at the IRS, including two currently appointed by the President—the IRS Commissioner and the Chief Counsel; (2) the Board would be "*independent*;" and (3) the Board would "*[r]eview and approve the Commissioner's recommendations regarding the IRS budget . . .*" and have the authority to send its own budget request for the IRS directly to Congress. It should be clear to the American people that when something goes wrong at the IRS, it is the IRS Commissioner and the Treasury Secretary that are responsible, and not five private-sector CEOs.

Although I share the Treasury Department's concerns regarding the constitutionality of this proposed Board, my objection to placing the governance of the IRS with an outside Board is based primarily on my own experiences over the last four years running a federal government agency that is subject to different people with oversight responsibility. My agency, NTIA, must answer to many layers of authority.

According to the Commission's report, the Board only will be responsible for the oversight of the IRS and not be involved in law enforcement, tax policy or day-to-day management issues within the IRS. It is difficult to draw bright lines between oversight and tax policy, law enforcement and management and that the Board's powers will ultimately extend to all of these areas. I cannot support a governance proposal that relies on this sort of line-drawing as a justification for its existence because I know from experience how difficult this line will be to police and maintain.

Furthermore, a governance proposal that relies upon such lines for legitimacy ultimately will raise serious accountability and jurisdictional issues for the both IRS and the Department of Treasury, inviting challenges to the revenue collection function of our government. Although the Commission's report says that the Board members will not be involved in law enforcement issues, the major corporate executives who would make up the Board could, through their budgetary and personnel decisions, redirect IRS resources away from audits and enforcement actions on corporations' tax returns and towards the returns of individuals. Even done openly, such action would be unlikely to violate any provision of law applicable to the Board, yet I would argue that this constitutes Board involvement in enforcement issues at the IRS.

In addition to the potential for actual conflict of interest issue, there also is a strong likelihood of the appearance of a conflict related to the fact that our tax collection system depends on voluntary compliance. Voluntary compliance depends on a sense of fairness, and on a sense that everyone is paying their fair share. There is a risk of undermining that sense of fairness if the American people feel that the law enforcement, auditing, and compliance functions of the IRS are being directed by a group of private sector chief executives. For example, under the Commission's proposal, private sector board members would be able to represent their employers before the IRS, on audits of their employers' returns, in seeking contracts for their employers and otherwise, so long as the Board had not considered that specific issue or matter. Moreover, Board members would be free to accept bonuses or partnership distributions earned by representing private interests before IRS.

I have experienced the complexities of shne between oversight and management. Based on these experiences, I believe that responsibility for IRS management must continue to reside with an IRS that remains fully accountable to the President and Congress. Change at the IRS must be done in a manner that minimizes risk to the vital flow of revenues that fund our government and at the same time allows progress on reforms at the IRS to continue.

I find it troubling that the members of the Commission's proposed Board would serve on a part-time basis and yet be responsible for improving the IRS' current oversight; and that this responsibility would be in addition to their primary responsibilities to their private sector jobs. The Treasury Secretary and Deputy Secretary are in their governmental office every day, and they have no non-governmental responsibilities. The only job of the Secretary and Deputy Secretary is to promote and defend the public interest. Madam Chairman, it is my experience that heading a federal agency is more than a full time job, and NTIA is not even one-tenth the size of the IRS. I meet daily with members of my senior staff to discuss a variety of policy and managerial issues. Many of these matters require considerable thought, attention and internal deliberation. Meetings sometimes must be called with little or no notice on an emergency basis. Members of the Board would be expected to provide similar leadership to the IRS, although they will be physically situated across the county with other non-governmental responsibilities. The American people rightly demand an IRS that is responsive to the public and is led by officials who are held accountable for achieving success.

In conclusion, I want to restate strongly my support for the vast majority of the recommendations put forward in the Commission's report. I cannot however, endorse the recommendation where the agency that collects 95 percent of the revenue that funds our government is subject to the control of a part-time Board composed of members primarily from the private sector.

Thank you Madam Chairwoman and other Members of the Committee. I welcome any questions.

Chairman JOHNSON. Thank you, Mr. Irving, and I look forward to the opportunity to hear your testimony.

We have 4 minutes left. That is not time enough to fully hear the remarks of Mr. Newstrom. So the Subcommittee will recess for about 6 or 7 minutes. Let's go over fast and then come back so we can hear the last two people. Thank you.

[Recess.]

Chairman JOHNSON. The Subcommittee will reconvene.

We will proceed with the testimony of Mr. Newstrom, corporate vice president and group executive of the Electronic Data Systems, Herndon, Virginia, and it is a pleasure to have you. Thank you for your service on this Commission.

STATEMENT OF GEORGE C. NEWSTROM, COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; AND VICE PRESIDENT, ELECTRONIC DATA SYSTEMS, CORP., HERNDON, VIRGINIA

Mr. NEWSTROM. Thank you, Madam Chairman and Members of the Subcommittee.

I appreciate this opportunity to testify before you concerning the recommendations of the National Commission on the Restructuring——

Chairman JOHNSON. Excuse me, Mr. Newstrom. Could you pull the microphone a little closer?

Mr. NEWSTROM. Is that better?

Chairman JOHNSON. Yes. You have to get really quite up on it.

Mr. NEWSTROM. How is that?

Chairman JOHNSON. Thank you. That is much better.

Mr. NEWSTROM. EDS is one of the Nation's largest information technology service companies and a leader in applying information technology to meet the needs of businesses and governments worldwide. EDS has operations in over 40 countries, employs more than 90,000 employees, many of them who work in partnership with clients in the government sector.

I, too, am very proud to have worked on the Commission, and I would also like to thank Congressman Portman and Senator Kerrey for the leadership that they showed.

Our members represented a broad section of the public/private sector, and in the end, just like Mr. Irving said, we were in agreement on the preponderance of the things that will enable the IRS to provide better, more cost-effective services to the taxpayer.

I personally supported in excess of 90 percent of what was included in the final document; even the governance section, which includes one recommendation that causes me concern, included important recommendations which I supported.

For example, the governance section recommends that the IRS Commissioner be appointed for a 5-year term and that the Commissioner be given greater flexibility in hiring, terminating, and compensation decisions.

I represent a corporation of 90,000 employees, as I told you. I know how difficult it is for leadership of large organizations to chart a clear direction and earn the commitment of the entire organization. A strong, unified and stable leadership team is critical to the success of an organization. The Commissioner needs the flexibility to attract and retain the best and the brightest for the IRS management team. This means adequate compensation and bonus packages and the ability to promote and remove based on performance.

Unfortunately, I am unable to support the Commission's recommendations of the creation of an independent board, and underscore the word "independent." After more than two decades of building partnerships between the public and the private sector, I am committed to maintaining a clear distinction between policymaking functions of government and the use of private sector contractors to make government operations more effective, and remember, I am a private-sector contractor.

I know the Commissioners who support these recommendations intended that the board have no policymaking role. However, it is difficult for me as well to understand how a body that hires the executive officer of an organization sets their compensation, approves their budget proposals and interacts on a regular basis with Members of Congress, can refrain from influencing policy. I do not believe that an independent board should have control over these responsibilities for implementing the tax law of this Nation.

Moreover, I am convinced that the Treasury Department and the IRS have already taken steps and continue to take steps toward implementing an improved governance process. I have been impressed by the efforts to focus the IRS on its core competencies and by the commitment to leverage the private sector to obtain resources such as systems integration and the capabilities that are not part of their core competencies. I would like to give these efforts that are at work right now some time to work.

I would like to talk for a moment about my role as a technology task force member. Much of the work was focused on the issues that are critical to the ability of the IRS to function successfully in the 21st century. Technology is an enabler and only an enabler, but it will make it possible for the IRS leadership to provide better service to the taxpayers and increase compliance.

The technology gap between the IRS and the private sector financial institutions is widening daily. Taxpayers expect the same level of efficient and accurate and courteous treatment from their government as they do from the private sector.

It is essential that the IRS have the technical capability and the funding to deal with the century date change. However, it must also press forward with the modernization blueprint and develop public/private sector partnerships that will enable it to improve customer service and compliance functions. It must expedite the use of electronic filing.

My experience on the Commission has convinced me that this is a unique opportunity to make dramatic improvement in the IRS technology and taxpayer services. The presence of a committed leadership team at Treasury and the IRS, coupled with the release of a high-quality modernization blueprint have added tremendous momentum to the force of change. The contractor community is now prepared to make substantial investments in the procurement and a major financial commitment to ensuring that this modernization effort is a success.

An extended delay or uncertainty about Congress' commitment to fund this effort would undermine this effort, and the people in the government who are willing to take risks for the change. It would make it more difficult for private contractors to commit large amounts of money and key people to this resources-intensive effort.

As this Subcommittee moves forward in its discussions of the governance issues, I hope they will also be mindful of the importance of the modernization effort and the need to ensure the funding is available to implement the blueprint when the modernization contract is awarded.

I realize that your time is limited, and I will be happy to answer questions and would be delighted to return, if possible. Thank you.

[The prepared statement follows:]

Statement of George C. Newstrom, Commissioner, National Commission on Restructuring the Internal Revenue Service; and Vice President, Electronic Data Systems, Corp., Herndon, Virginia

Good morning, Madam Chairwoman and members of the Subcommittee. My name is George Newstrom. I am vice president of Electronic Data Systems Corporation (EDS).

I appreciate this opportunity to testify before you concerning the recommendations of the National Commission on Restructuring the Internal Revenue Service.

I will speak this morning as one who had the opportunity to serve as a member of the Commission. I will also speak as a member of the business community.

EDS is one of the nation's largest information technology services companies, and a leader in applying information technology to meet the needs of businesses and governments worldwide. EDS has operations in more than 40 countries and employs more than 90,000 people many of whom work in partnership with our clients in the government sector.

I am very proud of the work produced by the Commission, and I would like to thank Senator Kerrey and Congressman Portman for their leadership. Our members represented a broad cross section of the public and private sectors, and, in the end, we were in agreement on many things that will enable the IRS to provide better and more cost-effective service to taxpayers.

I personally support more than 95 percent of what was included in the final document. Even the governance section, which includes one recommendation that causes me concern, includes important recommendations that I strongly endorse.

Positive Recommendations

For example, the governance section recommends that the IRS Commissioner be appointed for a five-year term and that the Commissioner be given greater flexibility in hiring, termination, and compensation decisions.

I represent a company with more than 90,000 employees. I know how difficult it is for the leadership of a large organization to chart a clear direction and earn the commitment of the entire organization. A strong, unified, and stable leadership team is critical to the success of the organization as a whole.

The Commissioner needs the flexibility to attract and retain the best and the brightest for the IRS management team. This means adequate compensation and bonus packages and the ability to promote and remove based on performance.

Concerns Regarding the Recommendation to Create an Independent Board

Unfortunately, I am unable to support the Commission's recommendation for the creation of an independent board. After more than two decades of building partnerships between public and private sector organizations, I am committed to maintaining a clear distinction between the policy making functions of government and the use of private sector contractors to make government operations more effective.

I know the Commissioners who support this recommendation intend that the board have no role in policy making. However, it is difficult for me to understand how a body that hires the executive officers of an organization, sets their compensation, approves their budget proposals, and interacts on a regular basis with members of Congress can refrain from influencing policy. I do not believe that an independent board should have control over those responsible for the implementation of the tax law of this nation.

Moreover, I am convinced that the Treasury Department and the IRS have already taken and continue to take important steps toward implementing an improved governance process. I am impressed by efforts to focus the IRS on its core competencies, and by the commitment to leverage the private sector to obtain resources such as systems integration capabilities that are not part of tencies. I would like to give efforts that are now in progress the time to work.

TECHNOLOGY TASK FORCE/BUSINESS PERSPECTIVE

In conclusion, I would like to talk for a moment about my work as a member of the Technology Task Force. Much of this work was focused on issues that are critical to the ability of the IRS to function successfully in the 21st century.

Technology is an enabler that will make it possible for IRS leadership to provide better service to taxpayers and increase compliance. The technology gap between the IRS and private sector financial institutions is widening daily. Taxpayers expect the same level of efficient, accurate, and courteous treatment from their government as they do from the private sector.

It is essential that the IRS have the technical capability and funding to deal with century date change. It must press forward with its modernization blueprint and develop the public sector/private sector partnership that will enable it to improve customer service and compliance functions. It must expedite the use of electronic filing.

My experience on the Commission has convinced me that there is a unique opportunity to make dramatic improvement in IRS technology and taxpayer service.

The presence of a committed leadership team at Treasury and IRS coupled with the release of a high quality modernization blueprint have added tremendous momentum to the forces of change. The contractor community is now prepared to make substantial investments in the procurement and a major financial commitment to ensuring that the modernization effort is a success.

An extended delay or uncertainty about Congress' commitment to fund the procurement could undermine efforts of people in government who are willing to take risks for change and make it difficult for private sector contractors to commit large amounts of money and key people to such a resource intensive effort.

As this Committee moves forward in its discussion of governance issues, I hope that it will also be mindful of the impodernization effort and the need to ensure that funding is available to implement the blueprint when the modernization contract is awarded.

I realize that today's time is limited. I will be happy to answer any questions and would be delighted to return if necessary to discuss the technology initiatives with the Committee in detail.

Chairman JOHNSON. Thank you very much, Mr. Newstrom.

Mr. Keating, thank you for serving on the Commission. You certainly also put in a great deal of time, and I appreciate your being here today as executive vice president for the National Taxpayers Union.

STATEMENT OF DAVID L. KEATING, COMMISSIONER, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE; AND EXECUTIVE VICE PRESIDENT, NATIONAL TAXPAYERS UNION, ALEXANDRIA, VIRGINIA

Mr. KEATING. Thank you for holding these hearings this morning and this afternoon and for inviting me to testify. I appreciate it.

The IRS contacts millions of Americans each year. For many of us, it is the only agency that we deal with so regularly, and that is why I think it is so important that Congress move to improve the IRS because it needs improvement.

A poll conducted for our group last month found that 90 percent of those surveyed said that improving the IRS should be a very high or somewhat high priority for the current Congress, and now that we have the Commission's report for the Congress, we have given a road map for discussion and debate about exactly how to do that.

This report was endorsed by 12 of the 17 Commissioners, and even those who voted against it endorsed much of the report.

The issue of controversy is on management and governance, and I want to associate myself with the earlier remarks of Josh Weston and Fred Goldberg. I agree with what they said, 100 percent, concerning management and governance.

I do want to add some additional observations. First, there is no proposal that can guarantee sound management, but unlike the Treasury Department's proposal or what we have today, the Commission's recommendations will allow for management's success rather than guarantee bureaucratic failure.

The fact is, if the Treasury Department could improve or would improve, over the long term, the IRS on its own, it would have done so already. I have watched the IRS closely for close to 20 years. Short of tax returns being dropped in the dumpster, which we saw in the mideighties, we rarely saw much attention to the IRS from the Treasury Department. The current Secretary is an exception, but I doubt that he and the attitudes that he has brought to the IRS will be the rule in the future.

Look at the management structure of the IRS. Commissioners typically come and go quickly. The Deputy Treasury Secretary, to whom the Commissioner reports, has many other responsibilities, and in fact, some of them have not even realized that they were in charge of overseeing the IRS until they arrived on the job. What does that say? I think it says that the Treasury Department has not typically put a high priority on good management at the IRS.

That is why I believe the Commission's proposal for an IRS board of directors is so important, because it will bring continuity that we rarely see, competence, and focus to the job. Add to this, better coordinated congressional oversight and approval of key decisions and I think you will see a better IRS, which is what we all want.

I also want to reemphasize one of our most important recommendations that Fred Goldberg touched on earlier. The IRS should only initiate a contact with a taxpayer if it is prepared to devote the resources necessary for a proper and timely resolution of the matter. Think about this for a minute. When the IRS is contacting a taxpayer, the Government is saying you have done something wrong. If the taxpayer has not done something wrong and wants to straighten it out, they should be able to straighten that out quickly because they are responding to government's request.

I also want to point out that we recommended that the IRS use survey techniques, and I am not talking about public opinion polls here, but surveys of taxpayers who have actually interacted with the agency. Incredibly, the IRS does not do this today in any way.

Now, such customer service performance measures are common in the private sector, and indeed, many State revenue agencies have formal systems for receiving taxpayer feedback on individual State agency employee audits and the like, and we think that is something that the IRS should do as well.

In conclusion, on the topic of management and governance, I think the Commission's recommendations will make it much more likely that top management of the IRS will be held accountable for improving taxpayer service, which should be job one. In fact, that is part of the name of the Internal Revenue Service.

We refer repeatedly in our report to customer service. Now, while everyone supports the goal of improving service to citizens, I am sure that most taxpayers certainly do not feel like customers. After all, real customers have a choice about the products and services they buy, but taxes are, of course, are involuntary payments and no one has a choice about which IRS to select or which agency employee to deal with. That brings me to my point of why taxpayer rights issues are so important.

The IRS has enormous power, and it is very important that that power be exercised carefully. One of our key recommendations is the taxpayer advocate needs more independence and clout. The advocate should be free to function without concern for career aspirations within the IRS. In fact, one of our recommendations is that the advocate be appointed from outside the IRS or, if selected as an IRS employee, not someone selected for this job as part of a career track to future promotions. I think a more independent advocate would give better input to the Congress and to the IRS board about what needs to be fixed.

When I asked the current taxpayer advocate questions during our Commission's hearings, he did not seem to feel that he had any responsibility to give Congress any clear input or independent input. I found that to be amazing.

I will not go into detail, but we have many solid recommendations for additional taxpayer rights in the Commission report, and I hope those will become part of any product that is reported out of Congress on the issue of IRS reform.

I do want to make a concluding point, and that is simplification. It is something that everyone talks about, but rarely seems to get done. It is very, very important because we have a law that nobody understands, and we also have given the IRS powers that we have given to no other government agency. That is a recipe for a civil liberty catastrophe—vague laws enforced with draconian enforcement powers. It is a frightening thought. Fortunately, abuses are rare, but when they occur, they can be hair raising.

There are some recommendations in the report, including a quadrennial simplification process because there does not seem to be much glory in simplification—all the grunt work that needs to go comb through the Tax Code and find out what can be tossed aside and what can be simplified. I think a simplification Commission every 4 years or so might harness some of the private-sector activity that we saw on the Commission and then give these people some ownership to help push it through the congressional process. So I think it is something that might help there.

Anyway, in conclusion, I urge the Subcommittee to move forward with the Commission's report, craft it into legislation and pass it as soon as possible. I very much appreciate the efforts made in the past by the Members of this Subcommittee to improve the performance of the IRS and look forward to working with you on implementing this Commission's report into law.

Thank you very much.

[The prepared statement follows:]

Statement of David L. Keating, Commissioner, National Commission on Restructuring the Internal Revenue Service; and Executive Vice President, National Taxpayers Union, Alexandria, Virginia

Madam Chair and Members of the Committee, thank you for inviting me to testify on the Report of the National Commission on Restructuring the Internal Revenue Service. I am the Executive Vice President of the 300,000-member National Taxpayers Union and was appointed to the Commission by Senator Bob Dole.

The Internal Revenue Service contacts millions of Americans each year. For many of us, it is the only agency we deal with so regularly. The Commission's report marks the starting point for fundamental reform of the IRS, and it's important that Congress move quickly to improve the IRS. The American people agree. A poll conducted for National Taxpayers Union last month found that 90 percent of those surveyed said "improving the IRS" should be a "very high" or "somewhat high" priority for Congress.

The Commission's report is a comprehensive and nonpartisan document supported by 12 of the 17 Commissioners. I strongly agree with the overwhelming majority of the findings and recommendations and actively participated in the consensus building process. Although I have some concerns about certain areas, I would be pleased to see the entire package become law and urge the Committee to pass legislation soon to implement the recommendations contained in the Commission's report.

MANAGEMENT AND GOVERNANCE

The critical issues of management and governance illustrate why the IRS today is so resistant to reform. The witnesses heard by the Commission and the evidence collected by its staff convinced me that management of the IRS is broken and needs to be fixed. While no proposal can guarantee superb management, it will establish a framework that, unlike either the Treasury Department's proposal or the current system, will allow for management success rather than bureaucratic failure.

Consider for a moment the current management structure of the IRS. Commissioners with little management experience often come and go quickly. The Treasury Deputy to whom the Commissioner reports has many other responsibilities for tax policy, and an even shorter tenure. He or she is normally selected with little consideration of ability or inclination to oversee the IRS.

At the same time, the Treasury Department has many other issues to worry about, issues that many consider more prestigious if not more important. Whether the Secretary is managing the public debt, giving advice to the President on economic policy, addressing international monetary problems, reviewing banking issues, or monitoring government-sponsored enterprises, the Treasury Secretary is a very busy person. Over the last two decades, I have rarely seen the Treasury Department take much interest in the IRS unless there were huge problems.

While Secretary Robert Rubin has recently been a welcome exception to a long parade of Treasury Secretaries who neglect the IRS, I have little confidence that his successors will demonstrate the same interest. That's why the Commission's proposal for an IRS board of directors is so important. It can bring continuity, competence and focus to the job. Adding coordinated congressional oversight and approval of key decisions should also lead to better direction for the agency.

While I believe our recommendations greatly improve the odds of good management and taxpayer service, to fundamentally change the IRS as an organization, many other actions are required. The President and Congress must select an outstanding board of directors for the IRS. The board must select capable leadership for the IRS. Employees who give excellent taxpayer service must be rewarded and employees who can't give good service must be terminated. Congress must take more interest in and more action on tax administration, and should go beyond our recommendations for coordinated oversight and approval of tax administration at the IRS.

Even if the Commission's plan is enacted and implemented quickly and effectively, the American people should not expect immediate change. The IRS is a huge bureaucracy. It will take time to reform it. The IRS's computers won't improve overnight either. Much of the work on improving technology over the next few years will be to minimize "year 2000" conversion problems. That leaves little management time or procurement money to upgrade the hardware or software to provide better taxpayer service.

TAXPAYER SERVICE

I want to emphasize one of our most important recommendations: "The IRS should only initiate contact with a taxpayer if it is prepared to devote the resources necessary for a proper and timely resolution of the matter." Here are some examples of practical changes that would be made if this principle is followed. New returns should not be placed in the pipeline for auditors and appeals officers, when there are unfinished cases older than 90 days. Service Center employees should make answering phone calls and letters their first priority, and should not send out new inquiry notices to taxpayers until the last batch has been worked. Collection officers should accept or reject "offers in compromise" within 30 days, so that neither the government nor the taxpayer is compromised by delays in resolving the debt.

The IRS should take steps to prevent taxpayer service problems before they occur. Management must not only train IRS employees to treat taxpayers fairly, but must also ensure that fair treatment actually occurs. The Commission suggested giving the IRS new flexibility to use performance measures relevant to fair tax administration in order to hold employees accountable for ensuring that taxpayers receive quality service. These performance measures should incorporate the requirements of Revenue Procedure 64–22, which outlines standards of conduct for IRS employees involving fair and professional treatment of taxpayers.

The Commission also recommended the use of survey techniques to gauge taxpayers' opinions about how knowledgeable, courteous, and respectful IRS employees are to taxpayers. Incredibly, the IRS does not directly measure taxpayer service or satisfaction in any way. Taxpayers who interact with IRS employees are not asked for their opinions of how IRS employees perform.

Such customer service performance measures are common in the private sector and many state revenue agencies have formal systems for receiving taxpayer feedback on individual state tax agency employees.

One of the most important goals of restructuring that the IRS can undertake is to transform its culture. Foremost, they (like the federal bureaucracy as a whole) must always act like the employees of "the People" that they are. Millions of Americans form much of their personal opinions about government based on their experience with the IRS.

IRS employees are armed with extraordinary powers—in terms not only of what they can do to taxpayers but also what they can demand of them. The taxpayer of course cannot select among IRS employees or find a new tax agency and IRS employees know this. Consequently, while most employees are helpful, too many are often rude, dismissive and abusive to taxpayers.

Moreover, since IRS employees have few cost considerations, they often fail to take into account how inconvenient or costly their demands on a taxpayer may be.

The management and governance recommendations will increase the likelihood that top management of the IRS will be held accountable for improving taxpayer service. Also, with these performance measures and enhanced personnel flexibility, the IRS will be able to provide incentives to employees who provide taxpayers with quality service, and to discipline employees who do not. Only by focusing the IRS on taxpayer service will we see a true change in the culture of the IRS and the way that taxpayers are treated.

TAXPAYERS' RIGHTS

The Commission's report repeatedly refers to "customer" service. While everyone supports the goal of improving service to citizens, I'm sure many, if not most, taxpayers certainly don't feel like they are customers. Real customers have a choice about the products and services they buy. Yet taxes are, after all, involuntary payments, and there's no choice about which IRS to use. That's one reason why taxpayers' rights issues are so important.

There are many substantial and solid recommendations in the taxpayers' rights portion of the report. It is essential that Congress provide more rights and remedies for taxpayers by adopting these recommendations, as it modernizes and restructures IRS.

I want to emphasize several of the key recommendations of the Commission regarding taxpayers' rights.

The Taxpayer Advocate needs more independence and clout. I strongly believe that the Taxpayer Advocate should not be a career IRS employee. The Taxpayer Advocate must be free to function without concern for his career aspirations within the

IRS. He should not have to worry about how other IRS managers view his input into their areas of responsibility.

A more independent Advocate would come to the job without the restrictive mission-oriented mentality that besets many career agency executives. He would be more receptive to the needs of taxpayers and to changing business-as-usual, and would be far more likely to recommend to the Congress and the IRS Board solutions to taxpayers' problems.

The Commission recommended that candidates for Taxpayer Advocate "should have substantial experience representing taxpayers before the IRS or with taxpayers rights issues. If the Advocate is selected from the ranks of career IRS employees, the selection should also be a person with substantial experience assisting taxpayers or with taxpayer rights issues, and the job description should stipulate" that it will not be part of a career track for the employee.

The Commission's recommendation that the IRS Board should "have final authority over the hiring decision" of the Taxpayer Advocate will also help ensure the independence and clout needed to increase the effectiveness of this position.

The standard of hardship is unnecessarily high for a Taxpayer Assistance Order (TAO). The Commission recommended giving more authority and flexibility for the Taxpayer Advocate to issue a TAO if the IRS is not following guidelines or if there is "imminent threat of adverse action; delay of more than 30 days in resolving a taxpayer account problem; or prospect of paying significant professional fees for representation."

Taxpayers can still suffer severe financial losses even when they clearly win a tax dispute. Although the Taxpayers' Bill of Rights packages enacted into law in 1988 and 1996 offer important new safeguards for taxpayers, the job of protecting innocent taxpayers from ruin is far from complete.

In the 1986 Tax Reform Act, Congress substantially liberalized the definition of negligent actions by individual taxpayers. Beginning in the 1980s, tax preparers were also subjected to increasing penalties for not exercising due diligence. Yet incredibly, Congress refuses to require the IRS to exercise reasonable caution in using its vast array of enforcement powers.

I was very pleased to see the Commission recommend that taxpayers who have been financially harmed or devastated by IRS carelessness should have the right to sue and recover damages when the IRS is negligent.

Attorney fee awards are still inadequate. Taxpayers can suffer enormous financial damages even when they win. Again, the 1996 legislation made several needed improvements in the law, especially the new requirement that the IRS prove it was "substantially justified" in pursuing a case. The Commission recommended changes to "allow recovery of costs incurred prior to the time of the final administrative notice from the IRS. Because most administrative costs are incurred between the time of the preliminary notice of deficiency (i.e., the 30 day letter) and the time of the final notice of deficiency (i.e., the 90 day letter), the present construction of section 7430 is self-defeating."

I have often heard reports that the IRS will sometimes crush taxpayers of modest means because agency employees know such taxpayers often cannot afford representation to ensure their rights. The Commission recommended that "Congress also should clarify that nonprofit clinics that represent low income taxpayers, and other pro bono representatives, are eligible to receive awards under section 7430, based upon the number of hours worked and costs expended."

As the Commission noted in the report, "there historically has been a concern that expanding taxpayer rights to redress would be disruptive to collection efforts. Setting aside the issue of whether it is appropriate that taxpayers should be provided rights only to the extent that it does not disrupt collection efforts, the Commission found no evidence that the rights to redress and collection of representation fees provided to the taxpayer under the Omnibus Taxpayer Bill of Rights and Taxpayer Bill of Rights 2 have caused disruption to IRS collection efforts. In addition, the costs of expanding taxpayers' redress have been vastly overestimated. For example, the cost of reimbursing representation fees was originally estimated to be over $100 million per year. The actual cost has been approximately $5 million per year."

SIMPLIFICATION

The tax code is so convoluted that no one inside or outside the IRS understands it. Money magazine's annual test of tax preparers this year brought another sad result. All forty-five tested tax professionals got a different answer, and no one calculated the correct tax on a hypothetical tax return. Two out of three were off by more than $1,300.

Currently there is no requirement that members of Congress receive information on whether a proposed tax law change increases or decreases complexity. Since complexity is not directly considered in the legislative process, it's often ignored. At the same time, congressional committees must meet substantial reporting requirements for revenue estimates and the political process generates much data on the progressivity of proposed tax law changes. The tax legislative process is driven by these two numbers, which further biases the legislative process towards producing more complex legislation.

The Commission also suggested that Congress consider a quadrennial simplification process, and I hope that Congress and the President will quickly implement such a process either through legislation or by executive order. The Commission found that many members of the private sector tax community were willing to volunteer substantial time to make suggestions for simplification. The fact is, comprehensive simplification rarely happens. I'm not sure why. Probably because it's too much work, with too little reward politically.

A quadrennial simplification commission would harness this volunteer activity and give a broad group of people much more incentive to work for the adoption of simplification rules. This quadrennial commission would also give the Joint Committee on Taxation and the Treasury Department more incentive to suggest simplification of the law.

Conclusion

In conclusion, I urge the Committee to move forward with the Commission's recommendations immediately, so that taxpayers can soon benefit from improvements in the quality of service they deserve from the IRS. The job of improving taxpayer service, protecting taxpayer rights and simplifying the laws and regulations will never end. The Commission's report can mark the beginning of a historic improvement in the operations of the IRS. We sincerely appreciate the efforts being made by members of this Subcommittee to improve the performance of the IRS and, ultimately, public confidence in our tax system.

Source and amount of Federal government grants and contracts received by David Keating or National Taxpayers Union for the current and preceding two fiscal years: None.

Chairman JOHNSON. Thank you, Mr. Keating.

Mr. Keating, you made a very interesting comment that you felt the outside board could bring to the management discussion table, issues that needed to be raised and more forcefully, and you used the example of the taxpayer advocate.

I think you have hit on a very important point, and I think the rest of you, particularly those of you who think that we can do this from inside, need to be able to give me an example of where any current board has made this level of substantial input to any government agency over time. I can think of no example of any advisory board having the kind of substantial continuous effect on management quality or performance that we are asking of this board.

I just say to you, 2 years ago in the Taxpayers Bill of Rights II, to try to get this kind of input, we wrote very specific provisions, and we asked the taxpayer advocate to provide us with a list of the 10 most commonly asked problems. The 10 most commonly seen problems by the advocates, trying to circumvent the sort of normal process that happens in any bureaucracy, whether it is State or Federal, whereby any Commissioner looks at what are the 45 million things that concern us and what are the 10 things I ought to focus on in Congress. In that process, little things do not get the necessary attention. Anybody in government knows that.

We wanted to go around that process. We wanted this Oversight Subcommittee to just hear from the advocates so we could make that decision, are these little things or big things.

I think had we been doing that, we would at least have structured the earned income tax credit, EITC, 4 years ago, differently. We would have done different things about reform, and I can tell you, we are not getting the input on tax policy that Congress needs. So we put that in there, and the result was an absolutely pathetic hearing. This is after specific direction.

So the bureaucracy simply, A, did not hear us. B, it did not care that much. So this is not to criticize them because now they are going to come around and do it, now that they have heard that what they did is not what we asked. We are going to do this, but now we have lost a year. We spent a year passing the legislation. We spent a year talking about what it is we actually asked you to do and now would you please do it all over again. This is not to demean them, and I am sorry about the tone of voice because it is so frustrating, but really, it is not that the bureaucracy does not want to do this. It is that they have other things to do, and the idea that somehow OMB people or the Office of Personnel Management people or other people from outside would give this constant direction when we specifically gave very specific direction to the agency which the Treasury knew about and they had this board meeting, I have to ask you, if they could not hear that simple direction, how can I possibly believe that an internal board would provide the kind of constant input, just suggestions, this is how we do it? If you are going to do customer service, this is what you have got to do. If you are going to do technology modernization, you cannot talk about it this year and not next year. The Congress is going to need more determined, in a sense, input from IRS overseers, and it cannot go up through the Secretary of the Treasury and have the Secretary of the Treasury, who has a lot of other responsibilities, weigh how much he is going to go to bat for IRS versus other things under his jurisdiction.

So I think that the burden of proof on this issue of governance is truly at this time, in my mind, on those who say it can be done from inside because you are taking on a responsibility for the internal bureaucracy that I have never seen the bureaucracy carry out. So I open it to your comments, but this was a point of difference amongst the Commissioners. The majority went with the kind of outside board that we have not tried, and those that oppose that really carry a heavy burden to give this Subcommittee examples of where we have seen, because we have appointed a lot of good people, just tons of good people to outside advisory boards in that sense. So where is it? I am open to any comments.

Mr. KEATING. I would like to take an initial crack at that because one of the things I struggled with on the Commission was this whole idea of whether there should be an outside board.

Now, the IRS is a unique agency of the Government. Most other agencies, we have got political appointees up and down the agency. One way of getting the IRS to be more responsive to the political process would be to add more political appointees. In fact, that had been tried before I was born, and my understanding is it did not work too well. So there has been an understandable reluctance to add more political appointees to the IRS, but that is certainly one direction you could go in.

One of the things that I have seen over the years that I have watched the IRS is that it is so incredibly resistant to change. There is so little outside input. The agency is so insular, always looking inward. In fact, we found very few people who came in from the outside, and the two recent ones who have come in from the outside seemed to have had a very beneficial effect. Morgan Kinghorne, who I understand was the first Chief Financial Officer, and now Art Gross, the Chief Information Officer.

I think this shows the kind of positive developments you can get if you bring in an outside perspective, people from outside the agency.

Now, you have got essentially just the Commissioner and Chief Counsel who comes in from the outside on any regular basis. I think having this private-sector board, people carefully selected, you would wind up with a number of people like Josh Weston to bring in the customer service skills that we see practiced so well in many private sector companies. It would force the agency to stay focused on taxpayer service and bring in new ideas. So I see it as something that could invigorate the agency to improve its service.

I have concluded, given the other constraints, we do not want to put more political appointees in the IRS. We need to do something like this because the Treasury Department, frankly, has been in charge of the IRS for decades and nothing seems to ever change.

Chairman JOHNSON. Anyone else?

Mr. Irving.

Mr. IRVING. I hesitate to wade into these waters.

Chairman JOHNSON. But you need to because you were going to in your testimony.

Mr. IRVING. You have put the burden of proof on——

Chairman JOHNSON. Right. So I want to hear this from you.

Mr. IRVING. My concern is a little bit different. I think I understand what you are saying with regard to the need for outside opinions, but if you have a politically tone-deaf IRS, I think it would be just a tone-deaf to a governance board, and a governance board, as I understand it, is not supposed to get involved in policy. It is supposed to get involved in day-to-day management.

Some of the issues that this Subcommittee and other congressional Committees are going to be concerned about are by necessity going to be enforcement or policy concerns, and I do not think you want an outside group of people, that governance board getting involved.

I think advice is important, and I think a high-level advisory board is important. I think the Treasury Department recognizes that.

Where I get off the bus really is not on the issue of outside information. It is having a group of outside, mostly chief executive officers, predominantly private sector governing the IRS. That is where I have a difference of opinion.

Chairman JOHNSON. Mr. Irving, I made the point before that I need an example of where we see this working.

We have in the IRS now an advisory board. So we have outside input. We have businesses and executives who serve on that advisory board, and it does not have any impact, at least it has not had any significant impact on any of these issues.

The reason I think this taxpayer advocate example is so relevant is because it took place during the time that Treasury was focused on the problems of the IRS. Of course, they were focused on technology modernization. That is a big problem, but their interest did not go down to this because they actually have a vested interest in the opposite effect and are not getting the information because it always travels through them so that they can set the larger agencies' priorities.

So the outside advisory board currently—and there currently is an advisory board called CAG or something, Commissioners Advisory Group—is not doing the job, and I really would have to have a good reason to believe that a different advisory group could do the job, and then I want to hear from the others because it is not my understanding that this board would do day-to-day tasks, but it is true it would not do policy. So we need to clean up what does it do, actually, but I'd like your comment, and then maybe Mr. Goldberg and anyone else who wants to comment.

Mr. IRVING. I do not know how the governance board is going, whether or not it would have missed the issue about the taxpayer advocate if it was not doing day-to-day management, if it was not getting into the micromanagement. It is as likely a scenario that the governance board could miss it as a politically tone-deaf institution missed it, if in fact they missed it.

I do not know what happened with the taxpayer advocate, but I am not certain that a board is supposed to do macropolicy that is looking at hiring, firing, and is not supposed to do policy, would have not missed it any more than anyone else would have not missed it.

I understand you are putting the burden of proof on me, but with this kind of a substantial change for one of the most important agencies in the Government, I guess my sense is that the burden of proof of this type of change should not rest just with those who are advocating the status quo because I am not advocating the status quo. I am saying that when you are talking about changing the form of governance, adding another significant layer of bureaucracy, adding another level of political appointees, five political appointees at a minimum, maybe seven, that is a significant change in the governance of the IRS and one that I think we should do with great hesitancy, and the particular proposal, I have significant problems with.

Mr. NEWSTROM. Madam Chairman, may I address this from a slightly different perspective? Remember that everyone has testified, and I believe everyone before us testified, that the preponderance of the recommendations we have violent agreement on.

Chairman JOHNSON. Yes, I appreciate that. That is very helpful.

Mr. NEWSTROM. Violent agreement on. This one here is unique, and I find myself in a very unique position, coming from the private sector, recommending that you do not have an independent board mostly filled with private-sector people because of the policy implications.

The comments that the board would hire, be able to set compensation, approve budgets, and so forth, and not get into the policy, I just have a hard time comprehending that. So I liken it to my job and my role in my company. I report to the president. I have annual targets, requirements to produce numbers. I contemplate an independent board sitting on top of me, appointed by somebody who sets my compensation, hires my executives, theoretically does not get involved in policy, but controls a large part of what I do, and yet, I have to report to the president and produce the results. I just have a hard time with that.

The last part of what I said was that I am comfortable that there has been progress made by Treasury, by the IRS. The nominee for IRS Commissioner Charles Rossotti comes from Northern Virginia. He is a member of the technology community that I work and live in. I think it is a tremendous message that there are outsiders, as Mr. Keating said, being brought in and on the issue of probably the most important thing that the IRS needs to address, which is technology for the future. You have a person that has that capability to manage technology issues.

So, hopefully, with a combination of the other recommendations, the direction of the IRS and Treasury, and new leadership, I am comfortable that we are taking new steps, as Mr. Irving has also said.

Chairman JOHNSON. This is the most difficult issue that the Subcommittee will decide, and it is a matter of judgment. That is why I wanted to provoke you to differ with one another.

Mr. Goldberg.

Mr. GOLDBERG. Madam Chair, having been in these positions, I would like to talk sort of how it feels when you are the Commissioner for a second.

Chairman JOHNSON. That would be very helpful.

Mr. GOLDBERG. One of the most difficult parts of the job is if you believe in the direction that I think our Commission accepts the IRS should go, in a sense, it is very easy to say, but, boy, is it hard to do. I think that at least in my personal experience, and this is going to come across wrong, I would envision the board as almost a sanctuary. That is the wrong word, but there is no place that you can go push against and no place that pushes against you about the things that matter most.

Congress does its oversight hearings, and the nature of the process in Congress is it is lots of problems, it is lots of anecdotes, lots of bad stories, lots of this issue, that issue, and that is part of the congressional process, and that is helpful. That is good, but it has its limitations.

You have OMB involved and you have GAO involved and you have the Treasury involved and you have GSA involved. Where is the focus on what matters most, and who is going to drag me by the scruff of the neck as Commissioner periodically and say this is what matters most, how are you doing? Good, if you are doing well. Shame on you if you are doing bad, and we are going to hold you accountable. That is missing from the process. That is what we are trying to fill, and that is what this board is about.

Take the example that David Keating gave. If you believe it should be an absolute maximum of tax administration, that you just never contact the taxpayer unless you are prepared to fix the problem timely, on time, and do it well, does the Congress buy that view? Does the administration buy that view? How are you going to measure whether you are even doing it? How do you know that you are getting that result? Who is going to be sure year in and year out that you have got the measures in place and is riding you to do that? If it means you do not do 15 other things, at least you are doing that. That is not happening, and in my judgment, it is never going to happen unless you deal with these kinds of issues of continuity.

Chairman JOHNSON. I think you make a very important point because we do have GAO out there watching and saying things. We do now have voices, but there is no consistent pressure, and there is no backup for the agency when it is going in the right direction and trying to achieve goals, but I want you also to talk about—because I do not understand—I want you to talk about this issue of day-to-day management and policy.

If the board is not going to do day-to-day management and you are not going to do tax policy, what are you going to do? Why aren't you going to end up doing those other things, I guess, is the more important question.

Mr. GOLDBERG. There are a number of reasons. Historically, the day-to-day management, particularly on the law enforcement side and the decisions about the day-to-day activities are delegated way down within the agency. By statute, those decisions are decentralized. You have Regional Commissioners. You have District Directors.

The judgment that was made in the early fifties, and it is a judgment that I believe was correct at the time, is that those kinds of enforcement decisions happen through an apolitical career civil service in the field, and I think it has to stay that way because the threat, even the notion that law enforcement is going to be politicized, is something that we have decided we want to stay far away from, and that is the right decision.

What the board should be focusing on are issues of strategic importance. The simple decision, I want to be sure whenever I contact the taxpayer, I am going to be able to answer the question and solve the problem, sounds easy. The board should be asking questions like is that your first priority. How do you measure whether you are delivering on that promise? What kind of progress are you making toward that overall objective? Those are the kinds of bigger questions that I believe are not addressed in the system today, and I believe the board could address those kinds of questions.

I think they can do it meeting four times a year because those are high-level questions about putting measures in place and assessing aggregate performance against aggregate measures.

Are taxpayers satisfied with the service they are getting? If you believe David's argument that you ought to be surveying taxpayers about how well they are being treated, that is an aggregate issue. The board says that is real important, and that is a large—a big question with aggregate measures that never involve the board in, well, was Fred or Sally or Jane unhappy. It is aggregate measures, and I think that is the function that the board can perform, and it is a function that at least in my opinion is not being performed today.

The Government, the Treasury Department historically at least, the White House historically at least, have said we never want to hear from the IRS Commissioner, we never want to have anything to do with what that agency is up to on a day-to-day basis in a specific-case context. I do not think you want to change that for a minute.

The board spends its time in a completely different universe, with completely different kinds of issues it is trying to work through. Maybe the answer is, hey, it is not so important that every time we contact the taxpayer we are there to answer the question because that is not really what the IRS is about. The IRS is about getting tax dollars.

So if we kind of do not respond all the time, so it goes. The object is to maximize tax receipts. If that is the judgment that Congress makes, if that is what Congress wants from the IRS, if that is what the administration wants from the IRS, fine. Make that judgment. Then you are not worried about serving taxpayers. What you are worried about is maximizing compliance revenues. Fine. If that is the direction the board sets, if that is the direction the President sets and the Congress sets, go make it happen. I think that is a terrible direction, but the point is those decisions are not made, and there is no long-term accountability to get you where you want to go. That is what is missing. It is not how you audit, who you audit, when you audit. That is 15 layers below anything the board of directors should ever consider.

Chairman JOHNSON. Thank you. That was very helpful.

I am going to yield to my colleague, Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman. I would like to welcome all the Commissioners and thank you for your service on the Commission and your testimony here today.

We were very fortunate to have Fred Goldberg serve on the Commission. Fred has served at the different levels in government, including IRS Commissioner.

Fred, I had a question for you. You indicated that under proposed Commission recommendations the Commissioner would now be directly responsible to the President. But the Commission's recommendations are different from the way it works today the board that would hire the Commissioner, so that IRS board is between the President and the Commissioner.

Mr. GOLDBERG. Mr. Coyne, that was perfectly a hard issue for me to deal with in the context of the Commission's report, having been appointed by the President of the United States. That is a big deal, but the answer is, right now the Commissioner does not report directly to the President. The Commissioner of the Internal Revenue reports to the Secretary of the Treasury.

Mr. COYNE. Who is appointed by the President.

Mr. GOLDBERG. The Secretary is appointed, right.

What would happen is that the Commissioner in the day-to-day law enforcement activities, the Commissioner's role in policy formulation, all of the roles that the Commissioner traditionally performs today that is making day-to-day decisions, advising regarding how the laws or regulations should be written, advising regarding legislation, the Commissioner would continue to report to the Secretary of the Treasury, who would continue to report to the President, in all of those areas. So that would not change.

With respect to the Board of Directors' activity, Board of Governors' activity, where the Commissioner is trying to get beyond the day-to-day fray and sort of step back and talk about where this ought to be going, what the picture is and what it ought to be like in gross, the Commissioner is reporting to the board. That board is appointed by the President. That board can be removed by the President. As a practical matter, I believe that board will in the real world turn out to be largely a creature of the Secretary of the Treasury, which I find very reassuring, and what it creates is a structure there that does not change the line, Commissioner, Secretary, President, on the stuff that affects taxpayers day to day on the rules and regulations.

The only thing I see it doing is giving the Secretary the institution, the Department of the Treasury, a mechanism to enforce continuity, a mechanism to say as we go through administrations, as we go through Secretaries and Deputy Secretaries and heads of OMB, there is some incremental measure of stability so that when you ask the question about the 5 years that it takes you to implement one-stop service on telephones or when you talk about the 7 years it takes to redo technology or when you talk about the 4 years it takes to reform training so that all of the employees are getting the training they need, there is an institution there that can tell you here is what has happened, here is where we are going, here is how we are doing.

It always runs to the President, and the Commissioner is always going through political appointees to get there.

Mr. COYNE. Well, I was only making the point that it is going to be different if this board is approved. The board will hire the Commissioner, which is different from what it is today.

Mr. GOLDBERG. Right. That is correct.

Mr. COYNE. I suppose that the Commission could fire the IRS Commissioner.

Mr. GOLDBERG. The way the recommendation is laid out, that is correct. If the judgment were that it was important to have the Commissioner appointed by the President of the United States, I think you are still keeping the structure, the same concept in place at that point.

Mr. COYNE. I was wondering, can you think of any decisions that you had made as Commissioner of IRS that would have been different had there been a board of directors in place at that time?

Mr. GOLDBERG. There are lots of decisions I made that I am unhappy with, Mr. Coyne. There are a lot of decisions I did not make that I wish I had, but my judgment is that this relentless focus on making it work better for the taxpayer is so important, and it is so easy to lose sight of that. I believe that if there had been a structure in place that said this is what matters most and every quarter you have got to come up and tell us how you are doing, I believe we would have been a lot further down that road. I am confident we would have been a lot further down that road, but those are 2½ years.

Look at all of the people who have walked through that office over the last 10 years. Look at all of the folks who have walked through the Deputy Secretary's job over the last 10 years, every one of them, I believe well intentioned and capable, but it had not worked. That is what we are missing, and I think this is what the Commission was trying to get at.

Mr. COYNE. Thanks very much.

Mr. PORTMAN [presiding]. Thanks, Mr. Coyne.

Mr. English.

Mr. ENGLISH. Thank you, Mr. Chairman.

First of all, I want to congratulate this Commission because you have really issued an extraordinary report. It is visionary. It has taken your charter and explored it fully, and what I particularly wanted to congratulate you on is the fact that you have tried to get at the core of some of the problems of the IRS, not just the symptoms.

One of the fundamental problems, and I think all of you will have to agree with this, is the complexity of the Tax Code. You have been willing to include that observation as part of your fundamental recommendations.

I want to say that by referencing and using as an example the problem of the alternative minimum tax, AMT, you have given real impetus to the cause of tax reform on the Hill.

The first bill that I introduced in coming to Congress was a bill to repeal the AMT. It is a tax that every practitioner knows about. It is incredibly complex and burdensome, dead drag on the productivity of our economy, and includes staggering compliance cost. By making the recommendation that we consider phasing out the AMT and finding some sort of replacement way of doing the policy, I think you have given our cause a great shot in the arm.

Your recommendation also provided for a quadrennial process of reviewing simplification and having recommendations prepared.

This quadrennial process, I know, Mr. Keating, in your testimony, you suggested should take the form of a Commission. Do you want to amplify on that?

Mr. KEATING. During our work on the Commission, it seemed that whenever we were going to do something, have an important hearing or make an important announcement, the Treasury Department, the day before, announced some new IRS initiative. I think one of the reasons why the Treasury Department announced initiatives for simplification this year was the mere existence of our Commission.

Mr. ENGLISH. Mr. Keating, isn't it gratifying to see immediate results for your recommendation?

Mr. KEATING. Well, it is, but I think one of the problems with simplification is it is a classic public interest-type good. You do not have people walking the halls of Congress twisting arms, asking for a simplification of this provision or the entire Tax Code, other than in a general way.

Our Commission, even though it was not charged with simplifying the Tax Code, caused many in the private sector, tax-practitioning community to put together a lot of ideas and send them to us. We did not endorse them because that was not our job, per se, but I think if you could create such a Commission, it would be a prestigious post. People would angle to get onto it. They would put a lot of voluntary work into this. They would have ownership of the ideas, and they would walk the halls of Congress. They would go to the Treasury Department and promote these ideas, and I think you might see some very healthy input into the process, both in the Treasury Department and in the Congress itself. I know the staff is often stretched thin working on the day-to-day issues, whether it is Medicare reform or other things that are dealt with by this Committee and the Joint Tax Committee. Simplification could, I think, be encouraged by such a Commission.

Mr. ENGLISH. Could I ask each of you, also included as a recommendation, that for every tax proposal there be done a complexity analysis at the time it is submitted. Very briefly, do each of you support that recommendation?

Mr. ENGLISH. Mr. Keating.

Mr. KEATING. Yes.

Mr. ENGLISH. Mr. Newstrom.

Mr. NEWSTROM. Yes.

Mr. ENGLISH. Mr. Irving.

Mr. IRVING. Yes.

Mr. ENGLISH. Mr. Tobias.

Mr. TOBIAS. Yes.

Mr. ENGLISH. Mr. Goldberg.

Mr. GOLDBERG. Yes, sir.

Mr. ENGLISH. Thank you. I think it is one of the better features of your proposals.

A final question. Commissioner Goldberg, welcome. It is good to see you back. I noticed one of the more, I thought for me, stimulating comments by Secretary Summers was the claim that an independent board would "post an unacceptable risk to our Nation's revenue stream." I think you have already touched on this in your testimony, but it seems to me what he is arguing is that by somehow restraining the IRS, we would be experiencing an unacceptable level of revenue loss, which is one of the things that we concern ourselves with here.

Can you comment on that? Do you think this is from a professional standpoint an unacceptable risk to the Nation's revenue stream?

Mr. GOLDBERG. No, sir, I do not. I think the contrary is the case. In my judgment, the biggest threat the tax system has right now is we are losing the base. We are losing the 90 percent of the people who are trying to do it right. It is too hard. It is too complicated. It is too intrusive, but unless we find a way to keep the base, unless we kind of find a way to make it work right for the everyday Americans out there, we are in serious trouble.

I believe that these kinds of recommendations that we are making are intended to make the system work right for everyday Americans, and if we do not, we will lose it. So I see the opposite. I see the far bigger risk is in inaction.

Mr. ENGLISH. Mr. Chairman, I have a lot of other questions, but I know my colleagues have, I think, many of the same questions. I appreciate the opportunity to ask this very distinguished panel for their comments.

Again, this report, I think, is one of the best things I have seen since I joined the Ways and Means Committee, and it gives us a clear direction for further legislative action.

Thank you, Mr. Chairman.

Mr. PORTMAN. Thank you, Mr. English, for your patience, as well as your interest.

I am going to go to another patient colleague and defer and hope to have some time to ask questions afterward.

Mr. Cardin.

Mr. CARDIN. Thank you, Mr. Chairman.

I also want to add my thanks to our panelists not only for their testimony and presence here today, but for their service on the Commission. You came up with these recommendations.

We have been spending most of the time today talking about the governance issue, but there are many other important recommendations. Mr. Keating, I particularly appreciate your mentioning the simplification issue. I know that our Chairman, Mr. Portman, worked hard on the simplification matters and to sensitize Congress on bills that move through this body that are well intended, but are very complicated in enforcement. Hopefully, the policymakers, the Members of Congress, who are ultimately responsible for enactment of tax policy will be more sensitive on simplification issues as we consider policy. I really want to congratulate Mr. Portman for his leadership in that area.

It seems to me that you all have made a very strong case that IRS needs to develop a game plan, then given the tools to carry out that strategy, and ultimately held accountable, and that an independent board can certainly help in that direction. Even those that have concern about the authority of this board, it seems to me, are speaking out for the need for a game plan and the tools necessary to carry out those game plans.

I stress that because the Ways and Means Committee that has oversight jurisdiction of the Internal Revenue Service, historically, has sent letters to the appropriators, to the Budget Committee, to provide the tools necessary for IRS to carry out its functions, and those letters are ignored. There has not been an effective way for us to put a spotlight on what the Internal Revenue Service will need in order to carry out its mission, and it seems to me that an independent board can play a very valuable role in developing not just a game plan in accountability, but to come forward with a responsible attention to what Congress needs to do in appropriating the resources, so that IRS can carry out its function.

Mr. Goldberg, you have had, I think, the most experience on the direct line on these areas. I listened with interest to your testimony, and there are two points that I would just want to take issue with or at least get your response to. One is that if the Commissioner is going to be held accountable, it seems to me the Commissioner has to be able to appoint his or her top management, and that the responsibility must rest with the Commissioner in that regard. Then, as far as the appointment of the Commissioner by the board that is appointed by the President, it seems to me that obviously the board has to have a role, but ultimately, the appointment of the Commissioner should be by the President. I think that is consistent with what you are trying to bring out here, and I would just like to get your comment. On accountability, doesn't that make more sense?

Mr. GOLDBERG. Mr. Cardin, I think that is well within the framework of what the Commission was looking at. I think the Commission was trying to create a way to think about the problem, and my personal judgment is the kinds of things you are talking about that fit well within that framework, and if the collective judgment of the Congress were the Commissioner ought to be appointed by the President or if the Commissioner were to appoint somebody as his or her senior officials directly, I would certainly understand those judgments.

I think the role of having some institution outside the Commissioner deal with some of the senior-level executive appointments, I believe, is important, not because it is—it is a balance. You want them accountable to the Commissioner, but on the other hand, there are institutional issues that I think are important. So we struck the balance a little bit differently, but I think those are well within the parameter that reasonable people could reach different judgments.

Mr. CARDIN. Thank you.

Thank you, Mr. Chairman.

Mr. PORTMAN. Thank you, Mr. Cardin.

I have so many questions for my friends that I do not know where to start. So I will, instead just be brief, and I want to thank each of you.

This is kind of like family to me. We are having a reunion here today. Each of you put in a tremendous amount of time and effort, and I think did so in good faith, and each contributed mightily to our work; David, on the simplification measures and pushed us hard on that, otherwise we would not have ended up where we are. George provided a lot of expertise in the information technology task force, and with that unique background you have, as vice president for government systems for a company that does a lot of its work around the world and not just the United States, and Hon. Assistant Secretary Larry Irving provided us expertise not only on the information technology, which is what you do day to day, but also being from Capitol Hill, you have brought us a lot of good insight and input, even on the very controversial issue which was referenced earlier of congressional oversight. Bob Tobias, I do have a couple of questions for you.

As I go around talking about this issue and people begin to understand what the focus of this report is, there are mixed views. One is, are you talking about the IRS being more effective? I say yes, actually, it would be more effective. That actually frightens some people because they have had an experience with the IRS that perhaps was not an entirely beneficial one. I explained that this is about restoring trust and credibility in the agency that affects more Americans than any others, and it is about having it work right. If you are going to have a tax collection agency, which we need under our current Code and our current system, it has got to work better for the American taxpayer.

I guess what would be interesting for me to hear, and maybe for the other Members here, is why in the end representing the employees at the IRS, people who are on the line doing the actual work, you thought this Commission report ended up in the right place and you were able in the end to support its recommendations.

Mr. TOBIAS. Well, as I said in my statement, I believe that the Internal Revenue Service has lost a great deal of credibility with the public, with Congress, with the press, and I do not see with the existing approach that that credibility can be restored in a timely manner.

I think that the problems of funding, the problems of giving employees an effective voice, the problems of governance structure in the Internal Revenue Service itself, which has not received a lot of focus or attention by the Commission, sort of a glancing blow by the Commission, but the hierarchial management structure, and the symptom of that is a resistance to change, I do not see that changing. I see more ossification.

So I supported this report because I see it as the best chance to make the IRS efficient, and I guess I would quibble with your characterization because if the IRS is efficient, it is not calling the wrong people. It is calling the right people. It is not assessing tax that is incorrect. It is assessing the correct tax. If the IRS is efficient, the telephone calls get answered by people who are interested in satisfying the needs, the questions, the concerns of the person who is on the other end of the line.

So I think that a more efficient IRS would be an IRS that would be more supported by the public because I believe that the vast majority of the public wants to comply, and if, in fact, that trust is reestablished, then there will be the support in the public to go after those folks who are noncompliant because, after all, 75 percent of those who filed their taxes are wage earners, have their taxes withheld, and they are 95 percent compliant.

So those are the folks who are paying their taxes. Those are the folks who are supporting this government, and when they can get their questions answered and their problems resolved, then there will be the kind of support that I think is necessary to be more effective in ensuring that those who are currently noncompliant become compliant.

Mr. PORTMAN. Thank you.

That characterization was not my characterization, but was the response that I was receiving, and I could not agree with you more. To have someone who answers the phone who is responsive, is well trained, who can answer the question, and who can provide information people need, responsive to the taxpayer needs, I think is an improved IRS, as well as a more efficient IRS. I think that is why, in the end, we were able to not only have the National Taxpayers Union support this report enthusiastically, but also the Treasury Employees Union, and I thank you for your work and your willingness, frankly, to take some risks in this process, as all of this had to be.

Fred, you have already made a number of comments, and I will not ask you to give us any more of your wisdom, although it was much appreciated on the Commission and here today. No one has held all three of those positions in history of Chief Counsel, Assistant Secretary, and Commissioner, and so you bring a unique perspective. You did keep us focused on the criteria, and those criteria include accountability, continuity, and expertise. Every single time someone came up with a new proposal, whether it was independent or the board or some other reiteration such as the Treasury proposal we heard earlier today, we measured them against those criteria. Frankly, those criteria, I think, were agreed to by not all, but certainly the best majority of the Commission, and that is what got us to where we were.

It was not a preconceived notion. It was something that was arrived at only through careful analysis and figuring out whether, in fact, those important measures were met.

I have so many questions. I would like to bring more out. We are going to have more hearings. Chairwoman Johnson has committed to doing that. The hearings will be focused more on some of the specific elements of the legislation to be introduced next week, and I really look forward to working with all of you on that process of implementing now these recommendations and doing it in a way that I think perhaps can address some of the concerns raised.

I do think we are a lot closer to the Treasury Department than might have been indicated earlier today, and I just wanted to make that statement for the record. But there is a fundamental difference of opinion, and I think it relates in part to turf. I think it relates in part to the fact that the IRS is such a big part of Treasury and in part to some of the legitimate concerns raised, but I think we can address those.

I look forward, again, to working with you, Mr. Coyne and Mrs. Johnson, and the rest of the Members of our Full Committee, such as Ben Cardin, and the Subcommittee to address them and move forward with legislation.

So thank you all very much for being here today.

Mr. Coyne, do you have any additional questions?

Mr. COYNE. No, thank you.

Mr. PORTMAN. This hearing is now adjourned.

[Whereupon, at 2 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

NATIONAL SOCIETY
OF ACCOUNTANTS
July 24, 1997

The Honorable Nancy L. Johnson
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1136 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Johnson:

The National Society of Accountants (NSA) commends the Subcommittee on Oversight, Committee on Ways and Means, for holding this first in a series of hearings on the recently released report of the National Commission on Restructuring the IRS. The report is entitled, A Vision for aNew IRS.

NSA strongly supports the objectives of the recommendations found in the National Commission's report. The Commission was charged with a most difficult task. It has done an outstanding job in producing a report which details the current practices of the IRS, and making recommendations for modernizing, improving agency efficiency, and enhancing taxpayer services.

THE IRS MANAGEMENT STRUCTURE

The Subcommittee on Oversight is well aware of all the national press surrounding the report's recommendation regarding an independent Board of Directors for the IRS. We believe an independent Board of Directors is one of the Commission's most important contributions to the issue of making the IRS a more customer service oriented agency. An independent Board of Directors has the potential of affording the IRS the opportunity to take an objective look at the agency's procedures and programs and overcoming problems concerning them.

While the independent Board of Directors will help contribute to the agency's ability to achieve a higher level of customer service for American taxpayers, the report makes other very important recommendations for streamlining the operations of the IRS. NSA commends the Commission's recommendation for providing the agency with stable funding for the next threeyears. This recommendation, if implemented, should provide the agency with greater certainty in carrying out its mission of improving customer services and raising revenues to fund governmental programs.

Another excellent recommendation in the report is the establishment of a five-year appointment for the Commissioner of Internal Revenue position, similar to the Chairman of the Federal Reserve and certain other federal agencies. The new Commissioner position would also have greater flexibility in the hiring, firing, and salary decisions involved with IRS senior management.

By providing the IRS with stable funding and a new management culture, NSA believes that fundamental and positive changes will take place within the agency. In many ways, legislative enactment of these management oriented recommendations will begin the process of restoring the respect of IRS employees for themselves and by the public. The last several years of budgetary cutbacks for the IRS has contributed to a high level of demoralization and dissatisfaction within the agency's work force; in turn, it has had a clear and negative impact on the level of customerservices provided by IRS employees.

CUSTOMER SERVICE

One of the major objectives of the National Commission's report is to upgrade the level of customer service provided by IRS employees to that which private financial services companies offer the public. The practitioner community is an important stakeholder relative to customer service. A great number of taxpayers deal with the IRS through their tax practitioners. There are many opportunities for practitioners to experience IRS customer service at various levels, from telephone contact through exams, collections and appeals. Based on their repeated and varied contact with IRS, practitioners have a unique perspective on IRS customer service issues.

The report emphasizes the concept of customer service over compliance. However, traditionally the public has viewed the IRS main mission to be that of tax compliance, i.e. audits and collection. NSA agrees with the Commission that the service component of the IRS should be the primary engine which drives the agency's mission. We believe that a customer service orientedmission will bring out the best in

IRS employees. This is what the American public wants, and it is what we believe IRS employees want as well.

There should be improvement in all aspects of IRS's customer service. For example, from the public s perspective, the front lines in IRS customer service is what they experience when they speak with an IRS employee on the telephone. The quality of the IRS telephone systems, as well as the way in which IRS employees answer the telephone, has shown substantial improvement in recent years. Nevertheless, the IRS telephone system and customer relations process continues to cry out for further and dramatic improvement.

The proper training of IRS employees and providing them with technology are important keys to quality customer service. The Commission's report strives to portray IRS employees as competent, hard-working employees who want nothing more than to deliver the highest quality in service to the public. In order to turn around the supertanker we call the IRS, there needs to be achange in the management structure of the IRS along the principles described above. This includes better training of IRS employees. They also need to be provided with more of the basic technology tools of the 1990's, tools which NSA s members often take for granted. This includes providing employees with more fax machines, copiers, and computers.

Electronic Filing

The Commission report calls for the IRS to develop and implement a strategic and marketing plan to make electronic filing the preferred method of filing tax returns within ten years. The report states that this can be achieved over a ten-year period by using existing infrastructure, such as tax practitioners, financial institutions, and the Internet. According to the Commission, this can be accomplished by a partnership with practitioners and financial institutions through a process of burden reductions and incentives.

NSA recognizes that electronic filing contributes to certain significant efficiencies in terms of the tax administration process. First, the IRS estimates that the cost of processing a paper return is $2.65 per return, while it costs $1.15 to process an electronically filed return (an amount which also includes the processing of paper signature documents). Also, the IRS estimates that mistakes occur in only about 1 percent of all electronically filed returns as compared to some type of mistake occurring in about 22 percent of all paper filed returns.

In order to make electronic filing more attractive to taxpayers and practitioners, the report makes a number of recommendations to remove barriers to electronic filing. One such recommendation calls for the elimination of filing requirements for signature documents and associated W–2s, by having taxpayers retain signed 1040s and W–2s on file. The elimination of Form 8453, the current signature form for electronic returns, would expedite the filing process for practitioners. NSA fully supports this recommendation.

There are two further recommendations NSA fully supports. One is a recommendation that there should be a checkoff box on the electronic return authorizing the preparer to discuss aspects of the return with the IRS. Another one which is likely to generate attention is a suggestion that all preparers be subject to the regulations governing practice before the IRS (Circular 230). According to the report, Uniform requirements will increase professionalism, encourage continuing education, improve ethics, and better enable the IRS to prevent unscrupulous tax preparers from operating. As indicated, NSA supports these recommendations and believes thatthey not be limited to electronic filing.

Other recommendations include a realignment of due dates for tax returns, expansion of the telefile pool, and making paperless payment methods available to taxpayers. The report also recommends that the IRS pay tax practitioners (as an incentive) for submitting electronic returns until 2004, after which the incentives will terminate and all practitioners will be required to file electronically.

NSA clearly recognizes that implementation of these other recommendations will have a pronounced and dramatic impact on the tax practice which independent accountants have traditionally known. Accordingly, it is our intention to report back to the Subcommittee on Oversight with some further perspective on whether such recommendations are likely to improve the use of electronic filing—as well as the extent to which they are likely to improve the tax administration process overall.

IRS Notices

American taxpayers traditionally have had a difficult time deciphering and understanding IRS notices they receive. The Commission's report aptly describes this problem by stating, IRS notices and correspondence to taxpayers often fail to explain the problem in a clear and simple manner and fail to inform the taxpayer how to resolve it. According to the report, 85 percent of the certified public accountants in a survey mentioned that IRS notices do not contain a precise explanation of the problem. NSA supports the report s recommendation calling for the IRS to continue its notice re-engineering effort. This effort should continue its focus on designing notices with concise explanations of the amounts owed, how adjustments have been calculated, and how taxpayers should comply.

TAX SIMPLIFICATION

The complexity of the tax laws represent a high level of frustration for taxpayers and the practitioner community. NSA recognizes that we live in a complex society and that complexity is inevitable. We agree with the Commission's plea for consistent interpretation of the law, rules and regulations by the IRS. It is the inconsistent treatment of them that causes the greatest consternation in the practitioner community. Where possible, the laws need to be simplified and mechanisms put in place whereby taxpayers can expect to be treated consistently and fairly no matter where they are located.

TAXPAYER ADVOCATE

NSA acknowledges the Commission's point that over the last several years Congress has made great strides in passing legislation that is designed to protect the rights of the taxpayers. We agree with the Commission that the Taxpayer Advocate must be empowered to speak for taxpayers and to take actions on their behalf. In this regard, the Taxpayer Advocate position needs to be strengthened and made an independent voice within the IRS. The Commission is on the right track. If the IRS's primary mission is one of customer service, the transition of the Taxpayer Advocate will be a natural one.

CONCLUSION

The National Society of Accountants looks forward to working closely with the Subcommittee on Oversight in its quest to improve the working structure and procedures of the IRS. NSA thanks the Subcommittee for the opportunity to participate in this important project.

Sincerely,

LEROY A. STRUBBERG
President

NATIONAL TAX
CONSULTANTS, INC.
July 22, 1997

The Honorable Nancy L. Johnson
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Johnson:

The purpose of this submission is to provide more details to my letter of support for the bipartisan efforts of the National Commission on Restructuring the Internal Revenue Service. If adopted, Congress will change the Internal Revenue Service as we know it. This change will be a positive contribution to the quality of life of not only the American taxpayers but to the loyal employees of the Internal Revenue Service as well.

The main controversy of the Commission's report is centered around the establishment of an independent Board of Directors. While I am not insensitive to Treasury's objections to such a board, I believe that an independent Board of Directors is one of the Commission's most important contributions. The proposed Board of Directors would not be part of the bureaucratic culture indigenous to large organizations like the Internal Revenue Service. An independent Board of Directors will be able to take an objective look at problems, processes, procedures and programs. The Internal Revenue Service and the Department of the Treasury can benefit from the insights provided to it by a knowledgeable, blue ribbon group of people. These professionals, individually and collectively, will be in a position to help the Internal Revenue Service change into a "service oriented, customer service focussed organization.

Over the past ten years I have attempted to work with the Internal Revenue Service through a variety of liaison activities including a two-year term on the Commissioner's Advisory Group. In that extensive time frame it became evident to me that is very difficult, if not impossible, for outside groups to have a broad based impact on changing the Internal Revenue Service. An independent Board of Directors will provide an institutionalized conduit for positive and constructive recommendations. The Internal Revenue Service's current structure of obtaining input and ideas from the tax practitioner community is simply a public relations effort.

It is important for Congress to realize that Board of Directors concept is devised to primarily focus on the administration of the tax policy. Tax policy is and should remain a function of the Treasury Department. It is the administration of Treasury's policies that the new Board will address.

The Commission is also emphasizing the concept of service over compliance. In the last several years, the deficit of this country has been reduced because the amount of money sent to the Treasury has increased significantly. Does any one in this nation believe that the increase in tax receipts is due to the compliance efforts of the Internal Revenue Service? On the contrary, most of the funds that found its way into the United States Treasury arrived there without any collection effort. In other words, the citizens of this country voluntarily send taxes to the Internal Revenue Service. Unlike the tax collector in biblical times, the Service does not have to go door to door to collect its due from the large majority of its citizens. Yet, the Service still considers its main mission to be one of tax compliance. While human nature requires us to give the Internal Revenue Service some compliance tools, the service component should be the primary engine that drives its mission.

By adopting a service mission, Congress will, in fact, "change the IRS as we know it." We believe that the American public expects a service mission from the Internal Revenue Service. A service oriented mission will bring out the best in people. We have seen how the compliance mission is bringing out undesirable negative qualities in some of the agency's employees. It has been my personal experience that most IRS employees want to do a good job. However, in many instances, the culture and the system is preventing them from performing the type of service that they are capable of providing to the taxpayers. Changing the mission will change the Service's focus in a very positive sense.

Tax System Modernization is an integral part of developing a viable service mission. Without avant garde technical prowess, the Service will never be able to provide the kind of service that Congress and the American public will come to expect. Furthermore, tax systems modernization is not just computers and programs. It also includes modern fax and copy machines, telephone systems and so forth. Tax system modernization is never completed. If the Service were to immediately implement any of its ideas, the chances for instantaneous obsolescence would be very high on the very day of implementa- tion. Congress must recognize that funds must be built in to the budget to accommodate changing technology.

The practitioner community and the taxpayers have not accepted the electronic filing program because it is easier to file a paper return. The current electronic filing program has more disincentives than it has incentives. Over the past six years, I have made Herculean efforts to help the Service understand why the program has not been successful. The electronic filing of tax returns should be mandatory for most practitioners. However, many improvements in the system have to be made before this happens.

In addition to the mechanical improvements, the Service should consider "booster shot" incentives. The problem is critical, and extreme measures should be considered to expedite its solution. An incentive that could have significant potential for increasing the acceptance of electronic filing is to develop a program resulting in the conclusion that an electronically filed return will not be audited and that the taxpayer would be notified of the conclusion. This, of course, would require caveats, conditions and exceptions. While the recommendation may be a radical departure from current tax administration procedures and have inherent risks, the benefits may outweigh those risks. Electronic Filing of tax returns is the platform for Tax Systems Modernization. We must get the program to work or the concept of modernization will be greatly compromised.

The complexity of the tax laws represent a high level of frustration for taxpayers and the practitioner community. Nevertheless, we live in a complex society; complexity is inevitable. I agree with the Commission's plea for consistent interpretation of the law, rules and regulations by the Internal Revenue Service. It is the inconsistent treatment of the rules that cause the greatest consternation among the practitioner community. Where possible, the laws need to be simplified and mechanisms put into place whereby taxpayers can expect to be treated consistently and fairly no matter where they are located.

The Commission was on track when it pointed out that over the last several years Congress has made great strides in passing legislation that was designed to protect the rights of the taxpayers. I also agree with the Commission that Taxpayer Advocates must be empowered to speak for and to take actions on behalf of taxpayers. The Taxpayer Advocate needs to be strength- ened so that advocates are free to help taxpayers resolve problems the solutions of which may go against the culture of the system. Their hands must be untied so that they are not so dependent on their current supervisors for support. I believe the Commission is on the right track and that if the Service's primary mission is changed from service to compliance, the transition of the advocate program will be a natural one.

Financial accountability of an agency like the Internal Revenue Service should be an inalienable right of our democratic society. The Internal Revenue Service should provide this nation with a model of financial accountability. In order to regain the trust and respect of the American people, the IRS must demonstrate that it is financially accountable.

In conclusion, I support the recommendations of the National Commission on Restructuring the Internal Revenue Service. The recommendations need to be adopted in full as the sum of its parts are greater than the whole.

Sincerely,

WILLIAM STEVENSON
President