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PRESIDENT'S BUDGET FOR FISCAL YEAR 2017

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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PRESIDENT'S BUDGET FOR FISCAL YEAR 2017

WEDNESDAY, FEBRUARY 10, 2016

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:31 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Crapo, Roberts, Thune, Portman, Coats, Heller, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, and Warner.

Also present: Republican Staff: Chris Campbell, Staff Director; Sam Beaver, Professional Staff Member; Tony Coughlan, Tax Counsel; Jay Khosla, Chief Health Counsel and Policy Director; Jim Lyons, Tax Counsel; Eric Oman, Senior Policy Advisor for Tax and Accounting; Preston Rutledge, Tax Counsel; and Jeff Wrase, Chief Economist. Democratic Staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; and Adam Carasso, Senior Tax and Economic Advisor.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will come to order.

Today's hearing is on President Obama's budget for fiscal year 2017. I particularly want to thank Secretary Lew for appearing before us this morning and providing his time for us.

While there were some hints about some of the details in advance, Congress officially received the President's budget proposal yesterday. And as has too often been the case—particularly under this administration—what we received was not a practical vision for the future but an ideological document designed more to satisfy political constituencies than to advance, at least in my opinion, serious policy proposals.

For example, in his budget President Obama once again looks to raise taxes on hardworking Americans, including some special new regressive taxes that are being packaged as "fees," with all the revenue going to fuel expanded government and spending that is being sold to the public as "investment." No matter what terms people want to use, this budget once again taxes too much, spends too much, and never balances. It presents a vision for expanding government deficits as far as the eye can see, and an ever-growing national debt.

That debt, by the way, currently stands at an astronomical $19 trillion as of last week, I believe it was—close to 80 percent larger than when the President took office and at a level relative to the size of our economy not seen since the years surrounding World War II.

I will also note that the budget contains provisions relating to Puerto Rico. The challenges facing Puerto Rico have received a lot of attention in recent months, and, unfortunately, much of the debate has been overly politicized. The President's budget calls for $6.6 billion intended to provide an Earned Income Tax Credit for residents of the island and roughly $30 billion for increased Medicaid funds, some of which are intended to offset what we are now being told was an inequity written into the so-called Affordable Care Act.

Apparently, the authors of ACA wrote a Medicaid funding cliff for Puerto Rico into the law. Now we are being told—by some of those same authors, no less—that this funding cliff is unfair and must be undone. I would like someone—maybe Secretary Lew or perhaps any of the members of Congress who drafted and supported the health law—to explain why that was done in the first place.

I have been working hard with a number of my colleagues to put together a package to help the people of Puerto Rico, who should be our real focus in this. I have a bill with Senators Grassley and Murkowski that offers assistance, along with more than $7 billion of fiscal relief to the island, without adding a penny to the Federal deficit or debt. And since last summer, I have been asking administration officials, as well as some of my Senate colleagues, just how much additional health funding they would like to see for Puerto Rico. In every case, specific details have been withheld, and Congress has simply been admonished to fix this problem in a fiscally responsible way.

Yesterday, with the release of the budget proposal, we finally saw specific proposed numbers from the administration. Why it took until now for these details to emerge is beyond me, but at least they are here. In addition, while we are on the subject of Puerto Rico, I do not believe the administration has been straightforward about the nature of the debt restructuring authority it is seeking for the territory.

While we keep hearing from our friends on the other side that Republicans are ungenerously denying Puerto Rico access to the bankruptcy protections offered to every municipality in the U.S., that is actually not what is being sought. Specifically, the administration is advocating to provide unprecedented debt-restructuring authority to Puerto Rico, with an explicit preference for public pension liabilities over debt issued by the Puerto Rican Government, even though the territory's constitution gives preference to some of those latter debts.

We need to be clear about what is actually being debated and proposed here, and, Secretary Lew, I hope to learn more about your thoughts on this today. And going forward, I surely hope to learn more about Puerto Rico's pension exposures. In fact, just this morning I wrote to the Governor of Puerto Rico asking for details, since, all told, Puerto Rico's debt and its unfunded pension liabilities amount to almost $120 billion.

As we know, lurking behind the recent increase in ever-larger municipal bankruptcies nationwide is a growing crisis of underfunded public pensions, and the underfunding of Puerto Rico's public pensions is striking.

Another issue that I look forward to discussing today is a provision of the recently enacted FAST Act regarding the inactive debt collection program. As we will likely hear today from Senator Grassley, if not others, the conference report accompanying the law made clear that the intent of Congress was for Treasury and the IRS to expeditiously implement this provision by utilizing approved private collection contractors and debt collection centers. The law also requires that contracts be signed within 3 months after enactment. That deadline is March 4th, just over 3 weeks away. So I look forward to a status update today on the efforts to get the contracts signed and the cases released and to ensure that taxpayers are made aware of the program and how it is going to be implemented.

Finally, and related to the large Federal debt that Treasury is supposed to manage, I want to make note of some disturbing revelations from the House Financial Services Committee about contingency plans formulated by Treasury and the Federal Reserve. Secretary Lew, as you know, for nearly 5 years now, I have asked Treasury and the Fed for details about plans the agencies had to handle debt default, whether caused by a natural disaster, terrorist attack, cyber-attack, or debt limit impasse. I have asked for these details in writing, in public hearings, and in private conversations.

And in response to my inquiries, you, your predecessor Secretary Geithner, Fed Chair Yellen, and former Chair Bernanke have all opted to cloak any contingency plans in secrecy, sharing them only in private discussions with financial market participants. All of you failed to provide specific answers to direct questions, choosing instead to obfuscate the issue. We know these contingency plans exist, yet officials at the highest levels of the executive branch have refused to share them with Congress or the American people.

Now, I find this unacceptable. And because we have received virtually no voluntary cooperation on this issue, legislation to require such cooperation and provide accountability is now probably necessary so the American people can know as much about our debt management as those working at Treasury and the Fed and in financial markets.

So as you can see, we have quite a bit to discuss today, and I look forward to a robust discussion of these and other important issues.

With that, I will turn to my friend, the ranking member, Senator Wyden, for his opening statement.

[The prepared statement of Chairman Hatch appears in the appendix.]

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Mr. Chairman, and thank you for holding this hearing. And, Secretary Lew, we appreciate your being here for what I believe will be one final time on this particular item of business.

I would like to start, Mr. Secretary—and you and I have talked about this—by trying to put taxes, your principal focus, in what I think is the right context. Right now in America, there are two different tax systems. The one that most working people deal with is mandatory. Their taxes come directly out of their paycheck. And then there is another system for the well-connected, and under that system, it seems that you can often pay what you want when you want to.

The fact is, most working Americans earn one or two paychecks a month. They may have a mortgage, a few kids. Those taxpayers interact with a very small portion of the American tax code. But there are far too many shadowy, cobweb-filled corners of the tax code that typical Americans never have to venture into. Those corners are loaded with byzantine rules that accountants and lawyers from white-shoe firms can use to pry open loopholes.

As a result of all this complexity, you have increasingly slippery definitions of capital gains and income, and an array of tax-dodging strategies with names like "wash sales" and "swap contracts." It is a mind-numbing system. And it is no wonder why somebody who works the line at a factory or has a gig at a mom-and-pop business would believe the tax code is stacked against them.

Now, I do not think anybody would make a huge bet on a complete rewrite of the American tax code this year so as to address the entirety of the unfairness in terms of how our tax system plays out for those working families. But I do see a major opportunity for Democrats and Republicans in the Congress, working with the Treasury and the IRS, to work together right now. And that major opportunity is to crack down on the tax avoidance schemes that have resulted in the corporate tax gap.

Now, I am going to have a lot more to say about that this afternoon when Commissioner Koskinen comes before the committee. But the short story is that two-thirds of the $1 trillion owed in corporate taxes goes unpaid every decade, and in my view, every policymaker ought to be doing more to figure out why and how you are going to fix this. And I also see this as an opportunity to free up resources so as to be able to take on a number of the big economic challenges of this time.

And, by the way, there are a number of proposals that are in the budget that are clearly going to be of significant benefit for workers. Certainly the auto-IRA proposal would help a lot of workers start saving for the first time.

As you know, Mr. Secretary, a number of us on this committee have proposed to expand the savers credit. We are all interested in helping those who are walking an economic tightrope. The community college proposals, in my view, are going to be quite helpful to students pushing to find that first high-wage, high-skill job. And you have a number of investments in children's health that I think are very constructive.

So there are a number of smart proposals that could be a huge help to working-class families and small businesses across the country, and I look forward to working on a bipartisan basis with our colleagues here to pursue those issues.

Mr. Chairman, I also want to wrap up by thanking you, because I think it is worth noting, here in the Finance Committee, Chairman Hatch has scheduled three hearings for us to come together on a bipartisan basis to examine the President's budget proposal. In my view, that is a major responsibility that we have and also a practical need to communicate with the administration. And that is true no matter which party controls the White House. And in fact, these debates that we are starting control much of the debate over the course of the year. Apparently, some other committees are not exercising this same responsibility this year, and I just want to say that I hope that does not become a precedent.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator Wyden.

[The prepared statement of Senator Wyden appears in the appendix.]

The CHAIRMAN. Before we go any farther here, let me give an introduction to Secretary Lew.

Secretary Lew was confirmed to his current position on February 27, 2013. Prior to his confirmation as Secretary of Treasury, Secretary Lew served as President Obama's White House Chief of Staff and, before that, Director of the Office of Management and Budget, a position Secretary Lew also held during President Clinton's administration, from 1998 to 2001.

After leaving the Clinton administration and before joining the Obama administration as Deputy Secretary of State for Management and Resources, Secretary Lew served as executive vice president for operations at New York University and did teach as a clinical professor of public administration at NYU's Wagner School of Public Service until June 2006, when he was named chief operating officer of Citigroup's Alternative Investments Unit.

In the middle of a long public-service career, Secretary Lew received an undergraduate degree from Harvard College and a law degree from Georgetown University Law Center. Detailing the rest of Secretary Lew's public service career would likely take the rest of this meeting, and as such, let me just say that it has been long and productive.

I want to thank you for all you have done for our country in your current job and what you continue to do. We will just take your statement at this time. Welcome to the committee.

STATEMENT OF HON. JACOB J. LEW, SECRETARY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Secretary LEW. Well, thank you very much, Mr. Chairman, Ranking Member Wyden, members of the committee. As Senator Wyden noted, this is the last time I will be presenting the President's budget, so there is kind of a nostalgic element to it. But we enter this final year with a great deal of energy, because there is still so much that we need to get done for the American people.

As the President said in his State of the Union address, this is a time of extraordinary change, and to make this change work for the American people, we need to foster opportunities for all. We need to leverage new technologies to solve urgent problems such as climate change; we need to pursue a smart foreign policy that protects our national security; and we need to work together to improve our political discourse. What we do in each of these areas is crucial to our future as a Nation.

Today, I will discuss the major aspects of the President's budget and how it lays out a vision for what we need to do as a country both now and over the next 5 or 10 years and beyond to create growth and make sure that opportunity is truly broadly shared.

In the 7 years since President Obama took office at a time of the worst financial crisis since the Great Depression, we have seen a sustained economic recovery and an unprecedented decline in Federal deficits. Notwithstanding some of the recent volatility that we have seen and are seeing in financial markets, economic growth continues at a solid pace. Since my testimony a year ago, our economy has continued its record-breaking streak of private-sector job creation, which has reached nearly 6 consecutive years and more than 14 million jobs.

Over the last 2 years, we have experienced the strongest job creation since the 1990s. At 4.9 percent, the unemployment rate is half of its 2009 peak. Real GDP expanded 1.8 percent last year—a pace of expansion that exceeds many of our major trading partners, and we continue on a sound fiscal path. From fiscal year 2009 to 2015, the deficit as a share of GDP fell by almost three-quarters, to 2.5 percent.

Despite this progress, we have much more to do to fully address the challenges associated with our new economy. The President's 2017 budget puts forward the building blocks of a social compact for the 21st century, creating the conditions for sustained economic growth while upholding the basic American belief that everyone who works hard should get a fair shot at success.

It shows that investments in growth and opportunity are consistent with and contribute to putting the Nation's finances on a strong and sustainable path. And the budget substitutes more balanced deficit reduction and ends sequestration, while making other critical investments and addressing our fiscal challenges over the next 10 years.

Today, I would like to briefly focus on three key areas of the President's budget, including our proposals to reform the tax code, invest in infrastructure, and support working families.

First, fixing America's business tax system is essential to promoting long-term growth and broad-based prosperity. The budget includes a number of concrete tax reform proposals to make our system more strong and more fair, including a complete reform of our international tax system and a specific proposal to close the inversion loophole. While inversions may be legal, it is wrong for companies to take advantage of our infrastructure, our education, our support for research, our rule of law, and then avoid paying their fair share of U.S. taxes. I look forward to working with this committee and the Congress to close the door to inversions.

Second, we need to invest more in modern infrastructure that will create middle-class jobs in the short term and meet the needs of a growing economy in the long term. To accomplish this, the administration has proposed a phased-in $10-a-barrel fee on oil production and import that will ensure that we better manage the costs associated with fossil fuel use, provide long-term solvency for the Highway Trust Fund, and offer new funding for clean energy investments. The budget also funds an expanded core infrastructure program and takes small steps to level the playing field for private investment in public infrastructure projects through the Financing America's Infrastructure Renewal, or FAIR, program.

Third, we must support working families. This budget seeks to respond to the changing relationship between workers and employers. For example, it proposes expanded unemployment insurance and introduces a new wage insurance program to help families stay on their feet when underemployed as part of a job transition. This budget also proposes to expand access to workplace retirement savings opportunities, complementing our success with the myRA program launched last year to help those without savings or retirement options begin to save for the future.

In conclusion, the President's budget will create a stronger, more inclusive economy today and in the future, while also maintaining fiscal responsibility. Of course, we must also work together to respond to more immediate events. As the chairman noted, in Puerto Rico there is work that we need to do, and I thank the chairman for working with us in December and since to try to think through an approach to dealing with this critical problem. Puerto Rico faces unemployment at 12 percent, and it is experiencing an unsustainable debt crisis. The administration has proposed a comprehensive plan to address the Commonwealth's financial challenges, and I encourage Congress to act with the speed that this crisis requires. This must begin with legislation to permit a financial restructuring along with new oversight, neither of which costs any taxpayer dollars.

This budget does not address every challenge we face. As the President said in the State of the Union address, progress is not inevitable but, rather, it is the product of choices we make together as a Nation. We face a number of big choices in the coming years. For example, we still must take actions to strengthen Social Security to keep true to our commitment to previous and future generations of workers. The decade of fiscal responsibility laid out by this budget gives us the time we need to address these long-term challenges. And the recent agreement on the debt limit and budget not only demonstrates that we have the capacity to find common ground on difficult issues, but it also lays a foundation to address the immediate challenges we face.

I look forward to working with this committee to make more progress together over the coming year, and I look forward to answering your questions.

[The prepared statement of Secretary Lew appears in the appendix.]

The CHAIRMAN. Well, thank you, Secretary Lew.

Puerto Rico's general obligation debt has specific repayment priority, according to the Constitution of Puerto Rico, yet your proposal, at least in my opinion, would blow right through that constitutional protection, even while you argue that Puerto Rico's autonomy must be respected. And as I understand it, your proposal would also give preferential treatment among unsecured claimants to obligations of Puerto Rico's public pensions and would, in effect, give those claimants preferential treatment relative to the general obligation bond holders.

Of course, the issues here are very complicated. Among general obligation bond holders are retirees in my home State of Utah who, under your formulation, would be subject to less preferable treatment than Puerto Rico public pension claimants.

Now, I wonder if you could explain your proposal a bit more and explain your proposal to provide preference for public pension obligations over others, where some of those others are retirees in places like all of our States, really, but in places like my State of Utah, who also have claims on Puerto Rico that they thought were protected.

Secretary LEW. Senator, the financial picture that Puerto Rico faces is very complicated. They have 18 different series of bond issues. They are very complicated. There are different levels of priority, different constitutional protections.

But the math is clear. With $72 billion of outstanding bonds, they do not have the capacity to support the debt service on that, and there is a need for a restructuring. And a restructuring needs to include all of the bonds or virtually all of the bonds in order to be effective because, if you do it on too small of a base, it does not work. And we have never said that all bond holders get treated equally, so certainly there is the space to reflect the differences between different categories of bond holders. Even the voluntary offer that the Commonwealth put forward reflects that principle.

And with regard to pensions, I think if you look at what has been happening in the last few months, pensions are being shifted, pension contributions are being moved, to pay bond holders right now. So you have workers in Puerto Rico paying into a pension fund, but the money is coming out to pay bond holders. That is not going to be there for their pensions. That is not a tenable arrangement.

The result in Puerto Rico's economy is clear. You are seeing thousands of people a month leave Puerto Rico. The economy of Puerto Rico cannot sustain the outmigration of the people who are capable of building the economic future. And I know that we have talked about this many times, Mr. Chairman; there is a crisis here that we agree needs to be addressed. The question is, how do we do it in a way that works, and how do we do it in a way that is fair?

We have put forward a proposal that we think is comprehensive. What we have made clear is, the first steps have to be restructuring authority combined with oversight. That will not completely solve all the problems, but that is where the time urgency is. And we look forward to working with you on an approach to that that meets the standard of fairness that we can all defend.

The CHAIRMAN. Well, thank you, sir. I often hear questions about why Congress will not grant Puerto Rico retroactivity, you know, the same chapter 9 bankruptcy tools that many municipalities across the country can access. Retroactive chapter 9 authority is what Senator Blumenthal's bill and a proposal in the House involve, but your proposal, which some have called "Super 9," is far different. Representative Pierluisi has indicated lack of support for your Super 9 proposal.

Now, no one in Congress has filed legislation with a Super 9 structure. State and territorial officials have expressed concerns about your proposal, including concerns about moral hazard and increased borrowing costs for States and municipalities across the country that could result from your proposal. So it seems that your broad restructuring authority has not received broad public support once the details are known.

Now, I wonder if you feel that there is support for your proposal in Congress, and, if so, if you have any thoughts on why no one has introduced your proposal as a bill in Congress?

Secretary LEW. Well, Mr. Chairman, I have talked to all of the office holders in Puerto Rico: the Governor, the legislative leaders, their Representative in the House. I think there is a broad understanding and shared view that they need to have restructuring authority that will work, that will encompass enough of the debt.

The CHAIRMAN. No question about that.

Secretary LEW. And I know there are concerns with how that is structured. Those are details we could work through. As we have gone through this at a technical level, both with your team and with others in Congress, we have aired issues where there is room to find ways to work through this.

But what does not work is to say that Puerto Rico should somehow solve the fiscal dilemma that it faces without some very broad restructuring authority, because Puerto Rico's debt is principally the thing that is drawing down its ability to stay solvent. It is a case of insolvency where the debt is just beyond what they can support. And unless it is restructured in an orderly way, what will happen is, it will go through a decade of protracted litigation where different stakeholders with different bond holder interests will be suing the Commonwealth in court. You will have a lost decade where I do not know if the Commonwealth can recover from a 5–10 year period of litigation.

So there is an urgent need to address this, and we would look forward to working with you and with others in Congress. I know I have had conversations probably with 50 members of the House and Senate, maybe more than that. There is a broad understanding that something needs to be done here.

I guess what I just want to make clear is, when we act, we have to act in a way that works, or else the problem will be coming right back at us. And I do not think that will serve anyone's interest.

So we share the concern that this be something that is perceived to be fair. We share the concern that there be oversight to make sure that the future is a path which is sustainable. And I would look forward to working with you and others to find a quick solution to get there.

The CHAIRMAN. Thank you. My time is up. Senator Wyden?

Senator WYDEN. Thank you. Thank you very much, Mr. Chairman.

Secretary Lew, as I indicated in my statement, you and I have talked about, when it comes to finding issues that Democrats and Republicans ought to be able to work together on, this corporate tax gap comes front and center. Two-thirds of $1 trillion owed in corporate taxes goes unpaid over a decade. And I recently sent a letter to the IRS Commissioner concerning the agency's apparent lack of tracking of these corporate tax issues, and I think there are some questions. And I know we cannot in 5 minutes get into all of the details that I think would be very helpful to get on the record, because I think there are some questions about whether the agency really knows the sources, the major sources, of this corporate tax gap.

Based on your current knowledge, what are the major sources of corporate tax avoidance contributing to this vast sum of money that goes unpaid?

Secretary LEW. Senator, I think the challenge is, there are not just one or two causes. There are many aspects of our economy that are just not on the books. There are many aspects of our country where businesses are organized to avoid taxes. If they do it legally, that is a different issue than if they do it illegally. And one of the basic challenges we have had at the IRS over the last few years is that, by being deprived of resources, we lack visibility into things that we should have more visibility into.

I think it is a very good thing that at the end of the year we saw some restoration of a recognition that, in order to have an effective tax service, you need to fund it so that you can do enforcement, you can do oversight, you can get the data you need to answer the kinds of questions that you are asking.

I totally agree with you, we should be able to put more resources into working on identifying the sources of the tax gap, and if there are enforcement mechanisms to get at it, to use our enforcement tools to do that. But enforcement is people. You know, you do not enforce by turning on a computer. You enforce by having revenue agents; you enforce by having teams that can do investigative work. And I am grateful for the increase we got, but, frankly, it was not for those purposes. The increase we got was for very important things like dealing with cybersecurity, being able to answer our phones. We still have gaps in the IRS budget that just do not give us the resources we need to enforce as effectively as we should.

Senator WYDEN. Does the IRS, in working with the Treasury, have a modern database to track the major sources of the corporate tax gap? Because based on the letter and the communication we have had with the IRS, I do not think that is clear. I am going to get into it this afternoon, but I know you look at that very substantial sum of money, as I do, and say, not only is that not right, it is not fair to taxpayers who, as I indicated, just have their taxes pulled right out of their paycheck directly. But it also would be an opportunity to show that we can make tough choices. We can raise money, certainly, by collecting taxes owed and then make judgments about future priorities.

So is there a database now, a modern database, to track the sources of corporate tax avoidance?

Secretary LEW. Well, we do obviously have databases at the IRS, but as you know, they are old systems. They are systems that I think the team at the IRS does a very good job of making look more modern than they are by making them more accessible to taxpayers and others who are looking for information. But behind it all is a very old computer system.

One of the things that we will be doing, mostly with a focus for cybersecurity and identity theft, is upgrading the computer system with some of the additional funds we have. But this has been an ongoing issue at the IRS, that it is an old computer system. I do not want to say it is a system that cannot give us the ability to do this analysis, but I would defer to Commissioner Koskinen on the details of what needs there would be in terms of the data processing capacities. But overall, it is a system that needs investment.

Senator WYDEN. One last question, if I might. As you know, there is a big difference between the tax on wages and the tax on investment income. And the gap, of course, has increased, and particularly it ought to be put in the context of the last major tax reform when Ronald Reagan decided, in conjunction with a lot of Democrats, Bob Packwood, a whole host of people, that he was going to have equal treatment in terms of taxes for somebody who makes a wage and somebody who has investments.

In your view, what does the President's budget do to begin the effort to close this gap in taxation between taxes on a wage and tax on investment income?

Secretary LEW. Senator Wyden, the budget does quite a number of things. Some are repeat proposals from the past, things like changing the capital gains tax rate, like dealing with stepped-up basis. And some are new, like our provisions that try to get at all forms of income no matter how it is structured so that you cannot avoid self-employment taxes or taxes that were put in place to pay for health care by categorizing your income a certain way.

I think it is a real problem in terms of the concentration of income we see today at the very top and the fact that the income comes in a form that is taxed very differently. The system does not look fair to working people who just pay tax on every dollar that comes in.

That does not mean we should have a punitive standard towards unearned income, but when you can convert earned income into unearned income to get a lower tax rate, it creates a real problem.

Senator WYDEN. My time is up. I just think it is worth noting that, in the last tax reform effort, Democrats and Republicans said there was an opportunity for everybody in America to get ahead, and one of the ways they did it was to treat wage income and investment income the same.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Roberts?

Senator ROBERTS. Mr. Chairman, thank you very much for holding this hearing, and, Mr. Secretary, welcome back.

I just want to register right off the bat my strong opposition to the proposal to place a new tax on oil. I know that is popular, certainly popular given the situation with the presidential race. I do not think it is an extraordinary opportunity; I think it is another blow to the oil and gas industry, which is hurting.

Now, I have read and heard the economists talk about placing a tax on carbon in order to "address market failures and to properly account for the alleged costs of carbon-based energy sources." The same economists contend that this would have little impact on the economy and that these costs, which they readily acknowledge will be passed through to consumers, can be implemented in a manner to minimize the impact on lower-income taxpayers.

I have also heard it said that with the price of oil so low, now is the best time to implement an oil tax, and this is a quote: "Fewer people will notice this tax." Well, I know they may not see it, but they sure as heck are going to feel it. Just because the tax hit would be less visible under the current market conditions does not mean that its impact would be less severe.

I want to take a quick look at how this proposal will impact my State of Kansas where we still endeavor to produce oil and gas, despite the war against oil and gas by the administration.

The oil and gas industry is a major component of the Kansas economy. Our producers on average invest over $700 million annually in the State. Ten percent of the workforce is employed in oil and gas production, either directly or in downstream industries. That is 118,000 workers who would be affected. That amounts to about 12 percent of Kansas payrolls and over 15 percent of the State's tax revenue. All told, this is about $3 billion in family income in my State. It is no secret that global oil prices and supply-and-demand issues have hit the Kansas oil and gas industry hard, as well as many other States.

Some of the State's oil and gas service companies have laid off as much as 50 percent of their workforce, and some producers have seen layoffs of 20 to 25 percent of their workforce. Kansas production has dropped about 5.5 percent, and State tax revenue from the industry has dropped by over 50 percent.

These are real impacts, very severe impacts, happening right now. This is just directly within the industry. Think about the related manufacturing and service industries. The administration has proposed a massive new tax, and make no mistake, it would significantly burden the economy, directly spilling over into gas prices and almost everything else produced or transported within our economy.

The Kansas oil and gas industry is already hurting. I think this proposal would only make things worse. I find that unacceptable and hope that we certainly do not approve this.

As described in your Treasury General Explanation, 15 percent of the revenue from the tax would be dedicated for relief for households with particularly heavy industry costs, sort of like a new national LIHEAP program. I do not view this as an extraordinary opportunity. In Kansas, most of the oil exploration and production companies are considered by any standard small businesses. My question is, does your department propose to set aside any of the revenue from this tax to assist oil and gas industry workers or workers who lose their jobs or are otherwise harmed by the new oil tax?

Secretary LEW. Senator, I think if you look at the price of oil over the last year, or even over the last days, you have seen movements that are far more dramatic than the impact of the $10 fee over 5 years. The $10 would be phased in over 5 years. I think we all know that we are watching oil prices moving by much bigger amounts than that almost on an instantaneous basis every day now. So I do not think we should exaggerate what the size of the fee is.

We do think it is important at a time, particularly when oil prices are low, to put in place a mechanism that will both help to capture the benefit of making the price signal one that contributes to better usage, but also to put in place a mechanism for us to invest in the technology and the infrastructure that we need going forward in this country. It would put our Highway Trust Fund in a more balanced, safe, sound place, and it would give us the renewable technologies and the new technologies of the future.

It would apply to imported oil as well as to U.S.-developed oil, so it does not have a differential impact on——

Senator ROBERTS. Are you going to set aside part of this to help the oil and gas industry with regards to small businesses that would be hurt by this tax?

Secretary LEW. So we obviously have set aside resources to deal with those who are low-income who have no alternative but to face higher prices but no income to bear it. I am happy to take a look at a proposal that you would have along those lines.

Senator ROBERTS. Well, I would think——

Secretary LEW. I would be happy to get into a discussion about it.

Senator ROBERTS. If it is low-income folks whom you are going to try to help with sort of a LIHEAP program, I think you ought to take a look at the harm that this tax will have on the oil and gas industry and maybe actually help those folks as well.

Secretary LEW. Well first, you know, we do not know what the exact amount is that will be passed on to prices. That is going to depend on——

Senator ROBERTS. Well, my time has expired. I really appreciate your response.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Schumer?

Senator SCHUMER. Thank you, Mr. Chairman. My first question is on tax reform, international tax reform, and you and I have talked about that at great length over the last year. To summarize, I think we need it for two reasons.

First, American multinational companies should pay the taxes they owe. Right now, our companies making profits overseas can keep that money stashed offshore, avoid taxation altogether. That is unacceptable.

Second, we have to protect American jobs and the future of our Nation's economy. As you are aware probably more than anybody else, more and more of the Nation's multinational companies are leaving our shores altogether, partnering up with foreign companies to pay lower taxes in foreign jurisdictions, moving headquarters jobs and intellectual property overseas.

So you, Secretary Lew, and the administration, the President, have put forward a very serious international tax reform proposal that would transition to a new form of international taxation. House Republicans have proposed similar solutions. I have been pleased to work with a bipartisan group, including on this committee Senator Wyden, Senator Brown, Senator Carper, and Senator Warner. And we are trying to bridge over, of course, the divide between existing proposals.

There is common ground. I remain at the table ready to work. I assume that is the case for you as well.

Secretary LEW. Absolutely, Senator.

Senator SCHUMER. That is called a softball question. You are allowed to answer it. [Laughter.]

Secretary LEW. We continue to believe that working together to get business tax reform done is absolutely a high priority. We got closer last year than people outside thought.

Senator SCHUMER. Yes.

Secretary LEW. There were very good conversations going on where there was a pretty broad sense that there might be an agreement on international business tax reform where we use one-time revenues to pay for infrastructure that we all want to be able to support without building future liabilities into the tax system that are unsustainable in terms of cost. It was disappointing that at the end of the year there seemed to be some pulling away from that. But we do not pull away from it. Our budget puts in place the proposal——

Senator SCHUMER. What is interesting in your budget is, it is the same proposal as last year, but the number of revenues by Treasury's modeling increases from $205 billion to $350 billion.

Secretary LEW. That is for the international tax provisions.

Senator SCHUMER. Correct, and that is because more companies are moving overseas and keeping their money overseas. Is that right?

Secretary LEW. It is simply a technical estimate of how much we think money is being kept overseas and how much it is being subject to tax overseas and what would come here when the tax is put in place.

Senator SCHUMER. Right. So that means——

Secretary LEW. We need to deal with the problem.

Senator SCHUMER. That increase in revenues also means lost jobs here, and it should be a warning signal, a shot across the bow to us.

One final point, and this is for our Republican colleagues—and I have worked with Senator Portman and many others, you, Senator Hatch, on this proposal—and that is, I know the administration feels strongly, as do many of us on this side, that international reform must be coupled with investments in this country because that is the way to use not all of the money, but at least some of the money that we gain from getting these revenues, and without it, it is going to be hard to pass something. So has your view stayed the same, that we will not get a deal on international tax reform this year or forever without pairing it with some significant degree of investment?

Secretary LEW. Senator, for several years, we have been advocating linking those issues for two reasons. One is, if you do not use that revenue for a one-time expenditure like an investment in infrastructure, you cannot cut rates with that amount, or it would be then losing revenue in the long run. So we think that that solves the structural problem of how do you deal with one-time revenue.

Secondly, we have this enormous infrastructure need that there is broad bipartisan support for. If we are going to ever get a business tax reform bill that has real bipartisan support, it has to include the infrastructure investment.

Senator SCHUMER. Agreed.

Secretary LEW. So we are very much of that view.

Senator SCHUMER. I agree, and now Speaker but then Ways and Means Chair Ryan understood that completely. I just hope people on the other side will not pull away from that, because that will make it much harder to pass it. My final question—go ahead.

Secretary LEW. I was just going to say, while we are going to put every effort we can into getting full business tax reform done, I just want to underscore the urgency of dealing with inversions.

Senator SCHUMER. Right.

Secretary LEW. We are seeing more and more stories of companies going overseas, large companies. We cannot wait a year to deal with this.

Senator SCHUMER. Agreed.

Secretary LEW. We need to deal with it, and deal with it now. And you could, if you wanted to, deal with inversion on its own. I do not think that is ideal. We should deal with business tax reform. But I do not want to be leaving in a year watching more companies having moved overseas, and I do not think anyone on this committee wants to look at that either. And the answer is, you need legislation.

Senator SCHUMER. I agree we need it. Can you answer this "yes" or "no," because my time has run out. Essential to getting Puerto Rico back on track is a broad bankruptcy provision. That is the view of many of us here on this side of the aisle. Is it the administration's view?

Secretary LEW. Absolutely. The only thing I would say is, there are multiple ways of drafting it. It does not have to be drafted as a bankruptcy code amendment. It could be drafted in terms of legislation that applies to the territories. The effect would have to be broad restructuring authority.

Senator SCHUMER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Stabenow?

Senator STABENOW. Thank you very much, Mr. Chairman and Ranking Member, and welcome, Mr. Secretary. It is always wonderful to have you before the committee, and let me start by thanking you for working with me and leaders in my State to help us in a number of different areas. We very much appreciate it.

As I start, when you were talking about the unemployment rate when President Obama took office, in Michigan it was 15.7 percent, and we were at the verge of losing the major foundation of manufacturing in the country. And with the administration's help, the President's help, we have turned that around. Unemployment is now 5.1 percent. So from 15.7 to 5.1 is a huge change.

The challenge, as you know all too well, is that not everyone is feeling the recovery. And so when people lost the equity of their home, the primary way that middle-class families save, or lost their job, or even in the auto industry, took major cuts to save the industry, for those who have been threatened on all sides, it is very, very difficult even though the broad aggregate numbers are incredibly positive. And I want to speak about one area and ask for your comments regarding one area of incredible insecurity for people, and that is around pensions. And I know that colleagues of mine as well have spoken with you—and I share the concern—about the United Mine Workers. I am particularly, from the standpoint of

Michigan, concerned about the multiemployer pension plans and the reform legislation that passed at the end of last year, which, as you know, gave administrators of plans the ability to apply cuts to earned pension benefits for the first time since 1974. And it was, unfortunately, part of a must-pass appropriations bill to avoid a government shutdown at the time that did not give us, did not give Congress, time to debate the impact on retirees. And from my perspective, a pension is a promise. It is a key cornerstone of how we have had a middle class and the dignity and respect of work in this country. And I am deeply concerned about what we now face.

On Monday, Treasury held a public meeting in Detroit to hear from retirees who would be directly affected. More than 500 people showed up for that meeting. They went into great detail about how they would be hurt by huge cuts, in some cases 50 to 70 percent of their proposed pension. These are folks who gave up annual increases in pay to have a secure pension for their future. And so this is incredibly concerning. I mean, it is really an outrage when I look at these numbers, and I would like to know what the administration would propose to address this incredibly serious issue and really broken promises for folks who have worked hard all of their lives and are trying to figure out how to go on in retirement.

Secretary LEW. Senator, as you and I have discussed, it is a terrible problem, and there is no easy or good answer. And, as a result of the legislation you described, cosponsored in the House by Congressman Kline and Congressman Miller, that responsibility now falls to the Treasury Department to review the plans for working through multiemployer plans that are not able to make their payments.

The challenge is, they all go to an underfunded Pension Benefits Guaranty Corporation fund, and, if there is not enough money in the fund to pay the benefits, the question is: do you drain that fund and then have nothing for anyone?

We are in the process through the hearings you described—we appointed Ken Feinberg to administer this for us. He is going around listening, and he is listening to heartbreaking stories. And in the end, we will have to review the proposals that come forward from the plans, as actions are taken, and the first one will come up for review I believe in May.

We will continue looking at what options there are in terms of how to review them, but at the core is this tension between not enough money to pay the benefits and very, very difficult changes in benefit structure to make the plans last longer. And since we do not have additional money to inject into the system, it does not give us the option of just saying, you know, kind of continue as you are, because that would end up hurting even more people.

So these are terribly difficult discussions, and they are wrenching decisions, and I appreciate Ken Feinberg taking the task to report to me on that, and I will continue to stay close, working with all of you.

Senator STABENOW. Thank you, Mr. Secretary. And, Mr. Chairman, one of the things I hope we will look at in future hearings is the accounting changes, the laws that were changed in the last several decades that allowed overfunded pension plans to suddenly be available for various other purposes, and changes that had nothing to do with workers that have created a large part of this so that now we are talking about funding, but there is a lot more to it in terms of how pensions got to this particular point. And I think we have a lot of hard questions to look at and decisions that were made that were not in the best interests of working people.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

Mr. Secretary, just a couple of general observations about the budget: $3.4 trillion in new taxes; revenues to GDP end up at 20 percent, which has only happened once in the last 50 years—the 50-year average is 17.4 percent revenue to GDP—spending goes up to 22.6 percent of GDP. That has only happened five times in the last half-century; the 50-year average there is 22.6 percent. And so spending is up, taxes are up, and, at the end of the decade, the debt goes from about $19 trillion today to $27.4 trillion.

So the budget really is more spending, more taxes, and more debt. And it just seems to me that—you guys are on your way out. I mean, this was a chance to go big and go bold. And I just see it as another missed opportunity to do something that really matters about what we all know the fiscal crisis facing the country is, and that is mandatory accounts. It is the mandatory spending. In fact, the budget shifts more spending over into the mandatory account. So just some general observations—again, I am expressing my frustration and disappointment.

I do have a question. This comes back to, slightly changing gears here for just a moment, how the U.S. financial services companies are treated under our trade agreements. My understanding is that the Treasury Department opposed the idea of providing U.S. financial services companies the same protections with respect to ensuring cross-border data flows that most other U.S. companies will benefit from under the TPP agreement. So I am just wondering if you might be able to clarify Treasury's position on the issue. Do you believe that U.S. financial services firms should be protected from foreign laws that impose restrictions on where they can transfer or process customer data?

Secretary LEW. Senator, this is a provision in TPP that we have been working on, talking with the financial services community about, but also with our own regulators. One of the issues here is the requirements of our regulators in terms of how they view what they need in order to have their prudential reviews of financial institutions. So, as we are in an international space, we cannot give away something that our financial regulators would need here in the United States. But we are working with industry and with the regulators as we go through this. We are sensitive to the concerns. It is certainly not something that is designed to, was meant to, put a burden on U.S. financial institutions. We bargained very hard in TPP to get terms that are very favorable generally to U.S. financial institutions on a global basis. This is actually a case where what we in the United States—"we" meaning not Treasury but our independent regulators—require in terms of data availability is one of the issues we have to work around.

Senator THUNE. I know generally on cross-border data flows, the agreements I thought were things that we really prioritized, but it seemed with financial services it was a different standard. What you are telling me is that that is actually something that you are working on with the industry and the regulators to——

Secretary LEW. Yes, and we have, in other aspects of TPP, been very aggressive to make sure that local data requirements are not put in place, for example, to restrict the ability of a global system like a credit card system to work effectively, because we have big industries in that area. This is kind of a sub-issue because of the regulatory requirements here in the United States, but we are working through it and are sensitive to the concerns.

Senator THUNE. Okay.

Secretary LEW. If I might, Senator, just back to your observation, and I do not mean to take your time——

Senator THUNE. But you will.

Secretary LEW. If I could take 30 seconds of it?

Senator THUNE. Go ahead.

Secretary LEW. It is true that the budget would trend back up in the end to 20 percent of GDP. I remember well when we were at 20 percent of GDP. I was Budget Director at the time. We had a surplus in the United States, and we were on a path towards paying down our national debt, and it was a period of great economic growth.

I think when you look at the growth of spending, you have to recognize that Medicare and Medicaid, for demographic reasons, will grow, and, as a unified budget, we have to look at, are we doing what we need to do? I think that some decisions that were made between 2000 and 2009 made it harder. I think that our budget puts it in the right place, and we do not spend any money that we do not offset, so fiscally it is balanced. And I think these are important conversations for us to have going forward this year and beyond.

Senator THUNE. Well, I would just say, though, the tough choices are with regard to those parts of the budget that we all know are growing dramatically. And in a matter of a few years it is all going to be entitlements and interest on the debt that eat up all of our revenue that comes in, and everything that we spend for defense and discretionary is going to be borrowed money, which is why we end up with a huge debt at the end.

So I mean, part of it, of course, is we have to figure out how to meaningfully rein in, reform those programs so that they fit the demographics of the future. And then we have to get growth up to a higher level, which obviously I think comes back to some of the issues which—I am out of time—I will not have a chance to get into, but I think tax reform goes squarely at. So you know, when you are growing at 1 to 2 percent or slightly more—I think you were saying 2.3, 2.6 over the course of the next decade—it just does not get us there fast enough.

So thank you, Mr. Chairman. My time has expired.

The CHAIRMAN. Thank you.

Senator Coats?

Senator COATS. Thank you, Mr. Chairman.

A little bit of what I am going to do is vent. Senator Thune laid the precedent for being able to do that.

When you said that this is your last presentation here before the committee——

Secretary LEW. Presentation of a budget. You are welcome to have me for other purposes. [Laughter.]

Senator COATS. Well, particularly related to the budget, I would think you would say you are relieved not to have to come back, because every budget you came to present has been soundly rejected by the Congress, and both parties. I think last year it got one vote. I am not sure who that was. In previous years, it has gotten zero votes. So I mean, you must think that at some point, what a waste of time and effort goes into coming up here, presenting a budget, and not having any support from either party. That is just an observation of mine.

You state on your first page here that this is a vision for the future, and I look at this as something that is totally disconnected with the reality of where we are. Senator Thune talked about the big gorilla in the room that we have not been able to deal with, and that is mandatory spending. And as you know, over the last 5 or 6 years, the Congress together with the President has tried to come to some solution to put in place some long-term reforms that would keep us from becoming insolvent and so debt-laden that our children and grandchildren simply are not going to begin to have the opportunities that my generation has had. So that is a failure on all of our parts, not without trying, but the bottom line is, it is a failure, and it is going to continue to put us in a very, very difficult situation.

So I guess one of my questions is, why do we go through this charade? Speaking for my constituents—who I think are being reflected in these primaries as simply saying, you guys are spending stuff that we no longer accept. And whether it is the Democratic Party or the Republican Party, there are messages being sent out there saying, we have caught on to this shell game that goes on in Washington. They sit there and talk about how to fix the future, and the future looks ever more dim.

So why can we not sit down here and talk about the real problems that we face and offer some solutions instead? And you said, do not worry, because everything we are going to spend in the future is offset. Well, it is offset by $3 trillion of more taxes. And I do not know of an economist out there who says the way to prosperity and creating innovation and creativity and supporting, not only our businesses and innovators but supporting our middle-class families and lower-income people, is to raise taxes $3 trillion over the next 10 years.

So I guess I am using most of my time here to vent, but I would like to get your respons to some of this, because I just think, based on what we watched last night, the public is saying, "This is a bunch of gibberish going on up here in Washington, and we want something different." And obviously, radically different, from both sides. I mean, both of our establishment candidates got shellacked in Iowa and shellacked last night. They are frustrated with DC—I am not talking just Ds or Rs or Independents—they say, these people have failed and why can we not get on to something that is more related to reality?

Secretary LEW. Well, Senator, I recognize that we have different views of how we should address the future, but I think this budget is a very clear picture of how we believe we should address the future. I think we have also shown over the last couple of years that, when we sit down and engage on difficult issues, we find pathways to work together and make real progress. We made real progress last year on a number of important issues.

So I actually think it is quite relevant to present a coherent vision. It is part of our system that there are different approaches to what the answer for the future is. And if we could get back to the place where you take those differences and you figure out where you can work together, we ought to be able to do business tax reform. There is a lot of overlap between the two sides of the aisle here and between the administration and Republicans in Congress on how to think about it. We should just sit down and do it. I think people would feel better if we had a tax system where we did not have inversions anymore. I actually think there is a lot in the budget that we should make progress on.

Senator COATS. We might be better able to do it if you would bring forward a budget that gets at least a majority of support on a bipartisan basis. When you bring forward a budget year after year after year and it gets zero votes from Democrats or Republicans, does it ever give you pause that maybe your vision for the future is not selling with the American people?

Secretary LEW. I have been working on budgets for most of the last 40 years, and I have not known a year when there has not been that kind of a difference between parties beginning the year. And then you go to work on the things where you can get work meaningfully done——

Senator COATS. But regarding the major issue that we all face, both sides, mandatory spending, over the last 40 years we have not addressed that.

Secretary LEW. Well, we actually have over the last 40 years done a lot of things on mandatory spending that have made a difference. I mean, I was part of Social Security reform in 1983 that made a real difference.

Senator COATS. That is legitimate, and that is 1983.

Secretary LEW. And I think if you look at the Affordable Care Act, while we may not agree on the policy, it is pretty clear that it has helped reduce spending on health care in Medicare. It has extended the life of the trust fund. It is the most important turning of the corner on spending on health care in decades.

That does not mean we do not have more work to do, but I actually think when we have an environment where we can work together on the things where there is room to make progress, we can give the American people something that they should be proud of. When it is just shutdowns and fighting and crisis, it is not hard to understand how people get fed up with that.

Senator COATS. The chairman has been very generous with my time. I yield back, Mr. Chairman, but thank you, Mr. Secretary.

The CHAIRMAN. Thank you.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Secretary, thank you for your good work. I want to talk about Puerto Rico: 3.5 million American citizens, and I underline that, American citizens who have fought in our armed forces in just about every conflict this country has had for the last century. And if you come take a walk with me to the Vietnam War Memorial, you will see a disproportionate number of their names on that wall.

Now, due to a multitude of issues, American citizens living on the island of Puerto Rico are now in dire straits. They have an economic and debt crisis that threatens to explode into a full-force humanitarian calamity, and that is not politics. That is the reality on the island. It is the reality that I hear from many Puerto Ricans living in the State of New Jersey who have loved ones there, who tell me about the challenges of their families on the island.

Now, there are those who contend that Puerto Rico should not be able to restructure its debt, even though it had that right in the law at one time, and it was surreptitiously stripped out and no one knows why—but it had that right—and instead that it should simply raise taxes and cut spending to a degree to get its books in order.

The problem with that is that the debt payments in Puerto Rico are 36 percent of Puerto Rico's annual revenue, a rate that is six times the U.S. average. So it seems that any solution that does not include restructuring authority will be woefully inadequate. And, you know, I know some people say this is being politicized. I think it is being politicized for the hedge funds, the bottom feeders who bought cheap and now want to maximize their profits. That has nothing to do with the 3.5 million American citizens in Puerto Rico. And it has nothing to do with the exodus that we are seeing of Puerto Ricans coming to the mainland, where they will enjoy all the rights and responsibilities of any other U.S. citizen—which, by the way, will be far more costly.

So I want to get the administration on the record to make this clear. And, in fact, if Puerto Rico did not have to make its debt payments, it would actually run a $1-billion surplus this year—a $1-billion surplus.

So do you agree that providing Puerto Rico with the tools to restructure the debt is a necessary component of any successful recovery package?

Secretary LEW. Senator, I totally agree. I think there are other things that need to be part of a comprehensive plan in the long run, but there is an immediate crisis in Puerto Rico. I was just in Puerto Rico a couple weeks ago. I met with business leaders. I met with working people. I met with all the public officials. It is not a future crisis. It is a current crisis. They talk about hospital wards being shut down, schools being closed, pensions that are being drained of money, people paying into pension funds that are being emptied out to pay for bond payments. This is not sustainable. People are leaving the island. And the economy cannot recover if the economy shrinks because people leave.

When you are insolvent, it is by definition what you said: your bond payments just cannot be supported any longer, and you have to restructure. That is what happens in the private sector when companies become insolvent. It happens when cities become insolvent.

Puerto Rico has a unique package of debts. It is complicated. There are 18 different series of debt. They could be in court for 5 to 10 years with litigation. I do not think Puerto Rico's economy could recover from 5 to 10 years of protracted litigation. There will not be an economy to talk about. And so I feel it is a real crisis.

Senator MENENDEZ. So, if it was good enough for Trump, it is good enough for the people of Puerto Rico?

Secretary LEW. Well, I am going to leave the comparisons to others, but I do think that 3.5 million Americans who are going to be in chaos if Congress does not act——

Senator MENENDEZ. Let me ask you this very briefly. The chapter 9 authority open to municipalities, that really does not meet——

Secretary LEW. It does not really work. It addresses about a third of the debt, and that is not——

Senator MENENDEZ. And with large debt payments due in May and July, is there not going to be a point where we will face the consequences if we continue to delay to act?

Secretary LEW. You know, they have only managed to be in default on small bond issues by doing things that are almost unthinkable in terms of financial management. I mean, when you talk about prematurely emptying out pension funds to pay bond holders, that is not something you do if you are not already bankrupt. And, when you talk about taking money that is dedicated to one bond holder and shifting it to pay another bond holder, that cannot go on for very long.

So I cannot tell you at what point they run out of those extraordinary and very unhealthy kinds of tools. But it cannot go on forever, and restructuring authority has to be in place enough in advance that they can actually restructure to meet May and July as they come.

So I think the first quarter is a meaningful period. The deadline the Speaker set for the House to act in the first quarter is very important. We are willing to work with anyone and everyone who approaches this with the intention of solving the problem. We know that there is going to have to be oversight along with restructuring. I do believe that doing something on the Medicaid reimbursement and EITC is important. But I totally agree with you: without restructuring, there is not a solution.

Senator MENENDEZ. Well, Mr. Chairman, there is a fierce urgency of "now" on this issue, and I just do not get the sense that many of my colleagues understand that. And I hope we can awaken them to that fierce urgency of "now" and the rights that 3.5 million American citizens have and would have if they were living here in the United States. It is just fundamentally wrong. And so when you ask people to don the uniform, shed their blood, risk their lives, and at the same time you cannot treat them with the same dignity and respect that they would have here on the mainland, something is fundamentally wrong about that. And I hope we can prick the conscience of the Senate to move on this issue, Mr. Chairman, because this is really consequential to millions of people.

The CHAIRMAN. You raise a lot of good points, and to be honest with you, we are in the process of doing that. I am going to come up with a different bill than the one we filed which would do the job to a large degree, or at least get us started on it in time to do it even more thoroughly. So I hope I can enlist your support when we finally get this—there is no politics, as far as I am concerned. I want to get it done, and I will do my——

Senator MENENDEZ. Mr. Chairman, you will have my support if, at the end of the day, what we are going to do is give the people of Puerto Rico the same opportunity that any United States citizen has here. So I am happy to work with the chairman towards that goal. I just have a real fierce sense of urgency, and I cannot, you know, elaborate on that enough to drive that point home. I appreciate the chair's——

The CHAIRMAN. Well, I am trying to get this done before the end of March, and we will see what we can do.

Senator Brown, you are next.

Senator BROWN. Thank you, Mr. Chairman. I want to throw in with the words of Senator Menendez about the 3.5 million citizens of Puerto Rico—again emphasizing these are American citizens—and that this should be done quickly and the fierce urgency of "now" that Senator Menendez talked about.

Secretary Lew, thank you for the work you are doing. I have in my State and Senator Portman's State the city of Lorain, the city of Cleveland. Lorain at one point had a higher percentage of Puerto Ricans than any city in America. Right after World War II, 500 men from Puerto Rico came to Lorain to work at U.S. Steel, and their girlfriends and families followed to the point that there is a vibrant community there, and so many of them are still very connected to the island of Puerto Rico as American citizens.

I want to talk for a moment, Mr. Secretary, about something this committee did, Mr. Chairman, that was so very, very important. As part of the bipartisan tax extenders package, we made permanent the temporary extensions of the Earned Income Tax Credit and the Child Tax Credit. Whether measured in terms of the number of people lifted out of poverty or in terms of the additional money they have placed in low-income families' pockets, this is the largest anti-poverty advance since the 1993 Budget Act, save the Affordable Care Act. So other than the Affordable Care Act, what this committee did bipartisanly last year on the EITC and CTC was the most important anti-poverty advance that this country has had.

I want to focus, of the two, on the Earned Income Tax Credit. In 2013, the most recent year for which complete data is available, some 27 million families and individuals earned and claimed the EITC; 6.2 million people were lifted out of poverty; half of those were children. But a glaring hole remains in the program. Workers who do not claim children, as you know, Mr. Secretary, on their tax return are the only workers who can be taxed more deeply into poverty, which is ironic considering we always brag about rewarding work when we make our speeches around here. It is wrong. Nobody who works full-time should live in poverty. That is a fundamental—should be a fundamental tenet of American values, and I think it is.

Forty-three of my colleagues and I, including many of us on this committee, introduced a proposal to correct this problem. Speaker Ryan has offered similar proposals, as has the administration. Give us thoughts, if you would, on the proposal, the need it would address, and particularly its impact on the economy.

Secretary LEW. Well, Senator, first, I agree with your assessment of the significance of making the refundable credits permanent. I do not think that there is anything more important that we could have done to deal with poverty in this country and to create an incentive to work, which is why there has historically been bipartisan support for the EITC. I think that this is one of those areas where there ought to be a way for us to work in a bipartisan way to get something done. I have talked to Speaker Ryan when he was chairman of the Ways and Means Committee and since about this many times. He has talked with the President about it, as has been reported.

I think that this is an area where, if we could put some other issues aside and concentrate, we could create a model for how you deal with problems of shared concern that both help deal with an inequity and help get people back into the workforce. If you tax people into poverty, you cannot then complain that people are not becoming part of the workforce. I mean, one of the reasons the EITC was created was to make work pay, to make it so that people would not have this kind of perverse taxation when going to work at very low wages.

So I do not know that there is any more elaborate economic response to it. I think you put a pretty accurate point on it. If you have a tax that is taxing people into poverty, it is not a good tax. And if you have a solution, it is one that there ought to be broad bipartisan support for because everybody supports work. And the Earned Income Tax Credit was created in a Republican administration. It has been supported in bipartisan budget agreements for many decades that I have been involved with. I hope this can be the next chapter, and I hope we can do it this year.

The CHAIRMAN. Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman, and, Secretary Lew, thank you so much for your leadership and for your service over so many years.

I want to start with an unrelated issue, which is, I wonder whether you could describe for the committee—we have a vote tomorrow on the Customs bill—the enforcement provisions in that bill and their importance.

Secretary LEW. Yes, Senator, thank you. I think that the enforcement provisions are very important because, while it is critically important to have trade agreements that open borders for free trade, it is equally important that we have meaningful tools to enforce fair trade and that we use those tools. I mean, antidumping and countervailing duties are important tools, and the Customs conference report comes after we had taken some action at the end of last year, where we added to the resources we have in our departments to implement the antidumping and countervailing duty laws. So, when the conference report on Customs is passed, it will be another round of enforcement tools.

It would create accountability for future administrations—this administration and future administrations—for the prosecution of cases of duty evasion. The bill creates deadlines by which the Customs and Border Patrol will have to notify U.S. companies of actions taken to investigate allegations of antidumping and countervailing duty. It gives the Border Patrol extra tools to protect intellectual property. It streamlines operations to facilitate the flow of legitimate trade. And it gives us tools on an issue that you helped to craft to bring currency issues into sharp focus so we can be even more effective pushing back on any unfair practices in that area.

Senator BENNET. I appreciate your help on that provision. I want to go back to the line of questioning that Senator Thune was talking about, because we are at the moment cutting, across the board, domestic and defense spending. And from the point of view of the next generation of Americans, that is certainly not what we ought to be doing. And, simultaneously, we now have $19 trillion of debt on the balance sheet, which from the point of view of the next generation of Americans is a lousy deal. That combination is toxic for the people who are coming after us.

And I wonder—I would like to give you the opportunity to tell us what advice you are going to give your successor for how they could lead this Congress in a bipartisan way to actually begin to address this staggering imbalance that we are proposing to place on the next generation of Americans. The time has come for us to actually get this work done. So what is your advice for how we can do it? Lead us out of the wilderness.

Secretary LEW. Senator, I think whoever takes my place will be coming into a very different situation than my predecessor, and I stepped into——

Senator BENNET. I should point out—I am sorry—that the last time we did have a balanced budget, you were the Budget Director. So that is another reason I am asking.

Secretary LEW. Well, thank you, Senator, and I am proud of that. You know, we had a deficit that was 10 percent of GDP, and it was climbing, and it was looking like the debt would cross 100 percent of GDP. We had a full-blown crisis that we had to get our hands around. We had to steady the economy. And then we had to start moving towards deficit reduction, both as the economy recovered and as we could reach political consensus.

We are delivering an economy in a very different place. You know, we have a budget which is stable. We have the deficit below 3 percent of GDP. The projections of the deficit as a percentage of GDP stabilized in this 10-year window, around 75 percent of GDP. I am not saying that that is something that we should have for all time, but it is not like a hockey stick going off. And I think that whoever takes my place will be coming into a situation where hopefully there will not be crisis management but the kind of long-term planning where you can say 10 years, 20 years, 30 years down the road, where do we want to be?

Our budget actually is something of a blueprint for how to think about it. We have to invest in the short and medium term to get the kind of economy that gives people a chance to have a stake and a future that is bright. And I think to have the debate about what do you do about long-term entitlements will be a very different debate if we can turn the corner on the sense that so many people feel left out of the economy today.

So I think to jump right into dealing with what do we do 10 and 15 years from now, when there are real needs in transportation and infrastructure, real needs in education and training, real needs in research that we are not meeting, we have to fill that space. I think the budget agreement at the end of last year gives us a period of time where we can make progress there. The budget lays out a lot of ideas. Let us get progress done on the ones that we can agree on, and then whoever comes in will hopefully be able to take the debate forward. It is not a debate that begins and ends. It goes on.

As I said to Senator Thune, we have to be realistic about what the mix of revenue and spending is. When we balanced the budget in the 1990s, when we ran a surplus, we had 20 percent of GDP revenues, as was pointed out. That was consistent with running what was projected to be a $5.5-trillion surplus the day I left office.

Now, if you are looking at a period where we have the Baby Boomers retiring, it should not be a surprise to anyone that the demographics are a little rougher. You know, when my generation was born, everybody knew that 65 years later people were going to be 65. So that is not a surprise. What we could have done in the 2000–10 period was carry forward the fiscal position we were in in 2001. We did not do that. Then we had a financial crisis. Then we had a recession. But we are now in a more stable place.

So if we are going to make progress in the short and medium term, we are going to have to work towards the politics that permit the kind of civil debate to deal with these issues on a bipartisan basis, which is the only way they can really be dealt with.

Senator BENNET. Thank you, Secretary Lew.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman.

Secretary Lew, I will just ask one question, and I will be brief because I have to run, but I want to commend you for your public service. This is your third or fourth chapter of significant public service, and we are grateful. It is a hard job in any environment, but especially the current climate in Washington. So we commend you for that.

I was talking to you earlier today about an issue that I know you work on every day and the administration does as well and probably does not get enough attention: the strategy to focus on terrorism financing or our efforts to cut off financing to terrorists, and especially now the challenge that ISIS presents.

I would ask you just to answer one question, if you could update us on your current efforts; and, number two, is there anything you hope we would do in addition to the obvious thing the Senate has not done, which is to confirm Adam Szubin? You cannot talk tough on terrorism and not confirm Adam Szubin, who is the leader on this issue in your department. So, in addition to putting an important focus on Adam Szubin, whom we should confirm, could you give us an update on what is going well in terms of cutting off ISIS financing and what more we can do?

Secretary LEW. I appreciate your calling attention to the urgent need to confirm Adam Szubin as Under Secretary for this critical set of responsibilities. Our department and our government are the leaders in the world in dealing with threat financing, and we have to provide help and technical support and information to countries around the world to be effective. And we should have an Under Secretary who has been confirmed to do that job as effectively as possible, and I appreciate your support.

Let me just give you a little bit of a background and current state of where we are in the counter-ISIL effort in terms of finance. ISIL has evolved over the last couple of years. They started by conquering territory and taking bank vaults and using the money. They then developed oil resources and extortion—"taxes" they would call them, but we consider the methods they use to be extortion—to get renewable sources of funding.

As they have changed, we have changed. So we have worked with the Government of Iraq to close 90 branches of banks in ISIL-controlled territory. We have worked with our military to target vaults so that they could literally be blown up to destroy money that is in their control. We have worked to close the energy resources so that it is much harder, if not impossible, for them to sell that oil in most parts of the world, though obviously there is trade with Syria in particular that is very troubling.

When you look at what we are doing now in terms of what is called "Tidal Wave II," we are not just striking the oil refineries. We are striking at the oil tanker trucks which they use to move the oil to the border, and we have been very effective. We have worked with the Government of Iraq to shut down payments into the system. So there are employees and retirees who are not getting paid because they live in ISIL-controlled territory. These things are very hard on the non-ISIL people in that territory, but it is what you have to do to deprive them of an evergreen source of funding.

Now, I cannot say that we are done. They are always evolving, but what they have also done is they have grown so that they need more money than they can raise, and that means they cannot continue to grow, and we have to keep cutting back on their sources of renewable funding, make it harder and harder for them to grow and force them to shrink. And obviously, there are other military efforts, but I am just talking about what we can do on the finance side.

We had a meeting at the United Nations, at the Security Council, in December, the first time in history that finance ministers from around the world met in the Security Council. And together with Russia, I sponsored a resolution that had the whole world agree to treat ISIL the way we treat al Qaeda for the purpose of threat finance and sanctions.

So we have an aggressive effort. It has diminished their ability to keep their financial flows up to their needs. We have turned, I think, a corner in terms of making it hard for them just to stay where they are, and they have to make hard choices. And we need to do more, and we have powerful tools to do it. But they are not the kinds of tools we used with Iran. It is a different entity. There is a lot of work we need to do bilaterally with countries in the region, so we do not just shut down oil trade but we shut down cement trade. And it is not like trucks come with banners saying that they are ISIL trucks. Everything goes through middlemen. And one of the things we did at the UN was to make middlemen liable to sanctions, so that it is not just the ISIL forces themselves that can be sanctioned, but it is anyone who deals with them.

So we have a lot of work to do, but we are working very hard at it, and Adam Szubin is leading the effort for us.

Senator CASEY. Thank you very much.

The CHAIRMAN. Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman.

Secretary Lew, I join my colleagues in thanking you for your extraordinary career of public service and the effective manner in which you have handled Treasury. I am very proud of your work.

We are here on the budget. We are here on some of the tax proposals that are in the budget that is under the jurisdiction of this committee. And I certainly support what you are trying to achieve in higher education to make it more affordable for American families, to make pensions easier for individuals to accumulate funds for retirement security. Senator Portman and I are working on some of these ideas and hope to work with you.

Some of your energy proposals, particularly making permanent the 179(d) provisions dealing with energy efficiency and expanding it to retrofits—all that I think is good. New Market Tax Credits, thank you; permanency and expanding the limits, very important in the State I represent. Low-Income Housing Tax Credit expanded—there are a lot of good things in here. I just want to use my time to talk about the fundamental issue of the competitiveness of our tax code globally.

You are making certain recommendations that you made in the last budget. They certainly deal with parts of the problem. But they do not deal with the fundamental issues. The two fundamental problems we have are, one, we have two tax codes—one for the wealthy and one for the rest of us, and the wealthy figure out ways to get around the changes we make, and they are always two steps ahead of us. You have some proposals in here to deal with that, but if we pass them, they will figure out something else.

And the second is, we have high marginal rates compared to the countries we have to compete with: the 35-percent corporate rate that you deal with and you try to get lower, the 39.6-percent individual rate. And what is amazing about that is that this Nation, among the nations we compete with, relies less on the governmental sector, so why should we have the largest marginal rate?

So I want to know why we are not considering something fundamentally different where we could have the lowest marginal tax rates in the industrial world by 5 percentage points on both income and consumption. We could get a corporate rate down to 17 percent, an individual rate down to 28 percent, and we could do this in a revenue-neutral way so you are not going to lose any revenues—it is all paid for within the tax code. You are not trying to take it from one sector to the other. It is all within the tax code itself. It rewards savings. It is very efficient. You do not use the tax code as much as it is used today for policy, but use it to collect revenue. That may seem a little strange to use the tax code to collect revenue. It is progressive, more progressive than the current tax code. I would say that is not necessarily a high bar, but it is more progressive than our tax code, which I would think most people would want.

One of the complaints we hear about it is that, well, that is visionary, it is long-term; what can we do in the short term? We have been talking about this for 30 years. This is your last opportunity to give us good advice, and I would hope you would be visionary.

And one last point, if I might, before I give you your time to respond. There are now Democrats and Republicans both proposing this type of tax reform, so this is not something that cannot happen. It can happen. And the more and more people look at it, they start to say, gee, why are we not doing this? Why is America sticking out as the only industrial nation in the world that does not use consumption taxes?

So I understand the political hurdles. I would tell you this: your proposals have political hurdles. Some of them are so commonsense, but everything has political hurdles. So why not try to correct the problem?

Secretary LEW. So, Senator, obviously the question of income tax versus consumption tax is a very serious theoretic, analytic one. We have never endorsed a consumption tax. Many other countries do, and their overall tax burden may not be lower than ours. It is just that the way it is paid is through different mechanisms. So their income tax is lower, but their total tax may well be higher.

We do, as you know well, have sales taxes at the State and local level in many parts of the country, so this is an area where there has been a Federal income tax and State and local authorities have tended to use sales taxes.

It is not by the basic nature that a consumption tax is more progressive. By its basic nature it actually could potentially be less progressive. One would have to design it very carefully in order to make it progressive.

Senator CARDIN. The two design factors—and we have introduced a bill to do this, so this is not hypothetical. The two design factors are, first, that it will be revenue-neutral. It will not grow revenue, it will not lose revenue. It will be revenue-neutral. And the second is, it will be more progressive than our current tax code because you cash out the benefits that we have under our current system to make our tax code progressive.

Secretary LEW. So I understand that those are the objectives that would be behind a proposal that you have designed. I am just saying that inherently in the design of consumption taxes, people at low income levels consume 100 percent of their income; people at high income levels do not. You have to overcome that by design.

So it is not something we have supported or we are working on a proposal for. Obviously, it is an area of intellectual inquiry that anyone working on tax policy pays attention to and thinks about, and I would be happy to have conversations about it, but it is not an area where we are currently looking to put proposals forward.

Senator CARDIN. I did not expect you to embrace it. That was not the purpose of the question. The purpose is this: that we are going to have hurdles getting any of this done, and we have been arguing about this for a long time. And it is no longer theoretical. The fundamental problem we have is that we are not competitive, and there is no reason why we should not be competitive. We should have an advantage in our tax code. As you point out, when you add up the tax burdens of the countries we compete with, they have a higher tax burden than we do. So why are we losing companies to Great Britain, for example?

Secretary LEW. Yes. I think, Senator, that our business tax system is the reason we are losing companies, not our individual tax——

Senator CARDIN. Over 90 percent of our businesses pay a personal rate.

Secretary LEW. But those are not the companies that are moving overseas.

Senator CARDIN. Some are.

The CHAIRMAN. Senator, your time is up.

Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman. And, Secretary Lew, good to have you back with us. As former OMB Director, you are probably having nightmares about the budget hearings that you have had in the past, and this is relatively easy.

Secretary LEW. Many fewer notebooks as Treasury Secretary than as OMB Director.

Senator PORTMAN. Yes. I always hated those hearings.

Senator Cardin talked about the competitiveness of our tax code, and you and I have talked a lot about this. Senator Schumer talked about it earlier. I agree with Senator Cardin that we have to have a broader reform of our tax code in order to be competitive, including those companies that are pass-throughs. But in the meantime, we know, as you have said today, that we have a real problem with regard to our business tax as it relates to C corporations, and they are not competitive. And my one concern about what you said today, as you know, is you are focusing a lot on these inversions. I do not think inversions are the biggest problem. I think the biggest problem is just that companies are not competitive, and, therefore, even when you cannot invert because we put some regulations out there, we continue to have the problem.

I would reference Shire. As you recall, AbbVie was going to do an inversion with Shire. These are two huge pharmaceutical companies, Shire an Irish company. They did not move forward because they did not want to go through the hoops that you required in your regulations. And so what has happened? Over the last 13 months, Shire has bought now four U.S. companies. They have said, fine, you guys put these regulations out, we will just start buying, gobbling up U.S. companies. The last one was a couple of weeks ago, a $32-billion acquisition, their fourth one. And as you know, they take investments and jobs with them when they do this.

So we have to get at the underlying problem, and I know Senator Schumer talked about it. He and I have worked together on this. We have our working group. You have worked well with us. I am trying to come up with a framework. As you know, I am happy about some parts of the budget and not others as it relates to this issue, and I think we need to keep an open mind.

I am maybe the last one on this committee who really believes we can get something done this year, but I think we have to. It is not so much that it is the right thing to do. It is that we have to, because if we do not, we are going to continue to lose more people overseas. And it is workers, it is wages, it is benefits. That is what gets affected, based on all the studies I have seen. So I would just ask you if you could talk a little about that.

Secretary LEW. I did not mean to suggest that inversions were the only problem. I think inversions are a big problem, and it is indicative of the competitiveness concerns. And I am totally with you that we ought to get something done this year. We had conversations last year where reasonable people could see a pathway forward. I do not think that any of us should feel comfortable just watching more American businesses leave the United States, be purchased by foreign companies, because we fail to make the effort.

Senator PORTMAN. Yes, I appreciate your comments, and I think, you know, let us be honest. A lot of people are saying, well, the leadership in Congress and the White House has kind of put this off. And what you just told me is that you are not putting it off. You are prepared to roll up your sleeves, get reengaged in this with us, and try to do something this year. I think if we wait a couple years, which is what a lot of people are saying, we are going to lose so many more businesses. In fact, about every week or so, we are going to lose one, particularly when people figure out we are not going to deal with it, because in these board rooms, with activist shareholders out there pushing and these investment banking firms and others offering these big proposals that make the owners of the company and the board members well-off but hurt the workers, I think there is going to be more pressure.

Let me ask you about something else, if I could: the Hardest Hit Fund. You have worked with us on ensuring at the end of the year that we had a better allocation for the Hardest Hit Fund. We put more funding in. You got $2 billion now of Hardest Hit Funds that you have to allocate. Senator Brown and I and Senator Stabenow and I have worked on this issue. This is something that affects Ohio a lot, Michigan a lot, some other States. Ninety-one percent of our allocation has now been drawn down. We have so many blighted properties out there, and these are abandoned homes that are not just a magnet for crime, but they are also reducing the value of everybody else's homes in the neighborhood.

So could you just tell us today what you are doing with regard to distributing these funds? We would like them to be directed to the States with the highest need and made available specifically for blight elimination purposes, of course. But could you tell us a little about the allocation formula and how you intend to distribute the funds?

Secretary LEW. Thanks, Senator, and thank you for the work that you, Senator Brown, and Senator Stabenow did to make this funding available. And we are working as quickly as we can to make sure that we get it allocated. We are looking at a combination of approaches to get some money out quickly, as quickly as possible, through an automatic formulaic approach, but also to keep a mechanism to target based on where the need is the greatest on specific applications.

We are very close to completing the process of putting that together. It is obviously only a few weeks since the provision was enacted. I have made it clear to my team that I view this as an urgent issue, because I would like to be able to commit the money and get it out there in use this year. That was the intention of the legislation. And I am very proud of the work that has been done on blight removal using Hardest Hit Funds. It was something that was, at the time, an innovative interpretation of the Hardest Hit Fund, but I totally agree with you. If you have a house on a block with blighted housing on it, if you do not remove the blighted housing, your chances of staying above water are really tough——

Senator PORTMAN. Exactly.

Secretary LEW [continuing]. Because blighted housing brings down all the values. So the economics of it are very strong——

Senator PORTMAN. Well, thank you——

Secretary LEW [continuing]. Communities are very strong. We are doing our best to get it out quickly.

Senator PORTMAN. We appreciate your commitment to that, and let us know if we can help you. All I will say is that we have 100,000 homes in Ohio that we believe are vacant and abandoned, based on the Cleveland-based Thriving Communities Institute, that need help now and are ready to be demolished. And we appreciate your commitment to that, and we hope this funding will go toward blighted communities and toward those States that have——

Secretary LEW. Well, it will be a national program, obviously, but we are very much keeping in mind how to be consistent with the purposes that Congress had in the legislation, and we are, as I say, very close to being ready to—I mean, time is of the essence. We do not want this to become a March, April, May issue.

Senator PORTMAN. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. And, Mr. Secretary, thank you for being here. I had a chance to talk to you earlier, but I want to just reiterate my concern with the budget on the $190-million cut, 19.2-percent cut, to the Hanford cleanup. It is very important that we do not miss cleanup deadlines and that we make sure that technically difficult aspects of this project are met, and that the challenges of the River Corridor remediation continue to have great focus. I know that everybody always looks at the budget and thinks there are ways to get money, the big numbers, and they look at cleanup, but this is the largest cleanup project in the world, and it has taken a long time and needs to happen, and we need to have the continued support.

So I appreciate hearing your comments on that, and I know you will tell me that you are going to get back to me because of your position, but I want to put the administration on notice that this is something that we have grave concerns about in the budget, and we want to work with you on it.

I also would like it if you would comment on where we are with the TPP bill. I supported Trade Promotion Authority because I believe in a global economy. The number of bilaterals that were being done without us was not where we needed to be, and we should allow a lot of different ideas to come before the Congress with different proposals.

So I want to hear where you think we are for the rest of the year with that, because I hope that we are not going to have a delay by our colleagues on the Republican side of the aisle on moving forward on that legislation. I know some people would like to put it off until the next election, but if we truly believe that this is about an effort of the United States making sure that China does not become the dominant player in a developing economy, what are we going to do to make sure that there is market access to U.S. products and goods that are important in the Asian market?

And last, not to throw all this complexity at you on a variety of subjects, this issue of Puerto Rico—because of my other responsibility as ranking member on the oversight of territories—to me it seems like Congress needs to really act on the restructuring. Your budget proposal reflects comments that the administration made before the Energy and Natural Resources Committee that, again, has oversight over territories. So we appreciate that the budget reflects a restructuring plan, but if you could also comment on why it is so important that the restructuring plan take place immediately—I know people think, oh, we might have more time, June, July. We really need to act now, and if you could address that, I would so appreciate it.

Secretary LEW. So, Senator, let me try to quickly cover all three questions.

On Hanford, I will take back the comments you made and share them with OMB. When I was OMB Director, I paid close attention to this, but it is, as you noted, not currently something that is directly mine. But I will take back your comment.

On TPP, the signing of the agreement was an important step. The Customs bill being taken up tomorrow is another important step. And we are going to continue to press forward to have a vote on TPP. Obviously, we are working very hard to make sure that when the vote comes up, we have the support to pass it.

If I could take one step back and look at where we were in early December or the middle of last year and where we are now, we have done a lot of important things to promote U.S. economic leadership in the world and U.S. economic strength. We are not looking at an Export-Import Bank that is unfunded. That is hugely important. We are not looking at IMF quota reforms that are creating friction with the United States and the rest of the world. We have done our part. We have kept our commitment. And we have TPP signed and now queued up for a vote this year.

So we are going to keep pressing forward, but I think that U.S. leadership in the world economically is part of what makes our country strong, and the trade agreements that provide opportunities for the U.S. to participate in the future global growth are a critical part of that TPP.

On Puerto Rico, I have to begin by thanking you for the efforts that you have been making for months now to try to make sure this issue gets the kind of attention it deserves. I believe it is a crisis. I believe there is a need for action immediately on restructuring authority and on oversight. I think there are other aspects, which we address in our plan, where if we can get them done, they are urgently needed. But we cannot put off restructuring and oversight, and we look forward to working with you in your other committee or in whatever committee Congress chooses to address this. But I think the people of Puerto Rico need us to act. That is 3.5

million American citizens who are going to be plunged into chaos if Congress does not act.

Senator CANTWELL. Are we not at the point now where this could cost the U.S. economy billions of dollars if more and more people migrate from Puerto Rico to the U.S. because we have left this issue unresolved? And the notion that they can restructure on their own just is not there. They do not have the authority.

Secretary LEW. We are seeing thousands of people leave Puerto Rico for the mainland, and they are American citizens. They do not need any permission. They have rights to come anywhere and should have those rights because they are American citizens.

What is terrible is that it is further hurting the economy of Puerto Rico when people who are part of the economic future leave the island, and it does shift the cost burden to wherever those people go if there are costs that fall either on health care systems or public authorities.

So the only pathway to a stable future for Puerto Rico has to involve them restructuring their debt. There are a variety of ways that authority could be legislated. We look forward to working with you and others to do it in a way that can meet with bipartisan support. But we just have to remember that at the core, if they do not get to restructure their debt, they are insolvent. They cannot keep making those payments without having the economy grind into a place that it could possibly not bounce back from. And without restructuring authority, they are just going to default on one after another series of debts. They will be locked up in 5 or 10 years of ugly litigation, and that is something that will set the economy back even more.

So the deadline the Speaker set for the House Committee to act in the first quarter of the year was very important. We are going to work with them, with you, with everyone willing to engage, with the chairman, to get something done that will work. It has to be effective. We cannot just call it a solution. It has to work.

Senator CANTWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Heller?

Senator HELLER. Mr. Chairman, thank you. I will take my 30 minutes now. [Laughter.]

First of all, thank you very much for holding this hearing, and thank you also for your commitment to tax reform. And I want to thank the Secretary for being here also, and thank you for your patience to get where we are now.

The comments made by Senators Schumer and Portman are very reflective of some of the thoughts that I have had. And you and I have had some pretty good conversations in this committee, just a year ago when we were talking about the highway bill and the use of repatriation, those revenues, for a fundamental change in the way we deal with infrastructure in this country.

With the passage of the 5-year highway bill that was supported by the administration, is there a different use now for those revenues? You keep talking about infrastructure, but is there another use for it?

Secretary LEW. So, Senator, as you and I have discussed, the 5-year reauthorization was important because going year to year is terrible, but it did not have sufficient funding to provide for the kinds of expansions of infrastructure that we need in so many parts of our country, including the West. So for us to be able to have opportunities to build the infrastructure we need for the 21st century, we are going to need more funding.

We think that using the funds associated with business tax reform are a win-win. First of all, the biggest advocates for infrastructure investment are the businesses of the United States. They need us to have better roads——

Senator HELLER. I agree with you.

Secretary LEW [continuing]. And there is a bipartisan basis for agreement. So we are still very much of the view that bringing them together is essential.

Senator HELLER. And I am pleased that you continue to have the view that perhaps we could get something done this year. I do not know what the possibilities of that are. That is probably up to the chairman more than it is up to me, but I certainly do hope that we keep open minds in this process.

I want to turn to another subject, and that is the IRS. The GAO reported, and I will say the quote, "the lowest level of telephone service during the fiscal year of 2015." You have oversight. Only 38 percent of the callers were able to reach an IRS agent.

Secretary LEW. That is terrible.

Senator HELLER. What is the new threshold? I mean, you oversee the IRS. What is the threshold that you want to meet?

Secretary LEW. Senator, my goal would be for everyone to get their phone call answered.

Senator HELLER. I would agree. What is realistic?

Secretary LEW. If you have visited an IRS call center, you have seen empty seats where there should be people answering the phones. It takes people during tax season to answer the phones. At the end of the year, we got an increase in appropriations that gave us the ability—we are hiring people. You know, we worked as quickly as we could. This tax season, we will have more people in place to answer calls. It will not be perfect. We did not get enough money to completely solve the problem, but we are going to dramatically improve——

Senator HELLER. What should be the expectation?

Secretary LEW. Commissioner Koskinen will be here this afternoon——

Senator HELLER. Right. I am going to ask him the same questions.

Secretary LEW. He probably will be in a better position to give you a pinpoint estimate. You know, we want to substantially reduce the wait time and the drop rate because, frankly, I believe it is unacceptable for taxpayers to call their government and not get an answer. But that was not because we did not want to answer the phones. We were not given the money to hire people to answer the phones.

Senator HELLER. Is that your responsibility or Commissioner Koskinen's responsibility?

Secretary LEW. Well, he manages the IRS on a day-to-day basis——

Senator HELLER. Right. I know that.

Secretary LEW [continuing]. And reports up to me. He and I talk about this issue. I advocated for the funding that we got in December, so I very much am engaged in making sure that we do better here. But what neither he nor I can say is that we can get the phones answered if we do not have enough people.

I will tell you the truth. We started in——

Senator HELLER. So what is the expectation? I guess that is what I am trying to get at.

Secretary LEW. I do not have at this time a number off the top of my head.

Senator HELLER. We all have the same goals, but what is the expectation?

Secretary LEW. The expectation is, it will be approaching 70 percent.

Senator HELLER. All right. All right.

Secretary LEW. Approaching 70 percent. Whether it will hit 70 percent, Commissioner Koskinen can maybe give you a little bit more. I mean, I will tell you the truth, they were recruiting people before the appropriation passed in the hope that the appropriation was passed. But they could not hire anyone until they had the money. So we are talking about from the end of the year until now standing up new personnel to be in place, trained to answer questions. So——

Senator HELLER. All right. Let us change topics really quickly, because I do not have a lot of time here. He is not giving me my 30 minutes.

On the Omnibus, as you know, there is a 2-year delay on the Cadillac tax. In your budget, you talk about a geographic adjuster. Can you explain the geographic adjuster?

Secretary LEW. The idea behind the Cadillac tax was always to just hit the top, most expensive plans, and say that this is a way to bend the cost curve and a way to make sure that——

Senator HELLER. But that affected 1.3 million Nevadans.

Secretary LEW. Right, and it had geographical disparities because of cost differences in different areas, and there was concern, fairly broad concern, that it was getting beyond the highest-priced plans.

The proposal that we have addresses the concern about geographical disparity and it also makes it clear that it applies to the most expensive plans. And we continue to believe that it is very important that, if we are going to get our hands on the entitlement problem we have all talked about, part of that is bending the cost curve on health care, and the Cadillac tax helps you do that.

Senator HELLER. Is there any other tax that has a geographical adjuster to it?

Secretary LEW. I am not sure. I am looking at my tax counsel. Yes, I would have to go back and check if there are others, but——

Senator HELLER. Here is my concern. It may affect California, it may affect New York, but I have a feeling that it is not going to affect Nevada. And you know, our unions, our public employees, they are all going to be affected. Our senior citizens are all going to be affected by this Cadillac tax in a couple of years. And if this geographical adjustment does not affect Nevada, I have some issues with it.

Secretary LEW. But, Senator, the way this will work is that the threshold will be set at the gold plan level by States, so States with higher costs will get a higher threshold. I would have to check where Nevada fits on the series——

Senator HELLER. Can you get back to me?

Secretary LEW. We can get back to you.

Senator HELLER. Okay. I would like that.

Secretary LEW. It was meant to address in a fair way, across the country, that the gold plan reflected local costs. But we can get back to you.

Senator HELLER. Mr. Secretary, thank you for being here.

Secretary LEW. Thank you.

Senator HELLER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator, for your patience.

Senator Carper?

Senator CARPER. Thanks, Mr. Chairman.

Mr. Secretary, I want to just follow up. I had not planned to raise this, but Senator Heller has raised the issue of a Cadillac tax. I remember 5 or 6 years ago, when we were debating the Affordable Care Act, having economists arrayed here to your left, Mr. Secretary, and to your right, from all across the ideological spectrum, and they said, if you do nothing else on health care reform, the one thing you need to do is to make sure that at some point in time, when the cost of health care coverage for a person, for a policy, reached a high level, at some point in time it should not entirely be treated as a tax-free benefit—there has to be some consequence.

And they all agreed on that. They all agreed on that. We ended up with a jury-rigged, Rube Goldberg kind of approach, the Cadillac tax, to try to scratch that itch. But I applaud your efforts to try to do something geographically in the President's budget. But——

Secretary LEW. We have the support of those economists still. They all signed a letter——

Senator CARPER. They sure have. They sure have. We have their names.

I think Senator Heller also mentioned infrastructure and whether or not the repatriation money for international tax reform should be used for that purpose. I said to the President, and I would certainly say to you, that I would support international tax reform, as part of the working group led by Senator Schumer and Senator Portman. But I said, if we could actually pass that, use that money, at least for a while, for infrastructure, that would be fine by me—although it runs counter to what we have done for 50 years, and that is for the people, the businesses, that use the roads, highways, bridges, to actually pay for them. And it is not a wild, crazy idea. It seems to have worked out pretty well for about half a century.

I was intrigued by the $5-per-barrel oil fee that I think the administration is proposing. I have not drilled down on it——

Secretary LEW. Ten dollars over 5 years.

Senator CARPER. There you go. I have not drilled down on it too much yet, but I am intrigued by it. I bought gas last weekend for my minivan, a Chrysler Town and Country minivan with 413,000 miles on it, and I filled it up for—God only knows how many times it is—but it was the cheapest gas I have bought for a long time for my minivan: $1.73. And I was just standing there thinking, while I was pumping gas, I was thinking, you know, if we would raise the gas tax 4 cents a year for 4 years, that would be 16 cents. Add that $1.73, and gas would still only be $1.89. Maybe we should have done that. But we did not.

So just make the case for me for this proposal, if you would.

Secretary LEW. I think the fee makes sense for two reasons: first, it does reflect the costs associated with fossil fuel use, which is something that makes good sense, and it would, at a time when we particularly have low oil prices, give us the ability to phase in gradually a fee that gives us the ability to invest more in infrastructure, to give a boost to the Highway Trust Fund, and to invest in new technology, which we need to have energy independence far into the future.

So we view it as being something that will serve multiple objectives. We understand it is not a proposal without controversy, but it also meets a number of very important policy objectives.

Senator CARPER. All right. Thank you. I am just coming from a hearing on the Environment and Public Works Committee, and we are focused on the work of the Army Corps of Engineers. As you know, they do a lot of important infrastructure work, mostly along our coasts, but also on rivers and so forth. We were bemoaning—one Senator after another—the fact that there is not enough money for the Army Corps of Engineers to do the work. There is a huge backlog. And as it turns out, there is this huge backlog that you referred to and that I have talked about many times in the transportation realm. And we do not have enough folks at the IRS there to answer questions, be good on the phone, help taxpayers with their concerns, because we do not provide enough money. We provided some money, a bump-up, but it is not nearly enough money. And we could actually—correct me if I am wrong on this, but we are always looking for pay-fors around here, you know, to pay for tax cuts in terms of offsets or to pay for spending. And I will ask John Koskinen this when he comes in later today to testify, but I think a pretty good pay-for could actually be to provide some additional resources for the IRS. Does it actually more than pay for itself? Any idea what the multiplier——

Secretary LEW. It pays for itself many times over.

Senator CARPER. Yes, there is a multiplier. It is not just dollar for dollar.

Secretary LEW. It pays for itself many times over, and it also creates a stronger tax system where people have a sense of fairness, that everybody is treated the same way. And so I have been a big advocate of more funds for taxpayer enforcement from many different seats of government.

Senator CARPER. Good. Well, Mr. Chairman, I am Tom Carper, and I approve that message. [Laughter.]

We made a good start last fall, but we need to do more. And it is a fair thing to do for all these folks who are calling our offices telling us that they are not getting the kind of service that they want.

Secretary LEW. Right.

Senator CARPER. And it is the right thing to do for our country.

Secretary LEW. I remember in the 1990s when the problem was at the Social Security Administration, and at the time I considered it critically important that if you called Social Security, you had to get your phone call answered. It is like the point of contact with the Federal Government that people would most frequently have. The IRS is right up there, and it is just not acceptable to have a system where people, citizens, cannot get through to the two parts of the government that they actually touch in their lives.

Senator CARPER. And by doing this, if we actually provide some more resources for IRS, it actually helps us reduce our budget deficit in the end. So that is a win-win.

Thanks, Mr. Chairman, and thank you, Mr. Secretary.

Secretary LEW. Thank you.

The CHAIRMAN. Thank you, Senator Carper. We appreciate you.

Mr. Secretary, with regard to inversions, I doubt seriously that you are going to be able to get through, before the end of the year, the territorial recovery of monies, for many reasons, some of which are political, some of which are just time concerns, and some of which come from it being difficult to get both sides together. But we are working on a corporate integration program that may very well put a stop to inversions that really, if we could go on a bipartisan basis, could make a real dent in those problems this year.

Now, we are stuck right now because we have to wait until Joint Tax comes up with its analysis. So far it looks good. And I hope that you will keep an open mind with regard to that, because it is something that I think is doable. And it would put a real crimp in the inversions that have been going on in our society, corporate inversions. And I think we would get companies back once we do it.

Now, we all know that the best way to solve that problem is to cut the corporate tax rate so that we are competitive, and that is another matter that is very, very difficult to do under current circumstances, with the problems between both of the parties here in the Senate. I am looking for ways to bring people together with the administration to see if we can solve these problems.

So, when we get a little farther down the line, I want you to come up and go over with me this corporate integration program that I think might very well be something that would help you, help the administration, and help this country to resolve these inversions that have been going on. You are willing to do that, I know.

Secretary LEW. Well, Mr. Chairman, I am not familiar with the details of the proposal, and it is hard to see how it addresses inversions without looking at it. But I would be happy to look at it, and, as we have that conversation, I also hope we can talk about whether the anti-inversion provisions and the earnings-stripping provisions might be doable even if we cannot do all of business tax reform.

The CHAIRMAN. Well, I am afraid of those, because I think that they will cause more inversions rather than solve the problem. This would solve a lot of the problem. It would not solve it all, but it would give us time to do what really needs to be done. I think you and I could agree on that.

I would ask you to look through the JCT analysis of the Earned Income Tax Credit for Puerto Rico that I have made public just this morning. So, if you will look at that——

Secretary LEW. I have not seen it yet. I am happy to look at it.

The CHAIRMAN. I know you will, and I would appreciate if you would. In the meantime, I wonder whether you have given any thought to difficulties of administering what you propose and the very real concern about improper payments that can easily arise under your proposal.

Secretary LEW. I think that we have a great deal of experience dealing with the Earned Income Tax Credit, and——

The CHAIRMAN. And 25 percent of the payments are wrongfully made.

Secretary LEW. I think we would be able to work with the Commonwealth to implement it in a way that was designed to have the compliance rate be higher. One of the things that Congress enacted last year was a provision giving Treasury the ability to provide technical assistance in a more robust way to Puerto Rico, and we have people working with them. So we would endeavor to work with them to set things up so that it is run in a very sound way. I would be happy to follow up with you on any concerns you have on that.

The CHAIRMAN. Thank you. Well, I am going to do everything in my power to solve that problem. I think we ought to get it out of politics and get it solved. There are good people down there, and we are quite a bit to blame too. When we took the tax credit away, it cost them 100,000 jobs, as I estimate it. So I think we have to resolve this problem, and I hope we can keep it out of politics.

Secretary LEW. I agree. I have been trying to deal with it as a crisis that we need to deal with on a bipartisan basis.

The CHAIRMAN. Well, let us hope we can do it before the end of March. That is the goal here.

Secretary LEW. That would be my goal too, Mr. Chairman.

The CHAIRMAN. Well, we will work with you.

Let me just say I would like to thank my colleagues and you, Mr. Secretary, for participating in this hearing. I think we have had a good discussion here today, and I hope that we can continue working together in the future.

I will just make this point. If any member wishes to submit written questions for the record, please do so by the close of business on Wednesday, February 17th.

And so, Mr. Secretary, you have been very patient to go through this long, arduous hearing, and I just want to thank you for your patience.

With that, we will recess until further notice.

Secretary LEW. Thank you, Mr. Chairman.

[Whereupon, at 12:40 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. ORRIN G. HATCH,
A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R–Utah) today delivered the following opening statement at a hearing examining the Obama administration's Fiscal Year (FY) 2017 budget request for the Department of Treasury:

Today's hearing is on President Obama's budget for Fiscal Year 2017. I want to thank Secretary Lew for appearing before us this morning.

While there were some hints about some of the details in advance, Congress officially received the President's budget proposal yesterday. And, as has too often been the case—particularly under this administration—what we received was not a practical vision for the future, but an ideological document designed more to satisfy political constituencies than to advance serious policy proposals.

For example, in his budget, President Obama once again looks to raise taxes on hardworking Americans, including some special new regressive taxes that are being packaged as "fees," with all the revenue going to fuel expanded government and spending that is being sold to the public as "investment."

No matter what terms people want to use, this budget once again taxes too much, spends too much, and never balances. It presents a vision for expanding government, deficits as far as the eye can see, and an ever-growing national debt.

That debt, by the way, currently stands at an astronomical $19 trillion, close to 80 percent larger than when the President took office, and at a level relative to the size of our economy not seen since the years surrounding World War II.

I will also note that the budget contains provisions relating to Puerto Rico. The challenges facing Puerto Rico have received a lot of attention in recent months. And, unfortunately, much of the debate has been overly politicized.

The President's budget calls for $6.6 billion intended to provide an Earned Income Tax Credit for residents of the island, and roughly $30 billion for increased Medicaid funds, some of which are intended to offset what we are now being told was an inequity written into the so-called Affordable Care Act.

Apparently, the authors of ACA wrote a Medicaid funding cliff for Puerto Rico into the law. Now, we are being told—by some of those same authors, no less—that this funding cliff is unfair and must be undone. I'd like someone—maybe Secretary Lew or perhaps any members of Congress who drafted and supported the health law—to explain why that was done in the first place.

I have been working hard with a number of my colleagues to put together a package to help the people of Puerto Rico, who should be our real focus in this. I have a bill with Senators Grassley and Murkowski that offers assistance, along with more than $7 billion of fiscal relief to the island without adding a penny to the federal deficit or debt.

And, since last summer, I have been asking administration officials, as well as some of my Senate colleagues, just how much additional health funding they would like to see for Puerto Rico. In every case, specific details have been withheld and Congress has simply been admonished to fix this problem in fiscally responsible way.

Yesterday, with the release of the budget proposal, we finally saw specific proposed numbers from the administration. Why it took until now for these details to emerge is beyond me.

In addition, while we're on the subject of Puerto Rico, I do not believe the administration has been straightforward about the nature of the debt restructuring authority it is seeking for the territory.

While we keep hearing from our friends on the other side that Republicans are ungenerously denying Puerto Rico access to the bankruptcy protections offered to every municipality in the U.S., that is actually not what is being sought.

Specifically, the administration is advocating to provide unprecedented debt-restructuring authority to Puerto Rico, with an explicit preference for public pension liabilities over debt issued by the Puerto Rican government, even though the territory's constitution gives preference to some of those latter debts.

We need to be clear about what's actually being debated and proposed here, and, Secretary Lew, I hope to learn more about your thoughts on this today, and, going forward, I hope to learn more about Puerto Rico's pension exposures. In fact, just this morning I wrote to the Governor of Puerto Rico asking for details since, all told, Puerto Rico's debt and its unfunded pension liabilities amount to almost $120 billion.

As we know, lurking behind the recent increase in ever-larger municipal bankruptcies nationwide is a growing crisis of underfunded public pensions, and the underfunding of Puerto Rico's public pensions is striking.

Another issue that I look forward to discussing today is a provision of the recently enacted FAST Act regarding the inactive debt collection program. As we'll likely hear today from Senator Grassley, if not others, the conference report accompanying the law made clear that the intent of Congress was for Treasury and the IRS to expeditiously implement this provision by utilizing approved private collection contractors and debt collection centers. The law also requires that contracts be signed within 3 months after enactment.

That deadline is March 4th, just over three weeks away. So I look forward to a status update today on the efforts to get the contracts signed and the cases released, and to ensure that taxpayers are made aware of the program and how it will be implemented.

Finally, and related to the large federal debt that Treasury is supposed to manage, I want to make note of some disturbing revelations from the House Financial Services Committee about contingency plans formulated by Treasury and the Federal Reserve.

Secretary Lew, as you know, for nearly 5 years now, I have asked Treasury and the Fed for details about plans the agencies had to handle debt default, whether caused by a natural disaster, terrorist attack, cyberattack, or debt limit impasse. I have asked for these details in writing, in public hearings, and in private conversations.

And, in response to my inquiries, you, your predecessor Secretary Geithner, Fed Chair Yellen, and former Chair Bernanke have all opted to cloak any contingency plans in secrecy, sharing them only in private discussions with financial market participants. All of you failed to provide specific answers to direct questions, choosing instead to obfuscate the issue.

We know these contingency plans exist, yet officials at the highest levels of the executive branch have refused to share them with Congress or the American people.

This is unacceptable.

And, because we've received virtually no voluntary cooperation on this issue, legislation to require such cooperation and provide accountability is now probably necessary so the American people can know as much about our debt management as those working at Treasury and the Fed and in financial markets.

So, as you can see, we have quite a bit to discuss today. I look forward to a robust discussion of these and other important issues.

PREPARED STATEMENT OF HON. JACOB J. LEW, SECRETARY, DEPARTMENT OF THE TREASURY

Chairman Hatch, Ranking Member Wyden, Members of the Committee, thank you for the opportunity to appear before you today.

As President Obama said in his State of the Union address, this is a time of extraordinary change and, to make this change work for us, we as a country must focus on the future by confronting head-on some of our biggest challenges. The President concentrated on four key areas to which we must attend in the coming years, specifically: (i) fostering economic opportunities for all Americans; (ii) leveraging new technologies to solve urgent problems such as climate change; (iii) pursuing a smart foreign policy that protects our national security; and (iv) working together to improve our political discourse. What we do in each of these key areas is crucial to our future as a nation. As Treasury Secretary, I focus most of my time in the area President Obama addressed first, namely how to spur growth and opportunity in our new economy. Today, I will discuss the major aspects of the President's Budget and how this Budget lays out a vision for what we need to do as a country both now and over the next 5 or 10 years and beyond to create growth and make sure that opportunity is broadly shared.

Before turning to what we need to do for our economy over the long-term, let me first note the progress we have made over the course of the Administration.

HOW FAR WE HAVE COME

In the 7 years since President Obama took office amidst the worst financial crisis since the Great Depression, we have seen a sustained economic recovery and an unprecedented decline in the federal budget deficit. Since my testimony a year ago, our economy has continued its record-breaking streak of private sector job creation, which has reached nearly 6 consecutive years and 14 million jobs. Over the last 2 years, we have experienced the strongest job creation since the 1990s. At 4.9 percent, the unemployment rate is half of its 2009 peak. Consumer confidence is strong and small businesses are planning further increases in their payrolls. Rising home prices have restored trillions of dollars in home equity to homeowners.

Last year, we celebrated the 5-year anniversaries of two major pieces of legislation—the Affordable Care Act (ACA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)—that have had an important impact on the economic security of American households and the stability of our financial system, an essential prerequisite for long-term growth. As the coverage provisions of the ACA have taken effect, nearly 18 million more Americans have gained coverage. The ACA has also improved coverage for those who already had health insurance, and changed the incentives for hospitals, doctors, and other providers to encourage higher quality, more efficient care. Health care inflation has been notably slower over the past 5 years, and, for the first time ever, more than 90 percent of Americans have health care coverage. And Dodd-Frank has put in place protections that ensure that the financial system today is better capitalized, less leveraged, and far safer than it was prior to the crisis. It also created the Financial Stability Oversight Council, a body that looks across the entire financial system to identify future threats to financial stability, and the Consumer Financial Protection Bureau, an agency whose sole purpose is to protect Americans from unfair, deceptive, or abusive financial practices.

The administration has also worked hard to make our tax system stronger and fairer. Legislation enacted since early 2009 has decreased average tax bills by several hundred dollars for those in the lower third of the income distribution, while ensuring that those at the top pay a fairer share, especially among families in the top 1 percent and top 0.1 percent. Through policies like the Recovery Act expansions of the Earned Income Tax Credit, the Child Tax Credit and the American Opportunity Tax Credit (recently made permanent); ACA subsidies for purchasing health insurance; higher tax rates on dividend and long-term capital gains income; and reinstating the top rate on the highest earners to the level that prevailed in the 1990s, after-tax income increased substantially for lower-income families and the overall tax system became more progressive during this administration. We have also made the Tax Code more stable and predictable by making major individual and business provisions, such as the Research and Experimentation (R&E) Tax Credit and enhanced small business expensing, permanent in last year's agreement, providing the certainty businesses need for effective planning.

Notwithstanding some of the recent volatility we have seen in the financial markets, economic growth continues at a solid pace. Real GDP expanded 1.8 percent last year. Private domestic demand—the demand generated by American households and businesses—was the principal driver of growth, expanding at a solid 2.7 percent. Both private sector forecasters and the IMF expect the underlying strength in domestic demand to continue this year, with real GDP growth picking up to around 2.5 percent. This pace of expansion substantially exceeds that of many of our major trading partners, and, in fact, soft demand from abroad for our exports has been, and will continue to be, a significant drag on U.S. growth. While a widening trade deficit is natural in these circumstances, the rest of the world cannot depend on the United States to be the sole engine of growth. That is why this Administration has consistently worked with our international counterparts to encourage the implementation of strong and comprehensive policies to support growth.

Meanwhile, we continue on a sound fiscal path. The deficit for fiscal year 2015 was roughly $150 billion or three-quarters of a percent of GDP lower than we anticipated in our Budget 1 year ago. From fiscal year 2009 to 2015, the deficit as a share of GDP fell by almost three-quarters to 2.5 percent. Only the period of demobilization following the end of World War II saw a faster pace of fiscal consolidation. Since 2011, four fifths of the deficit reductions we have achieved have been from spending cuts.

And over the past 3 years, we have seen real progress in returning to fiscal policy that boosts our economy. The administration began with bipartisan efforts to stabilize and restore growth to our faltering economy with targeted investment, but subsequent fiscal policy choices hurt, rather than helped, the economic recovery. In March 2013, sequestration cuts that were never intended to take effect were implemented, reducing GDP by 0.6 percentage points and costing 750,000 jobs. But later that year, following a series of damaging and unnecessary debt limit stand-offs and a protracted government shutdown, policymakers finally began to turn away from manufactured crises and austerity budgeting. The President worked with Congress to secure a 2-year budget agreement that replaced a portion of the harmful sequestration cuts with more balanced and sensible deficit reduction measures. This allowed for higher investment levels in 2014 and 2015, a significant contribution to the improvement in the labor market over the past 2 years. Between its peak in 2009 and the end the 2015, the deficit dropped by almost 1 trillion dollars, or over 7 percent as share of GDP. An increase in revenues as a share of GDP and a decrease in spending as a share of GDP played roughly equal roles in the decline

Again for 2016, when harmful sequestration cuts were scheduled to return, the President worked with congressional leaders from both parties to secure another 2-year budget agreement (the Bipartisan Budget Act of 2015 or BBA), showing that the right results for the country can be achieved when we work together. The BBA will create an estimated 340,000 jobs in 2016 alone, while supporting middle-class families, investing in our long-term growth, protecting Social Security, and safeguarding our national security. Finally, the year-end FY 2016 omnibus appropriations act included a bipartisan agreement to extend expiring tax provisions that will, among other things, boost support for research and development and clean energy investment in the private sector, provide permanent tax relief to working families, and simplify and cut taxes for small businesses.

Still, more needs to be done. Non-defense discretionary funding in 2017 will be at its lowest level since 2006, adjusted for inflation, even as the need for pro-growth investments in infrastructure, education, and innovation has only increased due to the Great Recession and its aftermath. Inflation-adjusted defense funding will also be at its lowest level since 2006. And without further action from Congress, the sequester will come back into effect in 2018 and put at risk the economic progress we have made.

We must also not leave behind our communities in distress. Nowhere is this more evident than with the 3.5 million Americans living and working in the Commonwealth of Puerto Rico. While the economic health of our nation has improved dramatically since President Obama took office, Puerto Rico's economy continues to suffer. Their unemployment remains above 12 percent. Outmigration continues to accelerate. And the Commonwealth's debt is unsustainable. As a result, the administration proposed a comprehensive plan to address Puerto Rico's financial challenges and we encourage Congress to act with the haste this crisis requires. This must begin with legislation to permit a financial restructuring along with new oversight, neither of which cost any taxpayer dollars.

THE FY 2017 BUDGET AND WHERE WE ARE GOING

Despite the significant progress we have made over the past 7 years, we have much more to do to address fully the challenges associated with our new economy. As the President indicated in the State of the Union address, the most significant and most pressing of our economic challenges is how we ensure that the benefits of our growth are shared by all Americans. While more Americans have jobs than ever before, millions of Americans are still searching for work and millions of part-time workers are still searching for full-time opportunities. We are still not seeing enough growth in household income and wages, and too many American families still have limited savings, impairing their ability to cope with an economic shock such as job loss, let alone retirement.

The President's FY 2017 Budget is designed to address these and other pressing problems. It puts forward the building blocks of a social compact for the 21st century, creating the conditions for sustained economic growth while upholding the basic American belief that everyone who works hard should get a fair shot at success.

The President's FY17 Budget shows that investments in growth and opportunity are compatible with putting the nation's finances on a strong and sustainable path. The Budget substitutes more balanced deficit reduction and ends sequestration, while making other critical investments and addressing our fiscal challenges over the next 10 years. It keeps deficits below 3 percent of GDP while stabilizing debt and putting it on a declining path through 2025—key measures of fiscal progress.

The Budget accomplishes these goals by more than paying for all new investments and continuing to achieve significant deficit reduction. The Budget includes roughly $375 billion of health savings that grow over time and builds on the ACA with further incentives to improve quality and control health care cost growth. It also includes smart tax reforms that promote growth and opportunity, while strengthening tax policies that help middle-class families afford child care, higher education, and a secure retirement.

The Budget also shows that responsible deficit reduction can be achieved without cuts in critical aid to poor Americans and without undermining our commitments to seniors and workers. The Budget puts us on sound fiscal footing even as it modernizes benefits for workers, invests in evidence-based efforts to reduce poverty and promote opportunity, and protects Social Security and Medicare.

REFORMING THE TAX CODE

In 2012, the President first laid out his Framework for Business Tax Reform, and the President's Budget continues to put forward a robust business tax reform plan to support economic growth, encourage businesses to create good, high-paying jobs in America, and expand opportunity so our nation's economic gains support a strong middle class. Fixing America's business tax system is essential to promoting long-term growth and broad-based prosperity. Over the three decades since we last rewrote it, the tax system has become heavily burdened by loopholes and inefficiencies. Businesses are forced to focus too much attention on tax planning and financial engineering rather than growing the top line of their businesses.

One clear indication of the need for reform is the pace at which companies are pursuing corporate inversions to avoid paying U.S. income taxes. While inversions may be legal, it is wrong for these companies to take advantage of U.S. infrastructure, education, support for research, and rule of law, and yet avoid paying their fair share of U.S. taxes. While the administration has used its administrative authority to reduce the economic benefits of these transactions and to limit them to some extent, the only real solution is for Congress to enact business tax reform that addresses the root inefficiencies that cause these problems and specifically closes the inversion loophole. The growing bipartisan consensus in Washington on how to achieve business tax reform creates the opportunity to take this key step sooner rather than later. In the meantime, Congress should act this year to change our tax laws to stop corporate inversions.

The Budget again calls for a fiscally responsible business tax reform, and makes a number of concrete tax reform proposals, including a complete reform of our international tax system. Last year's permanent extension of several important business tax provisions, including the R&E Credit, advanced important components of our tax reform agenda. But that legislation did not offset the budgetary impact of those cuts and leaves the job of reforming our business tax system undone. Though the end-of-year legislation on certain business tax extenders was a first step, we need to take further steps to enact a comprehensive business reform plan, that, taken together with the extenders legislation, is deficit-neutral in the long run.

BUILDING A 21ST-CENTURY INFRASTRUCTURE

While last year's surface transportation reauthorization bill, the Fixing America's Surface Transportation (FAST) Act, will help address our nation's crumbling infrastructure, we should not be content with merely repairing aging roads, bridges, rail, and transit systems. Transportation infrastructure has been a key ingredient of economic growth in this country nearly since its inception. And infrastructure investment provides a double return: in the short-term, it creates middle-class jobs across a range of skills and sectors; in the long-term, it provides assets that meet the needs of a growing economy and make our towns and cities more attractive to new business investment. Investments in our transportation network can also help us tackle the threat of climate change. Today, the transportation sector contributes nearly 30 percent of U.S. carbon emissions. We will need to move to a cleaner, low-carbon transportation system that is also more resilient to the impacts of climate change.

To help make this transition, the Budget proposes to invest $20 billion per year to shift Federal investments towards cleaner transportation options like rail and transit; $10 billion per year in new and innovative grant programs that partner the Federal Government with local and state governments to accelerate the move towards smarter, cleaner, and more integrated communities; and $2 billion to accelerate development and deployment of clean vehicle technology.

To fund these investments, the administration has proposed a $10.25 per barrel fee on oil, which would be gradually phased in over 5 years. There are many costs associated with fossil fuel use, and given our highly oil-dependent transportation environment, an oil fee will ensure that we better manage our resources to reflect those costs. These resources would also provide for long-term solvency for the Highway Trust Fund, renamed the Transportation Trust Fund in the President's Budget to reflect its multi-modal nature, beyond the current extension.

The private sector can play a valuable role in helping to maximize limited public resources for infrastructure. Effective public-private partnerships are a growing procurement alternative for state and local governments; these arrangements may accelerate the delivery of complex projects, leverage the resources and expertise of the private sector, mitigate construction and operational risks, and reduce the likelihood of deferred maintenance. The Budget includes a number of proposals to take small steps to level the playing field for private investment in public infrastructure projects where appropriate, including renewing our proposal to create Qualified Public Infrastructure Bonds, which would extend tax-exempt benefits to certain public-private partnerships, and introducing the Financing America's Infrastructure Renewal program, which would provide direct loans to U.S. infrastructure projects developed through public-private partnerships.

Finally, the Budget maintains its support of our long-standing infrastructure bank proposal, which would help target and manage the complexity of implementing economically and regionally significant infrastructure investments. There are a number of creative ideas in Congress about how to boost our infrastructure investment, and I look forward to continuing to work with Congress to build a 21st-century infrastructure.

PROVIDING OPPORTUNITY THROUGH EDUCATION

The United States was one of the first countries to provide public high school education, and as a result we were one of the most highly educated populations in the 20th century. Now it's time to ramp up our workforce for the 21st century by ensuring broad access to high quality education, starting with pre-K, as well as training for those who are already out of the education system. And we must make sure that once they complete their schooling, our students are not burdened with a mountain of debt that they cannot repay.

The Budget recognizes that changes in our economy make it more essential than ever that workers have the right education and training. It thus includes policies that enhance educational opportunities from pre-K through college. We propose to provide pre-K for all; offer every student hands-on computer science and math classes; and make community college and career and technical schools free for responsible students. Furthermore, this year's Budget introduces a tax credit to incentivize employers to join consortia with community colleges. This will help drive development and resourcing of career training programs that train for real employment needs in the region and provides a hiring tax credit when consortia employers hire new workers out of the program. In addition, for those already in the workforce who are struggling with the rapid change in the economy, the Budget also provides for job retraining so they can bring new skills to bear. Finally, the Budget provides funding to implement the administration's ongoing efforts to ensure that student loan contractors provide high-quality loan servicing to students. This funding will also allow the Department of Education to provide enhanced oversight and strengthen enforcement activities, such as pursuing schools that engage in deceptive or misleading practices toward students, including veterans.

PROVIDING A SAFETY NET FOR WORKING FAMILIES

The Budget again proposes a set of policies that will raise the incentives for working, including raising the minimum wage and reducing taxes on working families. For example, it proposes to strengthen the Earned Income Tax Credit for workers without dependent children—the only group that the Federal tax code taxes into poverty or taxes deeper into poverty. The Budget also addresses some new needs of working families, given changes in the relationship between workers and their employers over time. For example, it proposes expanded unemployment insurance and introduces a new wage insurance program to help families stay on their feet when their wage earners are underemployed as part of a job transition. The President's plan would ensure that workers have access to wage insurance that would replace half of lost wages, up to $10,000 over 2 years. Displaced workers making less than $50,000 who were with their prior employer for at least 3 years would be able to leverage these resources to help them get back on their feet and on the way to a new career.

Similarly, the Budget addresses holes in our unemployment insurance system, including by expanding coverage to many part-time, low-income, and intermittent workers, and workers who leave work for compelling family reasons. It would also ensure that states provide 26 weeks of coverage. This is coupled with a plan to make it easier for companies to avoid lay-offs through work-sharing, while incentivizing states to offer and allow retraining for workers on unemployment insurance or to provide relocation vouchers or subsidized employment. In addition, it would expand intensive career counseling to long-term unemployed, discouraged, and part-time workers.

ENCOURAGING RETIREMENT SAVINGS

While the vast majority of people understand the benefits of saving for retirement, it is a fact that many Americans have very limited savings, and some have no retirement savings at all. Low- and moderate-income households have especially low levels of accumulated assets, and as many as 78 million working Americans do not have a retirement savings plan at work. To help people start saving, late last year Treasury launched the MyRA retirement program. It is free to get started, there are no minimum balances or fees, and there is no risk of losing money because savings are invested in risk-free U.S. Treasury securities. MyRA fills a crucial gap in the retirement savings system by providing an option for people who do not have access to a retirement savings plan at work. It helps people get started saving by allowing people to contribute any amount, no matter how small, and it does not conflict with private retirement options since the balance is ultimately rolled over into a private-sector IRA after 30 years or once it reaches $15,000, whichever comes first.

But, this just scratches the surface. The Budget proposes to expand access to workplace retirement savings opportunities by encouraging more employers to offer plans and making it easier for workers to participate by enabling small businesses to come together and create pooled 401(k) plans at lower cost and with less burden than they would have on their own, automatically enrolling workers without access to a workplace plan in an IRA, providing tax credits for small businesses that begin offering retirement plans or choose to automatically enroll workers in existing plans, and allowing long-term, part-time workers to participate in their employer's plan.

CONCLUSION

The policies in this Budget will create a stronger, more inclusive economy today and in the future, while also maintaining fiscal responsibility. Of course, this Budget does not address every challenge we face in the long term. For example, we must strengthen Social Security to keep true to our commitments to previous and future generations of workers. And while business tax reform would significantly boost the economy, there are also significant challenges and inefficiencies on the individual side that we must address.

Our problems will undoubtedly not all be solved in the next 11 months—far from it. But there is still much we can accomplish. As the President said in his State of the Union address, progress is not inevitable but rather is the product of choices we make together as a nation. We face a number of big choices in the coming years. And though responsibility for addressing our nation's biggest problems will soon pass from this administration to the next, we all have a stake in our country's future. Whether you hold public office, run a small business, serve in the military, or are struggling to find a job, we all have duties as citizens—to vote, to engage, to speak out for what we believe in—that we must exercise to foster an America of the future that reflects our shared goals and values.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. JACOB J. LEW

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

PUERTO RICO

Question. Secretary Lew, the President's budget proposes that certain tax credits be applied from the federal personal income tax code to residents of Puerto Rico who do not otherwise participate in the Federal personal income tax system. As you know, in my legislation with Senators Grassley and Murkowski, tax relief is provided through a payroll tax cut. Such a provision would be relatively straightforward to implement given that residents of Puerto Rico already pay the federal payroll tax.

In an analysis of application of the Federal Earned Income Tax Credit and Child Tax Credit to residents of Puerto Rico, the Joint Committee on Taxation identifies a number of administrative issues to consider. Of course, it is difficult to take only part of the Federal personal income tax system and apply it to Puerto Rico, and issues of improper payments, which already plague the federal system, would be a concern.

In the meantime, I wonder whether you have given thought to difficulties of administering what you propose, and the very real concerns about improper payments that can easily arise under your proposal.

Answer. Yes, we have considered how best to administer these types of credits in Puerto Rico. Our recommendation is to provide funding to allow the Commonwealth to administer an earned income credit through its own income tax system. Puerto Rico would design an earned income tax credit that best meets the needs of its workforce and best fits its tax system. Subject to Treasury oversight, Puerto Rico would be responsible for certifying that payments were correct. We think this will result in a lower level of improper payments and lower administrative burdens for IRS and Puerto Rico taxpayers, than a system in which Puerto Rico taxpayers would file separate U.S. income tax returns just to claim the Federal Earned Income Tax Credit.

TTIP AND FINANCIAL SERVICES

Question. Secretary Lew, as you know, the 12th round of negotiations on the Trans-Atlantic Trade and Investment Partnership, or TTIP, agreement begins February 22nd. Over the past several years, I have called upon the administration to ensure that TTIP includes a comprehensive financial services framework, encompassing both market access and regulatory cooperation.

You and I both know that TPP fell short of achieving strong market access outcomes and effective rules for U.S. financial services providers. You simply cannot repeat that mistake when it comes to TTIP. In fact, if you do, it will likely further weaken support for approval of TPP.

Can you commit to me that TTIP will be comprehensive when it comes to financial services, including in areas of regulatory cooperation?

Answer. The Administration shares your view that financial services are a critical part of any trade agreement, and we strive to secure the strongest possible market access commitments ensuring that U.S. financial institutions have effective, nondiscriminatory access to foreign markets. Additionally, we seek protections for investors in financial institutions and that binding arbitration is available for related disputes.

In TTIP, as in previous trade agreements, the Administration is seeking robust market access commitments in financial services. However, our trade objectives with respect to financial services are wholly independent and separate from the norms and modalities of prudential regulation. This separation is a feature of all agreements to which the United States is a Party (including the WTO General Agreement on Trade in Services). We believe that financial regulatory cooperation should continue to make progress in existing and appropriate global fora, such as the G20 and international standard-setting bodies, and bilaterally through the Financial Markets Regulatory Dialogue.

BEPS AND COUNTRY-BY-COUNTRY REPORTING

Question. Secretary Lew, there were reports in just the last week suggesting that the EU may try to force public disclosure of at least some parts of country-by-country, which you agreed to as part of the OECD Base Erosion and Profit Shifting—or BEPS—project.

As I understand it, in the BEPS negotiations, Treasury took the position that the Federal Government should be involved in these country-by-country tax reports, to assure taxpayer confidentiality. And I think that is the right position.

However, now that I hear about the EU attempting to force public disclosure of these country-by-country tax reports, I am concerned.

What are your thoughts on this, and how do you think the U.S. should respond to calls for any forced public disclosure of country-by-country tax reports?

Answer. Implementation of the BEPS country-by-country reporting outcome is being undertaken by many countries around the world, including the United States. A country-by-country (CbC) report submitted by U.S. multinational firms to the Internal Revenue Service pursuant to the final regulations covering this submission will be tax return information protected by the strict confidentiality rules under the Internal Revenue Code (Code). The Code allows the Internal Revenue Service to exchange a CbC report with a competent authority of a tax jurisdiction to the extent provided in, and subject to the terms and conditions of, an information exchange agreement (including tax treaties and tax information exchange agreements). All of the information exchange agreements to which the United States is a party require the information exchanged to be treated as confidential by both parties, and disclosure and use of the information is limited to tax purposes. The United States will not exchange return information, including any country-by-country reports, with any country that fails to protect the confidentiality of that information. We have not yet seen any specific details of the EU initiative you refer to, but once that legislation is made public, we will be happy to provide to you our views about it.

TREASURY FISCAL AGENT AND FINANCIAL AGENT APPROPRIATIONS

Question. Secretary Lew, Treasury spends well over $1 billion per year out of permanent, indefinite appropriations for the Federal Reserve to act as a "fiscal agent" of the government, and to hire private-sector financial firms to act as "financial agents" of the government.

I believe that Treasury has not been appropriately responsive to congressional inquiries about how it uses those appropriations, and believe that legislation is required to ensure accountability.

I also believe that Treasury, in a secretive alliance with the Fed regarding Federal debt contingency planning, has been disturbingly reluctant to share information and to answer direct questions from Congress.

Secretary Lew, why has it taken since the summer of 2011 for Treasury and the Fed to begin, under pressure of subpoena, to provide information about your contingency planning for interruptions in debt-service payments?

Answer. Treasury has addressed the Committee's questions on this topic, and we remain committed to working with the Committee to address any needs that it has. As the Chair of the Council of Inspectors General for Financial Oversight wrote in 2012, Treasury found no option other than Congress acting to increase the debt limit that could reasonably protect the full faith and credit of the United States, the American economy, or individual citizens from very serious harm.

TPP AND DATA LOCALIZATION

Question. Secretary Lew, among my concerns with the recently concluded Trans-Pacific Partnership, or TPP, agreement is the fact that it does not prohibit local data storage requirements in the financial services sector. This outcome is inconsistent with the clear Trade Promotion Authority negotiating objective to prevent countries from requiring local storage of data.

These types of localization requirements are a serious problem for U.S. financial services companies, who often face pressure to store their data overseas. This increases costs, reduces data security, and in some cases, makes entering markets unfeasible.

It is remarkable to me that the TPP agreement would permit these types of requirements. I would like your assurance that the administration will work with Congress and the affected U.S. stakeholders to ensure that all industry sectors receive the same protections against data localization requirements, in both TPP and in future trade agreements.

Answer. The significant increase in data localization barriers to trade around the world is of serious concern to the Obama administration. We are advancing efforts to reduce and prevent the proliferation of localization barriers to trade, including restrictions on data flows and requirements to establish infrastructure domestically, through the full range of bilateral, regional and multilateral fora, including the WTO, APEC, and the OECD.

With respect to financial services, over the last few months, Treasury and USTR have worked to develop a new approach for addressing concerns about the treatment of financial services under data localization obligations in our trade and investment agreements through extensive consultation with U.S. financial regulators, as well as feedback from Congress and stakeholders. Treasury and USTR have been working to achieve two important policy objectives: eliminating protectionist and trade-distorting data localization measures imposed by foreign governments in the financial services sector and ensuring that U.S. financial regulators have access to the information they need for regulatory and supervisory purposes.

We believe we have reached a good path forward and are looking to address concerns about data localization in the financial sector through a comprehensive multi-pronged approach. For ongoing and future negotiations, including the TiSA negotiations, we would propose an obligation that broadly prohibits all forms of data localization when financial regulators have access to information stored abroad. We would also propose obligations that provide companies with the opportunity to address potential access concerns before regulators impose data localization requirements.

The TPP needs to be handled differently than ongoing and future negotiations because the TPP negotiations are closed, and reopening them would cause the agreement to unravel. Most TPP Parties are also party to the TiSA negotiations, and we expect to table our new approach with those Parties this month. For the remaining TPP Parties—Brunei, Malaysia, Vietnam, and Singapore—we will work closely with stakeholders and Congress on a path forward for addressing any specific concerns.

COVERED AGREEMENT

Secretary Lew, the Department of Treasury and USTR recently announced your intention to negotiate a Covered Agreement with the European Union. As you know, one of the key goals of negotiating covered agreements is to ensure a balanced playing field among U.S. and European Union based insurers and reinsurers.

I understand that, under the EU's Solvency II Directive, European insurers and reinsurers with U.S. affiliates are permitted to rely on U.S. State-based capital requirements to meet their European Solvency Two requirements. Conversely, the EU will not allow U.S. insurers and reinsurers to rely on the very same standards when seeking to provide insurance or reinsurance in the EU market. This is at best unfair and at worst blatant discrimination against U.S. service providers. It may even violate the EU's World Trade Organization obligations.

Will you work to eliminate this discriminatory treatment under the Covered Agreement negotiations?

Answer. I appreciate your interest in this topic and share you concern that, without an agreement between the United States and European Union (EU), U.S. insurers and reinsurers conducting business in the EU could face an unlevel regulatory environment under Solvency II. Treasury and the Office of the United States Trade Representative (USTR) will not enter into a covered agreement with the EU unless the terms of that agreement are beneficial to the United States. Treasury and USTR notified the Committee on November 20, 2015, of our negotiating objectives for a covered agreement with the EU. One of these objectives is to obtain treatment of the U.S. insurance regulatory system by the EU as "equivalent." This treatment would allow U.S. insurers and reinsurers to operate in the EU on the same regulatory terms as insurers and reinsurers domiciled in the EU or in other jurisdictions deemed equivalent by the EU under Solvency II.

These negotiations remain in the early stages and it is too early to predict the final substance of any potential final covered agreement.

Additionally, in recognition of the important role of state insurance regulators, Treasury and USTR have engaged extensively with representatives of the state insurance regulators during the covered agreement process and will continue to do so as negotiations with the EU advance.

CORPORATE DEBT VS. EQUITY

Question. Secretary Lew, for many decades, corporate profits have generally been taxed twice—once at the corporate level, and then again at the shareholder level. According to the President's Council of Economic Advisor's Chairman Furman, citing Treasury statistics, under corporate tax laws, equity-financed investment is taxed at a 27 percent rate, while debt-financed investment has an effective rate of *negative* 39 percent. That's right, negative 39 percent.

I wonder whether you agree that something ought to be done to address such a distortion; do you have any ideas on how to address it; and will you work with us on this committee as we explore ideas to address the distortion?

Answer. The President's approach to business tax reform is intended to reduce a number of tax-induced distortions including distortions in the choice of financing. A tax system that is more neutral towards debt and equity reduces incentives to overleverage and produces more stable corporate finances, making the economy more resilient in times of stress. A lower corporate income tax rate by itself would reduce but not eliminate the bias toward debt financing.

The President's Budget also proposes a financial fee that would impose a charge on leverage used by the largest financial firms as another way to address concerns with over-leverage. Finally, the President's Budget proposes to limit the ability of multinational firms to saddle their U.S. operations with disproportionately large amounts of debt which then generate large interest deductions in the United States. This proposal, if enacted, would ensure that a firm's leverage is spread relatively evenly across its worldwide operations.

The administration would be willing to explore ideas that would reduce the tax preference for debt-financed investment even more, such as by "haircutting" interest deductions by a specified percentage. Various approaches to limiting interest deductibility could finance lower tax rates and do more to encourage investment in the United States than many other ways to pay for income tax rate reductions.

Question. The U.S. film industry is one of our crown jewels which generates jobs across the country and is a major export of the U.S. However for years, China has erected barriers to importation and distribution of U.S. films. In June of 2012, after a successful challenge of China's practices before the WTO, the U.S. entered into an agreement with China, which included China's commitment to open up theatrical distribution of U.S. films to independent producers, rather than having it under the control of a government controlled entity. Yet, almost 3 years later, there has been no movement by China to implement these provisions. Can you assure me that this issue will be taken up again at the 2016 S&ED which you will lead?

Answer. In February 2012, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO case that the United States had won. The two sides signed a memorandum of understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers.

Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased significantly. However, work remains with respect to certain MOU commitments, including with regard to commitments to open up film distribution opportunities for imported films.

The United States made recent progress on this important issue. At the June 2015 S&ED meeting, China committed to ensure that any Chinese enterprise licensed to distribute films in China can distribute imported flatfee films on its own and without having to contract with or otherwise partner with China Film Group or any other state-owned enterprise. The United States is monitoring China's actions. Furthermore, the United States has been pressing China to take similar steps with regard to films that are distributed in China on a revenue-sharing basis.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. I noticed that while the newly released budget references the "Administration's Framework for Business Tax Reform" released in 2012, it does not specify a target corporate tax rate as part of business tax reform.

Does the administration still support a 28-percent corporate tax rate as the goal of business tax reform? And, if so, do you think this rate target is aggressive enough, considering that the average statutory tax rate in the European Union in now around 22 percent?

Answer. In 2012, the President first laid out his Framework for Business Tax Reform, which describes the administration's overall approach to reform. The President's plan would close loopholes and broaden the tax base to facilitate lowering the maximum statutory corporate income tax rate to 28 percent; improve the international tax system by moving toward a hybrid system with a global minimum tax on the earnings of foreign subsidiaries that prevents base erosion; strengthen key incentives for important investments in the U.S.; simplify and reduce taxes for small businesses; and maintain fiscal responsibility so that reform does not add to long-run Federal budget deficits. At 28 percent, down from 35 percent, the statutory U.S. corporate income tax rate would be generally in line with other large OECD economies. A reform that reduced the corporate income tax rate to 28 percent, in conjunction with the other improvements described in the framework would improve both the quantity and quality of U.S. investment, enhancing economic productivity and increasing output. Moreover, a reduction in the corporate tax rate to 28 percent could be achieved without permanently reducing corporate tax revenues by broadening the corporate tax base. Hence, the administration's proposed reform improves the corporate tax system but without adding to the Federal Government's long-run budget deficits.

Question. As you know, the OECD's Base Erosion and Profit Shifting (BEPS) proposals have generated substantial controversy and concern from U.S. enterprises that conduct business around the globe. How will the Treasury Department ensure that U.S. businesses and investors are not subject to double taxation as a result of the OECD BEPS project?

Answer. One of the basic goals of the OECD BEPS project is to reduce instances of stateless income—earnings not taxed by any country. In addressing that goal, it is important to recognize the various existing components of the international tax system that limit the instances of double taxation. For instance, the United States offers a foreign tax credit to offset the effects of foreign income taxes imposed on the earnings of a foreign subsidiary, to eliminate double taxation. In addition, the bilateral income tax treaties we have in force with our trading partners include provisions by which the IRS and partner foreign tax administrations endeavor to resolve instances of double taxation that may arise. Additionally, we are working within the G20 to promote initiatives to enhance tax administration around the world in a way that minimizes tax uncertainty and the potential for double taxation.

Question. I noticed that once again the administration is proposing a limitation on the value of itemized deductions as well as a so-called "Buffett Rule," both designed to raise taxes on certain Americans. As you know, many charitable organizations have voiced concerns that these proposals would have a damaging impact on charitable giving. Why did you take the concerns of the charitable community into account in designing one proposal but ignore them in the other?

Answer. Charitable organizations play an important role in communities throughout the country, and tax incentives to make charitable contributions are retained under both the "Buffett Rule" and the proposal to limit the value of certain tax expenditures. The treatment of charitable contributions under the two proposals is equivalent. Under the “Buffett Rule,” taxpayers would receive a tax credit of 28 percent of the value of their charitable contributions. Under the proposal to limit the value of tax expenditures, the tax value of the deduction would also be set at a maximum of 28 percent of the contribution. We do not believe that either proposal would have a large effect on charitable giving, for several reasons. First, giving is motivated by many reasons other than tax savings. Second, only a small fraction of taxpayers would be subject to either of these proposals. Third, taxpayers who are affected would still have a substantial tax incentive to make charitable contributions. For example, a taxpayer in the top rate bracket will still receive a tax benefit of 28 percent of each dollar donated (the same incentive that taxpayers in the 28 percent tax bracket have now).

Question. One element of your tax reform proposal—the 19 percent minimum tax on foreign income of U.S. companies—has increased dramatically in the amount of revenue it is estimated to raise. The proposal was estimated to raise around $200 billion when proposed last year, but is estimated to raise roughly $350 billion in this year’s budget.

What does this substantial increase tell us about the need for tax reform and also about how much revenue the U.S. is currently losing due to our outdated corporate tax system? What do you believe is driving this increased revenue projection?

Answer. The minimum tax proposal included in the administration’s broader business tax reform plan raises revenue to the extent that the foreign earnings of U.S. companies are taxed at rates below 19 percent (before accounting for foreign tax credits)—rates that are generally well below those which apply in large OECD economies. This global minimum tax, then, is aimed at slowing the global “race to the bottom” in corporate income tax rates. The upward revision in the revenue effect of this proposal reflects, to some extent, the fact that a rising level of multinational firms’ earnings is reported in low-tax foreign jurisdictions, and to a larger extent, that the effective foreign-tax rate actually paid by U.S. multinational corporations to foreign governments is lower than previously estimated. Reductions in foreign taxes paid reduce foreign tax credits available to be credited against the minimum tax, and thus increase minimum tax revenues almost one for one.

The fact that U.S. multinational corporations face extremely low foreign effective tax rates on their foreign earnings and that effective rates paid have continued to trend downward even in the post-recession era illustrates the ongoing efforts by U.S. multinationals to shift profits to low-tax jurisdictions and the porousness of our current international tax system, which allows such shifting to occur. These tax-induced distortions to businesses’ decisions regarding where to locate activities and where to report profits impose costs in the form of tax planning and foregone domestic investment. An important objective of the administration’s minimum tax proposal is to reduce opportunities for firms to engage in such tax planning and to improve their incentives to locate real economic activity in the U.S.

Question. As you know, the President’s budget request would increase premiums paid to the PBGC by multiemployer plans with the aim of raising $15 billion to protect pension benefits for workers and retirees. Can you speak to the current state of the PBGC, particularly in light of the proposed rescue plan for the Central States Pension Fund?

Answer. The Pension Benefit Guaranty Corporation (PBGC) insures the benefits of approximately 40 million people, 10 million of whom are multiemployer plan participants. The PBGC insurance is an important backstop to private pensions in the U.S. However, according to PBGC analysis, PBGC’s multiemployer insurance fund is more likely than not to exhaust its funds in the next 10 years. While the projected insolvency of the Central States Pension Fund contributes to the PBGC’s multiemployer deficit, it is expected to go insolvent after the PBGC exhausts its multiemployer fund. PBGC will provide updated projections when it publishes its 2015 Projections Report along with a report of the adequacy of multiemployer premiums required under the Kline-Miller Multiemployer Pension Reform Act of 2014.

QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON

Question. Georgia is third in film production in the country, which provides direct jobs related to the content produced and indirect jobs in the construction, restaurant, hotel, and service industries. Film production and the content produced represent a large American export sector. Thus, the United States needs to ensure that global markets are open for these products. Last June, the Strategic and Economic Dialogue with China included a discussion of the implementation of the China Film Agreement. China committed to allow independent producers to distribute U.S. films in China.

What is the status of China's implementation of the China Film Agreement?

Answer. In February 2012, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO case that the United States had won. The two sides signed a memorandum of understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers. Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased significantly. However, work remains with respect to certain MOU commitments, including with regard to commitments to open up film distribution opportunities for imported films.

The United States made recent progress on this important issue. At the June 2015 S&ED meeting, China committed to ensure that any Chinese enterprise licensed to distribute films in China can distribute imported flatfee films on their own and without having to contract with or otherwise partner with China Film Group or any other state-owned enterprise. The United States is monitoring China's actions in this regard. Furthermore, the United States has been pressing China to take similar steps with regard to films that are distributed in China on a revenue-sharing basis.

Question. What action is the U.S. Treasury Department taking to ensure that China complies with the agreement in this growing market?

Answer. See answer to question 1.

QUESTIONS SUBMITTED BY HON. DEAN HELLER

Question. To begin, I sent you a letter January 21st of this year, addressing my concerns about our outdated international tax code, and have yet to receive a response. I look forward to receiving your response and respectively request a response by March 2nd, 2016, on the January 21st letter, as well as the following questions. Should you not be able to meet this date, please reach out to my staff to provide a timeline for when we should expect a response.

The Committee held a hearing late last year on the European Union's (EU) State Aid investigations. I, like a number of my colleagues, are deeply concerned with the trend of these cases. Just recently, the EU Commission concluded that 35 multinational companies benefited from Belgium's "excess profit" tax structure. And this is in addition to outstanding cases that are already targeting American companies, such as Starbucks, McDonalds, Amazon and Apple. I am pleased to see that Bob Stack recently met with EU representatives to discuss some of these concerns. What specifically is the Treasury doing to protect our U.S. multinational companies and the American jobs that could be detrimentally impacted as a result of some of these rulings?

Follow-up: As you are also aware, these back-door tax increases on American companies could also result in American taxpayers footing the bill through foreign tax credits. Given the rise in EU state aid investigations and lawmaker's concerns over reduced revenue, what steps are the Treasury taking to address retroactive tax increases?

Answer. We have continued to make the EU Commission (EC) aware of our concerns and have strongly urged the EC to reconsider its approach in a letter to EC President Jean-Claude Juncker. My letter urged President Juncker to reconsider these unilateral actions and to focus instead on our cooperative work through the OECD–G20 Base Erosion and Profit Shifting project. In addition, I and other Treasury officials have discussed these issues extensively with Commissioner Margrethe Vestager, her staff, and other key representatives of the EC. Finally, I raised this issue with European counterparts during the recent G20 meetings in Shanghai. We are continuing to consider all modes of engagement to convey our strong view that the EC should reconsider its approach in these cases.

Question. As you are likely aware, Chairman Brady has announced his intention to move international tax reform through his committee later this year. With a 5-year highway bill completed, deemed repatriation paying for a highway bill seems to be off the table in the short term. Could the administration consider supporting international tax reform with the revenue from deemed repatriation used for lowering the corporate tax rate?

Answer. A key principle of the President's Framework for Business Tax reform is that it not add to the Federal budget deficit—either in the short term or in the long term. Using one-time, transition revenue, such as from a deemed repatriation, to permanently lower the corporate rate provides the illusion of being revenue-neutral within the 10-year budget window, but would in fact be revenue-losing in the long run, adding to the fiscal pressures faced by future generations. The administration's plan instead calls for using that one-time revenue to make much-needed investments in the nation's infrastructure, which benefits businesses and the economy overall by providing good middle-class jobs in the short run and increasing the efficiency of our transportation networks in the long run.

Question. I, like a number of my colleagues, are waiting to receive a response from your colleague, Bob Stack, who was a witness at a Finance BEPS hearing last year. I commend the chairman and ranking member for their efforts to address the concerns BEPS can cause American businesses. To be clear, in what ways did the Treasury consult Congress as the BEPS plan was taking shape?

Follow-up: If nothing is legally binding in the BEPS process, why has the Treasury decided to implement country-by-country reporting?

Answer. The Treasury Department has engaged with Congress throughout the course of the BEPS project, primarily through numerous briefings by Deputy Assistant Secretary Stack.

Regarding country-by-country (CbC) reporting, the Treasury Department and the IRS have determined that the information required under the proposed regulations will assist in better enforcement of the Federal income tax laws by providing the IRS with greater transparency regarding the operations and tax positions taken by U.S. multinational firms. In addition to this direct benefit from collecting U.S. CbC reports, pursuant to income tax conventions and other agreements relating to the exchange of tax information (collectively, information exchange agreements), a report filed with the IRS may be exchanged by the United States with other tax jurisdictions in which the U.S.-based firm operates. The ability of the IRS to receive reciprocal CbC reports will provide information that will assist the IRS in performing risk assessment of foreign multinational firms operating in the United States.

The country-by-country work at the OECD achieved a global, uniform approach to the reporting and dissemination of CbC information through tax administrations. In the absence of such agreement, countries around the world might well have imposed their own reporting obligations on the multinationals doing business in their jurisdictions, and such reporting requirements could vary from jurisdiction to jurisdiction, thereby increasing the compliance burden on U.S. multinationals. The U.S. Treasury Department worked closely with the business community and other stakeholders on virtually all aspects of the drafting and implementation of CbC reporting.

Question. Many of my fellow colleagues are concerned about TPP. Thousands of Nevadans, including Shawn from Reno, have written me expressing their deep concerns with the trade deal the administration negotiated. As you know, I wrote a letter to Ambassador Froman and yourself to reiterate my strong desire that TPP uphold the strong standards laid out by TPA. Do you believe TPP upholds the strong standards of TPA?

Follow-up: What steps are you personally taking to address lawmakers concerns?

Answer. TPP upholds the strong standards laid out by TPA. Treasury has worked closely with USTR and Congress to meet the objectives of TPA. We will continue to work with congressional leadership, and we hope that Congress will approve this agreement as soon as possible. It's the right thing to do for our economy and for American leadership in the strategically important Asia-Pacific region.

TPP is a high-standard trade agreement that will benefit the U.S. economy and level the playing field for American workers and businesses. TPP countries will cut 18,000 tariffs on Made-in-America products. Also, TPP puts in place historic labor and environment standards that will ensure trading partners play by high standard rules.

Regarding currency, for the first time in the context of a trade agreement, the macroeconomic policy authorities of the TPP countries have adopted a Joint Declaration that addresses unfair currency practices by promoting transparency and accountability. In the Declaration, countries commit to avoid unfair currency practices and refrain from competitive devaluation, to provide transparency in their foreign-exchange intervention and foreign reserves data, and to meet regularly for comprehensive macro and exchange-rate discussions.

The Joint Declaration addresses the objectives on currency set out by Congress in the Trade Priorities and Accountability Act passed in June 2015.

QUESTIONS SUBMITTED BY HON. RON WYDEN

BUSINESS INVESTMENT SIMPLIFICATION THROUGH POOLING

Question. Today there are $40 trillion in capital assets in the U.S. economy, with more than $2.5 trillion in new investment every year. While we know capital investment is an important aspect of economic growth, our cost recovery system is stuck back in the 1980s. CBO has found it is one of the largest sources of bias in our tax code, with computer and technology companies one of the biggest losers. And while current tax free reinvestment rules may soften the blow, these so-called like-kind exchanges are so complex that many small businesses can't use them.

Meanwhile, creative tax consultants and brazen taxpayers can manipulate a raft of complex cost recovery rules by parting-out buildings or changing around line-items on their accounting books to cut millions of dollars off their tax liability.

Do you think there are things we can do to simplify our cost recovery rules? The Business Tax Reform Working Group, co-chaired by Senators Cardin and Thune spent a lot of time discussing a simplified pooled cost recovery system. Is that a place to start?

Answer. Except for certain limited expensing and bonus depreciation incentives, cost recovery rules for capital assets have remained essentially unchanged since 1986. We are aware that the current rules can require burdensome record keeping and may introduce computational complexity. We are also aware of concerns that the current rules are outdated, resulting in uncertainty and disputes between taxpayers and the IRS. In undertaking business tax reform, a thorough review of the cost recovery provisions of the Tax Code should definitely be part of the policy discussion, with an emphasis on simplicity where possible. The work done by Members of the Senate Finance Committee to think these issues through is a good start.

BARRIERS TO MULTI-EMPLOYER PENSION PLANS (MEPS)

Question. Secretary Lew, I'm pleased that the administration included a legislative proposal to expand multiple employer plans in the President's budget. Senators Hatch, Brown and Nelson also are working on legislation to address the issues under current law with open MEPs. Open MEPS would enable small employers to sponsor high-quality, low-cost plans, with fewer administrative burdens than plans sponsored by a single employer. And so I'm pleased with the joint interest in this topic.

However, as you know, we don't need to wait for legislation, as Treasury today could address a big problem when it comes to MEPs. In a letter dated November 17, 2014, I, along with some of my Democratic colleagues, asked you to address the so-called "one bad apple rule" that creates a disincentive for small businesses to join MEPs.

Under current Treasury regulations, if one employer participating in a multiple employer plan violates the tax qualification rules applicable to retirement plans, the entire plan can be disqualified, with potentially devastating tax consequences for all of the participating employers and their employees. This not only seems unfair, but it is also materially impeding the growth of multiple employer plans among small businesses.

As I stated in my letter, this is a problem that can be addressed by Treasury today, since the position in the Treasury regulations is not required by the statute. And I urge you to revisit this regulatory position, which discourages MEPs.

Secretary Lew, can I have your commitment that you'll address this problem administratively?

Answer. We appreciate your continued interest in this important topic of how to bring more working Americans into the tax-favored retirement system, including through expanding participation options in multiple employer plans (MEPs). As you note, stakeholders have raised concerns that the "one bad apple" or "taint" rule can be a disincentive for small businesses to join MEPs. Office of Tax Policy and IRS staff have been actively considering possible ways, including potential changes to Treasury regulations, to eliminate or reduce that disincentive without unintentionally increasing noncompliance with Internal Revenue Code requirements in the MEP community. Through these efforts, we have recognized that any changes to the current rules should address, among other things, whether there would be situations in which the responsibility for noncompliance should be allocated between the MEP provider and a participating employer and, even more importantly, what processes can be put in place to afford protection to the retirement benefits of the employees of a noncompliant participating employer in a MEP. Work in this area is ongoing, and any regulatory change would be subject to the usual notice and comment process.

QUESTION SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. Access to affordable childcare child is essential for all working Americans, which is why I am glad to see the President re-proposed a policy I have championed in the Senate to increase the Child and Dependent Care Tax Credit, and make it available to more American parents and families. Secretary Lew, can you speak to the importance of having high-quality childcare, from both an education perspective, and an economic perspective.

Answer. Access to affordable child care is a barrier to employment or further schooling for many individuals. Although the child and dependent care tax credit partially offsets these costs, the value of the credit has eroded over time because income level at which the credit begins to phase-down and the expense limit are not indexed for inflation.

Child care costs are particularly high among families with children under age 5 because these children are generally too young to attend elementary school and because care for very young children can be more expensive. In addition to imposing a financial burden on working families, these additional costs are an impediment to reentry into the workforce by parents. Empirical evidence suggests that mothers of children under age 5 have lower rates of labor force participation and employment than mothers of older children, suggesting that child care costs may delay employment for mothers who would prefer to return to market work. Expanding child care assistance to taxpayers with children reduces obstacles for these parents to participate in the labor force or in education programs. And importantly, helping families afford the rising cost of quality child care promotes child development, with long-term benefits for children and our society.

For these reasons the administration proposes to increase the child and dependent care credit and create a substantially larger credit for taxpayers with children under age 5. In 2017, about 5.3 million families would receive an average of about $930 from these proposed changes to child care tax incentives. We appreciate your continued efforts to improve the Child and Dependent Care Credit and look forward to working with you to enact an expansion.

QUESTIONS SUBMITTED BY HON. MARK R. WARNER

Question. The international tax reform proposal included in the President's Fiscal Year 2017 Budget imposes a 19-percent minimum tax on foreign earnings, and is estimated to raise $350 billion over 10 years. Last year, you estimated that the same 19-percent minimum tax on foreign earnings raised $205 billion over 10 years.

At the same time, the Congressional Budget Office estimates that by 2026, increasing erosion of the corporate tax base will lower corporate income tax receipts by 5 percent compared with collections in 2016. Half of that difference is attributable to the shifting of income out of the United States. I know that many of my colleagues on this Committee share my concern over the significant amount of base erosion we are facing.

What factors contribute to this significant increase in revenue raised by your minimum tax proposal?

Answer. The minimum tax proposal included in the administration's broader business tax reform plan raises revenue to the extent that the foreign earnings of U.S. companies are taxed at rates below 19 percent (before accounting for foreign tax credits)—rates that are generally well below those which apply in large OECD economies. The global minimum tax is aimed at slowing the global "race to the bottom" in corporate income tax rates. The upward revision in the revenue effect of this proposal reflects, to some extent, the fact that a rising level of multinational firms' earnings is reported in low-tax foreign jurisdictions, and to a larger extent, that the effective foreign-tax rate actually paid by U.S. multinational corporations is lower than previously estimated. Reductions in foreign taxes paid reduce foreign tax credits available to be credited against the minimum tax, and thus increase minimum tax revenues almost one for one.

The fact that U.S. multinational corporations face extremely low foreign effective tax rates on their foreign earnings and that effective rates paid have continued to trend downward even in the post-recession era illustrates the ongoing efforts by U.S. multinationals to shift profits to low-tax jurisdictions and the porousness of our current international tax system, which allows such shifting to occur. These tax-induced distortions to businesses' decisions regarding where to locate activities and where to report profits impose costs in the form of tax planning and foregone domestic investment. An important objective of the administration's minimum tax proposal is to reduce opportunities for firms to engage in such tax planning and to improve their incentives to locate real economic activity in the U.S.

Question. Fully leveraging the potential of the Digital Accountability and Transparency (DATA) Act of 2014 presents an opportunity for agencies to facilitate better management, and the Department of the Treasury, along with the Office of Management and Budget, must provide leadership in issuing critical guidance for agencies to move forward. To that end, please answer the following questions.

The DATA Act requires that the financial data standards issued by Treasury and OMB incorporate widely accepted elements, to the extent reasonable and practicable. A recent Government Accountability Office report (GAO–16–261) evaluated the 57 issued standards in light of 13 leading practices developed by the International Organization for Standardization (ISO), and found that most adhered to leading practices. However, GAO also found that several of the standards require additional clarity, in order for agencies to report data that can be aggregated or compared. How does Treasury plan to further clarify these standards?

Answer. In GAO's recent report (GAO–16–261), they recommended that OMB, in consultation with Treasury, provide agencies with additional guidance to address potential clarity issues on several data standards that were finalized last year. While Treasury worked closely with OMB in developing the data standards, OMB is leading this effort, and we defer to OMB to update you on the status of this recommendation.

Question. The GAO report found that final versions of the technical schema and intermediary broker system have been delayed, leaving agencies without sufficient time to develop appropriate plans. For example, Treasury has issued several beta versions of the technical schema, but the final version was expected in December and agencies cannot move forward without the final schema. Likewise, Treasury's pilot at the Small Business Administration of the broker was limited in scope. When does Treasury plan to release the final schema and broker system?

Answer. On April 29, 2016, Treasury released the DATA Act Information Model Schema (DAIMS) v 1.0 that will further clarify the reporting specifications for agencies based on the 57 data definition standards. The DAIMS v 1.0 was revised over the past year based on hundreds of comments provided by the public and Federal agencies. It includes artifacts that provide technical guidance for Federal agencies about what data to report to Treasury including the authoritative sources of the data elements and the submission format. The DAIMS also provides clarity on how the public can better understand the inherent complexity of the data and an overall view of the hundreds of distinct data elements illustrating how Federal dollars are spent.

The DATA Act Broker is a tool that Treasury is developing to allow agencies to submit the required data in a standardized format. The Broker will accept data submitted directly from agencies and it will also pull data from existing data sources when needed. The Broker will validate agency data, allow agencies to certify the data, and complete the data submission and uploads to the DATA Act operating infrastructure. Treasury created a prototype Broker last year and used it to test agency data. Treasury is in the process of updating the DATA Act Broker based on the DAIMS v 1.0 release in April 2016 and will continue to test it with the agencies before finalizing it later this year.

Question. High-quality data retained by agencies is essential to facilitating better governance. What steps is Treasury taking to ensure that data is of the highest quality, including taking a least-burdensome and data-centric approach to implementation?

Answer. Treasury established a transparent and interactive process for DATA Act implementation to ensure that Federal agencies and external stakeholders can participate in the process to improve data quality and meet the data consumer's needs. Two key principles that Treasury is following are the Agile Development Methodology and User-Centered Design. These principles will help contain implementation costs and provide the greatest chance of success in meeting the transparency objectives to improve data quality.

Treasury remains committed to the data-centric approach for DATA Act implementation. Last year, Treasury conducted a pilot to explore the feasibility of leveraging industry data exchange standards to map Federal financial data to a standard taxonomy and format. This is a critical component to DATA Act implementation because much of the Federal financial data resides in non-interoperable systems that cannot be readily retrieved. The DAIMS v 1.0 released in April 2016 adheres to these principles. It collects financial data directly from agency systems when required and also pulls award data from existing systems to reduce agency burden.

Question. Treasury's budget proposal includes $19.8 million for implementation efforts at Treasury itself and a new, $3 million initiative to build out cross-agency support services at Treasury's Administrative Resource Center to implement the law. However, the lack of a line item for DATA Act implementation at most other agencies in the President's budget is concerning. What shared services does Treasury anticipate building out, and how would this enable other agencies to better leverage the potential of the DATA Act?

Answer. Nineteen-point-eight million dollars in multiyear funding was previously approved in FY 2016 for the Bureau of the Fiscal Service's government-wide implementation. For the FY 2017 request, ARC will use its funding to upgrade ARC's financial management system platform to meet DATA Act reporting requirements for ARC's shared services customer agencies. This funding will also support ARC in improving business processes supporting FPDS reporting and other award reporting to *USASpending.gov* in preparation of the new DATA Act reporting. ARC will also prepare for and provide ongoing DATA Act reporting services to Federal agencies using ARC's system platform.

PREPARED STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Thank you, Mr. Chairman, and thank you, Secretary Lew, for appearing before the Finance Committee to outline President Obama's budget proposal one final time. Here's where I'd like to begin today. There are, in America right now, two different tax systems. The one most people deal with is mandatory—their taxes come directly out of the paycheck. Then there's another system for the well-connected, and under that system, you pay what you want, when you want to.

The fact is that most Americans—people who earn a few checks a month, and who may have a mortgage and a few kids—those taxpayers interact with a very small portion of the tax code.

But there are far too many shadowy, cobweb-filled corners of the code that typical Americans never have to venture into. Those corners are loaded with byzantine rules that accountants and lawyers from white-shoe firms can use to pry open loopholes.

As a result of all this complexity, you have increasingly slippery definitions of capital gains and income, and an array of tax-dodging strategies with names like wash sales and swap contracts. It is a mind numbing system. And it's no wonder why somebody who works the line at a factory or has a gig at a mom and pop business would believe the tax code is stacked against them.

Now, I don't think anybody would bet on there being a complete rewrite of the tax code this year that addresses this fundamental unfairness or the many other ways our tax code is broken. But I see a big opportunity for Democrats and Republicans in Congress, the Treasury Department, and the IRS to work together now.

And that's by cracking down on the tax avoidance schemes that result in the corporate tax gap.

I'm going to have a lot more to say about this later this afternoon when Commissioner Koskinen comes before the committee. But the short story is that two-thirds of a trillion dollars owed in corporate taxes goes unpaid every decade, and in my view, policymakers ought to be doing a lot more to figure out why and how to fix it. I see this as an opportunity to free up some dollars to take on the big economic challenges of this era, many of which are reflected in proposals in the President's budget.

For example, the auto-IRA proposal will help a lot of workers start saving for the first time. The second-earner tax credit will help a lot of families who are walking an economic tightrope every day. The community college partnership tax credit will help students who are looking for that first high-wage, high-skill job coming out of school. Investments in early education and children's health will help guarantee that kids start life with security and opportunity. And there are many other smart proposals that will be a big help to millions of families in Oregon and across the country. I'm looking forward to working on a bipartisan basis with my colleagues in Congress to pursue those issues.

Mr. Secretary, thank you again for being here today. And thank you again, Mr. Chairman—particularly for scheduling three hearings this week for the Finance Committee to come together on a bipartisan basis to examine the President's budget proposal. In my view, we have both a responsibility and a practical need to communicate with the administration as effectively as possible—no matter which party controls the White House. This practice informs the debates that come over the course of the year on Capitol Hill. It is disappointing that some other committees this year are not exercising this same responsibility. I hope that does not become a precedent.