

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “IRS Funding Account-
5 ability Act”.

1 **SEC. 2. ANNUAL COMPREHENSIVE SPENDING PLAN FOR IN-**
2 **CREASED INTERNAL REVENUE SERVICE RE-**
3 **SOURCES.**

4 (a) **LIMITATION ON FUNDING.—**

5 (1) **INITIAL PLAN.—**

6 (A) **IN GENERAL.—**None of the funds de-
7 scribed in paragraph (3) may be obligated dur-
8 ing the period—

9 (i) beginning on the date of the enact-
10 ment of this Act; and

11 (ii) ending on the date that is 60 days
12 after the spending plan described in sub-
13 section (b)(1)(A) has been submitted.

14 (B) **ADDITIONAL MORATORIUM.—**If Con-
15 gress enacts a joint resolution of disapproval
16 described in subsection (c) with respect to the
17 Internal Revenue Service spending plan before
18 the date described in subparagraph (A)(ii),
19 then—

20 (i) the Commissioner of Internal Rev-
21 enue shall submit a new spending plan
22 under subsection (b)(1)(A); and

23 (ii) the period described in subpara-
24 graph (A) shall not end before the date
25 that is 60 days after such new spending
26 plan is submitted.

1 (2) SUBSEQUENT SUBMISSIONS.—

2 (A) IN GENERAL.—None of the funds de-
3 scribed in paragraph (3) may be obligated dur-
4 ing any period—

5 (i) beginning on the date Congress
6 has enacted a joint resolution of dis-
7 approval under subsection (c) with respect
8 to any spending plan described in sub-
9 section (b)(1)(B); and

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

14 (B) ADDITIONAL MORATORIUM.—If Con-
15 gress enacts a joint resolution of disapproval
16 described in subsection (c) with respect to any
17 new spending plan submitted under subpara-
18 graph (A)(ii) before the date that is 60 days
19 after the date on which such new spending plan
20 has been submitted, then—

21 (i) the Commissioner of Internal Rev-
22 enue shall submit an additional new spend-
23 ing plan under subsection (b)(1)(B); and

24 (ii) the period described in subpara-
25 graph (A) shall not end before the date

1 that is 60 days after such additional new
2 spending plan is submitted.

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

5 (A) Any funds made available under clause
6 (ii), (iii), or (iv) of section 10301(1)(A) of Pub-
7 lic Law 117–169.

8 (B) Any funds made available under sec-
9 tion 10301(1)(A)(i) of Public Law 117–169
10 other than funds used for the following pur-
11 poses:

12 (i) Eliminating any correspondence or
13 return processing backlog.

14 (ii) Reducing call wait times for tax-
15 payers and tax professionals.

16 (b) ANNUAL COMPREHENSIVE SPENDING PLAN.—

17 (1) IN GENERAL.—

18 (A) INITIAL PLAN.—Not later than 60
19 days after the date of the enactment of this
20 Act, the Commissioner of Internal Revenue
21 shall submit to the appropriate Congressional
22 committees a spending plan described in para-
23 graph (2).

24 (B) SUBSEQUENT SUBMISSIONS.—

1 (i) IN GENERAL.—For each fiscal year
2 beginning after the plan described in sub-
3 paragraph (A) is submitted and ending
4 with fiscal year 2031, the Commissioner of
5 Internal Revenue shall submit to the ap-
6 propriate Congressional committees a
7 spending plan described in paragraph (2)
8 on the date that the President submits the
9 budget required under section 1105(a) of
10 title 31, United States Code.

11 (ii) REDUCTION IN APPROPRIATION.—

12 (I) IN GENERAL.—In the case of
13 any failure to submit a plan required
14 under clause (i) by the date that is 7
15 days after the date the plan is re-
16 quired to be submitted und, the
17 amounts made available under section
18 10301(1)(A)(ii) of Public Law 117–
19 169 shall be reduced by \$10,000,000
20 for each day after such required date
21 that report has not been submitted.

22 (II) REQUIRED DATE.—For pur-
23 poses of this clause, the term “re-
24 quired date” means, with respect to
25 any plan required under this subpara-

1 graph, the date that is 7 days after
2 such plan is required to be submitted.

3 (2) SPENDING PLAN.—

4 (A) IN GENERAL.—A spending plan de-
5 scribed in this subparagraph is a plan that—

6 (i) details how the funds appropriated
7 under section 10301(1) of Public Law
8 117–169 will be spent over—

9 (I) the period consisting of the
10 current fiscal year and the next 4 fis-
11 cal years ending before fiscal year
12 2032; and

13 (II) the period of consisting of
14 the current fiscal year through the fis-
15 cal year ending with fiscal year 2031
16 (if such period includes any period not
17 described in subclause (I));

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

20 (iii) has been reviewed by—

21 (I) the Internal Revenue Service
22 Advisory Council;

23 (II) the Comptroller of the
24 United States;

1 (III) the National Taxpayer Ad-
2 vocate; and

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

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

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

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

12 (I) costs and results to date, ac-
13 tual expenditures of the prior fiscal
14 year, actual and expected expenditures
15 of the current fiscal year, upcoming
16 deliverables and expected costs, and
17 total expenditures;

18 (II) clearly defined objectives,
19 timelines, and metrics for quan-
20 titatively measuring the plan's annual
21 progress, including with respect to
22 measuring improvements in taxpayer
23 services, revenue collection, informa-
24 tion technology, cybersecurity, and
25 taxpayer data protections; and

1 (III) a description of any dif-
2 ferences between metrics described in
3 subclause (II) and corresponding
4 metrics used by the National Tax-
5 payer Advocate, the Comptroller Gen-
6 eral of the United States, and Treas-
7 ury Inspector General for Tax Admin-
8 istration.

9 (ii) A detailed analysis of the perform-
10 ance of the Internal Revenue Service with
11 respect to the delivery of taxpayer services,
12 including—

13 (I) the Level of Service (LOS) of
14 phone lines (as a percent of phone
15 calls answered by an Internal Revenue
16 Service employee, not to include cour-
17 tesy disconnects or automated call
18 backs);

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

22 (III) the amount of unprocessed
23 taxpayer correspondence, including
24 tax returns, responses to Internal
25 Revenue Service notices, tax pay-

1 ments, and other similar types of cor-
2 respondence; and

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

7 (iii) An analysis identifying any in-
8 crease or decrease in total annual audits
9 and annual audit rates by income group
10 for the period beginning in 2018 and end-
11 ing with the year the report is submitted.
12 Such analysis shall include a detailed de-
13 scription of what constitutes an “audit” by
14 the Internal Revenue Service, and if the
15 definition of an “audit” used by the Inter-
16 nal Revenue Service differs from the defi-
17 nition used by the National Taxpayer Ad-
18 vocate, the Comptroller General of the
19 United States, or the Treasury Inspector
20 General for Tax Administration, there
21 shall also be included an analysis using
22 such divergent definition.

23 (iv) A categorizing of the number of
24 audits for each year in the analysis de-
25 scribed in clause (iv) which were—

- 1 (I) correspondence audits;
2 (II) office audits;
3 (III) field audits;
4 (IV) audits under the Tax Com-
5 pliance Measurement Program
6 (TCMP); and
7 (V) other audits.

8 (v) A description of all taxpayer com-
9 pliance actions or initiatives undertaken
10 using funding appropriated under section
11 10301(1)(A) of Public Law 117–169 that
12 do not rise to the level of an audit, with
13 each action broken out by the total number
14 of such actions undertaken for each income
15 group and as a percentage of taxpayers in
16 each income group.

17 (vi) An explanation of any unresolved
18 or outstanding recommendations made by
19 the Government Accountability Office and
20 Treasury Inspector General for Tax Ad-
21 ministration pertaining to taxpayer-data
22 privacy protections, Internal Revenue Serv-
23 ice taxpayer services, and Internal Revenue
24 Service technology modernization efforts

1 that are addressed by the plan and a de-
2 scription of how they are addressed.

3 (vii) If such plan does not address any
4 recommendations identified by Government
5 Accountability Office and Treasury Inspec-
6 tor General for Tax Administration as
7 “high risk” or “priority”, an explanation
8 of why such recommendations are not ad-
9 dressed in the plan.

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

17 (4) REQUIREMENT TO NOTIFY OF EXCESS
18 SPENDING.—The Commissioner of Internal Revenue
19 shall immediately notify the appropriate Congres-
20 sional committees if actual obligations and expendi-
21 tures for any account for any period for which pro-
22 jections are made in a plan submitted under para-
23 graph (2) exceed the amount of obligations and ex-
24 penditures projected for such account in such plan
25 by 5 percent or more.

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

3 (1) IN GENERAL.—For purposes of this section,
4 the term “joint resolution of disapproval of the IRS
5 comprehensive spending plan” means only a joint
6 resolution introduced in the period beginning on the
7 date on which a spending plan submitted pursuant
8 to subsection (b)(1)(A) is received by the appro-
9 priate Congressional committees and ending 60 days
10 thereafter (excluding days either House of Congress
11 is adjourned for more than 3 days during a session
12 of Congress), the matter after the resolving clause of
13 which is as follows: “That Congress disapproves the
14 plan submitted on _____ by the Internal Rev-
15 enue Service relating to the comprehensive spending
16 plan under section 2(b)(1) of the IRS Funding Ac-
17 countability Act with respect to fiscal year _____.”.
18 (The blank spaces being appropriately filled in).

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

21 (A) IN GENERAL.—The rules of section
22 802 of title 5, United States Code, shall apply
23 to a joint resolution of disapproval of the IRS
24 comprehensive spending plan in the same man-

1 ner as such rules apply to a joint resolution de-
2 scribed in subsection (a) of such section.

3 (B) EXERCISE OF RULEMAKING AUTHOR-
4 ITY.—This section is enacted by Congress—

5 (i) as an exercise of the rulemaking
6 power of the Senate and House of Rep-
7 resentatives, respectively, and as such it is
8 deemed a part of the rules of each House,
9 respectively, but applicable only with re-
10 spect to the procedure to be followed in
11 that House in the case of a joint resolution
12 of disapproval of the IRS comprehensive
13 spending plan described in paragraph (1),
14 and it supersedes other rules only to the
15 extent that it is inconsistent with such
16 rules; and

17 (ii) with full recognition of the con-
18 stitutional right of either House to change
19 the rules (so far as relating to the proce-
20 dure of that House) at any time, in the
21 same manner, and to the same extent as in
22 the case of any other rule of that House.

23 **SEC. 3. QUARTERLY REPORTS.**

24 (a) INTERNAL REVENUE SERVICE.—

1 (1) IN GENERAL.—Not later than the last day
2 of each calendar quarter beginning during the appli-
3 cable period, the Commissioner of Internal Revenue
4 shall submit to the appropriate Congressional com-
5 mittees a report on any expenditures and obligations
6 of funds appropriated under section 10301(1) of
7 Public Law 117–169.

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

10 (A) A plain language description of the
11 specific actions taken by the Commissioner of
12 Internal Revenue utilizing any funds appro-
13 priated under section 10301(1) of Public Law
14 117–169.

15 (B) The obligations and expenditures dur-
16 ing the quarter of funds appropriated under
17 section 10301(1) of Public Law 117–169 and
18 the expected expenditure of such funds in the
19 subsequent quarter, including a comparison of
20 obligations and expenditures between amounts
21 spent for taxpayers services and amounts spent
22 for examinations and collections by each divi-
23 sion or office of the Internal Revenue Service,
24 including the Large Business and International
25 Division, the Small Business/Self Employed Di-

1 vision, the Tax-Exempt and Government Enti-
2 ties Division, the Wage and Investment Divi-
3 sion, the Criminal Investigation Office, the
4 Whistleblower Office, and the Office of the Tax-
5 payer Advocate.

6 (C) A description of any new full-time or
7 full-time equivalent (FTE) employees, contrac-
8 tors, or other staff hired by the Internal Rev-
9 enue Service, including the number of new
10 hires, the primary function or activity type of
11 each new hire, and the specific Division or Of-
12 fice to which each new hire is tasked.

13 (D) The number of new employees that
14 have passed a security clearance compared to
15 the number of new employees hired to a posi-
16 tion requiring a security clearance, along with
17 an indication of whether any new employee that
18 has not passed a security clearance has access
19 to taxpayer return information (as defined by
20 section 6103(b)(2) of the Internal Revenue
21 Code of 1986).

22 (E) A detailed description of any violation
23 of the fair tax collection practices described in
24 section 6304 of the Internal Revenue Code of
25 1986 by any employees, contractors, or other

1 staff described in subparagraph (C) (including
2 violations tracked in Automated Labor and Em-
3 ployee Relations Tracking System (ALERTS)
4 of the Human Capital Office of the Internal
5 Revenue Service).

6 (F) The status of recommendations pro-
7 vided by the Government Accountability Office
8 and Treasury Inspector General for Tax Ad-
9 ministration identified as being addressed by
10 the plan, including whether they have been re-
11 solved, are in progress, or open (including the
12 expected date of completion for any rec-
13 ommendations identified as in progress or
14 open).

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

22 (b) DEPARTMENT OF THE TREASURY.—

23 (1) IN GENERAL.—Not later than the last day
24 of each calendar quarter beginning during the appli-
25 cable period, the Secretary of the Treasury shall

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

3 (A) A plain-language description of the ac-
4 tions taken by the Secretary of the Treasury
5 utilizing any funds appropriated under para-
6 graph (1), (3), or (5) of section 10301 of Public
7 Law 117–169. Any action which is described in
8 a report made under subsection (a) may be de-
9 scribed by reference to the action in such re-
10 port.

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

15 (C) A description of any new full-time or
16 full-time equivalent (FTE) employees, contrac-
17 tors, or other staff hired by the Secretary uti-
18 lizing funds appropriated under section 10301
19 of Public Law 117–169, including the number
20 of new hires and whether the duties of each
21 new hire includes any functions related to the
22 Internal Revenue Service (including implemen-
23 tation of tax policies, enforcement, regulations,
24 research, press or communications, or other
25 purposes).

1 (D) A detailed description and explanation
2 of any changes to the most recent Priority
3 Guidance Plan of the Department of the Treas-
4 ury and the Internal Revenue Service involving
5 guidance projects that utilize any funds appro-
6 priated under section 10301 of Public Law
7 117–169 or which are related to the implemen-
8 tation of any provision of or amendment made
9 by such Public Law.

10 (E) A description of any new initiatives
11 planned to be undertaken by the Department of
12 the Treasury within the existing or subsequent
13 fiscal year which will (or may) utilize funds ap-
14 propriated under section 10301 of Public Law
15 117–169.

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

19 (A) the amounts made available under
20 paragraphs (3) of section 10301 of Public Law
21 117–169 shall be reduced by \$666,667 for each
22 day after such required date that report has not
23 been submitted, and

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

1 117–169 shall be reduced by \$333,333 for each
2 day after such required date that report has not
3 been submitted.

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

5 (1) APPLICABLE PERIOD.—The term “applica-
6 ble period” means the period beginning after the
7 date the report under subparagraph (A) is due and
8 ending on September 30, 2031.

9 (2) REQUIRED DATE.—The term “required
10 date” means, with respect to any report required to
11 be submitted under subsection (a) or (b), the date
12 that is 7 days after the date the report is required
13 to be submitted.

14 **SEC. 4. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
15 **FINED.**

16 For purposes of this Act, the term “appropriate Con-
17 gressional committees” means—

18 (1) the Committee on Finance of the Senate;

19 (2) the Committee on Appropriations of the
20 Senate;

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

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

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