

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. GRASSLEY, Mr. REID, Mr. BRYAN, Mr. HATCH, Mr. BAUCUS, Mr. MURKOWSKI, Mr. BREAUX, Mr. NICKLES, Mr. EXON, Mr. COCHRAN, Mr. GLENN, Mr. COHEN, Mr. JOHNSTON, Mr. LOTT, Mr. KERRY, Mr. SMITH, Ms. MIKULSKI, Mr. SARBANES, Mr. SIMON, Mr. KYL, and Mr. DASCHLE):

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights; to the Committee on Finance.

By Mr. INOUE:

S. 259. A bill for the relief of the Persis Corporation; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 260. A bill to provide for the protection of books and materials from the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

By Mr. AKAKA:

S. 261. A bill to authorize the Secretary of Commerce to permit the use and occupancy of certain lands within the jurisdiction of the National Oceanic and Atmospheric Administration for recreational and public uses; to the Committee on Commerce, Science, and Transportation.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. GRASSLEY, Mr. REID, Mr. BRYAN, Mr. HATCH, Mr. BAUCUS, Mr. MURKOWSKI, Mr. BREAUX, Mr. NICKLES, Mr. EXON, Mr. COCHRAN, Mr. GLENN, Mr. COHEN, Mr. JOHNSTON, Mr. LOTT, Mr. KERRY, Mr. SMITH, Ms. MIKULSKI, Mr. SARBANES, Mr. SIMON, Mr. KYL, and Mr. DASCHLE):

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights; to the Committee on Finance.

##### THE TAXPAYER BILL OF RIGHTS II

Mr. PRYOR. Mr. President, I am very sorry my colleagues and chief cosponsor of the Taxpayer Bill of Rights II, Senator GRASSLEY of Iowa, has been detained. He is at the White House. I think later in the day he will speak on this subject matter.

Mr. President, over the past several years, there has been extensive debate over ways to achieve tax fairness for middle-income Americans. Proposals are most often costly, and very, very partisan. But there is one legislative package helping taxpayers, Mr. President, that transcends political boundaries and costs very little—we call it the Taxpayer Bill of Rights II.

So, as the debate once again heats up on ways to achieve tax fairness for middle-income Americans, I want to

draw attention to this legislation which will help bolster taxpayer confidence in dealing with the Government by ensuring taxpayers are treated fairly by the tax collector—the Internal Revenue Service.

Mr. President, many of my colleagues in the Senate today were not here in 1988 when Congress passed, and President Reagan signed into law, the first Taxpayer Bill of Rights. That bill was the first ever comprehensive piece of legislation enumerating the rights of taxpayers. For example:

The right of the taxpayer to be informed of their rights;

The right of the taxpayer to rely on written advice of the IRS;

The right of the taxpayer to representation; and

The right of the taxpayer to recover civil damages and attorneys fees from the IRS.

I might note that this particular legislation, the Taxpayer Bill of Rights, which was signed into law in 1988, was the very first piece of legislation throughout recorded American history that gave the taxpayers of America their due rights.

Mr. President, these basic, common-sense provisions were codified by the first Taxpayer Bill of Rights. The battle waged by a strongly bipartisan coalition for their codification was hard fought and their ultimate enactment was a giant first step for the American taxpayer. But the time is overdue to more fully develop and expand these rights.

Mr. President, the Taxpayer Bill of Rights II is the next natural step which builds on the first effort in 1988.

In 1992, I first introduced the Taxpayer Bill of Rights II with a considerable bipartisan backing of 52 of my colleagues. The bill passed Congress twice that year but was ultimately vetoed because it was included as part of two large tax bills with which President Bush did not agree.

Since these two bills were vetoed, the Senate has not had the opportunity to consider the Taxpayer Bill of Rights II. However, Mr. President, I believe the time is now to enact this legislation, and I am committed to work along side my friend and colleague Senator GRASSLEY to push taxpayer rights forward and in the coming months to look for additional ways to ensure the IRS treats taxpayers with respect.

Today, Senator GRASSLEY and I come to the floor, once again, with a strong bipartisan contingent in support of this bill—20 cosponsors—12 Democrats and 8 Republicans—a bill which builds on the foundation laid by the original Taxpayer Bill of Rights and is the next natural step in requiring the IRS to achieve higher standards of accuracy, timeliness, and fair play in providing taxpayer service.

The Taxpayer Bill of Rights II achieves these new standards through 27 provisions, including:

First, expanding the authority of the taxpayer advocate to prevent hardships on taxpayers.

Second, create the right in small taxpayers to an installment agreement, and further, rights when installment agreements are denied or terminated.

Third, require the IRS to abate interest when it has made an unreasonable error or delay, and enable the courts the power to review the interest abatement determination.

Fourth, increase the rights of taxpayers to recover civil damages against the IRS when it has acted negligently or recklessly.

Fifth, strengthen the code so a taxpayer may recover out-of-pocket costs incurred in a case in which the IRS position was not substantially justified.

Sixth, and, prohibit the IRS from issuing retroactive proposed regulations unless the Congress provides otherwise.

These are some of the examples of the 27 provisions that Senator GRASSLEY and our 20 cosponsors in the Senate in a bipartisan effort will bring to this body for action later in this session.

Mr. President, the Taxpayer Bill of Rights II contains many more commonsense provisions designed to safeguard the rights of taxpayers, and I believe, will work to instill some confidence into our system of taxation.

Mr. President, joining me later in the day, as I have mentioned, is my friend and colleague, Senator GRASSLEY. We worked very hard on these provisions in the past, and we look forward to our work in the future.

Let me name one other individual who has worked very, very hard in this field and that, of course, is Senator HARRY REID of Nevada.

Senator REID came from the House of Representatives to the Senate. Mr. President, one day I was presiding in the chair when the Democrats had control of the Senate. I noticed over to my far extreme right that Senator REID of Nevada was making his very first maiden speech in the Senate. And it was about taxpayers' rights. I, too, had been interested in this issue. I called for a page to come up, and I handed the page a note. I said, "HARRY REID, I want to work with you on this provision that you are so concerned about." Ultimately, Senator REID, Senator GRASSLEY, Senator LEVIN, and many of us worked through the course of that year in developing the Taxpayer Bill of Rights I, which was in fact signed into law.

So it has been a great pleasure and honor to have worked with these fine Members of the Senate, I must say in a very bipartisan way. As the Finance Committee continues its march of progress, let us say during the next several months, I look forward to the development now of Taxpayer Bill of Rights II and working with my colleagues on both sides of the aisle.

Mr. President, I think there are other Senators who seek recognition.

• Mr. BRYAN. Mr. President, I am pleased to once again sing on as a cosponsor to the bill introduced by Senator PRYOR, the taxpayer bill of rights II. I was a cosponsor of this important legislation in both the 102d and 103d Congress.

Over the years, many have cited abused by the IRS during tax audits and collection. Aware of these types of problems, Congress passed the taxpayer bill of rights in 1988. While the original bill was in many ways successful, it is clear that further action is necessary.

The taxpayer bill of rights II builds on the success of the original bill, and provides taxpayers with expanded protections against improper collection techniques. This legislation expands protection for taxpayers by requiring the IRS to pay legal fees when it loses in court, increases from \$100,000 to \$1 million the cap on damages a taxpayer can collect from the IRS, and revokes the agencies authority to issue retroactive regulations.

The bill also establishes a better taxpayer advocate within the IRS who will have the authority to intervene and help taxpayers cases, and increases taxpayers' ability to get a fair hearing in disputes with the IRS.

It is unfortunate that this bill is necessary; however, in such a monumental task as collecting taxes it is inevitable that there will be mistakes made. This bill will help to ensure that taxpayers are not forced to pay for the mistakes for which they had no control over.

I have heard too many times from anguished constituents in Nevada regarding their dealings with the IRS. While dealing with discrepancies with the IRS is never an enjoyable experience, once this bill becomes law taxpayers will finally have their rights protected.

In past sessions of Congress, this bill has received overwhelming bipartisan support. I am hopeful that we can again join together, pass this bill and give taxpayers the rights that they deserve.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD. •

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

#### TAXPAYER BILL OF RIGHTS II (T2)

##### A.—TAXPAYER ADVOCATE

Section 101. Establishment of Position of Taxpayer Advocate within Internal Revenue Service. The Office of the Taxpayer Ombudsman was statutorily created in 1987 in the Omnibus Taxpayer Bill of Rights. The Ombudsman is presently hired by and reports directly to the IRS Commissioner.

T2 will replace the Ombudsman with the new Office of Taxpayer Advocate which will have expanded authority as provided in A.2 below. The Taxpayer Advocate will continue to be hired by and report to the IRS Commissioner.

Presently, the Office of the Taxpayer Ombudsman carries out its duties and responsibilities in the local field offices through the Problem Resolution Office (PRO). However, PROs are hired, supervised, reviewed, and promoted by the local IRS District Director, not the Ombudsman. T2 will provide

that the PRO will report directly to the Office of Taxpayer Advocate.

T2 will require the Taxpayer Advocate to provide the Committee on Ways and Means of the U.S. House of Representatives and the Committee on Finance of the U.S. Senate two annual reports. The first report is on the activities of the Taxpayer Advocate during the previous fiscal year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a TAO, contain a summary of at least 20 of the most serious problems which taxpayers have in dealing with the IRS, describe in detail the progress made in implementing these recommendations, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and to include other such information as the Taxpayer Advocate may deem advisable. The Commissioner is required to establish procedures that will ensure a formal IRS response to all recommendations submitted by the Taxpayer Advocate. The first report is due not later than December 31 for each fiscal year after September 30, 1995.

In the second report, the Taxpayer Advocate must furnish to the tax writing committees its annual objectives, not later than December 31 of each calendar year after 1994.

All reports should contain full and substantive analysis, in addition to statistical information.

Effective Date.—The provision is effective on the date of enactment except for the specified due dates of the above reports.

Section 102. Expansion of Authority of the Taxpayer to Issue Taxpayer Assistance Orders. Under current law, section 7811(a) authorizes the Taxpayer Ombudsman to issue a Taxpayer Assistance Order (TAO) if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a "significant hardship" as a result of the manner in which the tax laws are being administered by the Secretary.

T2 eliminates the qualifier of "significant" hardship from section 7811 to allow PROs to assist taxpayers in avoiding hardship before it occurs since the standard of "significant" hardship presupposes that a taxpayer must be some degree of hardship before any relief can be afforded.

Currently under section 7811(b), a TAO allows a PRO to "cease any [IRS] action" with respect to a taxpayer. However, section 7811(b) does not allow the terms of a TAO to authorize affirmative steps to help a taxpayer.

T2 will authorize the terms of a TAO to "cease any action, take any action" with respect to a taxpayer, and therefore, allow a TAO to both stop IRS action and to take affirmative steps with respect to a taxpayer. For example, the Taxpayer Advocate's new scope of power will specifically include, but not be limited to, the authority to (1) abate assessments, (2) grant refund requests, and (3) stay collection activity. Further, a TAO may specify a period of time within which the TAO must be followed. The Taxpayer Advocate will have the power to grant authority to his or her designees (i.e., the Problems Resolution Officers).

Current law provides that a TAO may be modified or rescinded by the Ombudsman, a district director, a service center director, a compliance center director, a regional director of appeals, or any superior of such person.

T2 provides that a TAO may be modified or rescinded only by the Taxpayer Advocate and/or the IRS Commissioner.

Effective date.—The provision is effective on the date of enactment.

##### B.—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Section 201. Taxpayer's Right to Installment Agreement. T2 amends section 6159 to provide that, upon request, an individual taxpayer has an automatic right to an installment agreement if the taxpayer has not been delinquent in the previous 3 years and the liability is under \$10,000.

Effective date.—The provision is effective for installment agreements entered after the date of enactment.

Section 202. Running of Failure to Pay Penalty Suspended During Period Section 111 Installment Agreement in Effect. Under present law, a taxpayer is subject to "failure to pay" penalties even though he or she has agreed to pay his or her tax liability with interest by entering into an installment agreement.

T2 will amend current law to prevent the IRS from imposing the "failure to pay" on installment agreements, under section 111 above, where the taxpayer requests an agreement on or before the due date of the tax return.

Effective date.—The provision is effective for installment agreements entered after the date of enactment.

Section 203. Notification of Reasons for Termination of Installment Agreements. Section 6159(b)(3) presently requires the IRS to give the taxpayer a 30-day notice before terminating an installment agreement, if it is determined that the financial condition of the taxpayer has significantly changed. However, no notice is required if the taxpayer defaults for any other reason. In these cases, the IRS may unilaterally terminate the installment agreement with no notice to the taxpayer.

T2 will require the IRS to provide a taxpayer with a 30-day notice before terminating an installment agreement for any reason except when the collection of the tax is determined to be in jeopardy. In addition, T2 will require the notice to include the reason(s) why the IRS considers the installment agreement to be in default.

Effective date.—The provision is effective six months after the date of enactment.

Section 204. Administrative Review of Termination or Denial of Request for Installment Agreement. Under present law, a taxpayer has no right to an independent review of a termination or denial of his request for an installment agreement.

T2 will require the IRS to establish procedures for an independent administrative review of a termination of or denial of a request, for an installment agreement. T2 will also require the IRS to provide a written response to a taxpayer who requested an installment agreement. The written response must state the decision of the IRS and the basis for such decision. Finally, T2 will require the IRS to include in the instructions for filing Federal income tax returns the rules and procedures for requesting installment agreements.

Effective date.—The provision is effective January 1, 1996.

##### C.—INTEREST

Section 301. Expansion of Authority to Abate Interest. Section 6404(e)(1) (Assessment of interest attributable to errors and delays by the IRS) provides "the Secretary may abate" interest on "any deficiency in whole or in part to [due to] any error or delay by an officer or employee of the IRS (acting in his official capacity) in performing a ministerial act".

The ministerial act requirement too narrowly limits the possibility of relief to the taxpayer with the result that the IRS does not abate interest even if it is the IRS' fault. Further, IRS rejection of a taxpayer request

to abate interest cannot be reviewed because section 6404(e)(1) provides no authorization for courts to review an IRS rejection and no appropriate standard of review. The resulting interest assessment may be especially onerous on small taxpayers who do not have cash on hand to invest in anticipation of paying future tax assessments.

T2 will provide that for qualified small taxpayers, as defined in section 7430(c)(4)(A)(iii), the Secretary must abate or refund interest when the IRS has made an unreasonable error or delay. This will allow courts to review the IRS determination on the abatement of interest issue for small taxpayers. For nonqualified "larger" taxpayers, courts will still not be allowed to review the IRS determination on the interest abatement issue, however, the new standard of review will allow the IRS more flexibility in providing relief.

Section 302. Extension of Interest-Free Period for Payment of Tax After Notice and Demand. When the IRS sends a first notice requesting payment to a taxpayer, section 6601(e) provides a 10-day interest-free period from the date of the notice. The 10-day requirement is virtually impossible to meet given delivery time to and from the taxpayer attempting to timely remit payment.

T2 will extend taxpayers' interest-free period for payment of the tax liability reflected in the first notice from 10 days to 21 days, when the total tax liability on the notice of deficiency is less than \$100,000.

Effective date.—The provision applies in the case of any notice and demand given six months after the date of enactment.

#### D.—JOINT RETURNS

Section 401. Disclosure of Collection Activities. Present law does not allow the IRS to inform either spouse as to the efforts of the IRS to collect the tax liability from the other spouse.

T2 will permit that, if either spouse or former spouse makes a written request, the IRS is required to disclose in writing whether the IRS has attempted to collect the deficiency from his or her spouse or former spouse, the general nature of such collection activities, and the amount collected. The IRS may refuse such request in cases where disclosure of such information may result in the threat of physical danger or harassment to a taxpayer.

Effective date.—The provision is effective on the date of enactment.

Section 402. Joint Return May Be Made After Separate Returns Without Full Payment of Tax. Under section 6013(b)(2), taxpayers, who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return, may not reduce their tax liability by filing jointly unless they are able to pay the entire amount of the joint return liability before the expiration of the 3-year period for making the election.

T2 will repeal the provision requiring full payment of the tax liability as a precondition to taxpayers switching from married filing separately to married filing jointly status.

Effective date.—The provision applies to taxable years beginning after the date of the enactment.

#### E.—COLLECTION ACTIVITIES

Section 501. Modifications to Lien and Levy Provisions. A Notice of tax lien provides public notice that a taxpayer owes the government money. Section 6326(b) requires the IRS to issue a Certificate of Release for such notices for erroneous liens only. This extremely narrow language prevents the IRS from issuing the Release on premature or incorrectly filed liens.

T2 will give discretion to the IRS to remove such liens without prejudice when (1)

the filing of the notice was premature or not in accordance with administration procedures of the IRS; (2) the taxpayer has entered into an installment agreement for the payment of the tax liability with respect to the tax on which the lien is imposed; (3) the withdrawal of the lien will facilitate the collection of the tax liability; or (4) the withdrawal of the lien would be in the best interest of the taxpayer and the United States (with the best interests of the taxpayer to be determined by the Taxpayer Advocate).

T2 will require that, upon written request by the taxpayer in the 4 cases cited above, the IRS shall make prompt efforts to notify the credit reporting agencies specified that the notice has been withdrawn. T2 will also require the IRS to return levied-upon property to the taxpayer in the 4 above cited cases.

T2 will raise the levy exemption amounts of \$1500 for personal property and of \$1100 for equipment and property for a trade, business, or profession, which were set in 1990, to the present indexed amounts of \$1750 and \$1250, respectively.

Effective date.—The provisions are effective on the date of enactment.

Section 502. Offers-in-Compromise. Section 7122 provides that the IRS may settle a tax debt pursuant to an offer-in-compromise. Amounts over \$500 can be accepted only if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel. Further, section 6103(k) requires public disclosure of the names of taxpayers whose tax debts are compromised, as well as the amount owed and the amount accepted by the Government. These burdensome requirements result in the IRS not pursuing the offer-in-compromise route in settling even small tax disputes.

T2 will provide that, in cases where the unpaid tax assessment is less than \$50,000, the opinion of the IRS Chief Counsel is not required. However, the IRS shall subject these offers-in-compromise to an IRS quality review. Further, T2 will amend 6103(k) to provide that in cases where the unpaid tax assessment is less than \$50,000, the offer-in-compromise will not be subject to public disclosure.

Effective date.—The provision is effective on the date of enactment.

Section 503. Notification of Examination. Presently, in many cases, the IRS is approaching taxpayers, requesting books and records, but not notifying taxpayers of examination. If the taxpayer is contacted and the agent requests to review the taxpayer's books and records, a written notice, followed by an examination report, should be required.

T2 will amend section 7605 to require that the IRS give the taxpayer written notice that the taxpayer is under examination. The notice will be required for examinations under all sub-titles of the Code. Such notice will include an explanation of the process as described in section 7521 (explanation of examination process, right to be represented by an attorney, etc.).

Effective date.—The provision is effective on the date of enactment.

Section 504. Increase in Limit on Recovery of Civil Damage. Section 7433 caps civil damage awards for unauthorized collections actions against the IRS at \$100,000. Section 7433 also limits recovery to reckless and intentional actions of the IRS.

T2 will increase the \$100,000 cap for "reckless and intentional actions" to \$1 million, and in addition, T2 will include recovery for "negligent" actions of the IRS capped at \$100,000.

Effective date.—The provision applies to actions by IRS employees that occur after the date of enactment.

Section 505. Designated Summons. T2 requires that issuance of any designated summons with respect to a corporation's tax return be preceded by review of such issuance by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the examination of the corporation's return is being conducted.

In addition, T2 requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons, the litigation over which suspends the running of the assessment period under the designated summons procedure) to a third party. It is expected that the IRS generally will meet this requirement by issuing such notice on the same day that it issues such summons, and by transmitting such notice to the corporation in a manner reasonably designed to bring it to the prompt attention of an agent of the corporation responsible for communicating with the IRS in connection with the examination.

Effective date.—This provision applies to summonses issued after date of enactment.

#### F.—INFORMATION RETURNS

Section 601. Phone Number of Person Providing Payee Statements Required to be Shown on Such Statement. Taxpayers frequently need to contact payors issuing information returns in order to resolve disputes. Presently, information returns (e.g. W-2s, 1099s, etc.) require only the name and address of the payor.

T2 will require the payor to also provide the phone number of the payor's information contact. Payors may have the option of providing the name of its customer service department, if appropriate, an Form 1099.

Effective date.—The provision applies to statements required to be furnished after December 31, 1993 (determined without regard to any extension).

Section 602. Civil Damages for Fraudulent Filing of Information Returns. Some taxpayers have suffered significant personal loss and inconvenience as the result of the IRS receiving fraudulent information returns. These false returns have been filed by payors whose intent is to defraud the IRS or to harass taxpayers.

T2 will provide that, if any person files a false or fraudulent information return with respect to payments made to another person, with the intent of either defrauding the IRS or harassing another person, the other person may bring a civil action for damages against the person filing such return. Further, T2 will provide that damage awards in such cases be at least \$5000, and that the plaintiff must bring action within 6 years from the time the fraudulent return was filed with the IRS.

Effective date.—The provision applies to false or fraudulent information returns filed after the date of enactment.

Section 603. Requirement to Conduct a Reasonable Investigation of Information Returns. Section 6212(a) authorizes the IRS to determine tax deficiencies. The term "determine" is not defined in the Code, and until recently, courts have declined to inquire whether or not, and how, the IRS made its determination. Further, courts have begun to chip away at the long-standing presumption of correctness afforded deficiency notices.

T2 will amend section 6212(a) to provide that a "determination" must be "a thoughtful and considered determination that the United States is entitled to an amount not yet paid." *Portillo v. Commissioner*, 832 F. 2d 1128 (5th Circuit 1991). If the IRS fails to

make a thoughtful and considered determination, then the notice of deficiency will be invalid.

T2 will provide that where the taxpayer asserts a reasonable dispute with respect to any item of income reported to the IRS on an information return, the IRS, not the taxpayer, will bear the burden of proof in any deficiency or refund proceeding absent a showing that the IRS conducted a reasonable investigation of the facts surrounding the taxpayer's return.

**Effective date.**—The provision is effective on the date of enactment.

**G.—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX**

Section 701. Preliminary Notice Requirement. Section 6672 imposes personal liability on those persons who are required to collect employment taxes ("responsible officers") and who willfully fail to pay over these taxes to the IRS. The Code additionally provides for a 100% penalty on responsible officers failing to pay over such taxes. Taxpayers who may be responsible persons are assessed the taxes owed and the penalty without the right to an administrative review.

T2 will require the IRS to issue a preliminary notice which will give the taxpayer the right to an administrative appeals hearing.

**Effective date.**—The provisions applies to failures occurring after the date of enactment.

Section 702. Disclosure of Certain Information Where More Than One Person Subject to Penalty. The IRS may recover more than the amount owed under section 6672 (since each responsible person is jointly and severally liable). There is no procedure to ensure that the IRS does not collect more than 100% of what is owed.

T2 will require that a person liable for a section 6672 penalty may request, in writing, that the IRS disclose any other person who is liable for such penalty along with general nature of the IRS' collection activities.

**Effective date.**—The provision is effective on the date of enactment.

Section 703. Penalties Under Section 6672. Under current law, unpaid, volunteers, who serve on boards of tax-exempt organizations, may be held liable for the 100% penalty depending on the duties and roles of the individual involved.

T2 provides that the 100% penalty will not be imposed on unpaid, volunteer members of any board of trustees or directors of a tax exempt organization.

T2 will also require the IRS to develop materials to better inform employees and volunteers of their responsibilities under the law.

**H.—AWARDING OF COSTS AND CERTAIN FEES**

Section 801. Motion for Disclosure of Information. Once a taxpayer has substantially prevailed in his case with the IRS, he may file a petition for an order requiring the disclosure of all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case and the substantial justification for the position taken by the IRS.

**Effective date.**—The provision is effective for notices made and proceedings commenced after the date of enactment.

Section 802. Increased Limit on Attorney Fees. T2 will amend section 7430 to provide that reasonable fees incurred for the services of qualified taxpayer representatives shall not be indexed for inflation occurring since 1981, currently \$110 per hour, and this amount shall be indexed to inflation in the future.

**Effective date.**—The provision applies to notices made and proceedings commenced after the date of enactment.

Section 803. Failure to Agree to Extension not taken into Account. Section 7430 re-

quires the taxpayer to exhaust all administrative remedies before costs may be awarded. T2 provides that a taxpayer's failure to agree to an extension of time shall not be taken into account in determining whether a taxpayer has exhausted his or her administrative remedies.

Section 804. Authority for Court to Award Reasonable Administrative Costs. Section 7430 provides for the recovery of administrative costs incurred on or after the earlier of the receipt of the final decision of IRS Appeals or the statutory notice of deficiency. Because, generally, no administrative costs are incurred after this period, the provision is ineffective.

T2 remedies the statute by deleting the time limitations on the recovery of costs and by providing that the court may in its discretion determine the commencement date of the running of administrative costs on a case by case basis.

**I.—OTHER PROVISIONS**

Section 901. Required Content of Notices. Section 7522 (Content of tax due, deficiency, and other notices.) requires the IRS to clarify certain notices by identifying and describing the basis for any tax due, as well as any interest and penalties assessed. However, the IRS is not required to separately set forth, in the notice, the components and explanation for each adjustment.

T2 will amend section 7522 to require that the IRS set forth the components and explanation for each specific adjustment which is the basis for the total tax deficiency.

Section 902. Relief from Retroactive Application of Treasury Department Regulations. T2 will generally require that temporary and proposed regulations issued by the Treasury Department are to effective prospectively from the date of filing with the Federal Register except: (1) temporary or proposed regulations may take effect from the date any notice which substantially describes the regulation is issued to the public, (2) Congress may explicitly authorize Treasury to prescribe the effective date, (3) Treasury may issue retroactive temporary or proposed regulations to prevent abuse of the statute, (4) Treasury may issue retroactive temporary, proposed, or final regulations to correct a procedural defect in the issuance of a regulation, (5) Treasury may provide that taxpayers may elect to apply a temporary or proposed regulation retroactively.

**Effective date.**—The provision applies with respect to any temporary or proposed regulation published on or after January 5, 1993, and any temporary or proposed regulation published before January 5, 1993, and published as a final regulation after that date.

Section 903. Required Notice of Certain Payments. T2 will provide that, if the IRS receives a payment from a taxpayer and cannot associate that payment with any outstanding tax liability, then the IRS must make reasonable efforts to notify the taxpayer of such inability within 60 days after receipt of such payment.

Mr. GRASSLEY. Mr. President, as many taxpayers are struggling in the midst of the current tax filing season, the issue of taxpayer's rights takes on a special importance. Although most IRS employees provide valuable and responsible service, taxpayer abuse by the Government is an ongoing problem. With this in mind, I am very happy to be joining Senator PRYOR and others in reintroducing the taxpayer bill of rights II. This is very necessary legislation that builds upon the original taxpayer bill of rights that we passed into law in 1988.

I was unable to be here earlier today when the bill was introduced because I was taking part in the President's signing ceremony of the Congressional Accountability Act, of which I am the lead Senate sponsor. But, I'm glad to be here now to offer my strong support to this ongoing effort.

Mr. President, for me, the long process of trying to ensure taxpayer protections began in the early 1980's, when I was a member and then chairman of the Finance Subcommittee on IRS Oversight. We made progress, but it was only the beginning.

Senator PRYOR continued the cause when he succeeded me as chairman in 1987. At that time, he took the initiative and asked me to work with him in pushing for a taxpayer bill of rights by expanding legislation I and others had introduced. It took nearly 2 years, but we ultimately succeeded in achieving this goal.

We now have a 6-year record of implementation regarding the taxpayer bill of rights. Great strides toward taxpayer protection were achieved through this legislation. However, the taxpayer bill of rights of 1988 was never expected to be the final chapter of the book on taxpayer protection. It was a major step in the continuing process of stamping out taxpayer abuse. And that process continues today, as we look into ways to improve the current law.

In reviewing the record, it's clear that much more needs to be done. There's no question that breakdowns in implementing the law have occurred, and there are gaps in the law that need to be filled. For instance, we believe the current ombudsman position is too limited and too beholden to IRS insiders. Our legislation will turn the ombudsman into a more independent office of taxpayer advocate that will have expanded powers to help taxpayers.

We were successful in passing a very similar proposal through the Congress in 1992. However, the underlying legislation that the proposal was attached to was vetoed by President Bush. So, we're back again in this new Congress.

Since 1987, Senator PRYOR and I have worked in a cooperative, bipartisan effort to further taxpayer rights. As our roles change somewhat in this new Republican-controlled Congress, I hope to continue our successful teamwork.

Beyond the introduction of this bill today, Senator PRYOR and I will be working on further improvements and even more protaxpayer provisions that will be offered at a later date.

I urge my colleagues to join us in this effort to help make the IRS more responsible and more accountable to the taxpayers of this country.

By Mr. MCCAIN:

S. 260. A bill to provide for the protection of books and materials from the Library of Congress, and for other

purposes; to the Committee on Rules and Administration.

THE LIBRARY OF CONGRESS BOOK PROTECTION ACT

• Mr. MCCAIN. Mr. President, I introduce legislation to help protect the valuable resources of the Library of Congress. The Library of Congress Protection Act will help the Library of Congress stop abuses of its free book loan program by authorizing the Library to impose fines for books that are long overdue.

I am reintroducing this legislation to empower Library of Congress officials to crack down on individuals who seriously abuse their Library privileges, by keeping books too long or failing to return them. Library of Congress officials should not have to tolerate the fact that many individuals are apparently unconcerned about returning the books that taxpayers provide for them. Congress should not prevent the Library from instituting strengthened policies to hold severely delinquent borrowers responsible for their tardiness.

This legislation will enable the Library of Congress to implement a reasonable overdue book charge policy similar to those of most public libraries across America. By doing so, the many Members of Congress, congressional staffers, and executive branch employees who benefit from this magnificent institution will have an added incentive to comply with the generous loan policies of the Library of Congress.

This proposal is very basic, but it will afford Library officials the leverage and flexibility they need to address this problem. This bill will help Library of Congress officials keep better track of their resources, and will spur many delinquent borrowers to return the books that taxpayers provide for them completely free of charge.

The Library of Congress Book Protection Act would direct the Library to implement an overdue book charge policy for books improperly held over 70 days. These individuals or offices will have their privileges suspended until their fines are paid in full. Library of Congress officials will, however, be able to waive such penalties when appropriate. The Library would also be authorized to retain the funds received from late book fines, as well. Finally, the offices of severely delinquent borrowers and the fines they owe will be published in the annual report submitted by the Library to its oversight committees.

Figures published by the Library during the 103d Congress showed that out of the 20,000 books that were out on loan, over one-third were listed as overdue. One half of the 4,200 books on loan to congressional staff and the media were listed as overdue, and one in five books out on loan to Members, committees, and congressional support agencies had been overdue for more than 2 months. Library of Congress officials state that over 300,000 books are

missing from their collections dating back to 1978, and the estimated cost of these thefts is \$12 million.

I am concerned about the fact that it is all too easy for individuals to disregard their responsibility to return books to the Library of Congress in a timely manner. This negligence is not only unfair to the other users of the Library, but it also drains the Library's resources in chasing down overdue or missing books.

In addition to Members of Congress and congressional staff, the Library of Congress also makes loans to executive branch departments and agencies, the judiciary and diplomatic corps, the press, and other institutions. As I have mentioned, Mr. President, the Library of Congress is barred from charging late fees for overdue books in contrast to virtually every other publicly funded library in America. Furthermore, the Library cannot retain any funds that might be collected due to the loss or damage of loaned books. It's clearly time to change these unwise restrictions and strengthen the Library's ability to protect its resources, and I hope Members of the Senate will support this legislation to do so.

Surely it's not asking too much of the individuals and offices fortunate enough to use the Library of Congress to do so in a responsible manner. Even under the new borrowing guidelines that would be instituted by this legislation, there really is no reason for any well-intentioned borrower ever to have to pay late fines or have their privileges suspended. I'm optimistic that the mere specter of having to pay overdue book fines will coax delinquent borrowers into responsibility renewing their book loans or returning the books.

I hope that the Senate will adopt this legislation to implement prudent new guidelines in the book loan policies of the Library of Congress. •

#### ADDITIONAL COSPONSORS

S. 11

At the request of Mr. KYL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 11, a bill to award grants to States to promote the development of alternative dispute resolution systems for medical malpractice claims, to generate knowledge about such systems through expert data gathering and assessment activities, to promote uniformity and to curb excesses in State liability systems through federally-mandated liability reforms, and for other purposes.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 108

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 108, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 121

At the request of Mr. GRAMM, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 121, a bill to guarantee individuals and families continued choice and control over their doctors and hospitals, to ensure that health coverage is permanent and portable, to provide equal tax treatment for all health insurance consumers, to control medical cost inflation through medical savings accounts, to reform medical liability litigation, to reduce paperwork, and for other purposes.

S. 172

At the request of Mr. JEFFORDS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 172, a bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel L. R. Beattie.

S. 190

At the request of Mr. PRESSLER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 190, a bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes.

S. 205

At the request of Mrs. BOXER, the names of the Senator from Nevada [Mr. REID], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 205, a bill to amend title 37, United States Code, to revise and expand the prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge.

S. 239

At the request of Mr. SHELBY, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 239, a bill to require certain Federal agencies to protect the right of private property owners, and for other purposes.

S. 242

At the request of Mr. DASCHLE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 242, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the payment of tuition for higher education and interest on student loans.

S. 249

At the request of Mrs. HUTCHISON, the name of the Senator from Iowa [Mr.