

Written statement of Senator Jeff Bingaman upon the introduction of S. 832, the Taxpayer Protection and Assistance Act of 2005; April 18, 2005

MR. BINGAMAN: Mr. President, I rise today to introduce the "Taxpayer Protection and Assistance Act of 2005" with Senators Smith, Baucus, Grassley, Akaka, Schumer and Pryor. This legislation combines various provisions intended to ensure that our nation's taxpayers are better able to prepare and file their tax returns each year in a fashion that is fair, reasonable and affordable. As long as we continue to require taxpayers to determine their own tax liability each year, we have a responsibility to ensure that we do not leave taxpayers vulnerable to abuses from those masquerading as tax professionals. This is bad for everyone including the majority of tax return preparers who provide professional and much needed services to taxpayers in their communities. I encourage my colleagues to work with us to ensure that the improvements that would be brought about by this bill are in place before the next filing season begins.

As I previously stated, this legislation is composed of several provisions. The first section would create a \$10 million matching grant program for low income tax preparation clinics much like the program we currently have in place for tax controversies. I have seen first hand the impact free tax preparation clinics can have on taxpayers and their communities, as we are fortunate to have one of the best state-wide programs in the nation in New Mexico. TaxHelp New Mexico, which was started only a couple of years ago, helped 17,000 New Mexicans prepare and file their returns last year resulting in over \$14 million in refunds - all without refund anticipation loans. This year they are on pace to pass their goal of helping 25,000 elderly and economically disadvantaged taxpayers with free tax preparation and electronic filing of their returns. This program, started by Fred Gordon and Robin Brule from TVI and Carol Radosevich and Jeff Sterba from PNM, has turned into one of the best delivery mechanisms for public assistance I have seen in the state. This program has been fortunate to receive additional funding from the Annie E. Casey Foundation and the McCune Foundation. In order to continue to grow though, we need to do our part in Congress and give them matching funding so they can continue their outreach into new communities in need of assistance.

The second set of provisions contained in this legislation would ensure that when taxpayers hire someone to help them with their tax returns they can be sure that person is competent and professional. The first part makes sure that an enrolled agent, a tax professional licensed to practice before the IRS, shall have the exclusive right to describe him or herself as an "enrolled agent," "EA," or "E.A." In New Mexico, enrolled agents play an important role in helping taxpayers with problems with the IRS and with preparing their returns. They have earned the right to use their credentials and we should prohibit those who have not taken the rigorous exams and have their experience to confuse the public into thinking they too have the same credentials.

The second part of the bill requires the Treasury to determine what standards need to be met in order for a person to prepare tax returns commercially. Like all other tax professionals, this will require people who make a living preparing tax returns

to pass a minimum competency exam and take brush up courses each year to keep abreast of tax law changes. The majority of tax return preparers already meet these standards and it is clear that those who do not need to in order to prepare returns for a fee. The Treasury Department will also be required to operate a public awareness campaign so that taxpayers will know that they need to check to be sure that someone preparing their tax returns for a fee is qualified.

The third set of provision would directly address the problems with refund anticipation loans (RALs) which is a problem throughout the country, but is particularly bad in New Mexico. First, this bill requires refund loan facilitators to register with the Treasury Department. Refund loan facilitators are those people who solicit, process, or otherwise facilitate the making of a refund anticipation loan in relation to a tax return being electronically filed. The legislation also requires these refund loan facilitators to properly disclose to taxpayers, that they do not have to get a RAL in order to file their return electronically, as well as clearly disclose what all the costs involved with the loan. Finally, the refund loan facilitators must disclose to taxpayers when the loans would allow the taxpayers refund to be offset by the amount of the loan. Failure to follow these new rules will empower Treasury to impose penalties as appropriate. Like the credentials required for preparing returns, the Treasury Department would need to operate a public awareness campaign to educate the public on the real costs of RALs as compared to other forms of credit. This program will be funded, at least in part, by amounts collected from penalties imposed on refund loan facilitators.

The last section of the bill is an issue that my colleague from Hawaii, Senator Akaka, has been actively working on for the last several years. This provision would authorize the Treasury Department to award grants to financial institutions or charitable groups that help low income taxpayers set up accounts at bank or credit union. Because many taxpayers do not have checking or savings accounts, their refund from IRS cannot be electronically wired to them. The alternative is to have the check mailed to the taxpayer or to have the refund immediately loaned to the taxpayer in the form of a RAL. Of course, getting people to set up a checking or savings account for purposes of receiving their tax refund will also have the benefits of getting many of these people to start saving for the first time.

Before I conclude, I would specifically like to thank Anita Horn Rizek from the Finance Committee for her tireless dedication to improving our nation's tax system and ensuring that all taxpayers are treated fairly regardless of their income class. Without her efforts this legislation would not have been possible.

I hope my colleagues will join with the cosponsors of this bill to ensure that another tax year does not go by without making these modest changes. In order for our voluntary tax system to continue to function taxpayers must have access to tax professionals with the highest ethical standards and greatest substantive knowledge possible. This bill will go a long way toward maintaining the integrity of the tax administration system.