S. 1669. A bill to restructure the Internal Revenue Service and improve taxpayer rights, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1670. A bill to amend the Alaskan Native Claims Settlement Act to provide for selection of lands by certain veterans of the Vietnam era; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself and Mr. DODD):

S. 1671. A bill to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1672. A bill to expand the authority of the Secretary of the Army to improve the control of erosion on the Missouri River; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself, Mr. COCHRAN, Ms. SNOWE, and Mr. SHELBY):

S. 1669. A bill to restructure the Internal Revenue Service and improve taxpayer rights, and for other purposes; to the Committee on Finance.

THE PUTTING THE TAXPAYER FIRST ACT OF 1998

Mr. BOND. Mr. President, I rise today to introduce a bill —Putting Taxpayers First. In the next few weeks the Senate will have a historic opportunity to make far-reaching changes to the operation of the Internal Revenue Service and to strengthen taxpayers' rights. For too long, taxpayers have had to put up with poor service when dealing with the IRS—often to the tune of larger tax bills because of interest and penalties that accrue during the lengthy delays in resolving disputes. While our ultimate goal must be a simpler and less burdensome tax law, taxpayers need help today when dealing with the IRS. We must put taxpayers first.

For my part, I have asked the people of Missouri for their suggestions on how to fix the IRS and better protect taxpayers' rights. In addition, as chairman of the Committee on Small Business, I have asked small businesses across the country for their recommendations on this issue. I am pleased to say that a great many people have taken the time to call or write with their suggestions for improving this country's tax administration system.

Over the last several months, the Finance Committee has focused extensively on abuse of taxpayers and the need to reform our tax administration system. In addition, my committee has held hearings on this issue and the importance of reform for entrepreneurs and small business owners throughout the country. The House has also completed its package of reform measures. That legislation provides a good start, but I believe we can make it even stronger.

With the input and recommendations from all these sources in mind, today I am introducing the Putting Taxpayers First Act. This bill will provide critical relief for a broad spectrum of taxpayers from single moms and married couples to small business owners and farmers. It is based on two fundamental principles. We must create an IRS and a tax system that are based on top-quality service for all taxpayers, and we must act swiftly to restore citizen confidence in that system.

My bill tackles these goals in three ways: by improving taxpayer rights and protections, restructuring the management and operation of the IRS, and using electronic filing technology to help taxpayers, not complicate their lives.

For more than 200 years, Americans have had the right, guaranteed by the fourth amendment, ''to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,'' and have enjoyed the constitutional protections against being ''deprived of * * * property, without due process of law'' under the fifth amendment.

My bill will make the IRS fully respect these rights by requiring, as part of the Tax Code, that the IRS must obtain the approval by a judge or magistrate with notice and a hearing for the taxpayer before seizing a taxpayer's property. The Government ought to be required to treat ordinary taxpayers at least as well as they treat common criminals. It is way past time to level the playing field and preserve the constitutional rights of all taxpayers.

My bill also stops the runaway freight train of excessive penalties and interest in two ways. First, the interest on a penalty will only begin after the taxpayer fails to pay his tax bill. Today, interest on most penalties is applied retroactively to the date that the tax return was due, which may be as much as 2 to 3 years back. That is just not fair. Second, my bill eliminates multiple penalties that apply to the same error. Penalties should punish bad behavior, not honest errors that even well-intentioned people are bound to make now and then.

Next, with respect to restructuring the IRS, the second part of my bill addresses the need for structural changes within the IRS. I believe that the operations and staffing of the IRS should be based along customer lines, an idea supported by the National Commission on Restructuring the IRS. The IRS' current one-size-fits-all approach no longer meets the needs of taxpayers and is inefficient for the IRS as well.

By restructuring the IRS along customer lines, the agency could provide one-stop service for taxpayers with similar characteristics and needs, such as individuals, small businesses and large companies. As a result of these changes, a married couple could go to an IRS service center designed for individuals and get help on the issues they care about, like the new child tax credit and the ROTH IRA. Similarly, a small business owner could resolve questions about the depreciation deductions for her business equipment with IRS employees specifically trained in these areas.

I was extremely pleased to hear IRS Commissioner Rossotti embrace this one-stop-service proposal early this month. While the Commissioner has signaled his interest in a customer-based IRS, I want to make sure that it does not become one of the many reorganization ideas that lose favor after a few short years.

To protect against this risk, my bill that I introduce today will make this structure a permanent part of the Tax Code. But reorganizing the IRS front lines, however, is only part of the task. The top-level management of the IRS here in Washington must make taxpayer service a reality throughout the agency. My bill takes that step by creating a full-time board of governors, which will have full responsibility, authority and accountability for IRS operations.

This board composed of four individuals drawn from the private sector plus the IRS Commissioner will have the authority and information necessary to ensure that the agency's examinations and enforcement activities are conducted in a manner that treats taxpayers fairly and with respect.

The board will also oversee the service provided by the taxpayer advocate and will ensure that the IRS appeals process is handled in an impartial manner.

An independent, full-time board of governors will protect the IRS from being used for political purposes. Any efforts to instill confidence in our tax administration system are severely undercut when there are allegations that the IRS is being used for politically motivated audits. Regrettably, there have been recent reports suggesting the IRS has undertaken these types of audits with regard to certain individuals and nonprofit organizations like the Christian Coalition and the Heritage Foundation. An IRS board of governors with representatives of both political parties will help ensure that the agency is used for one purpose and one purpose alone: helping taxpayers to comply with the tax laws in the least burdensome manner possible.

Mr. President, in addition to redesigning the agency, my bill also creates a commonsense approach for redesigning IRS communications. Too often we have heard from constituents, especially small business owners, that the notice they receive from the IRS is incomprehensible. As a result, one of two things usually happens: The taxpayer pays the bill without question just to make the IRS go away, even if they are not sure they owe taxes; or the taxpayer has to hire a professional to tell

him or her what the notice means and then spend vast amounts of time and money getting the matter straightened out. This no-win situation has to end now.

My bill creates a panel of individual taxpayers, small entrepreneurs, large business managers and other types of taxpayers who will review all standardized IRS documents to make sure they are clear and understandable to the taxpayers who must read them. Any notice, letter or form that does not meet this minimum standard will be sent back to the IRS with a recommendation that it be rewritten before it is sent to the taxpayer. And clear communications, I believe, are essential for good customer service. America's taxpayers deserve no less.

Mr. President, as I said, in the next few weeks the Senate will have an historic opportunity to make far-reaching changes to the operation of the Internal Revenue Service and to strengthen taxpayers' rights. For too long, taxpayers have had to put up with poor service when dealing with the IRS—often to the tune of larger tax bills because of interest and penalties that accrue during the lengthy delays in resolving disputes. While our ultimate goal must be a simpler and less burdensome tax law, taxpayers need help today when dealing with the IRS. We must put taxpayers first.

For my part, I have asked people across Missouri for their suggestions on how to fix the IRS and better protect taxpayers' rights. In addition, as the Chairman of the Committee on Small Business, I have asked small businesses across the country for their recommendations on this issue. And I am pleased to say that a great many people have taken the time to call or write with their suggestions for improving this country's tax-administration system.

Over the last several months, the Finance Committee has focused extensively on abuse of taxpayers and the need to reform our tax-administration system. In addition, my Committee has held hearings on this issue and the importance of reform for entrepreneurs and small business owners throughout the country. The House has also completed its package of reform measures. That legislation provides a good start, but I believe we can make it even stronger.

With the input and recommendations from all of these sources in mind, today I am introducing the Putting the Taxpayer First Act. This bill will provide critical relief for a broad spectrum of taxpayers, from single moms and married couples to small business owners and farmers. And it is based on two fundamental principles. We must create an IRS and a tax system that are based on top quality service for all taxpayers, and we must act swiftly to restore citizen confidence in that system. My bill tackles these goals in three ways: by improving taxpayer rights and protections, restructuring the management and operation of the IRS, and using electronic filing technology to help taxpayers, not complicate their lives.

IMPROVING TAXPAYER RIGHTS

While our ultimate goal should be the wholesale reform or substantial replacement of the tax laws, much additional progress can be made now by strengthening taxpayers' rights in order to restore faith in the fairness of our tax system. My bill includes several improvements to taxpayers' rights, and I will stress just a few of them today.

Recent reports of excessive seizures by the IRS have alarmed all of us. These inexcusable practices were highlighted by Senator NICKLES in a hearing he held last December in Oklahoma City. Imagine the devastation to an individual who finds himself in trouble with the IRS over back taxes, and the next thing he knows, the IRS has seized his bank account or his car—or worse yet, his home. In the case of an unfortunate small business, an abrupt seizure can mean shutting the business down, ending the livelihoods of all the employees and their families.

While some will say that seizures are a last resort and do not happen that often, the IRS has disclosed that during Fiscal Year 1996, the agency made about 10,000 seizures of taxpayers' property. That is still a sizeable number, and what is truly alarming is that these seizures can be done on the IRS' own initiative, without judicial approval.

For more than 200 years, Americans have had the right, guaranteed by the Fourth Amendment, ''to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,'' and have enjoyed the Constitutional protections against being ''deprived of . . . property, without due process of law'' under the Fifth Amendment. My bill will make the IRS more fully respect these rights by requiring, as part of the tax code, that the IRS must obtain the approval by a judge or magistrate, with notice and a hearing for the taxpayer, before seizing a taxpayer's property. The government ought to be required to treat ordinary taxpayers at least as well as they treat common criminals. It is way past time to level the playing field and preserve the Constitutional rights of all taxpayers.

Mr. President, taxpayers, and especially small enterprises, often need help when it comes to tax planning and examining alternatives to minimize their tax liability within the law. With the enormous complexity of the tax code today, taxpayers frequently have to make good faith judgment calls about whether a particular deduction or credit applies.

Today, there is an inequity in the law that results in unequal treatment of taxpayers based on their choice of tax professional or financial ability to afford a lawyer. Under the current law, a taxpayer who goes to an accountant to obtain advice for tax planning or assistance in a controversy to make sure he is not paying more tax than the law requires, does so at his peril. In fact, he may as well invite the IRS to that meeting because there is no privilege of confidentiality between a taxpayer and his accountant.

For a taxpayer to gain the confidentiality protection that is available, he must engage an attorney. Oddly enough, in many cases, the attorney may hire an accountant to gain accounting expertise, and then the work of the accountant would be protected from disclosure to the IRS. Now the taxpayer has assumed enormous additional costs, and for what? Just to prevent the IRS from having an even greater upper hand against taxpayers who already have to prove their innocence?

My bill ends this disparity. It permits a taxpayer, in non-criminal matters, to hire any individual authorized to practice before the IRS, such as an accountant, an enrolled agent, or an attorney, and be able to have conversations with that tax professional, which can remain private from the IRS. This taxpayer confidentiality provision will ensure that all taxpayers receive equal treatment from the IRS in a way that can save them money. In addition, it gives all taxpayers a wider choice of tax advisors without giving up their right to confidentiality. This is a common-sense protection for the millions of individuals and businesses that seek professional tax advice each year.

Penalties, too, have become an enormous burden for taxpayers who make mistakes, which is not uncommon with today's complex tax laws. Far too often, a minor tax bill grows into an unmanageable liability because of the interest on the tax owed, the penalties for negligence and late payment, and the interest on the penalties. Frequently, these penalties can prevent a taxpayer from settling his account and getting back into good standing.

Penalties were included in the tax code to encourage taxpayers to comply with our voluntary assessment system. But the multiplicity of penalties and hidden punishments disguised as interest on those penalties seriously undermines Americans' confidence that our system is fair.

My bill stops the runaway freight train of excessive penalties and interest in two ways. First, interest on a penalty will only begin after the taxpayer has failed to pay his tax bill. Today, interest on most penalties is applied retroactively to the date that the tax return was due, which may be as much as two to three years back. That's just not fair. Second, my bill eliminates multiple penalties that apply to the same error. Penalties should punish bad behavior, not honest errors that even well-intentioned people are bound to make now and then.

Mr. President, another issue of enormous importance to many entrepreneurs in this country is the status

of independent contractors. Over the past several years, I have worked hard for the adoption of a clear legislative safe-harbor for the classification of workers and protections against retroactive reclassification of independent contractors. I included these provisions as part of the Home-Based Business Fairness Act, S. 460, which I introduced last March. And I intend to pursue these important changes to the tax code through that bill as the Senate debates legislation to restructure the IRS and improve taxpayers' rights.

RESTRUCTURING THE IRS

The second part of my bill addresses the need for structural changes within the IRS. Over the past century, the IRS has evolved into a bureaucratic web of functions, regions, and district offices, all aimed at making the collection of taxes easy for the government. What has been overlooked is that those tax dollars come from citizens whom the government is supposed to serve and represent. With roughly 140 million individuals, alone, filing tax returns every year, the system must be made convenient for the taxpayer, not just for the government.

I believe that the operations and staffing of the IRS should be based along customer lines, an idea supported by the National Commission on Restructuring the IRS. The IRS' current ''one size fits all'' approach no longer meets the needs of taxpayers and is inefficient for the IRS as well. By restructuring the IRS along customer lines, the agency could provide one-stop service for taxpayers with similar characteristics and needs, such as individuals, small businesses, and large companies. As a result, a married couple could go to an IRS service center designed for individuals and get help on the issues that they care about like the new child tax credit and the Roth IRA. Similarly, a small business owner could resolve questions about the depreciation deductions for her business equipment with IRS employees specifically trained in these areas.

I was extremely pleased to hear IRS Commissioner Rossotti embrace this one-stop-service proposal earlier this month. And I look forward to working with the agency to make it a reality for taxpayers at the earliest possible date. While the Commissioner has signaled his interest in a customer-based IRS, I want to make sure that it does not become one of the many reorganization ideas that lose favor after a few short years. To protect against that risk, my bill will make this structure a permanent part of the tax code.

Reorganizing the IRS at the frontlines, however, is only part of the task. The top-level management of the IRS here in Washington must make taxpayer service a reality throughout the agency. My bill takes that step by creating a full-time Board of Governors, which will have full responsibility, authority, and accountability for IRS operations. This Board, composed of four individuals drawn from the private sector plus the IRS Commissioner, will have the authority and information necessary to ensure that the agency's examination and enforcement activities are conducted in a manner that treats taxpayers fairly and with respect. The Board will also oversee the service provided by the Taxpayer Advocate and will ensure that the IRS' appeals process is handled in an impartial manner.

An independent, full-time Board of Governors will also protect the IRS from being used for political purposes. Any efforts to instill confidence in our tax-administration system are severely undercut by allegations that the IRS is being used for politically-motivated audits. Regrettably, there have been recent reports suggesting that the IRS has undertaken these types of audits with regard to certain individuals and non-profit organizations like the Christian Coalition and the Heritage Foundation. An IRS Board of Governors with representatives of both political parties will help ensure that the agency is used for one purpose, and one purpose alone: helping taxpayers to comply with the tax laws in the least burdensome manner possible.

Mr. President, in addition to redesigning the agency, my bill also creates a common sense approach for redesigning IRS communications. Too often I have heard from constituents, especially small business owners, that a notice they received from the IRS is incomprehensible. As a result, one of two things usually happens. The taxpayer pays the bill without question just to make the IRS go away, even if they are not sure they owe any taxes. Or the taxpayer has to hire a professional to tell him what the notice means and then spend vast amounts of time and money getting the matter straightened out. This no-win situation has to end now.

My bill creates a panel of individual taxpayers, small entrepreneurs, large business managers, and other types of taxpayers, who will review all standardized IRS documents to make sure they are clear and understandable to the taxpayers who must read them. Any notice, letter or form that does not meet this minimum standard, will be sent back to the IRS with a recommendation that it be rewritten before it is sent to any taxpayer. Clear communications are essential for good customer service, and America's taxpayers deserve no less.

FAIR AND EFFICIENT USE OF TECHNOLOGY

The third part of my bill concerns the fair and efficient use of technology in our tax-administration system. With the continuing advances in technology, we have an enormous opportunity to make all taxpayers' lives easier. In fact, the IRS has already made good progress in this area with programs like TeleFile, which enables many taxpayers to file their tax returns through a brief telephone call.

But with technological advances comes the risk of imposing even more burdens on taxpayers, and Congress must make sure that these improvements are not implemented at the expense of the taxpayers, and especially the small businesses, who are expected to comply with them. To prevent that result, my bill makes clear that expanded electronic filing of tax and information returns should be a goal, not a mandate imposed on American taxpayers.

In addition, my bill ensures that in making electronic filing a reality, the IRS will involve representatives of all taxpayer groups—individuals, small business, large companies, and the tax-preparation community—to ensure that electronic filing does not complicate everyone's lives in the name of modernization and simplification.

Mr. President, the provisions of the Putting the Taxpayer First Act will make the IRS a better public servant and help restore confidence in our tax system. Taxpayers face enormous difficulties today just to comply with the tax law, and they have waited far too long for good service and fair treatment in a timely manner. I urge my colleagues on the Finance Committee to include the provisions of this bill when they markup IRS-reform legislation next month. Our efforts must focus on putting the taxpayer first if we are to make positive and lasting changes to the IRS and not keep America's taxpayers waiting any longer.

Mr. President, I ask unanimous consent that Senators COCHRAN, SNOWE and SHELBY be shown as original cosponsors. And I ask unanimous consent that a copy of the bill and a description of its provisions be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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

S. 1669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Putting the Taxpayer First Act of 1998''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—TAXPAYER RIGHTS

SEC. 101. COURT APPROVAL FOR SEIZURE OF TAXPAYER'S PROPERTY.

(a) IN GENERAL.—Section 6331(a) is amended by adding at the end the following new paragraph:

''(2) LIMITATION ON AUTHORITY OF SECRETARY.—Notwithstanding paragraph (1)—

''(A) GENERAL RULE.—The Secretary shall not levy upon any property or rights to property until—

''(i) the taxpayer has received the notice described in subsection (a) which notifies the taxpayer of the opportunity for judicial review under this subparagraph and advises the taxpayer that criminal penalties may be imposed if the property is transferred or otherwise made unavailable for collection while such review is pending, and

''(ii) a court of competent jurisdiction has determined, after the taxpayer has received notice and an opportunity for a hearing, that such levy is reasonable under the circumstances.

''(B) EXCEPTION.—A court may waive the right to notice and hearing under subparagraph (A) if the Secretary demonstrates to the court's satisfaction that—

''(i) irreparable harm will occur with respect to the Secretary's ability to collect the tax if relief is not granted,

''(ii) the Secretary has provided the taxpayer with notice and demand pursuant to section 6303(a),

''(iii) the taxpayer has neglected or refused to pay the tax within 10 days after notice and demand, and

''(iv) the Secretary has a reasonable probability of success on the merits with regard to the taxpayer's liability for the tax.''

(b) CONFORMING AMENDMENT.—Section 6331(a) is amended by striking ''If any person'' and inserting:

''(1) IN GENERAL.—If any person''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for levies occurring on or after the date of the enactment of this Act.

SEC. 102. IMPROVED OFFERS-IN-COMPROMISE PROCEDURE.

(a) IN GENERAL.—Section 7122 (relating to compromises) is amended by adding at the end the following new subsection:

''(c) OFFERS IN COMPROMISE.—

''(1) IN GENERAL.—If the Secretary receives an offer in compromise which is based on the taxpayer's inability to pay the taxpayer's tax liability in full, the Secretary shall accept such offer in compromise if it reasonably reflects the taxpayer's ability to pay.

''(2) TIMELY RESPONSE.—

''(A) GENERAL RULE.—The Secretary shall accept, reject, or make a counteroffer to an offer in compromise described in paragraph (1) within 120 days from the date that the offer is filed and reasonable documentation is submitted regarding the taxpayer's ability to pay.

''(B) FAILURE TO RESPOND.—If the Secretary fails to respond within such time, interest on the underpayment under section 6601(a) shall be suspended until such date as the Secretary responds. This subparagraph shall not apply if the Secretary reasonably determines that the taxpayer's offer in compromise is frivolous.

''(C) UNACCEPTABLE OFFERS.—If the Secretary does not accept an offer in compromise from a taxpayer—

''(i) the Secretary shall provide a detailed description of the reasons that the offer was not accepted, and

''(ii) the taxpayer may appeal the Secretary's determination to the Office of Appeals.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) establishing standards for acceptable offers in compromise based on the economic reality of the taxpayer's ability to pay, and

''(B) providing for the application of this subsection to offers in compromise made by small businesses and the self-employed.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for offers in compromise filed after the date of the enactment of this Act.

SEC. 103. CLARIFICATION THAT ATTORNEY'S FEES ARE AVAILABLE IN UNAUTHORIZED-DISCLOSURE AND BROWSING CASES.

(a) IN GENERAL.—Subsection (a) of section 7430 (relating to awarding of costs and certain fees) is amended to read as follows:

''(a) IN GENERAL.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title (including any civil action under section 7431), the prevailing party may be awarded a judgment or settlement for—

''(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

''(2) reasonable litigation costs incurred in connection with such court proceeding.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for any proceeding which—

(1) arises after the date of the enactment of this Act, or

(2) arises on or before such date and which does not become final before the 30th day after such date.

SEC. 104. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE FOR TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7525. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE FOR TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

''(a) GENERAL RULE.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner if the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

''(b) LIMITATIONS.—Subsection (a) may only be asserted in—

''(1) noncriminal tax matters before the Internal Revenue Service, and

''(2) proceedings in Federal courts with respect to such matters.

''(c) FEDERALLY AUTHORIZED TAX PRACTITIONER.—For purposes of this section, the term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service but only if such practice is subject to Federal regulation under section 330 of title 31, United States Code.''

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7525. Uniform application of confidentiality privilege for taxpayer communications with federally authorized practitioners.''

SEC. 105. TAXPAYER'S RIGHT TO HAVE AN IRS EXAMINATION TAKE PLACE AT ANOTHER SITE.

(a) IN GENERAL.—Subsection (a) of section 7605 (relating to time and place of examination) is amended to read as follows:

''(a) TIME AND PLACE.—

''(1) IN GENERAL.—The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

''(2) LIMITATION.—Upon request of a taxpayer, the Secretary shall conduct any examination described in paragraph (1) at a location other than the taxpayer's residence or place of business, if such location is reasonably accessible to the Secretary and the taxpayer's original books and records pertinent to the examination are available at such location.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for examinations occurring after the date of the enactment of this Act.

SEC. 106. PROHIBITION ON IRS CONTACT OF THIRD PARTIES WITHOUT TAXPAYER PRE-NOTIFICATION.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) LIMITATION OF AUTHORITY TO SUMMON.—In the case of a taxpayer engaged in a trade or business, no summons concerning such trade or business may be issued under this title with respect to any person other than such taxpayer without providing reasonable notice to the taxpayer that such

summons will be issued. This subsection shall not apply if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or any pending criminal investigation.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for summons issued after the date of the enactment of this Act.

SEC. 107. EXPANSION OF TAXPAYER'S RIGHTS IN ADMINISTRATIVE APPEAL.

(a) IN GENERAL.—Subchapter B of chapter 63 (relating to assessment) is amended by adding before section 6212 the following new section:

''SEC. 6211A. NOTICE OF PROPOSED ADJUSTMENT.

''(a) INCOME TAXES.—At least 60 days prior to issuing a notice of deficiency under section 6212, the Secretary shall send a notice explaining the adjustments that the Secretary believes should be made to the amount shown as tax by the taxpayer on his return that would result in a deficiency. If the taxpayer does not agree with the Secretary's proposed adjustments, the taxpayer may appeal such proposed adjustments to the Office of Appeals.

''(b) ADDRESS FOR NOTICE OF PROPOSED ADJUSTMENT.—The provisions of section 6212(b) shall apply with respect to mailing of the notice of proposed adjustment described in subsection (a).''

(b) EMPLOYMENT TAXES.—Section 6205(b) is amended—

(1) by adding at the end the following new paragraph:

''(2) NOTICE OF PROPOSED ASSESSMENT.—At least 60 days prior to making any assessment with respect to paragraph (1), the Secretary shall send a notice of proposed assessment (mailed to the taxpayer at its last known address) explaining the adjustments that the Secretary believes should be made to the amount paid or deducted with respect to any payment of wages or compensation which would result in an underpayment. If the taxpayer disagrees with the Secretary's adjustments, the taxpayer may appeal such adjustments to the Office of Appeals.'', and

(2) by striking ''If less than'' and inserting:

''(1) IN GENERAL.—If less than''.

(b) CONFORMING AMENDMENTS.—The table of sections for subchapter B of chapter 63 is amended by inserting the following new item:

''Sec. 6211A. Notice of proposed adjustment.''

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective 60 days after the date of the enactment of this Act.

TITLE II—PENALTY REFORM

SEC. 201. IMPOSITION OF INTEREST ON PENALTIES ONLY AFTER A TAXPAYER'S FAILURE TO PAY.

(a) IN GENERAL.—Section 6601(e)(2) is amended to read as follows:

''(2) INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax only if such assessable penalty, additional amount, or addition to the tax is not paid within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for penalties assessed after the date of the enactment of this Act.

SEC. 202. REPEAL OF THE PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.

(a) IN GENERAL.—Subsection (d) of section 6662 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6662(b) is amended by striking paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(2) Section 6662 is amended by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(3) Section 461(i)(3)(C) is amended to read as follows:

''(C) any partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(4) Section 1274(b)(3)(B)(i) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 461(i)(3)(C)''.

(5) Section 6013(e)(3) is amended to read as follows:

''(3) SUBSTANTIAL UNDERSTATEMENT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'substantial understatement' means any understatement which exceeds $500.

''(B) UNDERSTATEMENT.—For purposes of subparagraph (A), the term ''understatement'' means the excess of—

''(i) the amount of the tax required to be shown on the return for the taxable year, over

''(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

''(C) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (B) shall be reduced by that portion of the understatement which is attributable to—

''(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

''(ii) any item if—

''(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

''(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.

''(D) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

''(i) IN GENERAL.—In the case of any item of a taxpayer which is attributable to a tax shelter—

''(I) subparagraph (C)(ii) shall not apply, and

''(II) subparagraph (C)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

''(ii) TAX SHELTER.—For purposes of this subparagraph, the term 'tax shelter' has the meaning given such term by section 461(i)(3)(C).

''(E) SECRETARIAL LIST.—The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

''(i) for which the Secretary believes there is not substantial authority, and

''(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.''

(6) Section 6694(a) is amended—

(A) by striking ''section 6662(d)(2)(B)(ii)'' and inserting ''section 6013(e)(3)(C)(ii)'' in paragraph (3), and

(B) by adding at the end the following: ''For purposes of paragraph (3), in applying section 6013(e)(3)(C)(ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 203. REPEAL OF THE FAILURE-TO-PAY PENALTY.

(a) IN GENERAL.—Section 6651(a) is amended by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS TO SECTION 6651.—

(1) Section 6651(a) is amended—

(A) by striking ''In the case of failure—

''(1) to'' and inserting ''In the case of failure to'', and

(B) by striking the semicolon at the end of paragraph (1) and inserting a period.

(2) Section 6651(b) is amended—

(A) by striking ''For purposes of—

''(1) subsection (a)(1)'' and inserting ''For purposes of subsection (a)'',

(B) by striking the comma at the end of paragraph (1) and inserting a period, and

(C) by striking paragraphs (2) and (3).

(3) Section 6651 is amended by striking subsections (c), (d), and (e).

(4) Section 6651(f) is amended by striking ''paragraph (1) of''.

(5) Section 6651(g) is amended to read as follows:

''(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b), such return shall be disregarded for purposes of determining the amount of the addition under subsection (a).''

(6) Section 6651, as amended by paragraphs (3) and (4), is amended by redesignating subsections (f) and (g) as subsections (c) and (d), respectively.

(7) The heading of section 6651 is amended to read as follows:

''SEC. 6651. FAILURE TO FILE TAX RETURN.''

(8) The table of sections for subchapter A of chapter 68 is amended by striking the item relating to section 6651 and inserting the following new item:

''Sec. 6651. Failure to file tax return.''

(9) Section 5684(c)(2) is amended by striking ''or pay tax''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for failures to pay occurring after the date of the enactment of this Act.

TITLE III—INTERNAL REVENUE SERVICE RESTRUCTURING

SEC. 301. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS; COMMISSIONER OF INTERNAL REVENUE.

(a) IN GENERAL.—Chapter 80 (relating to general rules) is amended by adding after section 7801 the following new section:

''SEC. 7801A. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS; COMMISSIONER OF INTERNAL REVENUE.

''(a) INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.—

''(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Board of Governors (in this title referred to as the 'Board').

''(2) MEMBERSHIP.—

''(A) COMPOSITION.—The Board shall be composed of 5 members, of whom—

''(i) 4 shall be individuals who are appointed by the President, by and with the advice and consent of the Senate, and

''(ii) 1 shall be the Commissioner of Internal Revenue.

Not more than 2 members of the Board appointed under clause (i) may be affiliated with the same political party.

''(B) QUALIFICATIONS.—Members of the Board described in subparagraph (A)(i) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

''(i) The needs and concerns of taxpayers.

''(ii) Organization development.

''(iii) Customer service.

''(iv) Operation of small businesses.

''(v) Management of large businesses.

''(vi) Information technology.

''(vii) Compliance.

In the aggregate, the members of the Board described in subparagraph (A)(i) should collectively bring to bear expertise in these enumerated areas.

''(C) TERMS.—Each member who is described in subparagraph (A)(i) shall be appointed for a term of 5 years, except that of the members first appointed—

''(i) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 1 year,

''(ii) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 2 years,

''(iii) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 3 years, and

''(iv) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 4 years.

A member of the Board may serve on the Board after the expiration of the member's term until a successor has taken office as a member of the Board.

''(D) REAPPOINTMENT.—An individual who is described in subparagraph (A)(i) may be appointed to no more than two 5-year terms on the Board.

''(E) VACANCY.—Any vacancy on the Board—

''(i) shall not affect the powers of the Board, and

''(ii) shall be filled in the same manner as the original appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

''(F) REMOVAL.—

''(i) IN GENERAL.—A member of the Board may be removed at the will of the President.

''(ii) COMMISSIONER OF INTERNAL REVENUE.—An individual described in subparagraph (A)(ii) shall be removed upon termination of employment.

''(3) GENERAL RESPONSIBILITIES.—

''(A) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(B) CONSULTATION ON TAX POLICY.—The Board shall be responsible for consulting with the Secretary of the Treasury with respect to the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions.

''(4) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

''(A) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(i) mission and objectives, and standards of performance relative to either, and

''(ii) annual and long-range strategic plans.

''(B) OPERATIONAL PLANS.—To review and approve the operational functions of the Internal Revenue Service, including—

''(i) plans for modernization of the tax system,

''(ii) plans for outsourcing or managed competition, and

''(iii) plans for training and education.

''(C) MANAGEMENT.—To—

''(i) review and approve the Commissioner's selection, evaluation, and compensation of senior managers,

''(ii) oversee the operation of the Office of the Taxpayer Advocate and the Office of Appeals, and

''(iii) review and approve the Commissioner's plans for reorganization of the Internal Revenue Service.

''(D) BUDGET.—To—

''(i) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(ii) submit such budget request to the Secretary of the Treasury,

''(iii) ensure that the budget request supports the annual and long-range strategic plans of the Internal Revenue Service, and

''(iv) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit, without revision, the budget request referred to in subparagraph (D) for any fiscal year to the President who shall submit, without revision, such request to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(5) BOARD PERSONNEL MATTERS.—

''(A) COMPENSATION OF MEMBERS.—Each member of the Board who is described in subsection (b)(1)(A)(i) shall be compensated at an annual rate equal to the rate for Executive Schedule IV under title 5 of the United States Code. The Commissioner shall receive no additional compensation for service on the Board.

''(B) STAFF.—The Chairperson of the Board shall have the authority to hire such personnel as may be necessary to enable the Board to perform its duties.

''(6) ADMINISTRATIVE MATTERS.—

''(A) CHAIR.—The Commissioner of Internal Revenue shall serve as the chairperson of the Board.

''(B) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

''(C) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

''(D) QUORUM; VOTING REQUIREMENTS; DELEGATION OF AUTHORITIES.—3 members of the Board shall constitute a quorum. All decisions of the Board with respect to the exercise of its duties and powers under this section shall be made by a majority vote of the members present and voting. A member of the Board may not delegate to any person the member's vote or any decisionmaking authority or duty vested in the Board by the provisions of this section.

''(E) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.

''(b) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

''(2) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed for the remainder of that term.

''(3) REMOVAL.—The Commissioner may be removed at the will of the President.

''(4) DUTIES.—Subject to the powers of the Board, the Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

''(B) recommend to the President (after consultation with the Board) a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President (after consultation with the Board) the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, and the Joint Committee on Taxation.

''(5) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in subsection (a)(4).''

(b) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

''Members, Internal Revenue Service Board of Governors.''

(2) Section 7701(a) (relating to definitions) is amended by inserting after paragraph (46) the following new paragraph:

''(47) BOARD.—The term 'Board' means the Board of Governors of the Internal Revenue Service.''

(3) The table of sections for subchapter A of chapter 80 is amended by inserting after the item relating to section 7801 the following new item:

''Sec. 7801A. Internal Revenue Service Board of Governors; Commissioner of Internal Revenue.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) NOMINATIONS TO INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.—The President shall submit nominations under section 7801A(a) of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) CURRENT COMMISSIONER.—In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7801A(b)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

SEC. 302. RESTRUCTURING OF IRS OPERATIONS ALONG CUSTOMER LINES.

(a) IN GENERAL.—Subsection (a) of section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

''(a) ORGANIZATION OF THE INTERNAL REVENUE SERVICE.—

''(1) IN GENERAL.—The Internal Revenue Service shall be organized into divisions representing the following types of taxpayers:

''(A) Individual taxpayers subject to wage withholding.

''(B) Small businesses and self-employed individuals.

''(C) Large businesses.

''(D) Employee plans and exempt organizations.

''(E) Trusts and estates.

''(F) Such other divisions as the Board deems necessary and appropriate.

''(2) SUPERVISION AND DIRECTION OF DIVISIONS.—Each division established by paragraph (1) shall be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As the head of a division, each Assistant Commissioner shall be responsible for carrying out the functions of taxpayer services, examinations, collections, counsel operations, and such other functions as the Board may designate with respect to the taxpayers covered by the division.''

(b) CONFORMING AMENDMENTS.—

(1) The section heading for section 7802 is amended to read as follows:

''SEC. 7802. ORGANIZATION OF THE INTERNAL REVENUE SERVICE; TAXPAYER ADVOCATE; OFFICE OF APPEALS.''

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Organization of the Internal Revenue Service; Taxpayer Advocate; Office of Appeals.''

(3) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking ''the employee appointed under section 7802(b)'' and inserting ''an employee appointed under section 7802(a)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 303. GREATER INDEPENDENCE OF THE TAXPAYER ADVOCATE.

(a) IN GENERAL.—Section 7802(d)(1) is amended to read as follows:

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be independent of all other functions of the Internal Revenue Service and shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by, and report directly to, the Board. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue.''

(b) CONFORMING AMENDMENTS.—

(1) Section 7802, as amended by subsection (a), is amended by striking subsection (b) and by redesignating subsection (d) as subsection (b).

(2) Section 7802(b)(3), as so redesignated, is amended—

(A) by striking ''Commissioner of Internal Revenue'' and inserting ''Board'', and

(B) by striking ''Commissioner'' each place it appears in the text and heading and inserting ''Board''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 304. GREATER INDEPENDENCE OF THE OFFICE OF APPEALS.

(a) IN GENERAL.—Section 7802(c) is amended to read as follows:

''(c) OFFICE OF APPEALS.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of Appeals'. Such office shall be independent of all other functions of the Internal Revenue Service and shall be under the supervision and direction of an officer to be known as the 'National Appeals Officer' who shall be appointed by, and report directly to, the Board. The National Appeals Officer shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Appeals to resolve tax controversies, without litigation, on a basis that is fair and impartial to both the Government and the taxpayer and in a manner that encourages voluntary compliance and public confidence in the integrity and efficiency of the Internal Revenue Service.

''(B) RESTRICTIONS.—In carrying out its functions, the Office of Appeals—

''(i) shall consider only those issues concerning the taxpayer's return raised by the division established under subsection (a) prior to its referral to the Office, and

''(ii) shall not have any communications with any officer or employee of the division with respect to such issues unless the taxpayer, or the taxpayer's representative, has the opportunity to be present for such communications.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 305. IMPROVED IRS WRITTEN COMMUNICATIONS TO TAXPAYERS AND TAX FORMS.

(a) TAXPAYER-COMMUNICATIONS ADVISORY GROUP.—

(1) IN GENERAL.—In order to ensure that the Internal Revenue Service Board of Governors receives input from the taxpayers who must comply with written communications from the Internal Revenue Service, the Board shall, not later than 180 days after the date of the enactment of this Act, convene a taxpayer-communications advisory group to review all—

(A) standardized letters, notices, bills, and other written communications sent to taxpayers by the Internal Revenue Service, and

(B) tax forms and instructions.

The advisory group shall recommend to the Board the rewriting of any standardized written document, form, or instruction which it finds is not clear to, or easily understood by, the taxpayers to whom it is directed.

(2) MEMBERSHIP.—

(A) IN GENERAL.—Members of the taxpayer-communications advisory group shall be appointed by the Board and shall include at least one representative of the following: individual taxpayers subject to withholding; small businesses and the self-employed; large businesses; trusts and estates; tax-exempt organizations; tax practitioners, preparers, and other tax professionals; and such other types of taxpayers that the Board deems appropriate.

(B) TERM.—A member of the advisory group shall be appointed for a term of one year and may be reappointed for one additional term.

(b) PERSONNEL AND OTHER MATTERS.—

(1) MEMBERS' COMPENSATION.—Each member of the advisory group shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performance of services for the advisory group.

(2) DETAILS.—Any Federal Government employee may be detailed to the advisory group without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

TITLE IV—ELECTRONIC FILING

SEC. 401. GOALS FOR ELECTRONIC FILING; ELECTRONIC-FILING ADVISORY GROUP.

(a) IN GENERAL.—It is the policy of Congress that—

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

(2) electronic filing should be a voluntary option for taxpayers, and

(3) there be a goal that no more than 20 percent of all such returns should be filed on paper by the year 2007.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the ''Secretary''), in consultation with the Board of Governors of the Internal Revenue Service and the electronic-filing advisory group described in paragraph (4), shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) PUBLICATION OF PLAN.—The plan described in paragraph (1) shall be published in the Federal Register and shall be subject to public comment for 60 days from the date of publication. Not later than 180 days after publication of such plan, the Secretary shall publish a final plan in the Federal Register.

(3) IMPLEMENTATION OF PLAN.—The Secretary shall prescribe rules and regulations to implement the plan developed under paragraph (1). Notwithstanding any other provision of law, the Secretary shall—

(A) prescribe such rules and regulations in accordance with section 553 (b), (c), (d), and (e) of title 5, United States Code, and

(B) in connection with such rules and regulations, perform an initial and final regulatory flexibility analysis pursuant to sections 603 and 604 of title 5, United States Code, and outreach pursuant to section 609 of title 5, United States Code.

(4) ELECTRONIC-FILING ADVISORY GROUP.—

(A) IN GENERAL.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), not later than 60 days after the date of enactment of this Act, the Secretary shall convene an electronic-filing advisory group to include at least one representative of individual taxpayers subject to withholding, small businesses and the self-employed, large businesses, trusts and estates, tax-exempt organizations, tax practitioners, preparers, and other tax professionals, computerized tax processors, and the electronic-filing industry.

(B) PERSONNEL AND OTHER MATTERS.—The provisions of section 305(b) of this Act shall apply to the advisory group.

(5) TERMINATION.—The advisory group shall terminate on December 31, 2008.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) PROMOTION OF ELECTRONIC FILING.—

''(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

''(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.''

SEC. 402. REPORT ON ELECTRONIC FILING AND ITS EFFECT ON SMALL BUSINESSES.

Not later than June 30 of each calendar year after 1997 and before 2009, the Chairperson of the Internal Revenue Service Board of Governors, the Secretary of the

Treasury, and the Chairperson of the electronic-filing advisory group established under section 401(b)(4) of this Act shall report to the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate, the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and Small Business of the House of Representatives, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving 80 percent of tax and information returns electronically by 2007,

(2) the status of the plan required by section 401(b) of this Act,

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal, and

(4) the effects on small businesses and the self-employed of electronically filing tax and information returns, including a detailed description of the forms to be filed electronically, the equipment and technology required for compliance, the cost to a small business and self-employed individual of filing electronically, implementation plans, and action to coordinate Federal, State, and local electronic filing requirements.

TITLE V—REGULATORY REFORM

SEC. 501. CONGRESSIONAL REVIEW OF INTERNAL REVENUE SERVICE RULES THAT INCREASE REVENUE.

(a) IN GENERAL.—Section 804(2) of title 5, United States Code, is amended to read as follows:

''(2) The term 'major rule'—

''(A) means any rule that—

''(i) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

''(I) an annual effect on the economy of $100,000,000 or more;

''(II) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

''(III) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

''(ii)(I) is promulgated by the Internal Revenue Service; and

''(II) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds that the implementation and enforcement of the rule has resulted in or is likely to result in any net increase in Federal revenues over current practices in tax collection or revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated; and

''(B) does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective 90 days after the date of the enactment of this Act.

SEC. 502. SMALL BUSINESS ADVOCACY PANELS FOR THE IRS.

(a) IN GENERAL.—Section 609(d) of title 5, United States Code, is amended to read as follows:

''(d) For purposes of this section, the term 'covered agency' means the Internal Revenue Service, the Environmental Protection Agency, and the Occupational Safety and Health Administration of the Department of Labor.''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective 90 days after the date of the enactment of this Act.

SEC. 503. TAXPAYER'S ELECTION WITH RESPECT TO RECOVERY OF COSTS AND CERTAIN FEES.

(a) IN GENERAL.—

(1) Section 504(f) of title 5, United States Code, is amended to read as follows:

''(f) A party may elect to recover costs, fees, or other expenses under this section or under section 7430 of the Internal Revenue Code of 1986.''

(2) Section 2412(e) of title 28, United States Code, is amended to read as follows:

''(e) A party may elect to recover costs, fees, or other expenses under this section or under section 7430 of the Internal Revenue Code of 1986.''

(b) COORDINATION.—Section 7430 (relating to awarding of costs and certain fees) is amended by adding at the end the following new subsection:

''(g) COORDINATION WITH EQUAL ACCESS TO JUSTICE ACT.—This section shall not apply to any administrative or judicial proceeding with respect to which a taxpayer elects to recover costs, fees, or other expenses under section 504 of title 5, United States Code, or section 2412 of title 28, United States Code.''

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for proceedings initiated after the date of the enactment of this Act.

PUTTING THE TAXPAYER FIRST ACT

EXPLANATION OF PROVISIONS

TITLE I—TAXPAYER RIGHTS

Section 101. Court approval for seizure of taxpayer's property

In response to recent concerns raised about the IRS' unchecked authority to seize a taxpayer's property, the bill requires that before the IRS may seize property the agency must obtain court approval with notice to the taxpayer and an opportunity for a hearing. This requirement will protect a taxpayer's right against unreasonable search and seizure under the Fourth Amendment of the Constitution and ensure the taxpayer's right to due process under the Fifth Amendment.

The bill includes an exception when a taxpayer tries to hide, damage, or destroy property to evade paying his or her taxes. In such a case, if the IRS demonstrates that the property is likely to be lost or damaged, the court may provide immediate relief, without involving the taxpayer, to protect the property. To obtain such relief, the IRS must demonstrate to the court's satisfaction that without relief, the government's ultimate ability to collect the tax due from the property will be lost. The IRS must also demonstrate that the taxpayer has been given notice that tax is due, the taxpayer has failed to pay, and the IRS has a reasonable probability of success on the merits of the case.

Section 102. Improved offers-in-compromise procedure

The bill strengthens the IRS' current administrative program for taxpayers who have no chance of paying their tax liability in full. The program is intended to be a last resort, and the bill requires the IRS to accept offers in compromise when it is unlikely that the tax can be collected in full and the offer represents the taxpayer's ability to pay. The bill requires the IRS to accept, reject, or make a counteroffer to a taxpayer's offer-in-compromise within 120 days from the date that the taxpayer filed the offer and submitted reasonable documentation concerning his or her ability to pay. The bill suspends interest on the taxpayer's tax liability if the IRS fails to meet the 120-day deadline (with exceptions for frivolous offers made by taxpayers merely to buy time). In addition, if the IRS does not accept an offer (e.g., rejects it or returns it as unprocessable), the IRS will be required to provide a complete explanation to the taxpayer as to the reasons that the offer was not accepted, and the taxpayer may appeal the rejection to the Office of Appeals.

This section also requires the Treasury Department to issue regulations that establish the standard for an acceptable offer. The regulations will require that an acceptable offer be based on the economic reality of the taxpayer's ability to pay, and establish specific provisions addressing cases involving small businesses and the self-employed.

Section 103. Expansion of attorney's fees to cover unauthorized-disclosure and browsing cases

The bill clarifies that a court may award attorney's fees in cases involving unauthorized disclosure of taxpayer information and browsing of taxpayer records by IRS employees. This provision is intended to overrule McLarty v. United States, 6 F.3d 545 (8th Cir. 1993), which denied attorney's fees in a case involving unauthorized disclosure, and adopt the ruling in Huckaby v. United States Department of Treasury, 804 F.2d 297 (5th Cir. 1986), which permitted such fees. The bill is also intended to prevent the interpretation in McLarty from being applied to browsing cases.

Section 104. Uniform application of confidentiality privilege for taxpayer communications with Federally authorized practitioners

The bill expands the privilege of confidentiality that exists currently between a taxpayer and an attorney with respect to tax advice to any tax practitioner who is currently authorized to practice before the IRS, such as accountants and enrolled agents. Such confidentiality may be asserted only in non-criminal tax cases before the IRS and Federal courts, including Tax Court.

Section 105. Taxpayer's right to have an IRS examination take place at another site

The bill provides that the IRS must accept a taxpayer's request that an audit be moved away from his or her home or business premises if the off-site location is accessible to the auditor and the taxpayer's books and records are available at such a location. This provision will enable the IRS to conduct an audit but without the fear and disruption resulting from the auditor being present in a family home and among a business' employees and customers for days or weeks.

Section 106. Prohibition on IRS contact of third parties without taxpayer pre-notification

In many audit cases, especially employment tax audits, the IRS uses its summons authority to verify information from a business' customers, employees, suppliers, and others who do business with the taxpayer, but without notifying the taxpayer. Such inquiries often chill business relationships and can lead a third party to cease doing business with the taxpayer for fear of becoming ''involved'' in the audit themselves. To reduce the economic harm of such contacts, the bill requires pre-notification to a business taxpayer in advance of the IRS issuing a summons to the business' customers, employees, suppliers, and other third parties. An exception is provided for cases in which the IRS can demonstrate a specific bona fide reason that such notice would jeopardize the collection of tax (e.g., the business has threatened to fire any employee who talks to the IRS) or a criminal investigation.

Section 107. Expansion of taxpayer's rights in administrative appeal

In some cases, when an audit is completed, the IRS does not issue a notice of proposed

deficiency (i.e., 30-day letter) to the taxpayer, and instead the taxpayer receives a notice of deficiency (i.e., 90-day letter). As a result, the taxpayer loses the opportunity to resolve his or her tax dispute through an administrative appeal, and the taxpayer's only recourse is to pay the tax or file suit in the Tax Court. To prevent this situation, the bill requires the IRS to issue a notice of proposed deficiency and permits the taxpayer to appeal any proposed adjustments to the Office of Appeals. This section is intended to encourage disputes to be resolved at the agency level without the enormous costs to the taxpayer of litigation.

TITLE II—PENALTY REFORM

Section 201. Imposition of interest on penalties only after a taxpayer's failure to pay

Currently, interest on most penalties imposed by the IRS is retroactively applied back to the due date for the taxpayer's return. As a result, such interest amounts to an additional hidden penalty, which can increase a taxpayer's tax bill enormously. The bill provides that interest on a penalty begins to run only after the time has expired for the taxpayer to pay the bill.

Section 202. Repeal of the penalty for substantial understatement of income tax

To simplify the penalty rules, the bill repeals the penalty for substantial understatement of income tax. In most cases involving a substantial understatement, the existing negligence penalty will also apply. As a result, there will still be a deterrent against taxpayers who attempt to cheat on their taxes. However, with the growing complexity of the tax code, it is possible for an innocent mistake to lead to a substantial understatement, and the bill will protect taxpayers in such cases.

Section 203. Repeal of the failure-to-pay penalty

The failure-to-pay penalties were originally enacted in the 1960s to compensate for the low rate of interest applied to an individual's tax liability, and for the fact that such interest was not compounded. Today, with interest compounded daily and adjusted for changes in the interest rate, these penalties are no longer needed and serve only as another hidden, second penalty. In addition, these penalties are often applied on top of accuracy-related penalties, resulting in total punishment of as much as 45 percent in noncriminal cases. To reduce the multiplicity of punishment on taxpayers who make mistakes, the bill repeals the failure-to-pay penalties.

TITLE III—INTERNAL REVENUE SERVICE RESTRUCTURING

Section 301. Internal Revenue Service Board of Governors and Commissioner of Internal Revenue

The bill creates an independent, full-time Board of Governors for the Internal Revenue Service (IRS), which will exercise top-level administrative management over the agency. The Board of Governors will have full responsibility, authority, and accountability for the IRS' enforcement activities, such as examinations and collections, which are often at the heart of taxpayer complaints about the IRS. In addition, the Board will oversee the Office of the Taxpayer Advocate and the Office of Appeals. While the bill keeps the formulation of tax policy within the purview of the Treasury Department, the Board of Governors will have a significant consultative role in such policy decisions.

The Board will consist of five members appointed by the President and confirmed by the Senate, and the members will have staggered five-year terms (i.e., one member will be appointed each year). Two of the members will be affiliated with the Republican party and two with the Democratic party. The fifth member will be the Commissioner of Internal Revenue, who will continue to be appointed by the President with Senate confirmation, subject to a 5-year term. The Commissioner will also serve as the Chairperson of the Board. Collectively, the members of the Board will represent experience and expertise in the needs and concerns of taxpayers, organization development, customer service, the operation of small businesses, the management of large businesses, information technology, and compliance.

Section 302. Restructuring of IRS operations along customer lines

The bill reorganizes the IRS' operations according to customer groups to provide ''one stop service'' for taxpayers with similar characteristics and needs. This structure will replace the current functional or ''one size fits all'' approach under which an IRS function, such as taxpayer services, examinations, or collections, handles all taxpayers. The new IRS under this section of the bill will have the following customer groups:

Individual taxpayers (subject to wage withholding).

Small business and self-employed individuals.

Large business.

Exempt organizations and pension plans.

Trusts and estates.

Other division deemed necessary by the Board of Governors.

Each customer group will be headed by an Assistant Commissioner and will have existing IRS functions such as taxpayer service, examinations, collections, and counsel operations dedicated to the specific needs of the individuals or businesses within the division. This structure will be required by law in order to make it permanent and prevent it from becoming just one of the many reorganization plans that the IRS has undertaken over the past several decades.

Section 303. Greater independence of the Taxpayer Advocate

The bill requires that the Taxpayer Advocate be appointed by and report directly to the Board of Governors. The Office of the Taxpayer Advocate will also be independent of all other functions of the IRS. Currently, the Taxpayer Advocate is appointed by and reports only to the Commissioner of Internal Revenue.

Section 304. Greater independence of the Office of Appeals

The section establishes a statutory Office of Appeals within the IRS, which will be independent of all other IRS functions. The Office of Appeals will be managed by a National Appeals Officer, who will be appointed by and report to the Board of Governors.

In order to ensure that the Office of Appeals is an impartial arbiter, the bill prohibits two practices that currently occur in the IRS' appeals process. Under the bill, an appeals officer will be precluded from addressing issues and arguments outside of those identified by the auditor. In addition, this section prohibits communications between an appeals officer and the auditor handling the case without the presence of the taxpayer or his or her representative.

Section 305. Improved IRS written communications to taxpayers and tax forms

The bill directs the Board of Governors to create a taxpayer-communications advisory group to provide a common-sense review process for all new and existing IRS written communications to taxpayers, such as standardized letters, notices and bills as well as forms and instructions. The advisory group's goal will be to ensure that all written communications are clear and easy to understand by the taxpayer to whom it is directed. If a document does not meet this minimum standard, the advisory group will recommend to the Board of Governors that the letter, notice, etc. be rewritten before it is used.

The members of the advisory group will be volunteers with at least one representative of individual taxpayers, small businesses and the self-employed, large businesses, trusts and estates, tax-exempt organizations, tax compliance professionals and other constituencies deemed necessary by the Board of Governors.

TITLE IV—ELECTRONIC FILING

Section 401. Goals for electronic filing and the electronic-filing advisory group

This section establishes a goal, but not a mandate, that paperless filing should be the preferred and most convenient means of filing tax and information returns in 80 percent of cases by the year 2007. In addition, this section calls on the Treasury Secretary to create an electronic-filing advisory group to ensure that the private sector has a role in the implementation of that goal. The advisory group will include representatives of individual taxpayers, small businesses and the self-employed, large businesses, trusts and estates, tax-exempt organizations, and the tax preparation and filing industries.

This section requires the Treasury Secretary, in consultation with the Board of Governors and the advisory group, to develop a strategic plan for implementing the electronic-filing goal. The plan will be subject to public notice and comment and to the requirements of the Regulatory Flexibility Act to ensure that the costs and burdens on taxpayers who decide to file electronically are minimized.

This section also provides authority for the IRS to promote the benefits of electronic filing and to provide appropriate incentives to encourage taxpayers to file electronically.

Section 402. Report on electronic filing and its effect on small businesses

The bill requires the IRS Board of Governors, the Treasury Secretary, and the electronic-filing advisory group to issue an annual report to Congress through 2008 that specifically addresses the effects of electronic filing on small business and its feasibility. In particular, the report will include a detailed description of the forms to be filed electronically, the equipment and technology required for compliance, cost of filing electronically, implementation plans, and efforts undertaken to coordinate Federal, state and local filing requirements including the possibility of one-stop filing.

TITLE V—REGULATORY REFORM

Section 501. Congressional review of Internal Revenue Service rules that increase revenue

The bill includes the provisions of the Stealth Tax Prevention Act of 1997 (S. 831), which will provide Congress with a 60-day window to review any final IRS rule that raises revenue.

Under the bill, Congress will have expedited procedures to enact a joint resolution of disapproval to overrule the IRS rule before it takes effect. The primary example of this situation is the IRS' 1997 proposed regulations defining who is a limited partner for self-employment tax purposes (now known as the ''stealth tax regulations''), which is currently subject to a Congressionally imposed moratorium.

Section 502. Small Business Advocacy Panels for the IRS

The bill requires the IRS to increase small business participation in agency rulemaking

activities by convening a Small Business Advocacy Review Panel for a proposed rule with a significant economic impact on small entities. For such rules, the IRS will have to notify SBA's Chief Counsel of Advocacy that the rule is under development and provide sufficient information so that the Chief Counsel can identify affected small entities and gather advice and comments on the effects of the proposed rule. A Small Business Advocacy Review Panel, comprising Federal government employees from the IRS, the Office of Advocacy, and OMB, must be convened to review the proposed rule and to collect comments from small businesses. Within 60 days, the panel will have to issue a report of the comments received from small entities and the panel's findings, which will become part of the public record. As appropriate, the IRS may modify the rule or the initial Reg Flex analysis (or its decision on whether a Reg Flex analysis is required) based on the panel's report.

Currently, the requirement for Small Business Advisory Panels applies to the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA). By expanding it to the IRS, the bill will ensure that the views of small businesses are taken into account early in the process of developing new rules and regulations and that the IRS will take action to reduce the burdens of such rules on these small enterprises.

Section 503. Taxpayer's election with respect to recovery of costs and certain fees

Under the Internal Revenue Code, a taxpayer may recover costs and fees, including attorney's fees, against the IRS if he or she prevails and the IRS' litigation position was not substantially justified. The Equal Access to Justice Act (EAJA) permits a small business to recover such costs when an unreasonable agency demand for fines or civil penalties is not sustained in court or in an administrative proceeding. In addition, a small business may also recover such costs and fees under the EAJA when it is the prevailing party and the agency enforcement action is not substantially justified. Currently, the EAJA prohibits a taxpayer seeking to recover costs and fees in an IRS enforcement action from doing so under the EAJA if the fees and costs can be recovered under the Internal Revenue Code.

The bill permits taxpayers to elect whether to pursue recovery of attorney's fees and expenses under the Equal Access to Justice Act (''EAJA'') or the Internal Revenue Code.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1670. A bill to amend the Alaskan Native Claims Settlement Act to provide for selection of lands by certain veterans of the Vietnam era; to the Committee on Energy and Natural Resources.

THE ALASKA NATIVE VIETNAM VETERANS ALLOTMENT OPEN SEASON ACT OF 1998

Mr. MURKOWSKI. Mr. President, I am pleased to rise today to introduce on behalf of myself and Senator STEVENS, legislation that will provide Alaska Native Veterans of the Vietnam era, from 1964–75, a chance to apply for Native Allotments. Because these brave men and women were outside of the country, serving America with distinction, they missed the opportunity to apply for these allotments. Our bill will create a year-long open season for these veterans and their heirs to apply for and select allotment parcels.

The Alaska Native Allotment Act, in effect from 1906–71, allowed Alaska Natives who had continuous use of either vacant land or certain mineral lands set aside for federal use, the opportunity to apply for, select, and ultimately be granted conveyance of these lands. Alaska Native Vietnam Veterans did not receive the outreach and assistance in applying that other Alaska Natives received during the time the act was in effect, and were effectively denied the opportunity to apply for allotments when they were serving their country. Our legislation calls for the same standards that were in effect under the Allotment Act be used to evaluate these new applications. It calls for DOI to develop rules to implement this bill, in consultation with Alaska Native groups. Congressman YOUNG has introduced a companion measure in the House, and our respective committees plan to hold hearings this winter on these pieces of legislation.

Mr. President, I am pleased that my 1995 authorizing legislation, Public Law 104–2, that required the Department of the Interior to produce a report on the possible impacts of allotment legislation, has led to this day. The time has come to give these veterans the opportunity to join their fellow Alaska Natives in reaping the benefits of the historic Alaska Native Allotment Act.

By Mr. BENNETT (for himself and Mr. DODD):

S. 1671. A bill to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE EXAMINATION PARITY AND YEAR 2000 READINESS FOR FINANCIAL INSTITUTIONS ACT

Mr. BENNETT. Mr. President, I rise today, with my esteemed colleague Senator DODD, to address an issue of significant import. Almost all of our nation's commercial banks, thrifts, and credit unions are regulated and insured. This brings great peace of mind to the American public. We all rest easier knowing that our funds, held by our insured and regulated financial institutions, are protected by (a) an insurance fund, (b) a safety and soundness regulator, and (c) the full faith and credit of the US Treasury. In order to continue this tradition of safe and sound banking practice, we need to ensure that banking law stays abreast of current practices in the market place and that our banks have the most up-to-date information available on upcoming issues affecting the safety and soundness of their operations.

The Bill we introduce today has a two-fold purpose. It grants the Office of Thrift Supervision (OTS) and the National Credit Union Administration (NCUA) the authority to examine third party service organizations which have assumed more of the traditional bank functions. This bill will make OTS and NCUA comparable to the Office of the Controller of the Currency and the Federal Deposit Insurance Corporation in their ability to ensure safe and sound banking practices as they relate to third party service organizations. This Bill also requires federal financial regulatory agencies to hold seminars for financial institutions on the implications of the Year 2000 (Y2K) problem for safe and sound operations, and to provide model approaches for solving common Y2K problems.

The authorities proposed for the NCUA and OTS have been requested by both regulatory agencies. NCUA ''strongly supports [this proposal] and urges its quick enactment.'' OTS, in separate letters to Senator DODD and myself, refers to the current situation as an ''obstacle'' to their supervisory efforts and a ''statutory deficiency''. OTS Director Seidman further states ''I support your efforts. . . . I have asked my staff to cooperate fully with Senate Banking Committee staff to address any concerns you may have regarding this provision.''

OTS staff has been very helpful in this effort and I want to take this opportunity to thank OTS Director Seidman for her assistance as well as Ms Deborah Dakins. I also want to express appreciation to the Senate Banking Committee staff, especially Mr. Andrew Lowenthal, and my own Subcommittee staff for their efforts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Examination Parity and Year 2000 Readiness for Financial Institutions Act''.

SEC. 2. YEAR 2000 READINESS FOR FINANCIAL INSTITUTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the Year 2000 computer problem poses a serious challenge to the American economy, including the Nation's banking and financial services industries;

(2) thousands of banks, savings associations, and credit unions rely heavily on internal information technology and computer systems, as well as outside service providers, for mission-critical functions, such as check clearing, direct deposit, accounting, automated teller machine networks, credit card processing, and data exchanges with domestic and international borrowers, customers, and other financial institutions; and

(3) Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation's financial institutions will not be at risk.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms ''depository institution'' and ''Federal banking agency'' have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(2) the term ''Federal home loan bank'' has the same meaning as in section 2 of the Federal Home Loan Bank Act;

(3) the term ''Federal reserve bank'' means a reserve bank established under the Federal Reserve Act;

(4) the term ''insured credit union'' has the same meaning as in section 101 of the Federal Credit Union Act; and

(5) the term ''Year 2000 computer problem'' means, with respect to information technology, any problem which prevents such technology from accurately processing, calculating, comparing, or sequencing date or time data—

(A) from, into, or between—

(i) the 20th and 21st centuries; or

(ii) the years 1999 and 2000; or

(B) with regard to leap year calculations.

(c) SEMINARS AND MODEL APPROACHES TO YEAR 2000 COMPUTER PROBLEM.—

(1) SEMINARS.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall offer seminars to all depository institutions and insured credit unions under the jurisdiction of such agency on the implication of the Year 2000 computer problem for—

(i) the safe and sound operations of such depository institutions and credit unions; and

(ii) transactions with other financial institutions, including Federal reserve banks and Federal home loan banks.

(B) CONTENT AND SCHEDULE.—The content and schedule of seminars offered pursuant to subparagraph (A) shall be determined by each Federal banking agency and the National Credit Union Administration Board taking into account the resources and examination priorities of such agency.

(2) MODEL APPROACHES.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall make available to each depository institution and insured credit union under the jurisdiction of such agency model approaches to common Year 2000 computer problems, such as model approaches with regard to project management, vendor contracts, testing regimes, and business continuity planning.

(B) VARIETY OF APPROACHES.—In developing model approaches to the Year 2000 computer problem pursuant to subparagraph (A), each Federal banking agency and the National Credit Union Administration Board shall take into account the need to develop a variety of approaches to correspond to the variety of depository institutions or credit unions within the jurisdiction of the agency.

(3) COOPERATION.—In carrying out this section, the Federal banking agencies and the National Credit Union Administration Board may cooperate and coordinate their activities with each other, the Financial Institutions Examination Council, and appropriate organizations representing depository institutions and credit unions.

SEC. 3. REGULATION AND EXAMINATION OF SERVICE PROVIDERS.

(a) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

(1) AMENDMENT TO HOME OWNERS' LOAN ACT.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following:

''(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES, SUBSIDIARIES, AND SERVICE PROVIDERS.—

''(A) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—A service company or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as that savings association.

''(B) EXAMINATION BY OTHER BANKING AGENCIES.—The Director may authorize any other Federal banking agency that supervises any other owner of part of the service company or subsidiary to perform an examination described in subparagraph (A).

''(C) APPLICABILITY OF SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—A service company or subsidiary that is owned in whole or in part by a saving association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act as if the service company or subsidiary were an insured depository institution. In any such case, the Director shall be deemed to be the appropriate Federal banking agency, pursuant to section 3(q) of the Federal Deposit Insurance Act.

''(D) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subparagraph (A), if a savings association, a subsidiary thereof, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any service authorized under this Act or, in the case of a State savings association, any applicable State law, whether on or off its premises—

''(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association on its own premises; and

''(ii) the savings association shall notify the Director of the existence of the service relationship not later than 30 days after the earlier of—

''(I) the date on which the contract is entered into; or

''(II) the date on which the performance of the service is initiated.

''(E) ADMINISTRATION BY THE DIRECTOR.—The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph.

''(8) DEFINITIONS.—For purposes of this section—

''(A) the term 'service company' means—

''(i) any corporation—

''(I) that is organized to perform services authorized by this Act or, in the case of a corporation owned in part by a State savings association, authorized by applicable State law; and

''(II) all of the capital stock of which is owned by 1 or more insured savings associations; and

''(ii) any limited liability company—

''(I) that is organized to perform services authorized by this Act or, in the case of a company, 1 of the members of which is a State savings association, authorized by applicable State law; and

''(II) all of the members of which are 1 or more insured savings associations;

''(B) the term 'limited liability company' means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act) that provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and

''(C) the terms 'State savings association' and 'subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(2) CONFORMING AMENDMENTS TO SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(9), by striking ''to any service corporation of a savings association and to any subsidiary of such service corporation'';

(B) in subsection (e)(7)(A)(ii), by striking ''(b)(8)'' and inserting ''(b)(9)''; and

(C) in subsection (j)(2), by striking ''(b)(8)'' and inserting ''(b)(9)''.

(b) REGULATION AND EXAMINATION OF SERVICE PROVIDERS FOR CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by inserting after section 206 the following new section:

''SEC. 206A. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS.

''(a) REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS.—

''(1) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—A credit union organization shall be subject to examination and regulation by the Board to the same extent as that insured credit union.

''(2) EXAMINATION BY OTHER BANKING AGENCIES.—The Board may authorize to make an examination of a credit union organization in accordance with paragraph (1)—

''(A) any Federal regulator agency that supervises any activity of a credit union organization; or

''(B) any Federal banking agency that supervises any other person who maintains an ownership interest in a credit union organization.

''(b) APPLICABILITY OF SECTION 206.—A credit union organization shall be subject to the provisions of section 206 as if the credit union organization were an insured credit union.

''(c) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subsection (a), if an insured credit union or a credit union organization that is regularly examined or subject to examination by the Board, causes to be performed for itself, by contract or otherwise, any service authorized under this Act or, in the case of a State credit union, any applicable State law, whether on or off its premises—

''(1) such performance shall be subject to regulation and examination by the Board to the same extent as if such services were being performed by the insured credit union or credit union organization itself on its own premises; and

''(2) the insured credit union or credit union organization shall notify the Board of the existence of the service relationship not later than 30 days after the earlier of—

''(A) the date on which the contract is entered into; or

''(B) the date on which the performance of the service is initiated.

''(d) ADMINISTRATION BY THE BOARD.—The Board may issue such regulations and orders as may be necessary to enable the Board to administer and carry out this section and to prevent evasion of this section.

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'credit union organization' means any entity that—

''(A) is not a credit union;

''(B) is an entity in which an insured credit union may lawfully hold an ownership interest or investment; and

''(C) is owned in whole or in part by an insured credit union; and

''(2) the term 'Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(f) EXPIRATION OF AUTHORITY.—This section and all powers and authority of the Board under this section shall cease to be effective as of December 31, 2001.''.

Mr. DODD. Mr. President. I am very pleased to join with Senator BENNETT to introduce the ''Examination Parity and Year 2000 Readiness For Financial Institutions Act.'' This legislation, while technical in nature, will provide badly needed authority and guidance to Federal financial regulators to help their supervised institutions cope with the Year 2000 computer problem.

The Year 2000—or Y2K—computer problem is caused by the inability of most of the major financial systems to process the year 2000 as the one that follows the year 1999. This is caused by the fact that basic computer code, much of it written as many as thirty years ago, reads dates as two-digits, ''98'' or ''99,'' instead of four digits ''1999'' or ''2000.'' If left untreated, computers will read the year 2000 as the years 1900, 1980 or some other default date. The result is not only erroneous calculations, but the total crash of many critical financial systems.

Federal financial regulators have been very active, of late, in helping their supervised institutions prepare for this extremely dangerous problem. However, both the Office of Thrift Supervision and the National Credit Union Administration have notified Senator BENNETT and I that they lack the authority to examine the Year 2000 preparations of service providers to thrifts and credit unions. Currently, other federal financial regulators—the Federal Reserve, Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation—have this authority.

These service providers perform many of the key transaction and data processing for federally-insured thrifts and credit unions, particularly smaller institutions for whom it is not cost-effective to establish their own computer systems. As a result, it is imperative to the safety and soundness of these institutions for the regulators to be able to establish that their service providers will be Year 2000 compliant.

The legislation also contains provisions that require all financial regulators to hold seminars to educate their respective supervised institutions and, to the maximum extent possible, provide model solutions for fixing the problem. The beneficial impact of such outreach and education efforts for federally-insured institutions is self-evident.

Mr. President, the Year 2000 problem is one that we will have to confront in many more ways than this legislation. The extent of the problem goes well beyond the financial services industry to affect virtually every segment of our nation's economy. But this sensible bill is a good first step to ensuring that Federal financial regulators have the tools necessary to address the problem in their area of jurisdiction.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1672. A bill to expand the authority of the Secretary of the Army to improve the control of erosion on the Missouri River; to the Committee on Environment and Public Works.

THE MISSOURI RIVER EROSION CONTROL ACT OF 1998

Mr. DASCHLE. Mr. President, it is my pleasure today to introduce the Missouri River Erosion Control Act of 1998, a bill to provide much-needed assistance to homeowners who live along the Missouri River. Over the past several years, many South Dakotans have seen property values drop and homes nearly destroyed by shoreline erosion. This legislation will help these families to work with the U.S. Army Corps of Engineers to take responsible steps to prevent these problems. My colleague, Senator JOHNSON, is joining me as an original cosponsor of this legislation.

While erosion occurs naturally on any river, shorelines on the Missouri are particularly vulnerable to it. Releases from the hydroelectric dams that span the river in South Dakota cause its depth and speed to fluctuate drastically, sometimes with dangerous consequences. Following last year's flooding disaster, the rapid, swirling current caused by sustained high releases from the dams swept away half an acre of land near Burbank, South Dakota, in just 3 hours. A subsequent release destroyed an additional 40 feet of land, bringing the river's edge to the foundation of the home of Neil and Eileen Helvig. Thanks to last minute work by the Corps of Engineers to stabilize the shoreline, the Helvig's home, and several others nearby, were saved. However, this is not the only case when bank erosion has posed a threat to residential homes and without a comprehensive program in place to provide help to others in need, we may not be so lucky in the future.

Over the last several years, Mrs. Lois Hyde of rural Lake Andes has watched the river work its way to within a stone's throw of her home—an original homestead first settled by her family over 100 years ago. Without additional help, it is likely that she may be forced to abandon her farm. I believe it is our responsibility to give individuals like her the help they need to protect their homes.

The Missouri River Erosion Control Act of 1998 will give homeowners the opportunity to take responsible steps to protect their property. The bill amends current law to permit homeowners to work in partnership with the U.S. Army Corps of Engineers to take steps to stabilize their shoreline. Under the my bill, the Corps of Engineers will accept applications from private property owners along the Missouri River and rank those applications in order of need. The most vulnerable stretches of the shoreline would then be targeted for assistance. Like other erosion control programs, the bill requires a 35 percent non-federal cost share, while the federal government will provide the other 65 percent of the cost.

For many years the Corps of Engineers has been reluctant to work with private property owners to prevent damage to private property from erosion. Nevertheless, new circumstances require new thinking. Particularly in the wake of last year's disaster in South Dakota, circumstances have made it clear that we must help families take the steps they need to protect their homes. Homeowners want to take responsible measures to protect their property. We must give them that opportunity. I urge my colleagues to join me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Missouri River Erosion Control Act of 1998''.

SEC. 2. MISSOURI RIVER EROSION CONTROL.

Section 9(f) of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved December 22, 1944 (102 Stat. 4031)), is amended—

(1) by striking ''(f) The'' and inserting the following:

''(f) MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA, AND A POINT BELOW GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.—

''(1) IN GENERAL.—The'';

(2) in the first sentence of paragraph (1) (as designated by paragraph (1)), by striking ''58'' and inserting ''77'';

(3) in the second sentence—

(A) by striking ''The cost'' and inserting the following:

''(2) COSTS.—

''(A) MAXIMUM.—The cost''; and

(B) by striking ''$3,000,000'' and inserting ''$6,000,000'';

(4) in the third sentence, by striking ''Notwithstanding'' and inserting the following:

''(B) APPORTIONMENT AMONG PROJECT PURPOSES.—Notwithstanding'';

(5) in the last sentence, by striking ''In lieu'' and inserting the following:

''(3) ACQUISITION OF LAND.—

''(A) IN GENERAL.—In lieu'';

(6) in paragraph (3) (as designated by paragraph (5)), by adding at the end the following:

''(B) RECREATIONAL RIVER SEGMENTS.—Notwithstanding the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), in the case of a segment of the Missouri River in the State of South Dakota that is administered as a recreational river under section 3(a) of that Act (16 U.S.C. 1274(a)), the Secretary of the Army may acquire, from willing sellers, such real estate interests as the Secretary determines are necessary to carry out this subsection.''; and

(7) by adding at the end the following:

''(4) MEASURES ON BEHALF OF NON-FEDERAL ENTITIES.—The Secretary of the Army may undertake measures authorized by paragraph (1) at the request of, or on behalf of, a non-Federal public or private entity or individual with respect to land owned by the entity or individual as of the date of enactment of this paragraph, if a non-Federal interest described in section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)) agrees in writing to provide 35 percent of the cost of the measures to be undertaken.''.

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. THURMOND, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 358

At the request of Mr. DEWINE, the names of the Senator from Michigan (Mr. ABRAHAM) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 375

At the request of Mr. MCCAIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 1067

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 1163

At the request of Mr. BRYAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1163, a bill to amend the Truth in Lending Act to prohibit the distribution of any negotiable check or other instrument with any solicitation to a consumer by a creditor to open an account under any consumer credit plan or to engage in any other credit transaction which is subject to that Act, and for other purposes.

S. 1194

At the request of Mr. LOTT, his name was added as a cosponsor of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1283, A bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1365

At the request of Ms. MIKULSKI, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1396

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1396, A bill to amend the Child Nutrition Act of 1966 to expand the School Breakfast Program in elementary schools.

S. 1422

At the request of Mr. MCCAIN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Montana (Mr. BAUCUS), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1481

At the request of Mr. DEWINE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. DORGAN), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1481, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide for continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 1570

At the request of Mr. FAIRCLOTH, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1570, a bill to limit the amount of attorneys' fees that may be paid on behalf of States and other plaintiffs under the tobacco settlement.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1631

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1631, a bill to amend the General Education Provisions Act to allow parents access to certain information.

SENATE JOINT RESOLUTION 30

At the request of Mr. WARNER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Joint Resolution 30, a joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day'', and for other purposes.

SENATE JOINT RESOLUTION 40

At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

SENATE RESOLUTION 114

At the request of Mr. TORRICELLI, the name of the Senator from Ohio (Mr.