

read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 2260) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2260

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

SECTION 1. ESSENTIAL AIR SERVICE.

(a) IN GENERAL.—Subsection (d) of section 409 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking “September 30, 2007” and inserting “September 30, 2008”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 29, 2007, and shall apply with respect to any final order issued under subsection (c) of section 409 of such Act that was in effect on such date.

ERNEST CHILDERS DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 366, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 366) to designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the “Ernest Childers Department of Veterans Affairs Outpatient Clinic.”

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (H.R. 366) was ordered to a third reading, was read the third time, and passed.

AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 528, S. 2436.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2436) to amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, I am pleased that today the Senate is acting on S. 2436, a bill to clarify the term of the IRS Commissioner.

The Internal Revenue Restructuring and Reform Act of 1998 provides that the President appoints the IRS Commissioner to a 5-year term. On the face of it, the Commissioner's term of office might seem quite clear. But lawyers in the administration and the Senate have disagreed over when the 5-year term begins and ends.

Specifically, there is dispute over whether the term of the IRS Commissioner follows the calendar or the person. Let me explain.

If the term follows the calendar, the tenure of the Commissioner begins on the same date every 5 years. For example, if one term ends on November 12, then the next term begins the next day on November 13—whether or not a new Commissioner has been confirmed.

This arrangement provides certainty for the Commissioner's term. It allows for planning and continuity of leadership. It minimizes the ability of an administration to play games with the timing of the term by waiting to fill a vacancy.

If the term follows the person, then the tenure of each Commissioner begins on the date of that individual's appointment. Under this scenario, a President deliberately could wait to appoint a new Commissioner until right before the end of the President's term, leaving the next President to inherit an appointee whom the new President did not choose.

While the President waited, the IRS could be without a permanent Commissioner indefinitely. That would put tax administration at risk.

There is another reason why it is important to clarify the term of the Commissioner. Ambiguity in the term could lead taxpayers to question whether the Commissioner is legitimately in office. And thus ambiguity could call into question the Commissioner's authority to enforce the tax laws.

For example, if the term arguably ended in November, but the Commissioner signed a tax pronouncement the next month, in December, then a taxpayer might challenge the Commissioner's authority to act. Tax administration could be compromised. Taxes that are legally owed might not be collected.

Staff for the Treasury and the Senate gave this issue much thoughtful discussion. We received credible legal opinions on both sides. We need to resolve the tenure of the term before the Senate confirms another Commissioner.

To resolve the differences of interpretation, I worked with the administration to develop the language in this bill. The ranking Republican member of the Finance Committee, my friend, Senator CHUCK GRASSLEY, is the principal cosponsor. I am advised that the President and the Treasury Secretary both agree that this legislation is necessary to resolve any concerns over the term of the Commissioner.

Upon enactment of this legislation, the Finance Committee and the full

Senate will be able to take further necessary steps to confirm a new Commissioner. The IRS needs strong leadership for the upcoming filing season and beyond.

I thank my colleagues for their support of this legislation to clarify the term of the IRS Commissioner.

Mr. President, the legislative history of this provision is inextricably tied to the legal opinions of distinguished counsel for the Senate, the Justice Department, and the Congressional Research Service. The opinion of the Senate Legal Counsel reflects the motivations of this Senator in advancing this legislation. And the opinions of the Justice Department and the Congressional Research Service are essential to understanding the need for this legislation. Mr. President, I commend to my colleagues the legal opinions prepared by the Senate Legal Counsel, the Justice Department's Office of Legal Counsel, and the Congressional Research Service's American Law Division.

Mr. PRYOR. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 2436) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2436

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

SECTION 1. CLARIFICATION OF TERM OF THE COMMISSIONER OF INTERNAL REVENUE.

(a) IN GENERAL.—Paragraph (1) of section 7803(a) of the Internal Revenue Code of 1986 (relating to appointment) is amended to read as follows:

“(1) APPOINTMENT.—

“(A) IN GENERAL.—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. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

“(B) TERM.—The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

“(C) VACANCY.—Any individual appointed as Commissioner of Internal Revenue during a term as defined in subparagraph (B) shall be appointed for the remainder of that term.

“(D) REMOVAL.—The Commissioner may be removed at the will of the President.

“(E) REAPPOINTMENT.—The Commissioner may be appointed to serve more than one term.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendment made by section 1102(a) of the Internal Revenue Service Restructuring and Reform Act of 1998.