II

117TH CONGRESS
2D SESSION

S. 5100

To provide accountability for funding provided to the Internal Revenue Service and the Department of the Treasury under Public Law 117–169.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2022

Mr. THUNE (for himself, Mr. GRASSLEY, Mr. BARRASSO, Mr. BRAUN, Mr. BURR, Mr. CASSIDY, Mr. CORNYN, Mr. CRAPO, Mr. DAINES, Mr. LANKFORD, Mr. PORTMAN, Mr. TOOMEY, Mr. YOUNG, Mr. SASSE, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To provide accountability for funding provided to the Internal Revenue Service and the Department of the Treasury under Public Law 117–169.

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 ''IRS Funding Accountability Act''.

SEC. 2. ANNUAL COMPREHENSIVE SPENDING PLAN FOR INCREASED INTERNAL REVENUE SERVICE RESOURCES.

(a) LIMITATION ON FUNDING.—

(1) INITIAL PLAN.—

(A) IN GENERAL.—None of the funds described in paragraph (3) may be obligated during the period—

(i) beginning on the date of the enactment of this Act; and

(ii) ending on the date that is 60 days after the spending plan described in subsection (b)(1)(A) has been submitted.

(B) ADDITIONAL MORATORIUM.—If Congress enacts a joint resolution of disapproval described in subsection (c) with respect to the Internal Revenue Service spending plan before the date described in subparagraph (A)(ii), then—

(i) the Commissioner of Internal Revenue shall submit a new spending plan under subsection (b)(1)(A); and

(ii) the period described in subparagraph (A) shall not end before the date that is 60 days after such new spending plan is submitted.

(2) SUBSEQUENT SUBMISSIONS.—

(A) IN GENERAL.—None of the funds described in paragraph (3) may be obligated during any period—

(i) beginning on the date Congress has enacted a joint resolution of disapproval under subsection (c) with respect to any spending plan described in subsection (b)(1)(B); and

(ii) ending on the date that is 60 days after the date on which the Commissioner of Internal Revenue has submitted a new spending plan under such subsection.

(B) ADDITIONAL MORATORIUM.—If Congress enacts a joint resolution of disapproval described in subsection (c) with respect to any new spending plan submitted under subparagraph (A)(ii) before the date that is 60 days after the date on which such new spending plan has been submitted, then—

(i) the Commissioner of Internal Revenue shall submit an additional new spending plan under subsection (b)(1)(B); and

(ii) the period described in subparagraph (A) shall not end before the date that is 60 days after such additional new spending plan is submitted.

(3) FUNDS DESCRIBED.—The funds described in this paragraph are the following:

(A) Any funds made available under clause (ii), (iii), or (iv) of section 10301(1)(A) of Public Law 117–169.

(B) Any funds made available under section 10301(1)(A)(i) of Public Law 117–169 other than funds used for the following purposes:

(i) Eliminating any correspondence or return processing backlog.

(ii) Reducing call wait times for taxpayers and tax professionals.

(b) ANNUAL COMPREHENSIVE SPENDING PLAN.—

(1) IN GENERAL.—

(A) INITIAL PLAN.—Not later than 60 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall submit to the appropriate Congressional committees a spending plan described in paragraph (2).

(B) SUBSEQUENT SUBMISSIONS.—

(i) IN GENERAL.—For each fiscal year beginning after the plan described in subparagraph (A) is submitted and ending with fiscal year 2031, the Commissioner of Internal Revenue shall submit to the appropriate Congressional committees a spending plan described in paragraph (2) on the date that the President submits the budget required under section 1105(a) of title 31, United States Code.

(ii) REDUCTION IN APPROPRIATION.—

(I) IN GENERAL.—In the case of any failure to submit a plan required under clause (i) by the date that is 7 days after the date the plan is required to be submitted und, the amounts made available under section 10301(1)(A)(ii) of Public Law 117–169 shall be reduced by $10,000,000 for each day after such required date that report has not been submitted.

(II) REQUIRED DATE.—For purposes of this clause, the term ''required date'' means, with respect to any plan required under this subparagraph, the date that is 7 days after such plan is required to be submitted.

(2) SPENDING PLAN.—

(A) IN GENERAL.—A spending plan described in this subparagraph is a plan that—

(i) details how the funds appropriated under section 10301(1) of Public Law 117–169 will be spent over—

(I) the period consisting of the current fiscal year and the next 4 fiscal years ending before fiscal year 2032; and

(II) the period of consisting of the current fiscal year through the fiscal year ending with fiscal year 2031 (if such period includes any period not described in subclause (I));

(ii) contains the information described in subparagraph (B);

(iii) has been reviewed by—

(I) the Internal Revenue Service Advisory Council;

(II) the Comptroller of the United States;

(III) the National Taxpayer Advocate; and

(IV) the Director of the Office of Management and Budget; and

(iv) has been approved by the officers or entities described in subclauses (II) and (IV) of clause (iii).

(B) PLAN CONTENTS.—The information described in this paragraph is the following:

(i) A detailed explanation of the plan, including—

(I) costs and results to date, actual expenditures of the prior fiscal year, actual and expected expenditures of the current fiscal year, upcoming deliverables and expected costs, and total expenditures;

(II) clearly defined objectives, timelines, and metrics for quantitatively measuring the plan's annual progress, including with respect to measuring improvements in taxpayer services, revenue collection, information technology, cybersecurity, and taxpayer data protections; and

(III) a description of any differences between metrics described in subclause (II) and corresponding metrics used by the National Taxpayer Advocate, the Comptroller General of the United States, and Treasury Inspector General for Tax Administration.

(ii) A detailed analysis of the performance of the Internal Revenue Service with respect to the delivery of taxpayer services, including—

(I) the Level of Service (LOS) of phone lines (as a percent of phone calls answered by an Internal Revenue Service employee, not to include courtesy disconnects or automated call backs);

(II) the median and average wait time to speak to a representative of the Internal Revenue Service;

(III) the amount of unprocessed taxpayer correspondence, including tax returns, responses to Internal Revenue Service notices, tax payments, and other similar types of correspondence; and

(IV) the median and average length of time for processing the items described in subclause (III) and processing refund claims.

(iii) An analysis identifying any increase or decrease in total annual audits and annual audit rates by income group for the period beginning in 2018 and ending with the year the report is submitted. Such analysis shall include a detailed description of what constitutes an ‘‘audit’’ by the Internal Revenue Service, and if the definition of an ‘‘audit’’ used by the Internal Revenue Service differs from the definition used by the National Taxpayer Advocate, the Comptroller General of the United States, or the Treasury Inspector General for Tax Administration, there shall also be included an analysis using such divergent definition.

(iv) A categorizing of the number of audits for each year in the analysis described in clause (iv) which were—

(I) correspondence audits;

(II) office audits;

(III) field audits;

(IV) audits under the Tax Compliance Measurement Program (TCMP); and

(V) other audits.

(v) A description of all taxpayer compliance actions or initiatives undertaken using funding appropriated under section 10301(1)(A) of Public Law 117–169 that do not rise to the level of an audit, with each action broken out by the total number of such actions undertaken for each income group and as a percentage of taxpayers in each income group.

(vi) An explanation of any unresolved or outstanding recommendations made by the Government Accountability Office and Treasury Inspector General for Tax Administration pertaining to taxpayer-data privacy protections, Internal Revenue Service taxpayer services, and Internal Revenue Service technology modernization efforts that are addressed by the plan and a description of how they are addressed.

(vii) If such plan does not address any recommendations identified by Government Accountability Office and Treasury Inspector General for Tax Administration as ‘‘high risk’’ or ‘‘priority’’, an explanation of why such recommendations are not addressed in the plan.

(3) TESTIMONY OF RELEVANT OFFICIALS.—Not later than 30 days after any spending plan described in paragraph (2) has been submitted, the Secretary of the Treasury and the Commissioner of Internal Revenue shall testify in person before any of the appropriate Congressional committees that request their testimony with respect to such spending plan.

(4) REQUIREMENT TO NOTIFY OF EXCESS SPENDING.—The Commissioner of Internal Revenue shall immediately notify the appropriate Congressional committees if actual obligations and expenditures for any account for any period for which projections are made in a plan submitted under paragraph (2) exceed the amount of obligations and expenditures projected for such account in such plan by 5 percent or more.

(c) JOINT RESOLUTION OF DISAPPROVAL OF THE IRS COMPREHENSIVE SPENDING PLAN.—

(1) IN GENERAL.—For purposes of this section, the term "joint resolution of disapproval of the IRS comprehensive spending plan" means only a joint resolution introduced in the period beginning on the date on which a spending plan submitted pursuant to subsection (b)(1)(A) is received by the appropriate Congressional committees and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: "That Congress disapproves the plan submitted on ________ by the Internal Revenue Service relating to the comprehensive spending plan under section 2(b)(1) of the IRS Funding Accountability Act with respect to fiscal year ______.". (The blank spaces being appropriately filled in).

(2) APPLICATION OF CONGRESSIONAL REVIEW ACT DISAPPROVAL PROCEDURES.—

(A) IN GENERAL.—The rules of section 802 of title 5, United States Code, shall apply to a joint resolution of disapproval of the IRS comprehensive spending plan in the same manner as such rules apply to a joint resolution described in subsection (a) of such section.

(B) EXERCISE OF RULEMAKING AUTHORITY.—This section is enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution of disapproval of the IRS comprehensive spending plan described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 3. QUARTERLY REPORTS.

(a) INTERNAL REVENUE SERVICE.—

(1) IN GENERAL.—Not later than the last day of each calendar quarter beginning during the applicable period, the Commissioner of Internal Revenue shall submit to the appropriate Congressional committees a report on any expenditures and obligations of funds appropriated under section 10301(1) of Public Law 117–169.

(2) MATTERS INCLUDED.—The report provided under paragraph (1) shall include the following:

(A) A plain language description of the specific actions taken by the Commissioner of Internal Revenue utilizing any funds appropriated under section 10301(1) of Public Law 117–169.

(B) The obligations and expenditures during the quarter of funds appropriated under section 10301(1) of Public Law 117–169 and the expected expenditure of such funds in the subsequent quarter, including a comparison of obligations and expenditures between amounts spent for taxpayers services and amounts spent for examinations and collections by each division or office of the Internal Revenue Service, including the Large Business and International Division, the Small Business/Self Employed Division, the Tax-Exempt and Government Entities Division, the Wage and Investment Division, the Criminal Investigation Office, the Whistleblower Office, and the Office of the Taxpayer Advocate.

(C) A description of any new full-time or full-time equivalent (FTE) employees, contractors, or other staff hired by the Internal Revenue Service, including the number of new hires, the primary function or activity type of each new hire, and the specific Division or Office to which each new hire is tasked.

(D) The number of new employees that have passed a security clearance compared to the number of new employees hired to a position requiring a security clearance, along with an indication of whether any new employee that has not passed a security clearance has access to taxpayer return information (as defined by section 6103(b)(2) of the Internal Revenue Code of 1986).

(E) A detailed description of any violation of the fair tax collection practices described in section 6304 of the Internal Revenue Code of 1986 by any employees, contractors, or other staff described in subparagraph (C) (including violations tracked in Automated Labor and Employee Relations Tracking System (ALERTS) of the Human Capital Office of the Internal Revenue Service).

(F) The status of recommendations provided by the Government Accountability Office and Treasury Inspector General for Tax Administration identified as being addressed by the plan, including whether they have been resolved, are in progress, or open (including the expected date of completion for any recommendations identified as in progress or open).

(3) REDUCTION IN APPROPRIATION.—In the case of any failure to submit a report required under paragraph (1) by the required date, the amounts made available under section 10301(1)(A)(ii) of Public Law 117–169 shall be reduced by $1,000,000 for each day after such required date that report has not been submitted.

(b) DEPARTMENT OF THE TREASURY.—

(1) IN GENERAL.—Not later than the last day of each calendar quarter beginning during the applicable period, the Secretary of the Treasury shall

submit to the appropriate Congressional committees a report containing the following information:

(A) A plain-language description of the actions taken by the Secretary of the Treasury utilizing any funds appropriated under paragraph (1), (3), or (5) of section 10301 of Public Law 117–169. Any action which is described in a report made under subsection (a) may be described by reference to the action in such report.

(B) A detailed description of the specific purposes to which the funds appropriated under section 10301(3) of Public Law 117–169 has been (or is expected to be) obligated.

(C) A description of any new full-time or full-time equivalent (FTE) employees, contractors, or other staff hired by the Secretary utilizing funds appropriated under section 10301 of Public Law 117–169, including the number of new hires and whether the duties of each new hire includes any functions related to the Internal Revenue Service (including implementation of tax policies, enforcement, regulations, research, press or communications, or other purposes).

(D) A detailed description and explanation of any changes to the most recent Priority Guidance Plan of the Department of the Treasury and the Internal Revenue Service involving guidance projects that utilize any funds appropriated under section 10301 of Public Law 117–169 or which are related to the implementation of any provision of or amendment made by such Public Law.

(E) A description of any new initiatives planned to be undertaken by the Department of the Treasury within the existing or subsequent fiscal year which will (or may) utilize funds appropriated under section 10301 of Public Law 117–169.

(2) REDUCTION IN APPROPRIATION.—In the case of any failure to submit a report required under paragraph (1) by the required date—

(A) the amounts made available under paragraphs (3) of section 10301 of Public Law 117–169 shall be reduced by $666,667 for each day after such required date that report has not been submitted, and

(B) the amounts made available under paragraphs (5) of section 10301 of Public Law

117–169 shall be reduced by $333,333 for each day after such required date that report has not been submitted.

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

(1) APPLICABLE PERIOD.—The term "applicable period" means the period beginning after the date the report under subparagraph (A) is due and ending on September 30, 2031.

(2) REQUIRED DATE.—The term "required date" means, with respect to any report required to be submitted under subsection (a) or (b), the date that is 7 days after the date the report is required to be submitted.

SEC. 4. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate Congressional committees" means—

(1) the Committee on Finance of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the Committee on Ways and Means of the House of Representatives; and

(4) the Committee on Appropriations of the House of Representatives.

○