# HEARING ON PRESIDENT BIDEN'S FISCAL YEAR 2024 BUDGET REQUEST WITH TREASURY SECRETARY YELLEN

## HEARING

BEFORE THE

## COMMITTEE ON WAYS AND MEANS
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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United States House Committee on
**Ways & Means**
**CHAIRMAN JASON SMITH**

FOR IMMEDIATE RELEASE CONTACT: 202-225-3625
March 3, 2023
No. FC-04

**Chairman Smith Announces Hearing on President Biden's Fiscal Year 2024 Budget Request with Treasury Secretary Yellen**

House Committee on Ways and Means Chairman Jason Smith (MO-08) announced today that the Committee will hold a hearing on the President's Fiscal Year 2024 Budget Request with Treasury Secretary Janet Yellen. The hearing will take place on **Friday, March 10, 2023, at 9:00am in 1100 Longworth House Office Building**.

Members of the public may view the hearing via live webcast available at https://waysandmeans.house.gov. The webcast will not be available until the hearing starts.

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMSubmission@mail.house.gov.

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Friday, March 24, 2023**. For questions, or if you encounter technical problems, please call (202) 225-3625.

**FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

**ACCOMMODATIONS:**

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

**Note**: All Committee advisories and news releases are available on the Committee website at http://www.waysandmeans.house.gov/.

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# PRESIDENT BIDEN'S FISCAL YEAR 2024 BUDGET REQUEST WITH TREASURY SECRETARY YELLEN

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**FRIDAY, MARCH 10, 2023**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC.*

The committee met, pursuant to call, at 9:03 a.m., in Room 1100, Longworth House Office Building, Hon. Jason T. Smith [chairman of the committee] presiding.

Chairman SMITH. The committee will come to order.

Thank you, Madam Secretary, for appearing before the Ways and Means Committee today. I will note that last year we waited 71 days between the release of the President's budget and your testimony before the committee. And so I want to commend you for promptly being here the day after the President's budget. I think you are the first cabinet secretary that is testifying on behalf of the President's budget, and I want to thank you for that.

After two years of economic failures, the American people desperately want results. The budget before us today calls for $4.7 trillion in new taxes, and $6.9 trillion in new spending during a staggering debt crisis. The American people are struggling. We know, because they told us in Yukon, Oklahoma and in Petersburg, West Virginia, during hearings with this committee.

Whether it is Kelly Payne, a fifth generation rancher from Oklahoma, or Ashley Bachman, a mother of three and small business owner in West Virginia, the President's inflation crisis is threatening their livelihoods.

The President's budget means more pain, with $1.8 trillion in new taxes on Main Street businesses, many of which still have "Help Wanted" signs hanging in their windows because of the Democrat-fueled worker shortage.

The $650 billion small business surtax will hit mom-and-pop small businesses, violating President Biden's pledge not to increase taxes on small businesses.

The $77 billion increase in the death tax will force family farms and ranches to sell their assets or risk closing their doors.

The $37 billion in new taxes on American-made energy will kill jobs, raise prices, and make us more dependent on foreign countries for our energy needs. And President Biden's global tax surrender to foreign governments will make it better to be a foreign worker or business than an American one. It is a tax deal only China would love.

Working Americans are scratching their heads over how you will enforce these taxes, too. But I think your budget answers that question, too. Democrats handed the IRS an $80 billion raise last year. Taxpayers are now asked in this budget to hand the IRS another $43.2 billion. I have to ask, is that a joke?

After a two-year inflation crisis that has cost American workers more than two months of pay, families need every penny they can get. But they can't even get their own refunds back because of the historic backlog at the IRS. And they can't get through to a human at the agency because of the terrible customer service.

The IRS needs to address its trust gap. When ProPublica announced it had obtained a vast trove of confidential and private taxpayer information, the American people was rightly worried. What was stolen is their—what was stolen? Is their information safe? To this day, Treasury has provided no public answers.

What they do have is Treasury's commitment to inject woke, racial, and climate politics in our monetary policy and our tax code. The Treasury Department is woefully falling short in fulfilling its core mission. I hope that our discussion today covers these topics and more in a productive way, then we are finally able to get answers to the questions the American people have been demanding.

Chairman SMITH. I am pleased to recognize the ranking member from Massachusetts, Mr. Neal, for his opening statement.

Mr. NEAL. Thank you, Mr. Chairman. We want to welcome the Secretary this morning to the Ways and Means Committee. As is always the case, it is an honor to have the Treasury Secretary here.

You should know that when Secretary Mnuchin took my phone calls, he promptly appeared before the Ways and Means Committee, as well. And I met with him regularly to discuss policy. There is much that can be accomplished when the cameras are not turned on.

Secretary Yellen is one of the brightest, most accomplished policymakers I have known during all my years in government. She is the first person in American history to have led the White House Council of Economic Advisors, the Federal Reserve, and the Treasury Department. I have sought her advice many times, and her leadership has contributed to the historic round of law-making and the rebound of the American economy. She is a mainstream economic thinker.

And I also would point something out. The debacle of 2008, with de-regulation of markets, what happened; again, what happened with the pandemic, she was the one that we sought for counsel on how to step forward. But we didn't do it with just Secretary Yellen. Hank Paulson was on the call with us, as well. We sought a bipartisan response. And based upon the evidence of recovery, it worked.

President Biden's economic plan is working, and the economy is growing at a solid clip. Nearly 13 million new jobs, including a half million in January, and 311,000 this morning. And the labor force participation rate ticked up.

Labor force participation declined—it has been stubborn—largely because of the pandemic and the retirement of the Baby Boomers. That has been transformational in our economy. But rebuilding the economy from the bottom up and the middle out has been the President's push, and we agree with him on this side.

The budget that he released yesterday was important, and now we have a blueprint, and we look forward to hearing what the other side has to say when, at some point, they might lay out their budget plan.

Many have heard us say before that a strong recovery was never guaranteed. But never bet against the American worker or underestimate the dignity and security of a paycheck.

And how did we get here? We invested directly in people and their families. We expanded the child credit, we cut the child poverty rate in half, and no policy has done more to reduce childhood poverty than the child tax credit.

We also take credit—I want to thank the members of the committee here. After a long, three-and-a-half days of markup, yesterday the President's budget took the Ways and Means tax package almost to the item.

We sustained millions of low and middle-income families with the Earned Income Tax Credit and the Child and Dependent Care Credit, which was essential. The American Rescue Plan permanently increased the Federal child care investment and enabled workers to re-enter the workforce, and it helped to give parents peace of mind.

Our work to encourage clean energy is also spurring growth for small businesses and for workers and their families across the country. And I want to say that publicly and privately, in Oklahoma, that position that we adopted with the Inflation Reduction Act and conversations I had there was pretty well received.

When coupled with the Bipartisan Infrastructure Law and the tax credits championed by Ways and Means Democrats in the IRA, the clean energy economy is accelerating, and millions of green jobs are now on the horizon.

I look forward to working with the Administration to implement the IRA as Congress intended. This was a monumental achievement. While free trade agreements are a purview of Congress, I stand ready to partner with durable and enforceable policies that fulfill the objectives of the IRA.

Our multi-year investment in the Internal Revenue Service is making great headway already in ushering in new service for American taxpayers. The IRS was severely under-funded. And now, with the infusion of Democratic support, 99.7 percent of the returns are being processed, and more Americans are getting their service that they deserve. We are pleased that Commissioner Werfel is in place.

Contrast that between our achievements and extremism, it is clear. Yesterday we marked up legislation signaling the intent of our government to default. You know better than anyone prioritizing debt is not an option.

We are here today, Madam Secretary, to welcome you and thank you for your great gift to America: your sheer competence.

Chairman SMITH. Today's sole witness is United States Treasury Secretary Janet Yellen.

The committee has received your written statement, and it will be made part of the formal hearing record. You have five minutes to deliver your oral remarks. Secretary Yellen, you may begin when you are ready.

**STATEMENT OF JANET L. YELLEN, UNITED STATES SECRETARY OF THE TREASURY**

Secretary YELLEN. Chairman Smith, Ranking Member Neal, and members of the committee, thank you for inviting me to discuss the Administration's fiscal year 2024 budget.

The President's proposals prioritize growth-enhancing investments that will build on the economic progress we have made, along with significant tax reforms that will substantially reduce the deficit, improve our long-run fiscal outlook, and reduce fiscal risks.

Over the past two years, the United States has experienced an historic economic recovery. In January 2021, our country was in the middle of an economic calamity triggered by the coronavirus pandemic. But Congress and the President took decisive action through the American Rescue Plan and our vaccination campaign.

This January, two years after the President took office, we reached the lowest unemployment rate in over 50 years. We have seen the strongest two years of business creation in history, and real U.S. GDP per capita is at an all-time high.

Now our task is to navigate our economy's transition from rapid recovery to sustainable growth. Our Administration's top economic priority remains bringing down inflation. We have seen some moderation in headline inflation, but more work needs to be done. Our Administration will continue to build on the actions we have taken to expand supply and provide cost relief in areas like energy and health care. These actions have made a meaningful difference for American families.

With your partnership, we have also laid a foundation for long-term economic growth through an approach that I call modern supply-side economics. This approach seeks to boost the economy's productive capacity by expanding the workforce and increasing productivity. In just the past two years alone, Congress passed three transformational laws: a generational investment in infrastructure; an historic expansion of American semiconductor manufacturing; and the largest investment in clean energy in our nation's history.

A strategic priority for our Administration this year is to work with you to effectively implement these laws, and we are seeing the early results. In just seven months, we have seen a wave of tens of billions of dollars of investment in clean energy manufacturing across the country. And our new investment in the IRS is already paying off. Taxpayers are getting drastically improved customer service this year. For example, we have answered hundreds of thousands more phone calls during this filing season than at this time last year.

Our proposed budget builds on our economic progress by making smart, fiscally-responsible investments, and these investments would be more than fully paid for by requiring corporations and the wealthiest to pay their fair share.

Fiscal discipline remains a central priority in our budget. We have proposed a minimum income tax of 25 percent on taxpayers with wealth in excess of $100 million. We have also proposed an increase in the corporate tax rate to 28 percent from the current 21 percent. And it will come as no surprise that I hope Congress will implement the United States' part of the global minimum tax deal. This new regime will end a race to the bottom in corporate taxation, and raise crucial revenue for essential investments like those proposed in the President's budget.

On the spending side we suggest additional investments to boost our long-term growth potential. This includes improving the availability of high-quality child care, providing free and universal preschool, and boosting the supply of affordable housing.

We also propose restoring the Child Tax Credit and Earned Income Tax Credit expansions that were enacted in 2021, but have since expired. Importantly, with the proposed tax reforms, we estimate that this budget will deliver deficit reduction of nearly $3 trillion over the next 10 years.

I have spoken about the promise of the President's budget, but I would be remiss if I did not mention a wholly separate issue that could threaten the economic progress that we have made.

As you know, I have asked Congress to raise or suspend the debt limit. Since 1789, the United States has always paid its bills on time, and it must continue to do so. In my assessment and those of economists across the board, a default on our debt would trigger an economic and financial catastrophe. I urge all Members of Congress to come together to address the debt limit without conditions and without waiting until the last minute.

Thank you, and I look forward to taking your questions.

[The statement of Secretary Yellen follows:]

Statement by

Janet L. Yellen

Secretary

United States Department of the Treasury

before the

Committee on Ways and Means

U.S. House of Representatives

March 10, 2023

Chairman Smith, Ranking Member Neal, and members of the Committee: thank you for inviting me to discuss the President's Fiscal Year 2024 Budget. The President's proposals prioritize growth-enhancing investments that will build on the economic progress we've made, along with significant tax reforms that will substantially reduce the deficit, improve our long-run fiscal outlook and reduce fiscal risks.

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Now, our task is to navigate our economy's transition from rapid recovery to sustainable growth. Our Administration's top economic priority remains bringing down inflation. We have seen some moderation in headline inflation, but more work needs to be done. Our Administration will continue to build on the actions we've taken to expand supply and provide cost relief in areas like energy and healthcare. These actions have made a meaningful difference for American families.

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On the spending side, we suggest additional investments to boost our long-term growth potential. This includes improving the availability of high-quality childcare, providing free and universal pre-school, and boosting the supply of affordable housing. We also propose restoring the Child Tax Credit and Earned Income Tax Credit expansions that were enacted in 2021 but have since expired. Importantly, with the proposed tax reforms, we estimate that this budget will deliver deficit reduction of nearly $3 trillion over the next 10 years.

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Thank you, and I look forward to taking your questions.

Chairman SMITH. Without—thank you, Madam Secretary, for your testimony.

Without objection, each member will be recognized for three-and-a-half minutes to accommodate the Treasury Secretary's time. As always, we have to ensure that all members have an opportunity to ask questions of the Secretary.

We will now proceed to questions-and-answer session, and I will begin with it first.

Yesterday, Secretary, I sent you a letter asking that you provide this committee with legislative language that would accomplish the $4.7 trillion in tax increases contained in your budget proposal within 30 days. The American people, they deserve to know exactly how the Biden Administration plans to raise their taxes, and the impacts those policies will have on them.

So without objection, the letter is entered into the record that I sent you yesterday.

[The information follows:]

Congress of the United States
U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS
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March 9, 2023

The Honorable Janet L. Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Yellen,

President Biden released his Fiscal Year (FY) 2024 budget earlier today. The budget summaries and supporting documents that were released with the President's FY 2024 budget are useful materials for Congress. The Administration's proposed legislative text that would help accomplish the President's proposed budget is, however, essential for Congress to evaluate and consider the President's proposed budget.

The President's budget increases taxes by $4.7 trillion. And this comes after Democrats added hundreds of billions in tax increases in the Inflation Reduction Act. The American people are suffering under the weight of this Administration's inflationary policies and deserve to know precisely how the Biden Administration intends to raise their taxes. Given this Committee's essential role in originating and crafting legislation on tax policy, legislative text is absolutely necessary to allow us to evaluate it and consider the true impact these dangerous policy proposals will have on our constituents.

Therefore, the Committee asks for your commitment to present Congress with the legislative text that would accomplish the President's budget requests which fall within the Department of the Treasury's purview within the next 30 days. If you have any questions about this request, please contact Derek Theurer of the Ways and Means Committee staff.

Sincerely,

Jason Smith
Chairman
Committee on Ways and Means

Chairman SMITH. So, Secretary Yellen, will you commit to providing that legislative text within 30 days to the committee?

Secretary YELLEN. Chairman Smith, yesterday the Treasury Department published the so-called Green Book, giving a great deal of detail about all of the proposed changes on the revenue side in this year's budget. And I believe that provides the detail that is necessary to consider these proposals.

The Treasury Department always stands ready to work with this committee and members of Commerce—Members of Congress on tax legislation as you consider it.

Chairman SMITH. So the——

Secretary YELLEN. And of course, we stand ready to do that.

Chairman SMITH. Yes, I have looked at the Green Book, and we appreciate you all giving it to us yesterday afternoon. It does not provide the legislative text of the tax proposals of $4.7 trillion that you're your budget calls for. And so what—we were asking for the legislative text. So you are not going to send us the legislative text in 30 days?

Secretary YELLEN. I don't believe that has ever been done.

Chairman SMITH. I was just asking. But if——

Secretary YELLEN. Congress usually——

Chairman SMITH. Okay.

Secretary YELLEN. As I say, we stand ready to work with you as you consider particular proposals, and we will certainly look at legislative language and give you our feedback. But——

Chairman SMITH. If you will present the legislative text to us on your $4.7 trillion in tax proposals, we would be happy to look at that. And we hope that, since that is in your budget, you will ask that.

Last year Democrats in Congress rammed through $80 billion in mandatory funding for the IRS after your department asked for it in conjunction with the President's first budget proposal. Your plan called for the IRS to monitor nearly every American bank account, to hire 87,000 new employees, and to audit over a million more Americans each year, with the majority falling on working-class Americans.

The IRS still hasn't given me the plan for the $80 billion, and how that $80 billion will be spent, even though we have sent several letters. We have spoken on the phone about that. But that can't be right, Secretary Yellen, that you all don't have a plan yet.

Your budget request, that was submitted yesterday, asked for $14.1 billion in annual appropriations for fiscal year 2024. But that is not all, Secretary. Buried on page 209 of that Green Book that you just highlighted which explains your proposals, Treasury is asking for an additional $29.1 billion in mandatory funding to "continue IRA-funded enforcement and compliance initiatives and investments." None of that money is dedicated to customer service or IT modernization.

Obviously, you all have a plan. You are already funding enforcement and compliance initiatives that have not been disclosed to Congress and the American public. You already got $80 billion for the IRS. Now you want $43.2 billion more, all without explaining what will be done with the first $80 billion?

The American people, they deserve to know how their hard-earned tax dollars are being spent, and the impact that a super-charged IRS will have on them. So how many more IRS agents will this $43.2 billion get us?

Secretary YELLEN. So first, let me say that the strategic operating plan that we have promised to deliver, we will deliver.

Chairman SMITH. And you will make that public to us.

Secretary YELLEN. Yes, it will be provided to you——

Chairman SMITH. Thank you.

Secretary YELLEN [continuing]. In the coming weeks.

And already we have taken very important steps to improve customer service. The IRS has hired 5,000 additional customer service representatives. I promised that the average level of service in answering taxpayer inquiries this tax season would rise to 85 percent. And while it varies from week to week so far, we are certainly in that 80 to 90 percent range. Tax assistance centers are up and operating; ones that had been closed due to lack of resources are in the process of being reopened. And many of these centers are open on Saturdays to provide help to consumers. Anyone this tax season, any American attempting to get help from the IRS is experiencing a very different environment.

Chairman SMITH. That is good. So Secretary, audits is something that people really care about. Will there be increased audits on working-class families with these new appropriations?

Secretary YELLEN. No, I have directed already that IRA resources will not be used to increase the share of households or small businesses earning less than $400,000 or less that are audited relative to historic levels. And I promise and will ensure that that mandate will be met.

And let's remember——

Chairman SMITH. So that is great news. That is great news, Secretary. That is one common thing that we will have. But part of our oversight duties will be to make sure that there is not increased audits for small businesses and working families.

I do want to go on. We are getting close to two years since ProPublica revealed that it had obtained what is called a vast trove of IRS data, including extensive information on the tax returns of thousands of Americans sufficient to detail their income, taxes, investments, and even the results of audits.

You have been asked several times about this issue in public, and always note that you have referred the matter to the inspector general and the Department of Justice for review. You have also said previously that you have—you take this very seriously, but this is not an issue that can be referred elsewhere and then completely ignored. The American people, they deserve to know that their confidential information is safe at the IRS, and they deserve answers about what happened.

Other than refer the matter elsewhere, what actions have you taken in the last 20 months to identify and fix potential vulnerabilities in how the IRS maintains confidential taxpayer information?

Secretary YELLEN. Listen, I want to say that I share the same frustration that you are expressing. I would really like to get to the bottom of this. We care deeply about taxpayer privacy, and an unauthorized disclosure of taxpayer information is illegal, and something to be taken very seriously.

I am frustrated because we have taken the actions that are appropriate, namely to refer this matter to the appropriate independent investigators, and that includes Treasury's Office of Inspector General, the Treasury Inspector General for Tax Administration, and the Department of Justice. All of these agencies conduct their investigations independently and according to timelines they determine are necessary and appropriate for a complete investigation.

I am waiting to see, just as you are, what the outcome of those investigations are——

Chairman SMITH. So you have done no internal audits within Treasury yourself to see if there might have been any kind of leak, or any kind of vulnerabilities in protecting taxpayers' confidential information?

Secretary YELLEN. The agencies that are independent, and should be——

Chairman SMITH. So you are letting them do it.

Secretary YELLEN. That is what is appropriate in this situation——

Chairman SMITH. Okay. Thank you, Madam Secretary.

As you know, we have established a portal to allow IRS employees to share information with this committee about any kind of conduct that is going on at the IRS that they think that we should know of, since we are the committee of jurisdiction for oversight. I sent a letter to the IRS and asked that it be shared with all IRS employees. The agency has thus far refused to do so. That is completely unacceptable. IRS employees should know the options they have to report wrongdoing to Congress that they may witness at work.

This is a simple issue. It is about basic transparency and accountability. Will you commit to sharing information about our IRS whistleblower portal with IRS employees?

Secretary YELLEN. Well, I want to say that we have very strong whistleblower——

Chairman SMITH. No, I—that is what I have heard. But would you——

Secretary YELLEN. And——

Chairman SMITH. My question is will you share our whistleblower with the IRS employees, yes or no?

Secretary YELLEN. I think what is important is that IRS employees know what their full set of——

Chairman SMITH. Exactly. So——

Secretary YELLEN [continuing]. Options are, and they certainly can report to this committee. They can report to other committees——

Chairman SMITH. But will you share——

Secretary YELLEN [continuing]. In Congress.

Chairman SMITH [continuing]. This whistleblower information to your IRS employees, yes or no?

Secretary YELLEN. I will make sure that they have the appropriate information, that they know what their obligations are, and their full set of obligations and——

Chairman SMITH. So does that include this whistleblower hotline?

Secretary YELLEN. Possibilities——

Chairman SMITH. Does that include this whistleblower hotline, that that is something you will share with them?

Secretary YELLEN. I will make sure that they know all of the options that they have.

Chairman SMITH. Does that include this whistleblower hotline?

Secretary YELLEN. It includes this committee, certainly.

Chairman SMITH. And this whistleblower hotline?

Secretary YELLEN. We will——

Chairman SMITH. It is yes or no.

Secretary YELLEN. We will make sure that they are aware——

Chairman SMITH. I hope that you do, for the sake of the American public and for the sake of your IRS employees.

On February 16th of this year, President Biden issued an executive order on advancing racial equity through the Federal Government. That was on February 16th.

Treasury Department officials have repeatedly said they want to design tax compliance around racial equity. These statements create the implication that the IRS should take into consideration race and gender in how it manages tax compliance and decides who to audit. But tax returns do not ask taxpayers to identify themselves by race. So the IRS doesn't even have the data on race.

That is where the President's executive order comes in. The order instructs the Federal Government to apply an equity focus to several areas, including to "prevent and remedy discrimination, including by protecting the public from various discrimination." It seems clear that this executive order is instructing the IRS to change its process to make audit decisions based on taxpayers' race.

Secretary Yellen, do you think there is any circumstance where the IRS should consider a person's race or gender when deciding whether someone should be audited?

Secretary YELLEN. The IRS doesn't know an individual's race, and we are certainly not proposing that race be reported on tax returns. However, the IRS does need to be careful to ensure that there is fairness in tax administration. And when studies like some that have recently been published suggests that algorithms that the IRS may be using are racially biased in the sense they are much more likely to audit, for example, taxpayers of color, rather than others with exactly similar circumstances, it is important for the IRS to become aware of that, and to make sure that the procedures that they use are fair.

But that certainly does not mean looking at race and deciding to—whom to audit.

Chairman SMITH. So in regards to audits and fairness, you will never use race or gender in deciding audits.

Secretary YELLEN. Race is not available. And as I said, it is important for the IRS to make sure that their tax administration——

Chairman SMITH. So if race——

Secretary YELLEN [continuing]. Is fair.

Chairman SMITH. If race isn't available, your statement about the algorithmics, that goes after racial preferences.

Secretary YELLEN. Well, the investigators were able to infer that the algorithm had that impact, in spite of the fact that they weren't certain what the race was of any particular individual. They used methods to infer that.

And this is a more general matter, that algorithms are often used. They are sometimes used by those who provide credit. They are not based on race, but it may turn out that they are indirectly and unintentionally using race. And it is important to understand and correct that when it is occurring.

Chairman SMITH. Without objection, the President's executive order is entered into the record.

[The information follows:]

FEBRUARY 16, 2023

# Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. On my first day in office, I signed Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), which charged the Federal Government with advancing equity for all, including communities that have long been underserved, and addressing systemic racism in our Nation's policies and programs.By advancing equity, the Federal Government can support and empower all Americans, including the many communities in America that have been underserved, discriminated against, and adversely affected by persistent poverty and inequality. We can also deliver resources and benefits equitably to the people of the United States and rebuild trust in Government.

Over the past 2 years, through landmark legislation — including the American Rescue Plan Act of 2021 (Public Law 117-2); the bipartisan Infrastructure Investment and Jobs Act (Public Law 117-58) (Bipartisan Infrastructure Law); division A of Public Law 117-167, known as the Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022; Public Law 117-169, commonly referred to as the Inflation Reduction Act of 2022; and the Bipartisan Safer Communities Act (Public Law 117-159) — as well as executive action, my Administration has vigorously championed racial equity and has advanced equal opportunity for underserved communities. Executive departments and agencies (agencies) have engaged in historic work assessing how their policies and programs perpetuate barriers for underserved communities and developing strategies for removing those barriers. They have made important progress incorporating an evidence-based approach to equitable policymaking and implementation, and they have crafted new action plans to advance equity. In short, my Administration has embedded a focus on equity into the fabric of Federal policymaking and service delivery. Our work to transform the way the Federal Government serves the American people has been complemented by Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and

Accessibility in the Federal Workforce), which continues to help ensure that my Administration — the most diverse in our Nation's history — reflects the growing diversity of the communities we serve.

My Administration's commitment to equity has produced better decision-making and more equitable outcomes. We have delivered the most equitable economic recovery in memory, and, driven by the expanded Child Tax Credit, we cut child poverty to its lowest rate on record in 2021, including record low Black, Latino, Native American, and rural child poverty. Under my Administration, the economy has created nearly 11 million jobs, and we have brought down unemployment nationwide — in particular for Black and Latino workers, for whom unemployment rates are near 50-year lows. My Administration has provided emergency rental assistance to help millions of families stay in their homes, and we have prohibited Federal contractors from paying people with disabilities subminimum wages. We are rebuilding roads and bridges, replacing the Nation's lead pipes to provide clean drinking water for all, delivering access to affordable high-speed internet to Americans in both rural and urban communities, investing in public transit, and reconnecting communities previously cut off from economic opportunity by highways, rail lines, or disinvestment. My Administration has provided funding to improve accessibility for passengers with disabilities on rail systems and in airports, expanded health coverage for millions of Americans, and expanded home- and community-based services so more people with disabilities and older adults can live independently. We have secured billions of dollars in direct new investments for Tribal Nations and Native American communities and have directed an increase in the share of Federal Government contract spending awarded to small disadvantaged businesses. My Administration has taken action to strengthen public safety, advance criminal justice reform, correct our country's failed approach to marijuana, protect civil rights, and stand up against rising extremism and hate-fueled violence that threaten the fabric of our democracy. We have taken historic steps to advance full equality for lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) Americans, including by ending the ban on transgender service members in our military; prohibiting discrimination based on sexual orientation, gender identity, and sex characteristics across Federal programs; and signing into law the Respect for Marriage Act (Public Law 117-228) to preserve protections for the rights of same-sex and interracial couples. My Administration is also implementing the first-ever National Strategy on Gender Equity and Equality to ensure that all people, regardless of gender, have the opportunity to realize their full potential.

These transformative achievements have advanced the work of building a more equitable Nation. Yet, members of underserved communities — many of whom have endured generations of discrimination and disinvestment — still confront significant barriers to realizing the full promise of our great Nation, and the Federal Government has a responsibility to remove these barriers. It is imperative to reject the narrow, cramped view of American opportunity as a zero-sum game. When any person or community is denied freedom, dignity, and prosperity, our entire Nation is held back. But when we lift each other up, we are all lifted up. Therefore, my Administration must take additional action across the Federal Government — in collaboration with civil society, the private sector, and State and local government — to continue the work begun with Executive Order 13985 to combat discrimination and advance equal opportunity, including by redressing unfair disparities and removing barriers to Government programs and services. Achieving racial equity and support for underserved communities is not a one-time project. It must be a multi-generational commitment, and it must remain the responsibility of agencies across the Federal Government. It therefore continues to be the policy of my Administration to advance an ambitious, whole-of-government approach to racial equity and support for underserved communities and to continuously embed equity into all aspects of Federal decision-making.

This order builds upon my previous equity-related Executive Orders by extending and strengthening equity-advancing requirements for agencies, and it positions agencies to deliver better outcomes for the American people. In doing so, the Federal Government shall continue to pursue ambitious goals to build a strong, fair, and inclusive workforce and economy; invest in communities where Federal policies have historically impeded equal opportunity — both rural and urban — in ways that mitigate economic displacement, expand access to capital, preserve housing and neighborhood affordability, root out discrimination in the housing market, and build community wealth; advance equity in health, including mental and behavioral health and well-being; deliver an equitable response to the COVID-19 pandemic; deliver environmental justice and implement the Justice40 Initiative; build prosperity in rural communities; ensure equitable procurement practices, including through small disadvantaged businesses contracting and the Buy Indian Act (25 U.S.C. 47); pursue educational equity so that our Nation's schools put every student on a path to success; improve our Nation's criminal justice system to end unjust disparities, strengthen public safety, and ensure equal justice under law; promote equity in science and root out bias in the design and use of new technologies, such as artificial intelligence; protect the right to vote and realize the promise of our Nation's civil rights laws; and promote equity and human rights around the world through our foreign policy and foreign assistance. By redoubling our efforts, the Federal Government can help bridge the gap between the world we see and the future we seek.

Sec. 2. Establishing Equity-Focused Leadership Across the Federal Government. (a) Establishment of Agency Equity Teams. The Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of

Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Secretary of Veterans Affairs, the Secretary of Homeland Security, the Administrator of the Small Business Administration, the Commissioner of Social Security, the Administrator of General Services, the Administrator of the United States Agency for International Development, the Administrator of the Environmental Protection Agency, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, and the Director of the Office of Personnel Management (agency heads) shall, within 30 days of the date of this order, ensure that they have in place an Agency Equity Team within their respective agencies to coordinate the implementation of equity initiatives and ensure that their respective agencies are delivering equitable outcomes for the American people.

(i) Each Agency Equity Team shall be led by a designated senior official (senior designee) charged with implementing my Administration's equity initiatives, and shall include senior officials from the office of the agency head and the agency's program, policy, civil rights, regulatory, science, technology, service delivery, financial assistance and grants, data, budget, procurement, public engagement, legal, and evaluation offices, as well as the agency's Chief Diversity Officer, to the extent applicable. Agency Equity Teams shall include a combination of competitive service employees, as defined by 5 U.S.C. 2102(a), and appointees, as defined in Executive Order 13989 of January 20, 2021 (Ethics Commitments by Executive Branch Personnel), and, to the extent practicable, shall build upon and coordinate with the agency's existing structures and processes, including with the agency's environmental justice officer designated pursuant to Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis at Home and Abroad), and with the senior agency official designated to coordinate with the Gender Policy Council pursuant to Executive Order 14020 of March 8, 2021 (Establishment of the White House Gender Policy Council).

(ii) The senior designee at each agency shall be responsible for delivering equitable outcomes, to the extent consistent with applicable law, and shall report to the agency head.

(iii) Each Agency Equity Team shall support continued equity training and equity leadership development for staff across all levels of the agency's workforce.

(iv) Each agency's senior designee shall coordinate with the agency head, agency budget officials, and the Office of Management and Budget (OMB) to ensure that the Agency Equity Team has sufficient resources, including staffing and data collection capacity, to advance the agency's equity goals. Agency heads shall ensure that their respective Agency Equity Teams serve in an advisory and coordination role on priority agency actions.

(b) Establishment of the White House Steering Committee on Equity. There is hereby established a White House Steering Committee on Equity (Steering Committee), which shall be chaired by the Assistant to the President for Domestic Policy. The Steering Committee shall include senior officials representing policy councils and offices within the Executive Office of the President, as appropriate. The Steering Committee shall:

(i) coordinate Government-wide efforts to advance equity;

(ii) coordinate an annual process to consult with agency heads on their respective agencies' Equity Action Plans, established in section 3(a) of this order;

(iii) coordinate with the leadership of the White House Initiatives created by Executive Order 14031 of May 28, 2021 (Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders); Executive Order 14041 of September 3, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity Through Historically Black Colleges and Universities); Executive Order 14045 of September 13, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Hispanics); Executive Order 14049 of October 11, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities); and Executive Order 14050 of October 19, 2021 (White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans);

(iv) coordinate with the White House Environmental Justice Interagency Council to ensure that equity and environmental justice efforts are consistent and mutually reinforcing;

(v) coordinate with the White House Gender Policy Council to align efforts to advance gender equity with broader equity efforts; and

(vi) monitor agencies' activities and promote accountability to ensure that agencies undertake ambitious and measurable steps to deliver equitable outcomes for the American people.

Sec. 3. Delivering Equitable Outcomes Through Government Policies, Programs, and Activities. Each agency head shall support ongoing implementation of a comprehensive equity strategy that uses the agency's policy, budgetary, programmatic, service-delivery, procurement, data-collection processes, grantmaking, public engagement, research and evaluation, and regulatory functions to enable the agency's mission and service delivery to yield equitable outcomes for all Americans, including underserved communities.

(a) In September 2023, and on an annual basis thereafter, concurrent with the agencies' submission to OMB for the President's Budget, agency heads shall submit an Equity Action Plan to the Steering Committee. The Equity Action Plan shall include actions to advance equity, including under Executive Order 13985, Executive Order 13988 of January 20, 2021 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation), Executive Order 14008, and Executive Order 14020.

(b) Each Equity Action Plan, which shall be made public, shall include:

(i) an update on the progress made by the agency on the actions, performance measures, and milestones highlighted in the preceding year's Equity Action Plan, as well as the agency's performance on the annual Environmental Justice Scorecard established pursuant to section 223 of Executive Order 14008, as applicable;

(ii) potential barriers that underserved communities may face in accessing and benefitting from the agency's policies, programs, and activities, including procurement, contracting, and grant opportunities;

(iii) strategies, including new or revised policies and programs, to address the barriers described in subsection (b)(ii) of this section and to ensure equitable access and opportunity for underserved communities; and

(iv) a description of how the agency intends to meaningfully engage with underserved communities, including through accessible, culturally and linguistically appropriate outreach, and the incorporation of the perspectives of those with lived experiences into agency policies, programs, and activities.

(c) Starting with formulation of the Fiscal Year 2025 Budget and for each subsequent year, the Director of OMB shall consider how the President's Budget can support the Equity Action Plans described in subsection (a) of this section in order to reinforce agency efforts to meaningfully engage with and invest in underserved communities and advance equitable outcomes.

(d) To ensure effective implementation of Equity Action Plans, and to strengthen the Federal Government's equitable delivery of resources and benefits to all, agency heads shall:

(i) prioritize and incorporate strategies to advance equity — including by pursuing evidence-based approaches, reducing administrative burdens, increasing access to technical assistance, and implementing equitable data practices, consistent with applicable law, into their respective:

(A) agency strategic plans developed pursuant to 5 U.S.C. 306(a);

(B) agency performance plans developed pursuant to 31 U.S.C. 1115 and 1116;

(C) portions of performance plans relating to human and capital resource requirements to achieve performance goals pursuant to 31 U.S.C. 1115(b)(5)(A);

(D) agency priority goals developed pursuant to 31 U.S.C. 1120;

(E) evaluation and evidence-building activities pursuant to the Foundations for Evidence-Based Policymaking Act of 2018 (Public Law 115-435) and section 5 of the Presidential Memorandum of January 27, 2021 (Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking);

(F) customer experience capacity assessments and action plans pursuant to section 280 of OMB Circular A-11 and Executive Order 14058 of December 13, 2021 (Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government);

(G) selection of items for their respective regulatory agendas and plans pursuant to sections 4(b) and (c) of Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), as amended;

(H) individual performance plans for senior executives consistent with 5 U.S.C. 4312, and for other senior employees consistent with 5 U.S.C. 4302; and

(I) as permitted by law, activities, acquisitions, and strategies that the Director of OMB determines to be appropriate to further the implementation of this order;

(ii) identify opportunities, as appropriate and consistent with applicable law, to incorporate into new regulations and to modify their respective agencies' regulations, internal- and public-facing guidance, and other policies to include advancing equity as part of their respective agencies' missions; and

(iii) promote coordination within and among their respective agencies concerning the elements of their respective Equity Action Plans and the recommendations of the Interagency Working Group on Equitable Data established in Executive Order 13985.

Sec. 4. Embedding Equity into Government-wide Processes. (a) The Director of OMB shall consider opportunities to review and update internal processes, directives, and Government-wide guidance (such as OMB Circulars and Memoranda) to support equitable decision-making, promote equitable deployment of financial and technical assistance, and assist agencies in advancing equity, as appropriate and wherever possible.

(b) When designing, developing, acquiring, and using artificial intelligence and automated systems in the Federal Government, agencies shall do so, consistent with applicable law, in a manner that advances equity.

Sec. 5. Delivering Equitable Outcomes in Partnership with Underserved Communities. Underserved communities often face significant barriers and legacy exclusions in engaging with agencies and providing input on Federal policies and programs that affect them. Agencies must increase engagement with underserved communities by identifying and applying innovative approaches to improve the quality, frequency, and accessibility of engagement. Agencies shall, consistent with applicable law:

(a) conduct proactive engagement, as appropriate, with members of underserved communities — for example, through culturally and linguistically appropriate listening sessions, outreach events, or requests for information — during development and implementation of agencies' respective annual Equity Action Plans, annual budget submissions, grants and funding opportunities, and other actions, including those outlined in section 3(d) of this order;

(b) collaborate with OMB, as appropriate, to identify and develop tools and methods for engagement with underserved communities, including those related to agency budget development and rulemaking;

(c) create more flexibilities, incentives, and guidelines for recipients of Federal funding and permits to proactively engage with underserved communities as projects are designed and implemented;

(d) identify funding opportunities for community- and faith-based organizations working in and with underserved communities to improve access to benefits and services for members of underserved communities; and

(e) identify and address barriers for individuals with disabilities, as well as older adults, to participate in the engagement process, including barriers to the accessibility of physical spaces, virtual platforms, presentations, systems, training, and documents.

Sec. 6. Creating Economic Opportunity in Rural America and Advancing Urban Equitable Development. (a) Agencies shall undertake efforts, to the extent consistent with applicable law, to help rural communities identify and access Federal resources in order to create equitable economic opportunity and advance projects that build community wealth, including by providing or supporting technical assistance; incentivizing the creation of good, high-paying union jobs in rural areas; conducting outreach to and soliciting input from rural community leaders; and contributing new resources and support to interagency programs such as the Rural Partners Network.

(b) Agencies shall undertake efforts, to the extent consistent with applicable law, to strengthen urban equitable development policies and practices, such as advancing community wealth building projects; preventing physical and economic displacement as the result of Federal investments; facilitating equitable flows of private capital, including to underserved communities; and incorporating outcome-based metrics focused on urban equitable development in the design and deployment of Federal programs and policies. To support these efforts, the Assistant to the President for Domestic Policy shall issue a policy memorandum on actions agencies can take to advance urban equitable development.

(c) Executive Order 13946 of August 24, 2020 (Targeting Opportunity Zones and Other Distressed Communities for Federal Site Locations), including the amendments it made to Executive Order 12072 of August 16, 1978 (Federal Space Management), and to Executive Order 13006 of May 21, 1996 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities), is revoked. Executive Orders 12072 and 13006 are reinstated as they were prior to issuance of Executive Order 13946. Executive Order 13853 of December 12, 2018 (Establishing the White House Opportunity and Revitalization Council), is also revoked. All agencies shall, consistent with applicable law, including the Administrative Procedure Act (5 U.S.C. 551 et seq.), consider taking prompt action to revoke any rules, regulations, guidelines, or policies implementing these Presidential actions that are inconsistent with the provisions of this order. Further, agencies shall ensure that planning for new Federal facilities or new leases includes consideration of neighborhoods and locations that are near existing employment centers and are accessible to a broad range of the region's workforce and population by public transit (where it exists), consistent with Executive Order 12072. Agencies shall identify displacement risks associated with Federal facility siting and development and shall engage with any community that may be affected, along with appropriate regional and local officials, to mitigate those displacement risks.

Sec. 7. Advancing Equitable Procurement. (a) The Government-wide goal for Federal procurement dollars awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals (SDBs) shall be 15 percent in Fiscal Year 2025. In furtherance of this goal, OMB shall set a Government-wide SDB goal for Fiscal Year 2024. The Small Business Administration shall, on an annual basis, work with each agency to establish an agency-specific goal that, in aggregate, supports the Government-wide goal. Further, agencies shall undertake efforts to increase contracting opportunities for all other small business concerns as described in the Small Business Act (15 U.S.C. ch. 14A).

(b) Agencies shall expand procurement opportunities for SDBs through Federal financial assistance, consistent with applicable law, under the Bipartisan Infrastructure Law, the Inflation Reduction Act of 2022, and other Federal financial assistance programs.

Sec. 8. Affirmatively Advancing Civil Rights. Agencies shall comprehensively use their respective civil rights authorities and offices to prevent and address discrimination and advance equity for all, including to increase the effects of civil rights enforcement and to increase public awareness of civil rights principles, consistent with applicable law. Agencies shall consider opportunities to:

(a) further elevate their respective civil rights offices, including by directing that their most senior civil rights officer report to the agency head;

(b) ensure that their respective civil rights offices are consulted on decisions regarding the design, development, acquisition, and use of artificial intelligence and automated systems;

(c) increase coordination, communication, and engagement with community-based organizations and civil rights organizations;

(d) increase the capacity, including staffing capacity, of their respective civil rights offices, in coordination with OMB;

(e) improve accessibility for people with disabilities and improve language access services to ensure that all communities can engage with agencies' respective civil rights offices, including by fully implementing Executive Order 13166 of August 11, 2000 (Improving Access to Services for Persons with Limited English Proficiency); and

(f) prevent and remedy discrimination, including by protecting the public from algorithmic discrimination.

Sec. 9. Further Advancing Equitable Data Practices. The Office of Science and Technology Policy (OSTP) National Science and Technology Council Subcommittee on Equitable Data shall, to the extent consistent with applicable law, coordinate the implementation of relevant recommendations of the Interagency Working Group on Equitable Data established in Executive Order 13985. The Director of OSTP shall provide a report on the Subcommittee's progress to the Steering Committee every January and July.

Sec. 10. Definitions. For purposes of this order:

(a) The term "equity" means the consistent and systematic treatment of all individuals in a fair, just, and impartial manner, including individuals who belong to communities that often have been denied such treatment, such as Black, Latino, Indigenous and Native American, Asian American, Native Hawaiian, and Pacific Islander persons and other persons of color; members of religious minorities; women and girls; LGBTQI+ persons; persons with disabilities; persons who live in rural areas; persons who live in United States Territories; persons otherwise adversely affected by persistent poverty or inequality; and individuals who belong to multiple such communities.

(b) The term "underserved communities" refers to those populations as well as geographic communities that have been systematically denied the opportunity to participate fully in aspects of economic, social, and civic life, as defined in Executive Orders 13985 and 14020.

(c) The term "equitable development" refers to a positive development approach that employs processes, policies, and programs that aim to meet the needs of all communities and community members, with a particular focus on underserved communities and populations.

(d) The term "community wealth building" refers to an approach to economic development that strengthens the capacities of underserved communities by ensuring institutions and local economies have ownership models with greater community participation and control. This results in upgrading skills, growing entrepreneurs, increasing incomes, expanding net asset ownership, and fostering social well-being.

(e) The term "equitable data" refers to data that allow for rigorous assessment of the extent to which Government programs and policies yield consistently fair, just, and impartial treatment of all individuals.

(f) The term "algorithmic discrimination" refers to instances when automated systems contribute to unjustified different treatment or impacts disfavoring people based on their actual or perceived race, color, ethnicity, sex (including based on pregnancy, childbirth, and related conditions; gender identity; intersex status; and sexual orientation), religion, age, national origin, limited English proficiency, disability, veteran status, genetic information, or any other classification protected by law.

Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Agencies not covered by section 2(a) of this order, including independent agencies, are strongly encouraged to comply with the provisions of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
February 16, 2023.

Chairman SMITH. And I recognize the gentleman from Massachusetts.

Mr. NEAL. So, Madam Secretary, I am going to ask you to use your time to explain some of these positions. I know you have to get out of here, but I want to make sure everybody gets a chance to ask a question on both sides this morning. That is really important.

I have questioned Treasury Secretaries back to Nick Brady. Never did I ever ask a yes-or-no question, because I know events shift and change every single day, and the people that have had that job have been entirely competent over these years.

So could you talk a bit about the child credit, and also the 311,000 new jobs that were created this morning?

Secretary YELLEN. Yes, the child credit. So the child credit, tax credit was expanded in the American Rescue Plan. And that was important because the pandemic especially hit low-income families very hard. And it had a dramatic effect in lowering child poverty, according to many studies. It really helped families. Many families were able to use that child credit to get back to work to help with child care.

The majority, the great majority of families that received the Child Tax Credit are working families. Others were seniors taking care of a grandchild or sometimes children with disabilities. And it had a dramatic effect in helping families that were impacted by the pandemic that—the President believes that this is something that should be in place permanently, and his budget recommends reinstating the credit on the terms it existed in the ARP.

You mentioned about this morning's employment report. It showed 311,000 jobs this morning. In spite of that, the unemployment rate ticked up slightly to 3.6 percent. How to reconcile those two disparate facts, I guess I would point out that there was an increase—the labor force participation rate moved up just a tad, which is always encouraging to see people coming back into the labor force at this point.

The labor force participation rates for both adult men and women have exceeded their pre-pandemic highs, and so when more people come into the labor force, that loosens conditions ever so slightly, takes some of the—helps address some of the supply demand imbalance in the labor market while creating lots of jobs. So what we are seeing here is a continued very strong labor market, putting Americans back to work.

Mr. NEAL. Thank you, Madam Secretary. And we are always delighted to have the Treasury Secretary in front of the Ways and Means Committee, understanding that you are a successor to Hamilton. Thank you.

Secretary YELLEN. Thank you. I look at his picture in my office every day.

Chairman SMITH. The gentleman from Florida, Mr. Buchanan, is recognized.

Mr. BUCHANAN. Madam Secretary, thanks for being here today.

My concern is, when you look back over the last 20 years, over $20 trillion in debt. So I want to talk to you a little bit about the balance sheet.

Also, this financial report that gets put out the last couple of years. You signed it, and so I would like to get your thoughts on exactly is it a clean opinion, what—you said it is unsustainable, the financial path that we are on. That is what you mentioned in the report. It doesn't seem like it is a very clean audit. I think there is, obviously, just in terms of the overall debt, $31 trillion, $20 trillion in the last 20 years.

There is plenty of blame, let's put it that way, to go around. But I am very, very concerned about where we are at and where we are going. I have got two kids and nine grandkids, and a lot of us have children in here. And I am—someone, a top economist, said to me, "At some point this ends badly."

You are, the way I look at it, the chief financial officer. You know, we get over here, we raise the debt. But looking back over the 20 years, I have absolutely no confidence in the way we do business up here. So I would like to get your thoughts just quickly.

What did you mean by unsustainable path that we are on currently as a result—something that you put in the financial report, what does that mean to you?

Secretary YELLEN. Well, a sustainable path is one that keeps the, in my view, the interest expense on the debt that Americans have to pay—we take in tax revenue, some of it needs to be devoted to paying interest on outstanding debt——

Mr. BUCHANAN. How do you explain $20 trillion——

Secretary YELLEN. And it is critical that it be manageable.

Mr. BUCHANAN. Excuse me. How do you explain $20 trillion in 20 years? I mean, we just keep piling up the debt—100 basis points on $31 trillion is $300 billion a year. I mean, we are kidding ourselves. So if you are at five, six percent thinking about raising rates, you are talking a billion—a trillion-and-a-half, just interest alone. So I think it is a concern.

Secretary YELLEN. Well——

Mr. BUCHANAN. Let me just jump to the second question quickly.

Is—$1 trillion they are talking about, tax increases on small business. That is the proposed budget in terms of pass-through entities. I am very concerned. That puts the American dream clearly at risk. So 39.5, you add up the other things, you are probably 46. If you figure in New York, New Jersey—I am in Florida. Texas, you look a little differently, or California. You are close to 60 percent for pass-through entities. These are small businesses for the most part, 50 employees or less.

And it is obvious to me, personally, that many of you have never been in business, because you would understand that the cost of capital, it is not available for a lot of these small businesses, especially in the environment we are in today. A lot of people are concerned.

But how do you think about the idea of another trillion dollars on our small business, medium-sized businesses?

Secretary YELLEN. The President pledged not to raise taxes on any individual or small business earning under $400,000.

Mr. BUCHANAN. Well, I am just saying that if someone has got a——

Secretary YELLEN. There is not a single penny——

Mr. BUCHANAN. Let me just finish on this point. If someone has got 100 employees, and they make 600, 700, the business does, they take out 100, they pay their taxes and they have a few bucks, they can help their balance sheet. And that is the reality in the small business world. Just because it is a small business and you make 600, doesn't mean you take that home. You need that money to grow. That is the fuel to grow your business.

With that, I yield back.

Chairman SMITH. The gentleman from Texas is recognized.

Mr. DOGGETT. Madam Secretary, I admire your courage in going to Ukraine, and I am glad you are battle-tested for coming here to our committee.

Secretary YELLEN. Thank you.

Mr. DOGGETT. Let me ask you—I am hopeful that the Republicans will get to us their budget plan in 30 days, just as they have asked for commitments from you to do things within 30 days. They seem to think that we can continue to deal with our debt problems by removing revenue from our vital public services. And I want to touch on two areas that I think the President and you have acted most appropriately to sustain our needs.

One of those is for Medicare. They say, belatedly now, that they won't cut Medicare, but they seem unwilling to make the changes that are necessary to sustain Medicare for our grandchildren, as well as for our current seniors. I introduced legislation last year concerning the net investment income tax, and I have reintroduced it, and I see that is included in the President's budget.

Isn't it correct that the estimates are that about 85 percent of that increase would be paid by those who earn $1 million or more a year, and that none of the tax burden would be on those below $400,000?

Secretary YELLEN. That is correct. And the proposal wouldn't raise it on anyone making under $400,000. And the revenue would be devoted to Medicare to shoring up the hospital trust fund.

Mr. DOGGETT. And the President, I believe, has a plan to extend it even beyond 2040. Just closing the loophole and correcting the mistake that was made about the net investment income would extend Medicare solvency to 2040. So if people really believe in Medicare, they would be willing to take the steps to ensure it is there.

And of course, the second one, and it mystifies me at the creativity of our Republican colleagues in coming up with excuses to defend multinationals for not paying their fair share for our national security, though they benefit from it perhaps more than any other group in our society.

So I admire your leadership on the global minimum tax. This newest excuse we have heard this morning is that it is going to all help China. They helped China yesterday with their China bond first program. But tell me about why it is an error to claim that China will somehow benefit from stopping the race to the bottom.

Secretary YELLEN. China will not benefit at all from this. China will be forced to raise their minimum tax on their multinationals up to the level of 15 percent on a country-by-country basis. And China has signed on to the agreement. But if for any reason China failed to enact this tax and put it in place, there is an enforcement mechanism built into this agreement by which the United States or other countries in which Chinese firms do business, where they have subsidiaries doing business, we would impose a top-up tax on Chinese corporations operating in the United States or in Europe, where they have already put the tax into place.

So if China doesn't tax these firms, these their multinationals, we will do it, and we will keep the tax revenue. But one way or another, we will level the playing field so Chinese firms are on the same footing as our multinationals.

Mr. DOGGETT. Thank you for your leadership.

Secretary YELLEN. Thank you.

Mr. DOGGETT. The gentleman from Nebraska is recognized.

Mr. SMITH of Nebraska. Thank you.

Thank you, Secretary Yellen. Our time is short here, so I will try to be quick in answering some very concise questions.

We have serious concerns about the impact that the $80 billion that the IRS is receiving, and its impact on families and small businesses. There are concerns about the funding stemming from the fact that we are working from disparate statements from the Administration. So I am glad you are here to help clarify.

In 2021, Treasury released an analysis right here that states $80 billion in additional IRS funding would be used to increase the total headcount at IRS compared to 2021 by almost 87,000 employees over the next decade. Is that accurate? Is that correct?

Secretary YELLEN. The vast majority of those hires are to replace attrition, people who would be retiring. So——

Mr. SMITH of Nebraska. Okay. So the attrition is about 12,000 personnel over the last——

Secretary YELLEN. No, it is——

Mr. SMITH of Nebraska. 10 years.

Secretary YELLEN. It is over 10 years. It is much larger than that.

Mr. SMITH of Nebraska. Okay. The record reflects that the headcount decreased by 12,000 over the last decade, so that would leave us at 75,000 new personnel at our—at IRS. So I just want the record to reflect that.

Now, regarding the audits—and the chairman talked a bit about this—there has been confusion about the meaning of the directive that you cited in the letter last August, and then repeated here today. So are you talking about the total number of audits, or are you talking about the proportion of audits on families and small businesses under $400,000?

Secretary YELLEN. I am talking about the proportion of those small businesses and families.

Mr. SMITH of Nebraska. Okay. So the proportion—I mean, just for the record, the proportion is 90 percent. So 90 percent of the new audits will be, you know, according to the data, that we can expect up to 90 percent of new audits to be on those making less than $400,000.

Secretary YELLEN. The——

Mr. SMITH of Nebraska. Now——

Secretary YELLEN. The purpose of this legislation is to vastly increase the audit rates——

Mr. SMITH of Nebraska. Yes, yes, we understand——

Secretary YELLEN [continuing]. On high-income, high-wealth, complex——

Mr. SMITH of Nebraska. Right. But they are——

Secretary YELLEN [continuing]. Partnerships——

Mr. SMITH of Nebraska. But the data reflects that it is broader than that, especially given the number of personnel. But——

Secretary YELLEN. To the extent that the number of taxpayers——

Mr. SMITH of Nebraska [continuing]. Shifting gears——

Secretary YELLEN. I understand, okay.

Secretary YELLEN [continuing]. Earning less than $400,000 increases the audit rates——

Mr. SMITH of Nebraska. But the rates of audit——

Secretary YELLEN [continuing]. Will not rise.

Mr. SMITH of Nebraska [continuing]. And the commitments, you know, are certainly, I believe, very clear.

Now, shifting gears, critical mineral requirements in the Inflation Reduction Act refer to, and I quote, "countries with which the United States has a free trade agreement, in effect." As chairman of this panel's trade subcommittee, I have been surprised to hear the Biden Administration may take the view that the term "free trade agreement" is undefined, and actually open to various interpretations.

So this committee has jurisdiction over all U.S. trade policies, including the negotiation and enforcement of trade agreements. We know exactly what a free trade agreement is, as do our partners, our trading partners who have actually raised concerns about the Inflation Reduction Act.

So, Secretary YELLEN, please clarify. Would you define a free trade agreement, or at least provide a list of countries with whom we have a free trade agreement?

Secretary YELLEN. Well, we clearly have a number of comprehensive free trade agreements that will qualify as free trade agreements for the purposes of this statute.

But in December, Treasury issued a white paper that lays out a possible approach to identifying additional agreements that could potentially qualify. And we understand that the key goal of the IRA is to strengthen supply chains we rely on for energy and resources. And in order to effectuate the goals of the legislation, it may be appropriate to negotiate additional——

Mr. SMITH of Nebraska. I understand what the IRA is intended to do. I fear what the actual impact will be.

And my time is expired.

Chairman SMITH. The gentleman from California is recognized.

Mr. THOMPSON. Thank you, Mr. Chairman.

And Madam Secretary, thank you for being here, and welcome. I have a couple of things I want to bring up, but first I want to be really clear.

You were confirmed Secretary in January of 2021. This January we hit the lowest unemployment rate in 50 years. We went from an unprecedented pandemic to the lowest unemployment in decades, and you oversaw all of it. And today, as we heard, 311,000 new jobs in February. As Mr. Neal highlighted your incredible resume and your history, you are truly a pro.

Over the past couple of years, I have been privileged to work directly with you, so as we transition to clean and renewable energy, and I want to thank you for your cooperation and your help.

Secretary YELLEN. Thank you.

Mr. THOMPSON. I have got four items I want to bring up, but we have a limited amount of time, so I will ask two and write you about the other. I would like to talk to you about my top two priorities: disaster relief and mental health. And I will start with disaster relief.

Madam Secretary, many survivors of California's wildfires in 2015, 2017, and 2018 are eligible for compensation from something called the Fire Victims Trust, which was established following the Pacific Gas and Electric bankruptcy. However, in many of these cases the survivors are being forced to pay taxes on a settlement award they received from the trust, including roughly 30 percent of the award that goes to attorneys.

I have bipartisan, bicameral legislation clarifying that disaster relief payments like these from a trust fund are straightforwardly non-taxable. And I would like you and your people to work with us so we can help these folks, who haven't even received enough money to rebuild the homes that they lost.

And then, second, the biggest issue, or the second biggest issue that we face as a people, is mental health. We see problems everywhere: schools, homelessness, veterans, amongst the elderly. Mental illness is a huge, huge problem that costs us trillions of dollars, and we need to figure it out.

But treating the symptoms as we have done isn't enough, nor do we have all the money to do it. We have to get ahead of the curve. And Mr. Kelly and I have bipartisan legislation that we are getting ready to reintroduce that—and we shared it with your staff—that provides tax incentives for neurological research.

Madam Secretary, do you agree that we can and should use the tax code to help address our collective mental health crisis?

Secretary YELLEN. Well, these are critically important problems and, to me, appropriate priorities. And let me say that we will be more than happy to work with you on this legislation. So my staff can certainly be in touch.

Mr. THOMPSON. Thank you. And then I will submit my questions about solar cells and taxpayer correspondence to you in writing.

Again, thank you for the incredible job that you have done, and your commitment to public service.

Secretary YELLEN. Thank you for your kind words.

Mr. THOMPSON. Thank you, I yield back.

Secretary YELLEN. Much appreciated.

Chairman SMITH. The gentleman from Pennsylvania is recognized.

Mr. KELLY. Thank you, Mr. Chairman.

Madam Secretary, thanks for being here. And you do have an impressive resume.

Secretary YELLEN. Thank you.

Mr. KELLY. And your dedication to the public and trying to do everything you can when it comes to the economy is really great.

I got to tell you, I live at a much different level. And there is an old saying, "If you can't convince them, confuse them."

Now, being in the retail automobile business all my life, I am better on blacktop than I am on a laptop. And as we go here and we throw these questions out to you, I keep coming back to some of the things I have learned in my past life. And, you know, one of the things is you read the "Tale of Two Cities," and this is what we are talking about, right? It is the best of times, it is the worst of times.

We talk about job creation. It is not job creation. It is job recovery. And I heard this not in the Trump Administration, but the previous Administration. We used to talk about how many jobs we created, and what it really was is we were just getting people back to work that were no longer working. And some of the decisions we have made it more valuable for people to stay at home than go to work. And it wasn't that people were lazy, it is just that they weren't stupid.

You have a tough job. You have a tough job. And I often refer to things that just happened in my life in everyday things. I can remember a movie called "A Few Good Men," and I think one of the things we—that Jack Nicholson said in that movie was, "You can't handle the truth." I am not talking about you, but I am talking about the American people. Mr. Buchanan touched on this, and we worry about this all the time. It is the public debt, which is part of your job description. And you really answer to the President of the United States as a member of the cabinet.

I am just baffled as to where we go from here, and how we can put a smile on our faces. Because the people I talk to aren't in this room. When I come out of Mass in the morning, I have people that stop me. When I go to Cannella's to have breakfast, people stop me. When I go to Cummings to get coffee, people stop me. You know what they ask me all the time? "When the hell are you guys going to get this thing straightened out? My pension now is losing its value. I am dipping into my savings. I can't help my kids and my grandkids anymore, because my wife and I don't have the ability to keep up with inflation."

So I know we have all these wonderful, wonderful programs that we talk about, and all these wonderful ideas that we talk about, and it just is bizarre to me that I think we need to spend more time in the field. We need to go to Petersburg, West Virginia. We need to go to Oklahoma, and we need to talk to people who really service the debt. And that is our hardworking American taxpayers.

I think all of us, while we have questions of you, I am just—I got to tell you, I don't know that I would want your job. I don't know that I want to be there and wondering where the slap is going to come from next. But you do one heck of a job. I would just hope that, as a committee, we don't look at how it is that we can make each other look bad, or to figure out who struck John, but to understand that it is the American people that are suffering right now.

This idea of not looking into ProPublica—and I understand what you said, it is somebody else's thing. And I got to tell you, I got 10 grandchildren, so this reminds me of Humpty Dumpty. Humpty Dumpty sat on a wall, Humpty Dumpty had a great fall. All the king's horses and all the king's men couldn't put Humpty Dumpty back together again.

So you just outlined for us the number of offices, the number of people we have to get to a simple answer is who the hell put the information out there? How did they get this information? And the longer we stay away from an answer, the faith, the trust, and the confidence of the American people in this institution is withering and dying on the vine.

I would just suggest to all of us, I don't give a shit if you wear a red hat or a blue hat. Wear something that is red, white, and blue, and look at who it is that you represent back home. Because I love sitting here and listening to all the testimony. What I have a hard time is when I go back home and say, "We are working on it, we just don't know who is going to answer the question for you."

Thank you so much. I appreciate you being here. Your patience and your dedication to this country is phenomenal. Thank you, ma'am.

Chairman SMITH. The gentleman from Connecticut is recognized.

Mr. LARSON. Thank you, Mr. Chairman. Thank you, Madam Secretary, for being here. And thank you also for being part of an administration that actually did leave the country with a surplus. Mr. Neal yesterday very eloquently went through that process.

So I think the American people, and even our colleagues over here on this side of the aisle, we point with great pride your example, your leadership that you have demonstrated, including——

Secretary YELLEN. Thank you.

Mr. LARSON [continuing]. The 12 million new jobs that have been created in just the past 2 years.

I also wanted to—because there is a lot of talk about fairness and debt, et cetera. And I am now the ranking member of the Social Security Subcommittee. And Social Security, as you know, is the nation's number-one anti-poverty program for the elderly. And hopefully we get the Child Tax Credit back.

But absent that, it is the number-one anti-poverty program for children, as well. I commend the President for his budget that increases the opportunity, and makes Medicare more solvent, and also strengthens Social Security, and it does so, actually, by paying for it.

And the President, in his comments, said—and you pointed to this—that there will be no tax increase on anyone over $400,000. How many Americans does that represent?

How many people are in that area of earning over $400,000, and is it fair that someone who is making 30 or 50 or $75,000 pays in the whole time, and someone like Elon Musk stops paying after day one for their Social Security?

Isn't this about fairness?

Secretary YELLEN. I think it is about fairness. And I think hardworking Americans who have counted on Social Security, and paid into it their entire lives, and dependent on it as their major source of income in retirement, I think we need to make sure that it is there for them, and that we look for additional revenue to Americans with very high incomes, many of whom, in total, pay less taxes than a teacher or a firefighter.

And throughout the President's budget there are many proposals to make sure, for the sake of tax fairness, that those individuals pay at least a minimum. A person making 100 million or more should pay at least 25 percent of their full income as taxes.

But yes, I think it is, for tax fairness——

Mr. LARSON. Like Mr. Kelly, I go to a lot of places. And everywhere I go they ask me when are we going to fix Social Security and, "Why is it that I have to pay in"—and we learn from the President and this exchange—"Why do I have to pay in constantly out of every paycheck"—it is called FICA, Federal Insurance Contribution—"and the wealthy do not?"

Secretary YELLEN. Agreed.

Chairman SMITH. The only floor vote of the date has been called. As there is only one vote, we will keep the hearing going on. So please vote, and then return to the hearing immediately.

The gentleman from Arizona.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

And Madam Secretary, the nature of the chaos of what we all do. We only have three-and-a-half minutes, so the tyranny of the clock.

When you have high-profile elected members who will say things—because I have an incredible concern of messaging and stability in debt markets around the world—when we will say things like "debt doesn't matter," "print a $1 trillion coin," "modern monetary policy, we can just keep borrowing," is that helpful, as we are trying—and particularly when you are looking at your subscription rates and your auctions?

Do you wish on occasion we would just not talk about things we don't understand?

Secretary YELLEN. Well, look, I think it is critical that the United States be on a fiscal path that is responsible and sustainable.

Mr. SCHWEIKERT. But—and I know this is more of a message from our brothers and sisters here, particularly. I have a long list of quotes about debt not mattering from my brothers and sisters on the left. And I think that is a really horrible messaging to debt markets when, you know, you and I, we are trying to convince the world we take this very seriously.

Secretary YELLEN. I think we should take it seriously, and it does matter.

Mr. SCHWEIKERT. Any—in your banking reg side of Treasury, any concerns over some of the stresses right now in bond markets, particularly, you know, your Basel Holdings—Silicon Valley Bank, when—you know, mark to market? Are you picking up any data that we should be at least cognizant of?

Secretary YELLEN. Well, I will just say—you mentioned Silicon Valley Bank. There are recent developments that concern a few banks that I am monitoring very carefully. And when banks experience financial losses, it is and should be a matter of concern.

Mr. SCHWEIKERT. It is—and to explain, it is the nature of moving interest rates all of a sudden. If you have to sell the bonds, you are taking quite a loss.

In the budget, Madam Secretary, you have a little bit less than $5 trillion of new taxes over the 10 years. Do you have the wherewithal to model that to say, okay, here is our tax regime, and here is its economic effect on GDP growth? Were you able to do modeling documents?

Secretary YELLEN. Well, we don't have a gigantic model that shows what the total impact——

Mr. SCHWEIKERT. Okay.

Secretary YELLEN [continuing]. Would be on the economy, but we have certainly considered the economic impact in the case of all of the policies that I have proposed——

Mr. SCHWEIKERT. All right, I just—look, I spent part of my evening—that is why I am glassy-eyed—trying to read through. I was looking for—saying, okay, we are going to raise this much taxes, and we believe it has this much impairment on GDP growth over the 10. If one of your staffers ever could send me——

Secretary YELLEN. There are——

Mr. SCHWEIKERT [continuing]. Document, I would love to look at your math.

Secretary YELLEN. I mean, there are——

Mr. SCHWEIKERT. And the very——

Secretary YELLEN. There are studies, and it is something that we have tried to evaluate in putting forward proposals.

Mr. SCHWEIKERT. Yes. And the last thing, your capital gains tax would go up to what for very high earners?

Secretary YELLEN. It would go up to the same rate as the tax on regular income.

Mr. SCHWEIKERT. Okay. So it would match regular income, though——

Secretary YELLEN. For high-income individuals.

Mr. SCHWEIKERT. In the—Madam Secretary, but in the current environment capital gains are substantially affected by inflation. So we would be taxing non-actual gains, we would be taxing inflated gains—inflation gains, not actual appreciation.

Should we actually do an adjustment for inflation on those capital gains taxes?

Secretary YELLEN. It is something certainly to consider. I mean, our tax code is, in general, not inflation neutral.

Mr. SCHWEIKERT. Inflation-adjusted, all right.

Secretary YELLEN. And, you know, this is an area that maybe requires some thought.

Mr. SCHWEIKERT. Thank you, Madam Secretary.

And thank you for your patience, Mr. Chairman.

Chairman SMITH. Thank you, Representative.

The gentleman from Oregon.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

And thank you, Madam Secretary, for being here. When I consider the tone with which you were greeted, I am amazed that you are willing to come back, and your patience. It is not just your resume, it is your performance.

Secretary YELLEN. Thank you.

Mr. BLUMENAUER. You have one of the most difficult jobs in America, and every American has a stake in your success.

Secretary YELLEN. Thank you.

Mr. BLUMENAUER. Yesterday's action by this committee, coming up with this fantasy that somehow the IRS can prioritize 1.28 million—excuse me, billion—payments a year, to try and sidestep our responsibility to raise the debt, I apologize for that. It continues a trend that my Republican friends have had for years in terms of making the IRS job more difficult, fewer people, and more complex returns. I am hopeful that we can get past that, and that we are able to engage with you in a constructive way to avoid economic catastrophe.

I do have one modest area of disagreement, and I must agree with my dear friend, Chairman Smith, about some of the suggestions that we can sidestep working with Congress and redefine agreements as FTAs. None of us think that satisfies the condition. I have worked with five presidents on trade issues. And when we do not have a good, constructive working relationship and Congress playing its role, it doesn't end well. And I would just refer to the trade promotion, the TPP, as an example where it was harder, and we are still bearing the circumstances.

Secretary YELLEN. I apologize for any suggestion that I may have made that Congress doesn't have an appropriate role.

Mr. BLUMENAUER. Well, no.

Secretary YELLEN. And——

Mr. BLUMENAUER. But in terms of redefining what the terms are going to be, it is, in effect, sidestepping us.

I hope that you will——

Secretary YELLEN. I think we have been in close touch with this committee.

Mr. BLUMENAUER. Yes, I understand that.

Secretary YELLEN. My staff have been.

Mr. BLUMENAUER. But it is different than treating our statutory and constitutional responsibilities.

I would just hope that you would commit to work with me and Chairman Smith as we move forward in a way that is fully consistent with the true definition of a free trade agreement and the spirit of cooperation in terms of trying to get us on the same wavelength.

I think your objectives are ones that I probably agree with, but process matters. And in terms of being able to make sure that the various stakeholders, some of whom don't have the confidence in terms of the path that you are taking, I think working together we can raise that confidence, we can work together to get the desired objectives. And I hope that you would commit to working with us in not just the spirit, but the letter of what free trade agreements are.

Secretary YELLEN. I will make that commitment. And I agree with you that that collaboration and consultation is critically important. We are committed to it.

Mr. BLUMENAUER. Thank you. I look forward to working with you and your team, who are doing a great job in trying to figure out how to implement the things that Chairman Thompson and I embedded in the tax code that has a challenge for you. But——

Secretary YELLEN. Thank you.

Mr. BLUMENAUER [continuing]. We appreciate the work.

Secretary YELLEN. We are working very hard to implement the green credits in IRA, and all of the IRA provisions.

Mr. BLUMENAUER. It is much appreciated.

Secretary YELLEN. Thank you.

Mr. BLUMENAUER. Thank you.

Chairman SMITH. The gentleman from Illinois is recognized.

Mr. LAHOOD. Thank you, Mr. Chairman.

Welcome, Secretary Yellen. Thank you for your service to the country. We hope to see more of you here before our committee.

I have a question for you. But before I do that, I do want to express to you how extremely disappointed I am in the Administration's budget proposal released yesterday. As I think about the 750,000 constituents that I represent in central Illinois and northwest Illinois, I can tell you that their priorities are vastly different than what is reflected in the Administration's budget proposal.

Just to highlight a few things, eliminating the stepped up basis would really crush family farms in my district, and family-owned businesses. Quadrupling the recently-created stock buyback tax, which will hurt Americans with 401(k) plans and pensions is in there. And expanding the net investment income tax on small businesses that are still struggling with high inflation and workforce shortages again is disappointing when I look at the budget. It is clear that many of the real challenges that Americans are facing are not being heard by this Administration and in this budget.

To my question, I do want to just—it was referenced earlier. I do want to talk about the OECD process and the current global tax negotiations, and specifically Pillar One, Madam Secretary. We understand that negotiations around Pillar One have stalled, and I believe we have significant risk that digital service taxes, which disproportionately harm U.S. businesses, will spread across the world. We have already seen that.

Republicans have repeatedly requested from the Administration and from you to consult with us before making decisions about your negotiations with our European counterparts. You have not done so in terms of communicating with us, and it has been a source of frustration. You have not provided any analysis that would allow members of this committee to evaluate the effects of Pillar One.

So, Madam Secretary, as you sit here today, I think you would agree that it is not financially responsible to purchase a product without knowing its price. And that is the real core here. So when can Congress expect to see this analysis, so that we know what we are actually being sold here?

Secretary YELLEN. So let me say that we have consulted, and with this committee and with staff on a regular basis about these global negotiations. So we are keeping staff of this committee—our staff is keeping committee staff well informed.

Mr. LAHOOD. Well, reclaiming my time on——

Secretary YELLEN. That——

Mr. LAHOOD [continuing]. Just on that point, Madam Secretary. I mean, so we are looking for an analysis. I would love to have, if you have an analysis here today you can supply us——

Secretary YELLEN. Okay, let me respond on that point. What we have said is that we stand to gain substantially in Pillar One, because we are a very large market jurisdiction, and that means that we will get increased taxing power.

However, there are also provisions on which we will lose, and it is a very fine balance. It—zero is certainly a possibility with respect to revenue, and there remain significant disagreements in the

Pillar One negotiations. Until those are resolved, we can't do the analysis that you want.

But what we have said is that the likely impact on U.S. revenues, while it could be slightly positive or slightly negative depending on the details, it is not likely to be large.

Mr. LAHOOD. Well, I would just say your—the premise of what you just said there, and the justification for that, sounds great. But an analysis on there that we can digest and look at and work with your team is what we need. Thank you.

Mr. HERN [presiding]. I thank the gentleman. The gentleman from New Jersey, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman.

Madam Secretary, a Stanford University report found that Black taxpayers are disproportionately audited by the IRS. I am sure you have read that report. Now, this was true for Earned Income Tax Credit recipients, and this group is long over-represented in getting audited. The numbers show that.

I am thrilled that we have a new IRS commissioner to effectively implement the Inflation Reduction Act to close the tax gap and rebuild a fair tax enforcement.

Yesterday, our oversight subcommittee called on Mr. Werfel to prioritize fixing our biased and broken two-tiered tax system. Madam Secretary, will you commit to addressing racial disparities in audit selection?

Secretary YELLEN. Yes, absolutely, we will. We need a tax system that operates fairly. And as you noted, our new IRS commissioner has promised to report back to Congress on this matter very promptly.

Mr. PASCRELL. Yes. Will you ensure the IRS uses Inflation Reduction Act funds to stop disproportionately auditing EITC recipients, and focus on auditing other folks in the system, as well?

Secretary YELLEN. The focus of the funds in the IRA is intended to be high-income, high-wealth, complex partnerships, corporations where audit rates have fallen to extremely low levels, and where most of the revenue that constitutes the tax gap—we know that is where it lies. That is the focus on enforcement.

But on the EITC, there are high rates of improper payments——

Mr. PASCRELL. Right.

Secretary YELLEN [continuing]. Partly because firms—there are firms that improperly file for EITC for low-income individuals, and we do need to attend to that. So, it is not the fault of individuals, but there is an issue there that we need to continue to focus on, maybe through education and outreach.

Mr. PASCRELL. You have provided tremendous service to our country.

Secretary YELLEN. Thank you.

Mr. PASCRELL. Mr. Chairman, I want to bring to your attention the fact that there is a member of the cabinet sitting before us who admits mistakes once in a while. I have never met a cabinet member that made a mistake. I say that with due respect.

Secretary YELLEN. Thank you. I make mistakes.

Mr. PASCRELL. And I think that is refreshing. And I think that helps bring us together more than anything else, anything else. I am serious.

Secretary YELLEN. Thank you.

Mr. PASCRELL. And I am happy to do work with you, and you have done a great job.

Secretary YELLEN. Thank you, so much. I—much appreciated.

Mr. HERN. I would like to thank the gentleman from New Jersey. I now recognize the gentleman from Ohio, Mr. Wenstrup.

Mr. WENSTRUP. Thank you.

Mr. Pascrell, I would like to agree that honesty really does help, no matter what we are dealing with.

Anyway, thank you, Madam Secretary, for being here. The Tax Cuts and Jobs Act verifiably led to more American jobs, historically low unemployment, stable revenues, higher wages. Then COVID hit. And one of the things that COVID revealed to us was the vulnerability of our supply chain, and how it is a national security risk, it is a national health risk. Just look at who—where we get our pharmaceuticals from. It is China. We can't do it ourselves. We are trying to come back from that.

So my question is, how does raising corporate tax rate to a higher level than our—than the Republic of—People's Republic of China—for that matter, almost any other country in the world, how can that make America more competitive, and solve our supply chain problem?

Secretary YELLEN. Well, I believe it really is important that we invest in America so we can be a competitive economy. And you mentioned the importance of tax rules to private investments in equipment and software.

But I guess I would point out—and this is what I mean when I use the term "modern supply side economics"—there are quite a few other kinds of investments that are relevant to our productivity and competitiveness, and we also need to focus on those. So infrastructure is an example; education is another example——

Mr. WENSTRUP. No, I agree with that. You have got to have all those things in place. And you can call them investments, or whatever, but also I think that making the business feasible here compared to somewhere else makes a big difference. And that is what we have to consider, as well. We have had no inversions since the Tax Cuts and Jobs Act, and I don't want to see that go away.

But also, we talk about lowest unemployment now, and it is so low. But the NFIB says half of their small businesses have help wanted signs. Virtually every business I go to now, small employer, large employer, I have said, "What is your biggest problem?" It is getting workers.

Secretary YELLEN. Agreed.

Mr. WENSTRUP. Okay. So we have—could you explain, not only for me, because I think I have a good idea, but explain to the American people and explain to these businesses why, with such low unemployment, they don't have employees.

Secretary YELLEN. Well, I mean, that is partly what the problem is, is that the demand for workers in this economy——

Mr. WENSTRUP. Where did they go? They had the workers before COVID.

Secretary YELLEN. Well, the COVID pandemic accelerated retirements. We have seen labor force participation for both adult men and women——

Mr. WENSTRUP. Thank you.

Secretary YELLEN [continuing]. Rise above previous levels.

And the President's budget focuses on providing households the child care and other support they need to work. And I think it is really important to boost labor supply, and the President's budget is focused on that.

Mr. WENSTRUP. So my point is, it is just—it is not completely honest if we just say, hey, unemployment is low. Well, yes, but it is still a problem to get employees, so we can't pretend——

Secretary YELLEN. It is.

Mr. WENSTRUP [continuing]. There is a rosy picture. We have got to address all these other issues.

Secretary YELLEN. It is a problem that many businesses, most businesses, face and are trying to deal with.

Mr. WENSTRUP. Thank you. I yield back. I appreciate it.

Chairman SMITH [presiding]. The gentleman from Illinois is recognized.

Mr. DAVIS. Thank you, Mr. Chairman.

Thank you, Madam Secretary, and I thank President Biden for prioritizing policies that would provide meaningful relief to Americans, both young and old.

I deeply appreciate the recognition that making the adoption tax credit refundable is essential to removing income as a barrier to adoption.

I thank the President for advancing an even greater Child Tax Credit to lift even more children out of poverty. The CTC was a lifeline in my communities, and its absence makes children more vulnerable.

I also want to thank you for prioritizing the improvements to the Earned Income Tax Credit that I have long championed in my responsible fatherhood legislation, and for preserving the protections for foster youth and youth experiencing homelessness.

I thank you for permanently ending the taxation of forgiven student debt, and for all the other policies that would make our country stronger.

I hope that you will consider the importance of direct tax credits for child care and rent as supplements to the strong budget you proposed. As we saw with the modernized child dependent tax credit in 2021, direct tax credits serve as an essential tool for helping every eligible working parent or cost—given the limited availability of other assistance, such as vouchers or low-income housing.

And finally, like other systems in our country, the seemingly race-neutral tax policies and audit practices have a substantial, disproportionate impact on taxpayers of color. So I hope to work with you to identify legislation that would collect key demographic information about tax payers to better understand racial and gender equity.

And I thank you very much.

Secretary YELLEN. Thank you very much.

[Pause.]

Chairman SMITH. Do you yield?

Mr. DAVIS. No, I will yield, of course, for the Secretary.

Secretary YELLEN. Oh. Well, certainly, the President supports the Child Tax Credit and Earned Income Tax Credit, and would work with you to consider the Child and Dependent Care Credit, which was passed earlier by Congress, but—by the House, but isn't in the Green Book proposals, but I would certainly look to work with you on that.

Mr. DAVIS. Well, thank you for all of your accomplishments. It is certainly a strong budget, and we look——

Secretary YELLEN. Thank you.

Mr. DAVIS [continuing]. Forward to continuing to work to make it even stronger. Thank you very much——

Secretary YELLEN. Thank you.

Mr. DAVIS [continuing]. And I yield back.

Chairman SMITH. The gentleman from Texas is recognized.

Mr. ARRINGTON. Thank you, Mr. Chairman.

Thank you, Madam Secretary. I am the budget chairman, and we will have a budget. My Democrat colleagues the last four years did not have a budget. So it is rich when I hear them talk about us presenting a budget.

The second thing I would want the American people to know is you all sent your budget late. And so the process is delayed. And we are going to take our time—and I hope you appreciate this—to unpack what is in this massive budget proposal. We are going to analyze it, and we are going to lay it out for the American people.

So that will be the process. We will have a budget, and we will be able to compare not just the numbers, but the priorities, the policies, the values, and the vision that we differ on for the future of this country.

A quick question, if you could, just a yes or no on this: Does the amount of government spending that we have been pushing out over the last couple of years, about $10 trillion, 6 of that will be—is borrowed money that is adding to the debt about $6 trillion—does that—has that contributed to this 15 consecutive months of record inflation?

And as you, I am sure, are aware, inflation that is cutting the budgets of our working families, really devastating poor people and seniors on a fixed income, but is spending contributing to that, Federal Government spending contributing to that? Yes or no.

Secretary YELLEN. Well, I believe that that was critically important support to make sure we didn't end up with a scarred labor force at a time when the risk was, we could see, a serious——

Mr. ARRINGTON. So is that a yes, that spending—has spending contributed to inflation? Just yes or no. Forget your reasons why. You make that case to the American people. I will say that the American Rescue Plan that was Democrat-supported, no Republicans, jammed through, was more about bailing out union pensions and paying teachers unions for schools that never opened to our children. We can debate that point.

Secretary YELLEN. Well, I think that——

Mr. ARRINGTON. Did spending contribute to inflation?

Secretary YELLEN. I believe that most of the inflation we have experienced represents—reflects disruptions from the pandemic——

Mr. ARRINGTON. Okay, Madam Speaker——

Secretary YELLEN [continuing]. The supply side——

Mr. ARRINGTON. I mean, listen, Madam Secretary——

Secretary YELLEN [continuing]. Of the economy, and——

Mr. ARRINGTON. Madam Secretary, please, and with all due respect, I asked for a simple answer.

The American people know that the spending that has flooded the marketplace has created this gap in supply and demand, and it is punishing, punishing as the worst of regressive taxes on all Americans.

And here is the insulting thing. And again, with all due respect, this is insulting that your budget, the President's budget, increases spending. It is—these are—the budget has the highest sustained levels of spending, taxes, and deficits in the history of the United States of America.

Now, I want to finish on this. You have requested $100 billion more in just discretionary spending. If you do the average amount of spending that you all have requested in the last three years, the actual and the requested, we would be $3 trillion over the $20 trillion that CBO is projecting. It is bankrupting the country, and it is insulting that your budget comes—you know, your proposal is more of the same.

Secretary YELLEN. I am sorry, there is $3 trillion of deficit reduction over the next——

Mr. ARRINGTON. Nobody believes that.

Secretary YELLEN [continuing]. 10 years in this budget.

Mr. ARRINGTON. I appreciate that on paper——

Secretary YELLEN. And there are ways—it is one thing to spend when you don't pay for it, and it is another thing to spend when you do. And there are revenue raisers in this budget that more than finance the additional spending that——

Mr. ARRINGTON. You all have added $6 trillion to the debt.

Secretary YELLEN [continuing]. Is proposed.

Mr. ARRINGTON. And even if I believe what you put on paper, you are taking off half of that—only half of the $6 trillion you have added, as if it is—as if you are trying to give a gift back to the—"Here is half of your money back. We are going to help save the country by giving half the money that we borrowed on the backs of our children."

I just don't believe it, and I look forward to more conversations, and I appreciate your service.

Chairman SMITH. I recognize the gentlelady from California.

Ms. SÁNCHEZ. Thank you.

Secretary Yellen, thank you so much for joining us here this morning. You have a long and distinguished resume and career, and you are doing a terrific job. We applaud you. I am sure that, as a woman working in a traditionally dominated male field, you are probably no stranger to breaking firsts and paving the way for other women, which is why, during Women's History Month, it is disappointing to see some of my colleagues talk down to you, use profanity, and not allow you to finish your answers here at this hearing. And I think it is important to call out that kind of behavior.

I want to refute a point that several of my colleagues have made with respect to the lack of workers that somehow my Republican colleagues want to blame the Democrats for. I want to remind my colleagues of a few salient points about the worker shortage.

Number one is that, prior to the pandemic, we had worker shortages. When I used to meet regularly with my small business owners, they identified that as the number-one problem that they were experiencing.

And then, during COVID, many Baby Boomers retired during the pandemic, and many are now too old to return back to the workforce. So that is a contributing factor.

Additionally, the birth rate in the United States has been falling for years, and it is not at replacement right now. So we don't have the workers coming up because we simply have a lower birth rate.

And then I would remind my colleagues on the other side of the aisle that lack of movement on immigration reform that creates legal pathways for immigrants to come to this country also exacerbates the worker shortage.

So let's just be real clear about what some of these contributing factors are. Instead of just blanket-blaming Democrats for the lack of workers, it is some of the actual things that are outside of our control, which is demographics, but also things that are within our control, like immigration reform.

Secretary Yellen, I wanted to ask you about the Inflation Reduction Act, because Treasury has embarked on some critical mineral agreements with Japan and the European Union, and I understand that the intent is to address their concerns on EV tax credits, but that is not exactly happening in a vacuum. Our allies have said that they will build on their existing climate subsidies in response to the IRA. I think that all of us who helped write this law agree that we need to work with our allies on shared climate goals.

But I also want to stress that the unprecedented way these agreements were written—with this exercise, we continue to upend the separation of power on trade authorities. These agreements have been written in a manner that gives the Secretary the power to guarantee specific tax cuts, with USTR signing off on your behalf. So I want to focus on those agreements and how they will affect the domestic union supply chains that we are trying to foster as our partners try to expand their investments.

Madam Secretary, California is home to one of the largest untapped lithium reserves in the world, which is close to the Salton Sea. And so how may this select buyers club have the potential to undermine investments back home?

Secretary YELLEN. Well, the Inflation Reduction Act creates very strong incentives to produce, develop minerals for batteries in the United States, and to develop their capacity to process those minerals.

However, the global demand for these minerals in the years to come will be enormous, and we are highly dependent on China. And so we have seen, as one of the goals of the IRA, to broadly strengthen supply chains for these critical minerals and their processing. And so the agreements that we are discussing with Japan and with Europe would potentially, if it is possible to form such agreements, permit our close allies to also contribute minerals and their processing that would be eligible for use in electric vehicles that are assembled in North America.

But this is going to be a vast and growing market, and there are huge incentives for development of minerals in the United States.

Ms. SÁNCHEZ. I thank you for your answer, and I yield back.

Chairman SMITH. The gentleman from Georgia is recognized.

Mr. FERGUSON. Thank you, Mr. Chairman, and thank you, Madam Secretary, for being here today.

You know, early on in your remarks you threw out a term I had not heard called modern supply side economics. I did a little quick research on that. I believe you are calling a duck a squirrel. That is nothing more than modern monetary theory. And I would suggest that the American people don't go for that.

But anyway, that is not really what I wanted to get to. You know, you have got $80 billion for 87,000 new IRS employees. You are asking for another $43 billion. And, you know, we—I just—number one, I don't see where those—you know, where the plan for the previous employees are. Number two, how do we know that these employees won't be looking into the bank accounts of our fellow Americans?

Our friends on the other side of the aisle tried to get an IRS surveillance program into the banking system in the last Congress, and we successfully blocked it. But we have had to go so far as to introduce a bill, H.R. 1010, Prohibiting IRS Financial Surveillance Act. Can we have your assurances that none of the money that has been appropriated to the IRS will be used to implement a financial surveillance system with the banking system snooping into the bank accounts of our fellow Americans, unless it is directed by Congress? Yes or no, do we have your commitment that you won't go around the back of Congress and implement that program?

Secretary YELLEN. Of course not. We require legislation——

Mr. FERGUSON. Good. Thank you, thank you. I appreciate that, Madam Secretary, and I appreciate the directness of the answer.

Second thing, you know, we—I still don't get the fact that under the Constitution the power of taxation lies with Congress, and yet you are negotiating U.S. tax policy, and you are ceding U.S. tax policy and revenue to countries around the world with the OECD. I will tell you, I have said this, and I think I said this the last time you were here. We are about making America the most competitive place in the world to do business, and we should be winning both on the manufacturing side and the export side. We should be importing treasure from around the world to the United States of America. And I don't think that we should give up one dime of our U.S. revenue to foreign countries with this.

When we have a debt crisis that is looming, okay, real quickly, can you explain—can you tell me, will the GILTI revenues, if your Pillar Two is implemented, will those revenues go down here in the U.S.?

Secretary YELLEN. Well, if the United States implements the GILTI tax, which would involve——

Mr. FERGUSON. As a function of Pillar Two——

Secretary YELLEN. In Pillar Two——

Mr. FERGUSON [continuing]. Would you see a decrease in tax revenue coming into the U.S. from that.

Secretary YELLEN. It would be a huge increase in tax revenue——

Mr. FERGUSON. Ah, okay.
Secretary YELLEN [continuing]. If we implement the GILTI tax.
Mr. FERGUSON. Okay.
Secretary YELLEN. Our tax revenue would——
Mr. FERGUSON. I think that has yet to be determined. Now——
Secretary YELLEN [continuing]. Would clearly rise.
Mr. FERGUSON [continuing]. One final thing, Madam Secretary. You know, Americans, really—over the years, of all of the alphabet agencies up here, they tend to fear the letters I–R–S more than most. And one of the things that we find disturbing is that the IRS has been buying up a tremendous amount of ammunition and firearms over the years. Two things.

Number one, can you provide a report to this body that will explain why the IRS has purchased so much nine millimeter ammunition?

And will you commit to not buying a single bullet or a single gun in that agency until you get your customer service right?
Secretary YELLEN. Look, there——
Mr. FERGUSON. Yes or no, will you look into that?
Secretary YELLEN. No, I won't, because——
Mr. FERGUSON. Okay. Thank you. Madam, my time has expired.

Mr. Chairman, I yield back.
Chairman SMITH. Thank you. The gentleman from Kansas is recognized.

Mr. ESTES. Thank you, Mr. Chairman, and thank you, Madam Secretary. Over here, we are doing two for—I am sorry. Thank you, Madam Secretary, for joining us today.

You know, as we were meeting today, you know, we just got the Administration's budget yesterday, and tried to dig through the numbers and get an understanding. But, you know, just from top line over the next 10 years, we are spending $8.2 trillion in spending; we are raising in revenue, or bringing in in revenue, $65 trillion, which equates to a corresponding deficit of $17 trillion. Now, I know you have said that we are having a $3 trillion cut in the deficit, but just because we are not making a $20 trillion deficit, it is still a $17 trillion increase over the 10-year period.

And we talked earlier a little bit about the 15 percent increase in the department after already getting the $80 billion last year, and with us being in debt and—actually, next year, over $1 out of $4 that is being spent in the 2024 suggested budget is borrowed. It is almost $1 out of $3 is borrowed, 30 percent of the spending next year.

So today I want to focus a little bit and follow up a little bit on my colleague from Georgia, who talked about the OECD, and particularly talked a little bit about the OECD Pillar Two and the impact on the U.S. competitiveness in the world. And what is being negotiated is some radical changes in the international tax system, and we have sent a letter to my—or there was a letter that you sent back to my office indicating you look forward to working with us to implement this.

I can tell you that Congress isn't in favor of this. As several of us have mentioned, we have very main concerns, and Congress doesn't want to implement something that will make America weaker and less competitive.

So, you know, last year, the Democrat majority in Congress wouldn't even pass the Pillar One—or the Pillar Two, an OECD provision. So have you informed the other countries that we are negotiating with that, you know, you—it wouldn't pass last year, and it is probably not going to pass under a Republican Congress this year?

Secretary YELLEN. Well, my understanding is that there were Members of Congress that did not want the United States to go first in implementing a 15 percent minimum tax country by country. We already have a 10.5 percent GILTI or minimum tax on earnings of American multinationals abroad. And now the European Union has adopted it, and other countries are moving forward. Japan, the United Kingdom, Singapore, many countries are going forward with this. So the issue of our going first and will others follow no longer exists.

Mr. ESTES. Well, it——

Secretary YELLEN. And it is critically important for us to——

Mr. ESTES. It does change, though, if we——

Secretary YELLEN [continuing]. To put this in——

Mr. ESTES. Before I run out of time, if the proposal is to raise our GILTI to 21 percent, when everybody else is doing 15 percent is all that they have to do, I mean, that is going to make American businesses less competitive.

Secretary YELLEN. Well, no, it is not——

Mr. ESTES. And in the meantime, with the—under tax provisions, it is going to actually allow other countries to still race to the bottom through this process.

Secretary YELLEN. That isn't right, because right now we have a 15 percent tax and no other country has any tax whatsoever. So there is a 15 percent gap. Now they are all going to have a 15 percent gap, and we are proposing that we go to 21, which is a much smaller gap of 6 percent.

We are a competitive, attractive place to do business, and having a lower tax rate on the earnings of American companies abroad than they would pay at home is an incentive to shift jobs out of the United States abroad. And we are more competitive, and we are narrowing that gap, which makes it more attractive to invest in the United States.

Mr. ESTES. It really is.

Chairman SMITH. All right.

Secretary YELLEN. And a disadvantage——

Mr. ESTES. We would agree on that, that U.S. competitiveness is hurt, and that is what was addressed.

And I have run out of time, but I will yield back, Mr. Chairman.

Chairman SMITH. The gentleman from New York.

Mr. HIGGINS. Thank you, Mr. Chairman.

Madam Secretary, yesterday this committee held a hearing on the technicality of a proposal where there was a lot of talk about debt, deficit, and priorities. At the same time, the President released a $6.9 trillion budget plan, a 182-page document, that aims to cut the deficit by $3 trillion over the next decade.

Bloomberg Economics put out a comprehensive report last month saying that President Biden was on track to becoming the greatest jobs-producing President in U.S. history, nearly 13 million jobs in the past 26 months, including 504,000 in January, and 311,000 that was announced this morning for the month of February. They forecast that, while inflation was at 9.1 percent in June of last year, the forecast for this time next year is 2.25 percent. Ninety-two percent of Americans now have access to affordable health care. And we are beginning, through the Inflation Reduction Act, to compete, in a real sense, with China.

You know, the Stone Age didn't end because we ran out of stones. And the oil age won't end because we run out of oil. The oil age will end when we find a way to do it that is cleaner, quicker, and more competitive.

The Inflation Reduction Act includes two major pieces. One is a $7,500 tax credit for Americans to purchase electric vehicles, and also a tax credit for American manufacturers of batteries that is estimated to reduce the cost of an electric car by an additional $9,000. It seems as though, you know, we finally got the message that we need to be tough about China, but we need to be tougher on ourselves about China, as well. And these initiatives in the Inflation Reduction Act and in this budget, I think, go a long way to doing that.

You are the 78th Secretary of the Treasury. You were appointed in January of 2021. And just your thoughts about these and other efforts that are in the budget toward the goal of increasing American competitiveness accruing to the advantage of the American people and the American consumer.

Secretary YELLEN. Well, thank you for your comments. I strongly agree with your assessment of the Inflation Reduction Act. It is already having a dramatic effect on investment in the United States and job creation, and will make us more energy secure and more competitive, and deal with the really national security threat that reflects our over-dependence on China for the provision of many—both battery components and electric batteries, solar panels, wind turbines, what we need to feel—be energy secure, to promote clean energy.

So this is a huge step. The Semiconductor and CHIPS Act addresses our dependence in China and reduction in competitiveness in manufacturing semiconductors in the United States. And that is having a huge effect already in job creation. And the Infrastructure Act is really shoring up our competitiveness by finally repairing roads and bridges that are decaying in the United States and really need to be upgraded, and also what is necessary for a modern economy to have digital access all over the country.

And these bills are shoring up our competitiveness, and the budget will add to the provision of funding for R&D innovation in the United States and other things.

Mr. HIGGINS. Thank you. I yield back.

Chairman SMITH. The gentleman from Pennsylvania is recognized.

Mr. SMUCKER. Thank you, Mr. Chairman.

Madam Secretary, thank you for your service to our country. I was pleased to hear, in response to one of my colleague's questions earlier just a little while ago, you said that the debt, these matters—and I quote—“should be should be taken seriously.”

When you and I talked last year during this hearing, you said—and again, I quote—“it is desirable to reduce deficits.” Do you still feel that way, Madam Secretary?

Secretary YELLEN. Yes, I do.

[Chart]

Mr. SMUCKER. The chart I have here—and I don’t know if you can see it; hopefully can catch it. But this is the next 10 years, and compares the 2023 proposal by the President, budget proposal, and 2024. I have directly from the budget these sheets. And what it shows is that this proposal—2024, compared to 2023—increases deficits further, year over year. And the orange on here is your new proposal compared to what you were proposing last year. You see some significant difference in the early years, but it never is reduced over the proposals from last year.

And on your totals on this sheet, you are proposing over the next 10 years today $17 trillion in additional deficits and debt, as opposed to 12 months ago you were proposing $14 trillion total in deficits and debt.

So my question is today, why are you proposing three trillion higher deficits than you proposed last year?

Secretary YELLEN. Well, the budget contains a table, table S2, that shows the effect of the budget proposals on projected deficits. And that illustrates quite clearly——

Mr. SMUCKER. Do you disagree with my——

Secretary YELLEN. I do.

Mr. SMUCKER [continuing]. My characterization?

Secretary YELLEN. I do disagree, because what this table shows is that the President’s proposals result in additional deficit reduction relative to the 2023 baseline of close to $3 trillion. And——

Mr. SMUCKER. Could you point out which year there are——

Secretary YELLEN. I am sorry, I can barely see your chart, but I can——

Mr. SMUCKER. Well, could you——

Secretary YELLEN. I can tell you——

Mr. SMUCKER. Could you look at your sheet and tell me which year there are——

Secretary YELLEN. I can tell you——

Mr. SMUCKER [continuing]. Lower deficits than what you had proposed last year?

Secretary YELLEN. Well, for example, starting in 2025, the projected deficits in the baseline were 6.7 percent. And in the President’s proposal——

Mr. SMUCKER. That was not your baseline last year. That is CBO’s baseline, which is far higher than what you were projecting last year.

So essentially, you are saying our policies created higher deficits than you had projected last year, and now we are going to take credit for reducing those higher deficits by $3 million. Am I right on that? Or $3 trillion.

Secretary YELLEN. Relative to where we were before this budget was issued, and the deficits that we would have seen, this budget projects——

Mr. SMUCKER. Nobody under——

Secretary YELLEN [continuing]. Three trillion less.

Mr. SMUCKER. Nobody outside of the Beltway will look at your proposal compared to the proposals last year, will look at your proposal compared to what has actually happened, will look at a chart like this, which is taken directly from your numbers, and say that we are reducing the deficit.

And it is a shame, because we both agree that, long term, we are on a wrong fiscal trajectory, we must do something about it. And this budget does nothing. In fact, it adds to the deficits and debts that we have been experiencing.

So, again, no one else would believe that we are reducing the deficits with your budget. Thank you.

Chairman SMITH. I recognize the gentlelady from West Virginia.

Mrs. MILLER. Thank you, Chairman Smith and Ranking member Neal.

And thank you, Secretary Yellen. I hope you take that cough drop. It is from me.

Secretary YELLEN. Thank you, thank you very much.

Mrs. MILLER. In your fiscal year 2022 revenue proposals, you recommended that Congress lower the 1099–K threshold from the time-tested standard of $20,000 to just $600 with no transaction minimum in order to, and I quote, "close the tax gap." Congressional Democrats heeded your request, and included the provision without any debate or consideration. President Biden signed it into law, and he touts the accomplishments of that bill to this day.

In December of last year, your IRS delayed the implementation of the provision that you recommended for a full year. The IRS cited the difficulty in administering the program as just one reason for this delay. Your IRS had a full year to prepare and to send taxpayers a bill that they likely didn't owe, and you could not handle the burden. If this policy was too difficult for the IRS to get right after a year of work with your 87,000 new agents, not all of which are even back in the office yet, how do you expect an individual—say he is selling his couch, or drum set, or old furniture—to handle the cost and the compliance burden?

Secretary YELLEN. Well, this was enacted into law in the American Rescue Plan, as you pointed out, and the IRS began to implement it as required, and heard a number of concerns by individuals and organizations that this was confusing.

Mrs. MILLER. Oh, absolutely. I hate to interrupt you, but it is a nightmare for people that pass money back and forth. You know, one pays the rent, one does such and such, and they Venmo back and forth.

I have spent the better part of two years trying to fix the mess that the Democrats created with this provision. And I want to thank every one of my Republican colleagues for cosponsoring my bill, H.R. 190, and I certainly hope that my Democrat colleagues will do the same thing to protect all of our constituents from an undue burden on—just a bad policy.

Secretary Yellen, in May of 2021, just after the Biden Administration pushed through the $1.9 trillion spending bill on a partisan vote, you claimed that five percent inflation at the time would be transitory, meaning temporary and brief. And I am sure that the Biden Administration based decisions on your analysis.

But a year later, in June 2022, inflation then hit a 40-year high of 9.1 percent. A few weeks ago this committee held its first hearing in my home state, and all of our witnesses said that their number-one hardship is—dealing now in 2023—is still inflation, the direct result of the failed economic policies of the Biden Administration.

Obviously, inflation is not transitory. You were wrong, and the people that are suffering as a result would really like to know if you might apologize for saying that, and being wrong, and misleading them.

Secretary YELLEN. Well, inflation is the President's top priority to bring it down. And it is certainly too high. It has come down off its highs a year ago. Over the last year we have made progress, and in part that reflects—what I meant at the time was there were disturbances from the pandemic on supply chains that would eventually resolve. And due to the President's efforts and the passage of time, those supply chain disturbances have largely resolved.

Mrs. MILLER. Please.

Secretary YELLEN. Shipping costs have come down——

Mrs. MILLER. They haven't, they have not.

Secretary YELLEN [continuing]. Substantially, inventories that had been depleted have largely been rebuilt.

Mrs. MILLER. I really think that the words that——

Secretary YELLEN. But there remain inflationary pressures——

Mrs. MILLER [continuing]. We really should hear is that I am sorry.

Secretary YELLEN [continuing]. That need to be dealt with. And Russia's war on Ukraine has also exacerbated inflation——

Mrs. MILLER. I yield back.

Secretary YELLEN [continuing]. All over the world.

Chairman SMITH. The gentlelady from Washington is recognized.

Ms. DELBENE. Thank you, Mr. Chairman.

And thank you, Madam Secretary. I am all the way on the other side here. Thank you for your time today, and for just all of your attention to the needs of working families and struggling Americans. And, in particular, I want to thank you for recognizing the importance of affordable housing by introducing in the budget an increase in the Low-Income Housing Tax Credit, or the housing credit, and a reduction in bond financing necessary to trigger more housing credit equity.

These core proposals are for legislation that I have introduced, the Affordable Housing Credit Improvement Act, which we will be reintroducing again this year with Representatives LaHood, Beyer, and Wenstrup, so a very strong bipartisan proposal. These provisions would finance the production and preservation of over two million additional affordable homes, and support three million jobs over the next decade.

I wondered if you could speak to how increasing the supply of affordable housing will increase our economy's long-term growth potential?

Secretary YELLEN. Well, I think we really have a serious shortage of affordable housing, and it really makes it very difficult to hire workers to be able to support business expansion when lower-income workers are unable to even afford to be able to live anywhere near where they work. And I think that has been a failing of our housing policy that we believe should be corrected.

Ms. DELBENE. Well, thank you so much for including that.

I wanted to switch gears a little bit. Last year this committee held a hearing to discuss ways to strengthen economic relations with Taiwan. One way to do so would be by negotiating an income tax agreement, which would boost investment and create jobs by reducing double taxation on U.S. and Taiwanese businesses. I wondered if you could update the committee on how Treasury is evaluating Taiwan's requests for an income tax agreement with the United States.

Secretary YELLEN. We are looking—we recognize that there is a problem there, and are looking at potential ways to address it. But I don't have anything specific to offer in terms of a way forward.

Ms. DELBENE. Well, we look forward to and hope you will continue to consult with Congress on that——

Secretary YELLEN. Certainly.

Ms. DELBENE [continuing]. Since that is clearly a very important issue.

And then lastly, during yesterday's markup of the Republicans' debt prioritization bill, I asked the majority staff a technical question that they couldn't answer regarding the logistical possibility of debt prioritization. And so I just wanted to ask you, Madam Secretary. Is it feasible for Treasury's payment systems to prioritize payments to bond holders over debt?

Secretary YELLEN. I think that we should not think that prioritization is a solution to the debt ceiling issue. Prioritization is simply not paying all of the government's bills when they come due. That is something we have never done since 1789, and that really is just default by another name.

So what is critical is that we maintain our commitment to pay the government's bills, all the government's bills, when they come due. And if we don't do that and think that there is some shortcut around it that will avoid economic chaos, we are kidding ourselves because not paying the government's bills will produce economic and financial collapse. And I would say that Fitch has already made clear in comments that they issued that a failure to pay all of the government bills would potentially prompt a downgrade of our debt.

Ms. DELBENE. Thank you, Madam Secretary. I appreciate that.

I yield back, Mr. Chairman.

Chairman SMITH. The gentleman from Oklahoma is recognized.

Mr. HERN. Madam Secretary, over here. Madam Secretary, I really appreciate you being here today.

Madam Secretary, with all due respect—and we have talked about this both times you have been here—your going along OECD negotiations have been a failure. Your Democrat-majority House, Senate, President did not adopt these rules last year. Here we are, and there is no way in the world that Republicans are going to adopt this. I don't know how you think that circumventing Congress would be a way to do this.

I think you would acknowledge that both of our jobs is to protect the U.S. worker, the U.S. taxpayer, and the U.S. fisc, but you are making it much harder by not allowing us to be a part of this process, as we are supposed to do here on Ways and Means.

And there is no reason that we should expect that China is going to play nicely with these rules. I mean, they are kicking out Western auditors right now, and we are just thinking that we are going to know exactly what—their state-owned, state-regulated enterprises are going to participate and be transparent? I mean, trust me, we would like to know their transparency, but we simply do not.

How does this ability to—we are—this is a rhetorical question, but I guess we are trying to figure out because we don't know how, in your OECD negotiations, you plan on holding them accountable.

You know, Madam Secretary, the American people need to know this. I mean, we are transferring and redoing our entire international tax system—your words, not mine—to stop the race to the bottom. And we have asked repeatedly—myself, Kevin Brady, others—I would like to once again submit another letter for the record requesting information.

Chairman SMITH. Without objection.

[The information follows:]

KEVIN HERN
1st District, Oklahoma

1019 Longworth House Office Building
Washington, DC 20515
(202) 225-2211

COMMITTEE ON
WAYS AND MEANS

**Congress of the United States**
**House of Representatives**
**Washington, DC 20515-3601**

March 9, 2023

The Honorable Janet L. Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Yellen,

I once again write to request information related to the Organization for Economic Co-operation and Development (OECD) Pillar 1 Agreement.

For over two years, Republicans on the Committee on Ways and Means have sought information to evaluate the Pillar 1 proposal pending at the OECD. Treasury has failed to respond to these requests with any information upon which Members could rely for an adequate review of the Pillar 1 proposal. It is not acceptable for Treasury to continue to withhold this information, particularly with the Biden Administration's attempt to override Congress's tax-writing authority in the course of its negotiations with foreign governments at the OECD.

Specifically, in April 2021, Committee Republicans requested that Treasury provide revenue impact estimates and estimates of which companies would be in the scope of the Pillar 1 agreement. When Treasury failed to respond to the April 2021 request, Representative Ferguson repeated the request for these estimates during your testimony before the Committee on the President's FY2022 Budget Request on June 17, 2021.[1] Representative Ferguson also submitted questions for the record requesting this information.[2] In November 2021, Treasury stated, "We expect Pillar One (sic) will be roughly revenue neutral for the U.S. fisc, and will not materially reduce U.S. tax revenues."[3] However, Treasury did not provide any information about its methodology or quantitative estimates for Republican Members to review.

During your testimony before the Committee on the President's FY2023 Budget Request on June 6, 2022, then Ranking Member Kevin Brady again repeated the request for Treasury to

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[1] H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen* (June 17, 2021), https://gop-waysandmeans.house.gov/event/hearing-on-the-presidents-proposed-fiscal-year-2022-budget-with-treasury-secretary-janet-yellen/.
[2] H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record – Submitted by Rep. Drew Ferguson.
[3] Response from U.S. Department of Treasury to H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record.

share its economic and revenue impact analysis of Pillar 1 with Congressional tax writers.[4] Despite having claimed six months earlier that Treasury's analysis showed "Pillar One (sic) will be roughly revenue neutral for the U.S., you replied, "Until some final details of Pillar 1 are negotiated, it's not possible to come up with an estimate to share with the Committee." Questions for the record were again submitted, requesting this information,[5] and Treasury's responses to those questions again failed to include the requested estimates.[6]

In yet another effort to obtain information about the Biden Administration's surrender of U.S. taxing rights under Pillar 1, then Ranking Member Brady and Representative Hern filed a Resolution of Inquiry directing the Secretary of Treasury to provide certain documents in the Secretary's possession to the U.S. House of Representatives relating to the impact of the OECD Pillar 1 agreement on the U.S. Treasury.[7] Regrettably, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1269.

Given the lack of a response from the Administration, then Ranking Member Brady and Representative Hern followed up with a letter to you on October 27, 2022, reiterating the request.[8] Treasury responded on November 22, 2022, with a one-page response, yet again asserting, "any U.S. revenue impact would be modest to non-existent."[9] The response went on to note that:

> With respect to company inclusion estimates, the parameters for any agreement would apply to future years, for which we simply cannot know with certainty which companies would or would not meet the parameters. As to the revenue impact on other jurisdictions, undertaking a full analysis on that question would require data the Treasury Department does not have. Moreover, to our knowledge, no country has published interim data of its estimates of Pillar One reallocation or provided such estimates before Pillar One negotiations are complete, presumably because doing so could undermine that country's national interests and its negotiating position.[10]

As you know, Committee Republicans have never sought publication of the economic and revenue impact assessments of Pillar 1 that Treasury has generated and discussed internally. Rather, the request is that Treasury provide those assessments to Members of Congress who hold sole tax-writing authority under the Constitution. Committee Republican staff have made clear to

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[4] H. Comm. on Ways and Means Hearing, *Hearing on President's Proposed Fiscal Year 2023 Budget with Treasury Secretary Janet Yellen* (June 8, 2022), https://gop-waysandmeans.house.gov/event/hearing-on-presidents-proposed-fiscal-year-2023-budget-with-treasury-secretary-yellen/.
[5] H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record – Submitted by Ranking Member Kevin Brady.
[6] Response from U.S. Department of Treasury to H. Comm. on Ways and Means Hearing, *Hearing on President's Proposed Fiscal Year 2023 Budget with Treasury Secretary Janet Yellen*, Questions for the Record.
[7] H. Res. 1269, 117th Cong. (2022), https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1269.pdf.
[8] Letter from The Hon. Kevin Brady, Ranking Member, Comm. on Ways and Means, and The Hon. Kevin Hern, Comm. on Ways and Means, to The Hon. Janet Yellen, Sec'y, U.S. Department of the Treasury (Oct. 27, 2022).
[9] Letter from Jonathan C. Davidson, Assistant Sec'y for Legislative Affairs, U.S. Department of The Treasury, to The Hon. Kevin Brady, Ranking Member, Comm. on Ways and Means (Nov. 22, 2022).
[10] *Id.*

your staff that a private briefing, hosted by Treasury, would be an acceptable forum to receive this critical information. Your failure to respond to reasonable requests from Committee Republicans is disappointing and unacceptable.

House Republicans will hold the Biden Administration accountable for its lack of transparency and its attempts to circumvent Congress's Constitutional authority to enact U.S. tax laws. I reiterate the request for information in H. Res. 1269. I also request that Treasury provide tax revenue modeling data and reports estimating the economic impact of the OECD Pillar 2 agreement on the United States Treasury to the Committee on Ways and Means. I look forward to your prompt compliance with the request by March 24, 2023.[11]

Sincerely,

Kevin Hern
Committee on Ways and Means

[11] H. Res. 1269, 117th Cong. (2022), https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1269.pdf.

Mr. HERN. Thank you.

Madam Secretary, what are you doing to prevent China from cheating?

Madam Secretary, when are you going to release the analysis of the impact of Pillar One and Pillar Two tax frameworks on the U.S. fisc?

And do you have the revenue modeling data, or are you just not sharing it, or do you not have the data at all?

And I will give you the remaining 1 minute and 34 seconds to respond to all of those questions.

Secretary YELLEN. We have presented in the budget estimates of the impact of Pillar Two, which we urge adoption of by Congress. Other countries are adopting Pillar Two. The European Union has already adopted it and put it into effect, and this is a huge positive for the United States.

Of course, it is up to Congress to decide if we should come into compliance with Pillar Two or not, but we are the only country in the world that imposes any tax at all on the foreign earnings of domestic corporations. No other country does that. And what the OECD agreement does is 137 countries agreed that they will start to do what we already do, and they have agreed to impose a higher tax rate than we currently——

Mr. HERN. So, Madam Secretary——

Secretary Yellen [continuing]. Than we currently put in place.

Mr. HERN. Madam—with all due respect, Madam——

Secretary YELLEN. How is that bad for the competitiveness——

Mr. HERN. Madam Secretary, I agree. You know, that sounds all great. But if you—we have asked time and time again for you to give us this information for the last two years, when we were not even in the majority.

Secretary YELLEN. But we have consulted regularly with this committee.

Mr. HERN. Excuse me?

Secretary YELLEN. We have consulted regularly with this committee.

Mr. HERN. You have not responded with the information we have requested.

Madam Secretary, in the remaining seven seconds answer the question how we are going to hold China accountable. We can't even keep balloons from flying across the United States. How are we going to hold them accountable to the OECD framework?

Secretary YELLEN. If China is not accountable, we will tax the income of Chinese companies operating in the United States, and the same is true for all other countries that adopt Pillar Two and its associated under tax payments rule. That is the strong enforcement mechanism that is built into this agreement, that a country that is non-compliant and decides they wish to be a tax haven, that other countries have the ability to punish that by taxing those firms themselves.

Mr. HERN. You are assuming a fair playing field.

Chairman SMITH. The——

Mr. HERN. I yield back.

Chairman SMITH. Thank you. The gentleman from North Carolina is recognized.

Mr. MURPHY. Thank you, Mr. Chairman.

Thank you, Madam Secretary, for coming. Is the workforce participation rate a different statistic than the unemployment rate?

Secretary YELLEN. Of course.

Mr. MURPHY. Yes. So our unemployment rate may be the same as it was pre-pandemic, but our workforce participation rate is a full percentage lower, which means 2½—more than 2½ million workers are not in the workforce. You have said you think a great number are retirees.

I would submit that is not the case. We right now—because Biden's continuation of the public health emergency continues with 18 million people on Medicaid who do not qualify for benefits and, therefore, are not going into the workforce.

Second is that retirees that left, our stock market has crashed, inflation has gone through the roof. So I don't see those people staying at home. So it is disingenuous to say that we are in the same situation as we were pre-pandemic. We have been paying people and enticing them not to come back to work.

Second point, the Inflation Reduction Act passed without a single Republican vote. It was done behind doors, a very partisan piece of legislation. Fortunately, Senators Thune and Sinema dropped an amendment which passed 57–43. The Thune amendment fixed a provision that said that small and medium-sized businesses, which are in my district, could be subject to the book's—fix this—if not, they would have been subject to the book's minimum tax administrative and financial burdens.

I think that the congressional intent was very clear. I think this Administration has done everything it can to run around congressional intent. I ask unanimous consent to insert into the text the amendment debate and the final vote tally for the record, Mr. Chairman.

Chairman SMITH. Without objection, so ordered.

[The information follows:]

(b) REQUIREMENTS.—

(1) FINAL ASSEMBLY REQUIREMENT.—The requirement described in this paragraph is that final assembly of the vehicle occurs in North America.

(2) CRITICAL MINERALS REQUIREMENT.—

(A) IN GENERAL.—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the applicable critical minerals (as defined in section 45X(c)(6) of the Internal Revenue Code of 1986, as added by section 13502(a) of this Act) contained in such battery that were—

(i) extracted or processed in the United States;

(ii) extracted or processed in any country with which the United States has a free trade agreement in effect; or

(iii) recycled in North America,

is equal to or greater than the applicable percentage.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

(i) in the case of a vehicle placed in service before January 1, 2024, 40 percent;

(ii) in the case of a vehicle placed in service during calendar year 2024, 50 percent;

(iii) in the case of a vehicle placed in service during calendar year 2025, 60 percent;

(iv) in the case of a vehicle placed in service during calendar year 2026, 70 percent; and

(v) in the case of a vehicle placed in service after December 31, 2026, 80 percent.

(3) BATTERY COMPONENT REQUIREMENT.—

(A) IN GENERAL.—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to or greater than the applicable percentage.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

(i) in the case of a vehicle placed in service before January 1, 2024, 50 percent;

(ii) in the case of a vehicle placed in service during calendar year 2024 or 2025, 60 percent;

(iii) in the case of a vehicle placed in service during calendar year 2026, 70 percent;

(iv) in the case of a vehicle placed in service during calendar year 2027, 80 percent;

(v) in the case of a vehicle placed in service during calendar year 2029, 90 percent; and

(vi) in the case of a vehicle placed in service after December 31, 2028, 100 percent.

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**SA 5471.** Mr. LEE submitted an amendment intended to be proposed to amendment SA 5194 proposed by Mr. SCHUMER to the bill H.R. 5376, to provide for reconciliation pursuant to title II of S. Con. Res. 14; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

**SEC. 40008. SPECTRUM AUCTION.**

(a) IDENTIFICATION.—Not later than 21 months after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Defense, the Director of the Office of Science and Technology Policy, and the Federal Communications Commission (referred to in this section as the "Commission") shall submit to the President, the Commission, and the relevant congressional committees (as defined in section 90008(a) of the Infrastructure Investment and Jobs Act (47 U.S.C. 921 note; Public Law 117–58)) a report that identifies 350 megahertz of electromagnetic spectrum between the frequencies of 3100 megahertz and 3450 megahertz, inclusive, to be reallocated by the Commission through a system of competitive bidding under subsection (b) for non-Federal use or shared Federal and non-Federal use, or a combination thereof.

(b) REALLOCATION OF SPECTRUM THROUGH AUCTION.—

(1) IN GENERAL.—Not later than 7 years after the date of enactment of this Act, the Commission shall—

(A) notwithstanding paragraph (11) or (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), in coordination with the Assistant Secretary of Commerce for Communications and Information, conduct a system of competitive bidding under that section to award licenses for non-Federal use or shared Federal and non-Federal use, or a combination thereof, of the band or bands of electromagnetic spectrum identified under subsection (a); and

(B) promulgate rules for the use of spectrum reallocated under subparagraph (A).

(2) AUCTION PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in this subsection shall be construed to relieve the Commission from the requirements under section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(3) EXTENSION OF AUCTION AUTHORITY.—Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "section 90008(b)(2)(A)(ii) of the Infrastructure Investment and Jobs Act" and inserting "section 40008(a) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'".

(c) USE OF AUCTION PROCEEDS.—Notwithstanding subparagraphs (A), (C)(i), and (D) of section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)), and except as provided in subparagraph (B) of that paragraph, the proceeds (including deposits and upfront payments from successful bidders) of competitive bidding under subsection (b) of this section (in this subsection referred to as "covered proceeds") shall be deposited or available as follows:

(1) Such amount of the covered proceeds as is necessary to cover 110 percent of the relocation or sharing costs of Federal entities relocated from or sharing the frequencies identified under subsection (a) shall be deposited in the Spectrum Relocation Fund established under section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928).

(2) After the amount required to be deposited by paragraph (1) of this subsection is so deposited, the Commission shall use such amounts as are necessary to reimburse the general fund of the Treasury for any amounts borrowed under section (d) of this section; and

(3) After compliance with paragraphs (1) and (2) of this subsection, the Commission shall deposit all remaining amounts in the general fund of the Treasury for the sole purpose of deficit reduction.

(d) FCC BORROWING AUTHORITY.—The Commission may borrow from the Treasury of the United States an amount not to exceed $3,700,000,000 to carry out the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1601 et seq.), notwithstanding the limitation on expenditures under section 4(k) of that Act (47 U.S.C. 1603(k)) and provided that the Commission shall not use any funds borrowed under this subsection in a manner that may result in outlays on or after September 30, 2031.

(e) RELATION TO SPECTRUM AUCTION UNDER INFRASTRUCTURE INVESTMENT AND JOBS ACT.—Paragraphs (2), (3), and (4) of section 90008(b) of the Infrastructure Investment and Jobs Act (47 U.S.C. 921 note; Public Law 117–58) are repealed.

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**SA 5472.** Mr. THUNE submitted an amendment intended to be proposed to amendment SA 5194 proposed by Mr. SCHUMER to the bill H.R. 5376, to provide for reconciliation pursuant to title II of S. Con. Res. 14; which was ordered to lie on the table; as follows:

At the end of part 9 of subtitle D of title I, insert the following:

**SEC. 13904. REMOVAL OF HARMFUL SMALL BUSINESS TAXES; EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.**

(a) REMOVAL OF HARMFUL SMALL BUSINESS TAXES.—Subparagraph (D) of section 59(k)(1), as added by section 10101, is amended to read as follows:

"(D) SPECIAL RULES FOR DETERMINING APPLICABLE CORPORATION STATUS.—Solely for purposes of determining whether a corporation is an applicable corporation under this paragraph, all adjusted financial statement income of persons treated as a single employer with such corporation under subsection (a) or (b) of section 52 shall be treated as adjusted financial statement income of such corporation, and adjusted financial statement income of such corporation shall be determined without regard to paragraphs (2)(D)(i) and (11) of section 56A(c).".

(b) EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.—

(1) IN GENERAL.—Section 164(b)(6) is amended—

(A) in the heading, by striking "2025" and inserting "2026", and

(B) by striking "2026" and inserting "2027".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2022.

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**SA 5473.** Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 5194 proposed by Mr. SCHUMER to the bill H.R. 5376, to provide for reconciliation pursuant to title II of S. Con. Res. 14; which was ordered to lie on the table; as follows:

On page 736, line 15, insert ": *Provided*, That none of the funds made available under this paragraph may be used to replace a vehicle that has been driven for less than 100,000 miles" before the period.

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**SA 5474.** Mr. MARSHALL submitted an amendment intended to be proposed to amendment SA 5194 proposed by Mr. SCHUMER to the bill H.R. 5376, to provide for reconciliation pursuant to title II of S. Con. Res. 14; which was ordered to lie on the table; as follows:

At the end of section 11004, insert the following:

**SEC. 11005. FLOOR FOR MAXIMUM FAIR PRICE UNDER THE DRUG PRICE NEGOTIATION PROGRAM.**

Section 1194 the Social Security Act, as added by section 11001, is amended—

(1) in subsection (b)(2)(F)(ii), by inserting "or (h)" after "subsection (d)"; and

(2) by adding at the end the following new subsection:

"(h) FLOOR FOR MAXIMUM FAIR PRICE.—

"(1) IN GENERAL.—The maximum fair price negotiated under this section for a selected drug (other than a small biotech drug described in subsection (d) for 2029 and 2030), with respect to the first year of the price applicability period with respect to such drug, Just this last week, the Director of the FBI testified at the Judiciary Committee that they had been interviewing multiple parents—moms and dads—and the House has categorized it as upward of 20 moms and dads.

This amendment says: Don't target parents as domestic terrorists—

The PRESIDING OFFICER. All time is expired.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, the FBI has told us repeatedly that domestic extremism is a very real threat in America. Last November, 60 percent of America's school leaders said that someone in their schools had been verbally or physically threatened over school policy.

There is no evidence—none—that the Department of Justice is threatening the constitutional right of parents to peaceful, free speech. But there is no excuse—none—for violence against school teachers or board members.

If you believe there is nothing peaceful or legitimate about threatening teachers, school board members or their families, vote no on this amendment.

VOTE ON MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. CRUZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. BENNET). The Senator from North Dakota.

MOTION TO COMMIT

Mr. HOEVEN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from North Dakota [Mr. HOEVEN] moves to commit the bill to the Committee on Finance with instructions to report.

Mr. HOEVEN. I ask unanimous consent that the reading of the names be waived.

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

The motion to commit is as follows:

Mr. HOEVEN moves to commit the bill H.R. 5376 to the Committee on Finance of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would prohibit the implementation of the provisions of the bill H.R. 5376 until the date on which—

(A) grocery prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "food at home") decrease below the food at home annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(B) gasoline prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "gasoline (all types)") decrease below the gasoline (all types) annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(C) diesel prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "other motor fuels") decrease below the other motor fuels annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(D) home heating oil prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "fuel oil") decrease below the fuel oil annual inflation level (as reported by the Bureau of Labor Statistics for January 2021); and

(E) housing expenses (as reported by the Bureau of Labor Statistics as annual CPI-U for "shelter") decrease below the shelter annual inflation level (as reported by the Bureau of Labor Statistics for January 2021).

Mr. HOEVEN. Mr. President, the American people are hurting. Inflation has soared to the highest we have seen in 40 years, and the Consumer Price Index is now 9.1 percent. Americans are seeing increased prices on everything from the grocery store to the gas pump. Gas prices have gone up $2.25 a gallon just since the President took office. Diesel prices since this administration took office are up $2.81—that means 60 percent more since President Biden took office. The cost of food is up more than 12 percent.

We not only have inflation, we have our economy stagnating as well—stagflation. It is something we haven't had since the late 1970s, early 1980s. We have the resources and the capabilities to reduce that inflation to address the stagnation. This tax-and-spend bill is not the way to do it.

I ask that we return this to committee and come up with a plan that will actually get our economy going and reduce inflation. I ask for support on this motion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in opposition to this amendment.

This, again, is about delay, about postponing, about putting off the job that needs to be done. What the focus of this bill is all about is cutting costs.

What I have said to colleagues—and my friend, the Presiding Officer of the Senate, knows this—is that our bill on prescription drugs kicks in this fall. We really kick in on the efforts to hold down price gouging when medicine is going up faster than the rate of inflation.

I urge my colleagues to oppose this. We can't afford any further delay in priorities like saving senior citizens from their medicine costs.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, the bill increases taxes and increases spending. It will not bring down costs, and it will not bring down inflation.

VOTE ON MOTION TO COMMIT

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

## PRAYER

The PRESIDING OFFICER. Pursuant to rule IV, paragraph 2, the hour of 12 noon having joyously arrived and the Senate having been in continuous session since yesterday, the Senate will suspend for a prayer from the Senate Chaplain.

The Senate Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our God, who rules the raging of the sea, our weekend work gently reminds us that freedom's price must be paid. As our Senators provide the currency of perseverance to protect and defend this land we love, strengthen them for the challenges and empower them for the vicissitudes. Remind them, as they strive to pay liberty's recurring bill, that You will never leave or forsake them.

Rouse Yourself, O Lord, and help them.

We pray in Your merciful Name. Amen.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO COMMIT

Mrs. BLACKBURN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Tennessee [Mrs. BLACKBURN] moves to commit the bill to the Committee on Agriculture, Nutrition, and Forestry with instructions to report.

Mrs. BLACKBURN. Mr. President, I ask that we waive the reading.

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

The motion is as follows:

Mrs. BLACKBURN moves to commit the bill H.R. 5376 to the Committee on Agriculture, Nutrition, and Forestry of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would ensure that no funding made available by the bill for the environmental quality incentives program, the conservation stewardship program, the agricultural conservation easement program, or the regional conservation partnership program may be provided to—

(A) an agricultural producer located in the United States who is a nonresident alien, foreign business, agent, trustee, or fiduciary associated with the Government of the People's Republic of China; or

(B) an entity partially or wholly owned by such an agricultural producer.

Mrs. BLACKBURN. Mr. President, right now, Chinese owners control more than 194,000 acres of farm and forestry land valued at $1.9 billion, as of the last accounting, right here in the United States. Now, much of this farmland is located in close proximity to our military institutions, and a lot of this farmland is being used so that Chinese-owned farm operations can compete with U.S. farmers.

My amendment would stop funds from this bill from ending up in the hands of agents of the Chinese Government and their businesses. This is a commonsense motion to commit.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, this motion to commit is a red herring and a complete distraction.

The Department of Agriculture already has strict rules that all producers must meet before they can participate in USDA conservation programs.

These dollars go to farmers who are American citizens or legal permanent residents for conservation practices that help protect and improve American soil and water. Farmers are only reimbursed after the practices are in place.

This would add burdensome paperwork, unnecessary bureaucracy that would really bog our farmers down. This is different than circumstances that were just talked about with state-owned Chinese companies. This is not the same thing. This amendment goes right at our farmers and the conservation practices they are asking us to support for them.

Again, the only reason for this amendment is to stop us from passing this bill, which, among other things, will cut prescription drug costs, create jobs, and tackle the climate crisis.

I urge a "no" vote.

The PRESIDING OFFICER. The Senator's time has expired.

VOTE ON MOTION

The question is on agreeing to the motion.

Mrs. BLACKBURN. Mr. President, I ask for the yeas and nays.

I urge a "yes" vote.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Florida.

MOTION TO COMMIT

Mr. RUBIO. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Florida [Mr. RUBIO] has a motion to commit to bill H.R. 5376 to the Committee on Health, Education, Labor, and Pensions of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—(1), are within the jurisdiction of such committee; and, (2) would contain a definition for the term "pregnancy" that limits maternal and infant-related program resources to biological females.

The motion is as follows:

Mr. RUBIO moves to commit the bill H.R. 5376 to the Committee on Health, Education, Labor, and Pensions of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would contain a definition for the term "pregnancy" that limits maternal and infant-related program resources to biological females.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, the only people who are capable of being pregnant are biological females; and, therefore, I think Federal pregnancy programs should be limited to biological females and that is what this would do.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, let's be clear about what is going on here. This is a procedural attempt by Republicans to derail our ability to get this bill across the finish line and deliver for families in our country.

It is actually outrageous that Republicans are trying to talk about pregnancy when in this country, right now, they are forcing women to stay pregnant no matter their circumstances, pushing cruel and extreme abortion bans.

Republicans are now resorting to tactics like this to distract from the fact that they don't have any serious reasons for working so hard to oppose this bill that lowers costs, lowers emissions, and lowers the deficit.

I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Florida has 40 seconds.

Mr. RUBIO. Mr. President, a few minutes ago, I looked back across 5,500 years of human history. So far, every single pregnancy has been a biological female. Therefore, the only thing I am trying to do is make sure that the Federal law is clear that since every pregnancy that has ever existed has been in a biological female, that our Federal laws reflect that and pregnancy programs are available to the only people who are capable of getting pregnant—biological females. Very simple.

I would accept a unanimous consent if they want to offer it, and we can move on and not waste any time.

The PRESIDING OFFICER. Senator MURRAY has 10 seconds left.

Mrs. MURRAY. When we are facing the challenges in this country and helping our constituents to lower costs, it is outrageous that Republicans are trying to define pregnancy, of all things, on this floor on this day after hours of voting on amendments.

I urge a "no" vote.

VOTE ON MOTION

The PRESIDING OFFICER. The question is agreeing to the motion.

Mr. RUBIO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER. The Senator from South Carolina.

POINTS OF ORDER EN BLOC

Mr. GRAHAM. Mr. President, I ask consent to make the following four points of order en bloc.

The first point of order concerns page 43, lines 3 through 8. This language violates section 313(b)(1)(A).

The second point concerns page 1, lines 3 through 5. This language violates 313(b)(1)(A).

The third point concerns page 547, line 18, through page 548, line 25. This language violates section 313(b)(1)(A).

And the fourth point of order concerns page 689, lines 8 through 16. This language violates section 313(b)(1)(D).

The PRESIDING OFFICER. The points of order are sustained; the provisions are stricken under 313(b), 313(e).

The Senator from Alaska.

AMENDMENT NO. 5435

Mr. SULLIVAN. Mr. President, I call up my amendment No. 5435, and I ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report.

The senior assistant executive clerk read as follows:

The Senator from Alaska [Mr. SULLIVAN] proposes an amendment numbered 5435 to amendment No. 5194.

Mr. SULLIVAN. Mr. President, I ask that the reading be waived.

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

The amendment is as follows:

(Purpose: To replace the funding for the Office of the Chief Readiness Support Officer with a $500,000,000 appropriation for the construction or improvement of primary pedestrian fencing and barriers along the southwest border)

In title VII, strike section 70001 and insert the following:

**SEC. 70001. FUNDING FOR U.S. CUSTOMS AND BORDER PROTECTION.**

In addition to amounts otherwise available, there is appropriated to U.S. Customs and Border Protection for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, which shall remain available until September 30, 2027, for necessary expenses relating to the construction or improvement of primary pedestrian fencing and barriers along the southwest border.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, we have a true crisis—a humanitarian crisis, a national security crisis—right now on our southern border.

It is a huge tragedy that my Democratic colleagues want to ignore, and that tragedy has spread across our Nation—crime; victims of human trafficking, many of them children; a fentanyl epidemic killing our young people; chaos—all fueled by a lawless border.

Secure borders work. Walls work. Just ask the Biden administration, as they are quietly building sections of the wall in Arizona right now.

The Democrats' partisan reconciliation bill does nothing—nothing—to address this crisis.

Instead, it gives DHS $500 million for sustainability and environmental programs when our kids are dying from drugs streaming in from the border, when our communities are under siege. This should not be the priority for DHS.

My amendment would take this half a billion dollars and recommit it—this DHS money—to building the wall and securing our border, which is DHS's primary mission, not environmental programs.

I ask that all my colleagues vote yes on this commonsense amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. PETERS. Mr. President, communities all across the country are suffering from exposure to PFAS—commonly used chemicals that do not break down and have been linked to serious health problems.

This amendment would strike a provision in the bill that would help DHS repair and upgrade its facilities to protect surrounding communities and frontline DHS personnel from these harmful chemicals.

This amendment, instead, seeks to continue the past administration's efforts to fund and construct an ill-conceived border wall on the southern border.

I agree that we need secure borders, but we need smart and cost-effective security measures, including technology and adequate personnel levels to meet our border security needs.

We should be working together in a bipartisan manner to develop smart investments in border security.

Let's secure our southern and northern borders instead of throwing taxpayer dollars to build a costly and ineffective wall.

I urge my colleagues to vote no.

Mr. SULLIVAN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Time is expired on both sides.

VOTE ON AMENDMENT NO. 5435

The question is on agreeing to the amendment.

Mr. SULLIVAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The amendment (No. 5435) was rejected.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Montana.

AMENDMENT NO. 5487

Mr. DAINES. Mr. President, I ask unanimous consent that the following amendments be considered as one amendment, No. 5487: No. 5425, Mr. DAINES; No. 5361, Ms. ERNST; No. 5360, Mrs. FISCHER; No. 5224, Mr. PORTMAN; No. 5411, Mr. BARRASSO; and No. 5454, Ms. MURKOWSKI. I further ask that there be 2 minutes of debate, equally divided, on each division prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. DAINES], for Mr. GRAHAM and others, proposes an amendment numbered 5487.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Montana.

Mr. DAINES. Mr. President, my amendment would strike the anti-energy provisions that snuck into this bill behind closed doors.

This partisan bill before us has a slew of provisions that raises royalty rates, fees, rents, and taxes that hurt our small oil and gas producers in America the most. By the way, it is those small oil and gas producers that produce over 80 percent of our supply. I guarantee you, if there is a rebuttal, they will talk about Big Oil, but this is not Big Oil; 80 percent is from the small guys. These producers don't have the ability to absorb the large increases from the government, so if you raise prices for energy producers, you raise energy prices for Americans.

It is not that complicated. If you want lower gas prices, vote yes.

The PRESIDING OFFICER. The Senator from Iowa.

Ms. ERNST. Mr. President, this one should be simple.

My amendment eliminates subsidies for slave and child labor. The price of buying a car has reached a record high, and what is the Democrats' answer? A tax break for wealthy coastal elites to buy electric vehicles produced with slave and child labor.

Currently, this bill already prevents vehicles containing any part sourced or assembled in foreign entities of concern, like China or Russia, from being eligible for the tax credit. My amendment doesn't change that. My amendment simply ensures that our tax dollars don't subsidize EVs from any countries using child or slave labor.

We all know the critical minerals that comprise EV batteries are largely mined in sub-Saharan Africa by companies abusing children, which are then assembled in Chinese-owned factories, many of which use slave labor. Subsidizing, to the tune of $7,500 per person, the purchase of a luxury vehicle for wealthy coastal elites that utilizes slave or child labor is a direct contradiction of our American values.

We shouldn't be sacrificing a clean conscience in exchange for a so-called cleaner car.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, my Democratic colleagues say wealthy Americans should pay their fair share. Yet they want to expand the electric vehicle tax credit for the rich once again.

In this bill, there are two separate EV tax credits: one for people who want to buy new $80,000 vehicles and one for those who want to buy used EVs.

Why two separate credits? The tax credit for new EVs is available to the wealthy, while the credit for the new EVs is limited to the folks with lower incomes. Why do my colleagues from the other side keep giving bigger tax breaks to their rich donors?

My change would at least prevent taxpayer dollars from subsidizing the wealthy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, this is a really easy one. Let's trade bureaucracy and more funding in this bill for bureaucracy at the Department of Homeland Security for desperately needed technology along the southern border to stop deadly fentanyl from coming into our communities.

Tragically, over 100,000 Americans were killed last year, which is a record, from drug overdoses. Two-thirds of those overdoses were from these synthetic opioids, like fentanyl.

We know that the vast majority of that fentanyl originates with drug cartels in Mexico now, and there is a surge of these deadly drugs coming across our southern border.

This amendment increases funding for Customs and Border Protection by $500 million for badly needed technology to detect fentanyl and other drugs. If you can believe it, right now, only 2 percent of cars—2 percent—and 14, 15, 16 percent, maybe, of commercial vehicles are being screened. Both GAO and the Department of Homeland Security IG have done reports saying we badly need this technology, and it is available. We need the funding.

The funding is more than offset by reducing huge funding increases in this bill for this Office of Chief Readiness at the Department of Homeland Security. So this money stays at DHS.

Let's make it a higher priority to stop and detect these deadly poisons coming into our communities.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, this is an amendment from Senator BARRASSO and me. It is very straightforward.

If you are a restaurant, you can deduct your business expenses. That is normal tax code. If you are a hardware store, you can deduct your business expenses. That is normal operation.

Since 1913, intangible drilling costs have been the tax deductions for oil and gas. IDCs, or intangible drilling costs, since 1913, have been set aside for preparing the space, doing all the labor costs, the services, the normal business operations, for 100 years, until now.

Slipped into this bill yesterday, into the base tax, strips away the tax deductions for oil and gas companies, what has been in place for over 100 years. If you are a wind farm, you can use renewable energy credits to take your tax rate down to zero because you can deduct your normal business expenses as well. If you are a coal company, you can use 45Q, but if you are oil and gas, your prices are going up.

Americans should remember this bill when they fill up in the days ahead and when the people in their communities are trying to get a job with oil and gas.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, the United States' mineral security has really become our Achilles' heel. It is a significant threat to our economy, to our competitiveness, to our security, and to our geopolitical leverage, all at the same time.

We know that mineral demand is skyrocketing, and yet it is harder than ever to produce minerals here in this country. So what we have done is that we have turned to imports to fill the gaps in our supply.

We are seeking, through this amendment, to put some limited assistance on the table to make sure that projects for the most critical minerals can move forward in a timely manner. That is what my amendment does for cobalt and for nickel.

Right now, we import 76 percent of our cobalt, 48 percent of our nickel, but demand is growing so dramatically for both as a result of EVs, of energy storage systems, and other clean technologies. So what we are seeking to do with this is repurpose $400 million for States to implement energy efficiency codes to instead ensure that domestic nickel and cobalt projects can advance.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New Mexico.

Mr. HEINRICH. Mr. President, these are all problematic amendments that would jeopardize the underlying legislation and the progress on climate, on prescription drugs, and on a whole host of other things. So we should all vote no. We should pass this important bill, and we should be done with this.

VOTE ON AMENDMENT NO. 5487

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The amendment (No. 5487) was rejected.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO COMMIT

Mr. HAGERTY. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. HAGERTY] moves to commit the bill to the Committee on the Judiciary with instructions to report.

Mr. HAGERTY. Mr. President, I ask to dispense with the reading.

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

The motion is as follows:

Mr. HAGERTY moves to commit the bill H.R. 5376 to the Committee on the Judiciary of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would ensure that U.S. Immigration and Customs Enforcement has sufficient resources to detain and deport a higher number of illegal aliens who have been convicted of a criminal offense in the United States.

Mr. HAGERTY. Mr. President, in fiscal year 2021, Immigration and Customs Enforcement arrested more than 12,000 illegal aliens with aggravated felony convictions. An alltime record number of illegal border crossers entered our country last year. This is an unprecedented national security crisis.

Before we spend billions of dollars on Green New Deal programs, the Department should first do its core job of securing the homeland.

This same policy was adopted 53 to 46 during the budget resolution process last August, with four of my Democratic colleagues joining me. Now, 1 year later, we have a worse crisis and an opportunity to provide real funding to protect our citizens from individuals who endanger our communities.

I hope my colleagues on the other side of the aisle will maintain their previous support for this commonsense approach to fund law enforcement and put public safety and national security over partisan politics. We have a chance to address this in a real manner right now. Solving a major crisis like this is worth taking a little more time.

I urge my colleagues to support this motion.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, Members, the Senator from Tennessee just provided us with this copy of his new amendment, and I hope you will take a look at it because it is recommitting this motion for 3 days. End of conversation, end of debate, end of any possibility of passing what we consider to be a major piece of legislation, from prescription drugs, dealing with environmental issues, and the list goes on. We have faced this so many times already in the last 12 or 14 hours.

But the second thing I would like to note is, we understand the seriousness of this challenge, so much so that we have already decided it is a crime, and it is a crime that can be prosecuted. And it is a crime that is investigated and enforced by an Agency of the Federal Government which we funded just 4 months ago. Four months ago, we gave $8 billion to ICE for this purpose. Thirty-one Republicans voted against funding this purpose. One of them was the Senator from Tennessee.

So now we are told we need the money, but 4 months ago he wouldn't vote for it. I think we know what we have here. We have a challenge that really is important to this motion that both parties share, but we have a political challenge with an effort to derail this measure today. Stick together and vote against this amendment.

Mr. HAGERTY. Mr. President, do I have more time left?

The PRESIDING OFFICER. The Senator's time has expired.

VOTE ON MOTION TO COMMIT

The question occurs on agreeing to the Hagerty motion to commit.

Mr. HAGERTY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Capito | Crapo |
| Blackburn | Cassidy | Cruz |
| Blunt | Collins | Daines |
| Boozman | Cornyn | Ernst |
| Braun | Cotton | Fischer |
| Burr | Cramer | Graham |

| | | |
|---|---|---|
| Grassley | Marshall | Scott (FL) |
| Hagerty | McConnell | Scott (SC) |
| Hawley | Moran | Shelby |
| Hoeven | Murkowski | Sullivan |
| Hyde-Smith | Paul | Thune |
| Inhofe | Portman | Tillis |
| Johnson | Risch | Toomey |
| Kennedy | Romney | Tuberville |
| Lankford | Rounds | Wicker |
| Lee | Rubio | Young |
| Lummis | Sasse | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Dakota.

AMENDMENT NO. 5472

Mr. THUNE. Mr. President, I call up my amendment No. 5472 and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 5472 to amendment No. 5194.

The amendment is as follows:

(Purpose: To remove harmful small business taxes, and for other purposes)

At the end of part 9 of subtitle D of title I, insert the following:

**SEC. 13904. REMOVAL OF HARMFUL SMALL BUSINESS TAXES; EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.**

(a) REMOVAL OF HARMFUL SMALL BUSINESS TAXES.—Subparagraph (D) of section 59(k)(1), as added by section 10101, is amended to read as follows:

"(D) SPECIAL RULES FOR DETERMINING APPLICABLE CORPORATION STATUS.—Solely for purposes of determining whether a corporation is an applicable corporation under this paragraph, all adjusted financial statement income of persons treated as a single employer with such corporation under subsection (a) or (b) of section 52 shall be treated as adjusted financial statement income of such corporation, and adjusted financial statement income of such corporation shall be determined without regard to paragraphs (2)(D)(i) and (ii) of section 56A(c).".

(b) EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.—

(1) IN GENERAL.—Section 164(b)(6) is amended—

(A) in the heading, by striking "2025" and inserting "2026", and

(B) by striking "2026" and inserting "2027".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2022.

Mr. THUNE. Mr. President, Democrats say that the book minimum tax will apply only to very large corporations with a 3-year average financial statement income in excess of $1 billion, but as their bill is currently proposed—and this change occurred basically in the last 24 hours—the bill would now require unrelated companies of any size held by funds or partnerships to combine their otherwise unrelated income to determine if they meet an aggregate $1 billion income threshold, subjecting each respective company to the book minimum tax even if its own income is far too low. This significant expansion of the tax has the potential to subject thousands of American businesses to the book minimum tax's administrative and financial burdens.

The nonpartisan Joint Committee on Taxation said this change would raise $35 billion in taxes on potentially thousands of small- and medium-size businesses, not merely a hundred or so large companies as our Democratic friends would have you believe.

My amendment is fully offset by extending for 1 year the cap on the State and local tax deduction enacted in the Tax Cuts and Jobs Act.

I encourage my colleagues to support this amendment and help ensure our Nation's small- and medium-size businesses aren't hit with a misguided and entirely inappropriate $35 billion tax hike.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, there are no tax increases on small businesses in our bill. The only companies that are paying under our bill are corporations with at least $1 billion in profit per year.

Republicans are calling private equity giants and foreign corporations with at least $1 billion in profits small businesses because they want private equity and foreign corporations to get more favorable treatment. Rather than close loopholes for billion-dollar private equity firms, Republicans would raise taxes on those making less than $400,000 per year.

I urge a "no" vote.

VOTE ON AMENDMENT NO. 5472

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—57

| | | |
|---|---|---|
| Barrasso | Daines | Lee |
| Blackburn | Ernst | Lummis |
| Blunt | Fischer | Marshall |
| Boozman | Graham | McConnell |
| Braun | Grassley | Moran |
| Burr | Hagerty | Murkowski |
| Capito | Hassan | Ossoff |
| Cassidy | Hawley | Paul |
| Collins | Hoeven | Portman |
| Cornyn | Hyde-Smith | Risch |
| Cortez Masto | Inhofe | Romney |
| Cotton | Johnson | Rosen |
| Cramer | Kelly | Rounds |
| Crapo | Kennedy | Rubio |
| Cruz | Lankford | Sasse |
| Scott (FL) | Sullivan | Tuberville |
| Scott (SC) | Thune | Warnock |
| Shelby | Tillis | Wicker |
| Sinema | Toomey | Young |

NAYS—43

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Sanders |
| Blumenthal | Kaine | Schatz |
| Booker | King | Schumer |
| Brown | Klobuchar | Shaheen |
| Cantwell | Leahy | Smith |
| Cardin | Luján | Stabenow |
| Carper | Manchin | Tester |
| Casey | Markey | Van Hollen |
| Coons | Menendez | Warner |
| Duckworth | Merkley | Warren |
| Durbin | Murphy | Whitehouse |
| Feinstein | Murray | Wyden |
| Gillibrand | Padilla | |
| Heinrich | Peters | |

The amendment (No. 5472) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 5488

Mr. WARNER. Mr. President, I call up my amendment, No. 5488, and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The senior assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 5488.

Mr. WARNER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the extension of the limitation on State and local taxes and extend the limitation on excess business losses of noncorporate taxpayers, and for other purposes)

On page 645, strike line 1 and all that follows through page 547, line 17, and insert the following:

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales in calendar quarters beginning after the date which is 1 day after the date of enactment of this Act.

**SEC. 13902. INCREASE IN RESEARCH CREDIT AGAINST PAYROLL TAX FOR SMALL BUSINESSES.**

(a) IN GENERAL.—Clause (i) of section 41(h)(4)(B) is amended—

(1) by striking "AMOUNT.—The amount" and inserting "AMOUNT.—

"(I) IN GENERAL.—The amount", and

(2) by adding at the end the following new subclause:

"(II) INCREASE.—In the case of taxable years beginning after December 31, 2022, the amount in subclause (I) shall be increased by $250,000.".

(b) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 3111(f) is amended—

(A) by striking "for a taxable year, there shall be allowed" and inserting "for a taxable year—

"(A) there shall be allowed",

(B) by striking "equal to the" and inserting "equal to so much of the",

(C) by striking the period at the end and inserting "as does not exceed the limitation of subclause (I) of section 41(h)(4)(B)(i) (applied without regard to subclause (II) thereof), and", and

(D) by adding at the end the following new subparagraph:

"(B) there shall be allowed as a credit against the tax imposed by subsection (b) for the first calendar quarter which begins after the date on which the taxpayer files the return specified in section 41(h)(4)(A)(ii) an amount equal to so much of the payroll tax credit portion determined under section 41(h)(2) as is not allowed as a credit under subparagraph (A).".

(2) LIMITATION.—Paragraph (2) of section 3111(f) is amended—

(A) by striking "paragraph (1)" and inserting "paragraph (1)(A)", and

(B) by inserting ", and the credit allowed by paragraph (1)(B) shall not exceed the tax imposed by subsection (b) for any calendar quarter," after "calendar quarter".

(3) CARRYOVER.—Paragraph (3) of section 3111(f) is amended by striking "the credit" and inserting "any credit".

(4) DEDUCTION ALLOWED.—Paragraph (4) of section 3111(f) is amended—

(A) by striking "credit" and inserting "credits", and

(B) by striking "subsection (a)" and inserting "subsection (a) or (b)".

(c) AGGREGATION RULES.—Clause (ii) of section 41(h)(5)(B) is amended by striking "the $250,000 amount" and inserting "each of the $250,000 amounts".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

**SEC. 13903. REINSTATEMENT OF LIMITATION RULES FOR DEDUCTION FOR STATE AND LOCAL, ETC., TAXES; EXTENSION OF LIMITATION ON EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYERS.**

(a) REINSTATEMENT OF LIMITATION RULES FOR DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.—

(1) IN GENERAL.—Section 164(b)(6), as amended by section 13904, is further amended—

(A) in the heading, by striking "2026" and inserting "2025", and

(B) by striking "2027" and inserting "2026".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2022.

(b) EXTENSION OF LIMITATION ON EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYERS.—

(1) IN GENERAL.—Section 461(l)(1) is amended by striking "January 1, 2027" each place it appears and inserting "January 1, 2029".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2026.

Mr. WARNER. Mr. President, the end is near—I hope. For those of us on this side of the aisle who have worked long and hard, this is the last substantive action we have to take before final passage of a historic piece of legislation.

Recognizing—and I want to thank the Senators on both sides of the aisle for the productive discussions in the last vote on a difficult issue that my amendment would address.

My amendment would simply strike the offset in the previous amendment known as the State and local tax deduction and replace it with a 2-year extension of a so-called loss limitation policy that has bipartisan support over many years.

This was first employed under President Trump, then employed by the Democrats. Everyone on this side of the aisle has voted for this pay-for, $52 billion, which more than offsets the $35 billion that were taken from the previous amendment.

This amendment will allow us to move forward on this historic legislation, on drug prices, climate change, reform the tax code, and bring down inflation and make sure we have got a true comprehensive energy policy.

I urge all my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I would urge my colleagues to oppose this amendment. The amendment we just voted on and passed has an offset in there, and it is a provision that works very, very well and covers getting rid of this tax on private equity on small businesses and larger businesses in this country.

And what the Senator from Virginia is proposing is an offset loss limitation. And he is right, we have voted for it. We voted for it because we put it in the tax bill in 2017 as an offset, and what it offset and paid for was the 199A deduction that benefits all our passthrough businesses, small businesses, across this country, which expires in 2026.

That very offset is how we are going to pay for extending the 199A deduction for passthrough businesses in this country. So if you want to rob it and use it here, it is not going to be available when it comes time to help out those small businesses, all of whom you represent, passthrough businesses across this country. The offset, the pay-for in my amendment is the right way to do this.

I urge you to oppose the amendment.

Mr. WARNER. Do I have any time remaining?

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 5488

The question is on agreeing to the amendment.

Mr. SCHATZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

NAYS—50

| | | |
|---|---|---|
| Barrasso | Cassidy | Daines |
| Blackburn | Collins | Ernst |
| Blunt | Cornyn | Fischer |
| Boozman | Cotton | Graham |
| Braun | Cramer | Grassley |
| Burr | Crapo | Hagerty |
| Capito | Cruz | Hawley |
| Hoeven | Moran | Scott (SC) |
| Hyde-Smith | Murkowski | Shelby |
| Inhofe | Paul | Sullivan |
| Johnson | Portman | Thune |
| Kennedy | Risch | Tillis |
| Lankford | Romney | Toomey |
| Lee | Rounds | Tuberville |
| Lummis | Rubio | Wicker |
| Marshall | Sasse | Young |
| McConnell | Scott (FL) | |

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50.

The Senate being equally divided, the Vice President votes in the affirmative, and the amendment is agreed to.

The amendment (No. 5488) was agreed to.

The VICE PRESIDENT. The majority leader.

Mr. SCHUMER. Madam President, I know of no further amendments to the substitute.

The VICE PRESIDENT. If there are no further amendments, the question is on agreeing to the substitute, as amended.

The amendment (No. 5194), as amended, was agreed to.

The VICE PRESIDENT. The clerk will read the title of the bill for the third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The majority leader.

Mr. SCHUMER. Madam President, it has been a long, tough, and winding road, but at last—at last—we have arrived.

I know it has been a long day and a long night, but we have gotten it done. Today, after more than a year of hard work, the Senate is making history.

I am confident the Inflation Reduction Act will endure as one of the defining legislative feats of the 21st century.

Our bill reduces inflation, lowers costs, creates millions of good-paying jobs, and is the boldest climate package in U.S. history.

This bill will kick start the era of affordable clean energy in America. It is a game changer. It is a turning point, and it has been a long time in coming.

To Americans who have lost faith that Congress can do big things, this bill is for you. To seniors who face the indignity of rationing medications or skipping them altogether, this bill is for you. And to the tens of millions of young Americans who have spent years marching, rallying, demanding that Congress act on climate change, this bill is for you.

The time has come to pass this historic bill.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. SCHUMER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

NAYS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the bill, as amended, is passed.

The bill (H.R. 5376), as amended, was passed.

(Cheers and applause.)

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. SCHUMER. Madam President, I have got to compose myself a little here. Every Senator knows an undeniable truth: We can never do what we do without our amazing, incredible staff. They work behind the scenes; they never fall under the spotlight. But they do incredible work, nonetheless.

Now that we finished passing the Inflation Reduction Act, I want to applaud all of the staffers—we already applauded them, but that is good—who made this possible. The hundreds of staffers who served in Senate offices across the various committees. I want to thank every single one of them for their remarkable work in passing the Inflation Reduction Act.

I will submit their names into the RECORD to honor their achievements and preserve forever the role they played in bringing this bill to life. And I ask unanimous consent to have the names of all of the committee staff who contributed printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE STAFF WHO CONTRIBUTED TO THE PASSAGE OF THE INFLATION REDUCTION ACT OF 2022—AUGUST 7TH, 2022

COMMITTEE ON FINANCE

Bobby Andres, Chris Arneson, Shawn Bishop, Adam Carasso, Ryan Carey, Ursula

Clausing, Drew Crouch, Michael de la Guardia, Liz Dervan, Jack Dolgin, Eva DuGoff, Mary Ellis, Grace Enda, Mike Evans, Peter Fise, Jon Goldman, Taylor Harvey, Josh Heath, Melanie Jonas, Anna Kaltenboeck.

Rachael Kauss, Sally Laing, Nadia Laniyan, Kimberly Lattimore, Michael Osbourn-Grosso, Virginia Lenahan, Eric LoPresti, Kristen Lunde, Sarah Schaefer, Ashley Schapitl, Josh Sheinkman, Arthur Shemitz, Sarguni Singh, Tiffany Smith, Ryder Tobin.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ron Storhaug, Justin Pelletier, Sean Moore.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Joe Shultz, Jacqlyn Schneider, Chu- Yuan Hwang, Lucy Hynes, Susan Keith, Mikayla Bodey, Callie Eideberg, Kirin Kennedy, Lauren Wustenberg, Mary Beth Schultz, Sean Babington, Adam Tarr, Katie Naessens, Khadija Jahfiya, Alex Noffsinger, Claire Borzner, Kyle Varner, Patrick Delaney, Lillie Zeng, Elizabeth Rivera.

COMMITTEE ON THE JUDICIARY

Joe Zogby, Dan Swanson, Phil Brest, Sara Zdeb, Sarah Bauer, Stephanie Trifone, Sonia Gill, Chastidy Burns, Doug Miller, Alexandra Gelber, Ami Shah, Manpreet Teji, Matt Joseph, Wilson Osorio, Joe Charlet, Vaishalee Yeldandi, Mady Reno, Rachel Martinez, Katya Kazmin, Yashi Gunawardena, David McCallumo.

COMMITTEE ON INDIAN AFFAIRS

Jennifer Romero, Breann Nuuhiwa, Kim Moxley, Lenna Aoki, Connie Tsosie de Haro, Manu Tupper, Denae Benson, Darren Modzelewski.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Beth Cooper, John Richards, Phil Rudd, Megan Cheney, Homer Carlisle, Emily Blaydes, Jeremy Hekhuis, Elisha Tuku, Laura Swanson.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Nicole Teutschel, Jennifer Quan, Grace Bloom, Ronce Almond, Alex Simpson, Gigi Slais, Tricia Enright, Melissa Porter, Lila Helms, Christianna Barnhart, Mary Huang, Richard-Duane Chambers, Jonny Pellish, Emma Stohlman, Rosemary Baize, Hunter Hudspeth-Blackburn, Michael Davisson, Shannon Smith.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Renae Black, Sam Fowler, Adam Berry, Luke Bassett, Brie Van Cleve, Rory Stanley, Zahava Urecki, CJ Osman, Jack McGee, David Rosner, David Brooks, Bryan Petit, Peter Stahley, Melanie Thornton, Charlotte Bellotte, Jeannie Whitler, Jeremy Ortiz, Sarah Kessel, Lance West, Wes Kungel, Sam Runyon.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Jake Abbott, Janine Barr, Jordan Baugh, Mayely Boyce, Annie D'Amato, Greg Dotson, Brian Eller, Maureen French, Laura Haynes Gillam, Beth Hammon, Rebecca Higgins, Dylan Hoff, Tyler Hofmann-Reardon, Caroline Jones, John Kane, Susan Kimball, Trevor Lalonde, Rachel Levitan, Elizabeth Mabry, Carolyn Mack, Kenneth Martin, Matthew Marzano, Yasmeen Moten, Mary Frances Repko, Alex Smith, Hanna Sweet, Christophe Tulou.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Evan Schatz, John Righter.

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Michelle Benecke, Lena Chang, Chris Mulkins, Annika Christensen, Matthew Cornelius, Ben Schubert, Emily Manna, Allison Green, Naveed Jazayeri, Chelsea Davis, David Weinberg.

Mr. SCHUMER. Madam President, to the floor staff, particularly the Parliamentarian, who worked so hard under not easy conditions. And especially because we had to do so much in such a short period of time, we thank you so.

The clerks, the doorkeepers, the reporters—thank you.

Thank you to the pages who worked over time to help us in this historic endeavor. You will tell your grandchildren you were here. You were here.

Thank you to the cafeteria workers, custodial staff, and Capitol Police. The Senate can't function without all of you. And I thank the Office of Legislative Counsel, the Joint Committee on Taxation, the Congressional Budget Office. And, of course, I cannot forget my own staff—the best staff ever on Capitol Hill—and my Members know it. The Members know how good my staff is. I am so dedicated to them, the best in the business. Of course, every Senator thinks their staff is the best on Capitol Hill; but in my case, it happens to be true.

To Mike Lynch, who has been with me all these years and is so strong and steadfast and steady; to his deputy chief and my deputy chief Erin Sager Vaughn, another person who has been here a very long time and is just amazing. We praise her for her EQ, among other talents. She told me that.

To Martin Brennan, another like Mike Lynch—Mike Lynch and Martin Brennan have been with me just about since I started to be a Senator, and they are just such rocks in our office—incredible. Probably the team of husband and wife who have done more to save the Earth this year than just about anybody else is Gerry Petrella and Meghan Taira. They met and got married on my staff. They have a beautiful little boy, George. And when you have two people so important as policy director and legislative director and a little child at home, it is tough. But they managed to be great parents at the same time as being great and amazing staffers. And they are brilliant. They are just brilliant.

My executive team is world class: Emily Sweda, Kellie Karney, Abby Kaluza, and Raisa Shah—who just left a few weeks ago; an amazing press team, Justin Goodman, Alex Nguyen—nicknamed "Win," of course—Monica Lee, Alice Nam, Ken Meyer, Cyre Velez, Jasmine Harris, Jonathan Uriarte, Natalia Cardenas, and everyone on the digital team, the Senate Media Center who worked day and night, to record, edit, finalize photos, graphics and videos of every sort. They are a blessing.

And I want to recognize my press staff up in New York. They are just incredible. Amazing. I am just so blessed: Angelo Roefaro, Ally Biasotti, Paige Tepke; my speechwriter, Tony Rivera; my rapid response director, Dan Yoken; the amazing team of researchers: Hanna Talley, Thaha Sherwani, Mikael Tessema. And to our talented press assistants, thank you so much: Gabriel Avalos, Gracie Kanigher, Riya Vashi, and Sidney Johnson.

Two people who do an amazing job reaching out to the community: Cietta Kiandoli and Julietta Lopez—incredible. They talk to all the groups and make them feel part of what we are doing and they know what we are doing. It is so wonderful, the job they do. And a brilliant legislative team—brilliant. "Brilliant" is an overused word, but it is not overused in the case of my staff. The ideas they come up with, the way they manage to get everything done. It is amazing.

So there is Adrian Deveny and Tim Ryder, Matt Fuentes, Dili—it is a hard, long last name. I always call him Dili. I'm glad it is just Dili. It is Sundaramoorthy. How did I—Where is he? Oh, he is not here to correct me. Good.

Anna Taylor. Anna Taylor is so damn dedicated. She had a baby 2 days ago, and she is still on the phone talking. And I said: Anna, stop.

No, no, no. She was so dedicated and put so much time into this that she kept working. And her little beautiful child, Posey. We heard her crying happily in the background as we were moving through all of this. Jon Cardinal—an amazing guy who worked so hard on this and on CHIP fab—Reggie Babin on counsel, Rob Hickman, Annie Daly, Ramon Carranza, Catalina Tam, Sam Rodarte, Jillian McGrath, Justine Revelle, Ryan Eagan, Didier Barjon, Grace Magaletta, Bre Sonnier-Thompson, Vandan Patel, Leela Najafi, Leeann Sinpatanaskul, Jeff Dickson, Mike Kuiken, Lane Bodian, Reza Zomorrodian, Yazeed Abdelhaq, Beth Vrabel, Kai Vogel, Josh Gutmaker, and Gunnar Haberl.

And the floor staff—you know, there are certain people you say: We couldn't have done it without you, and a bunch of the names I have mentioned fall in the "couldn't have done it without you" category. But we all know that just the wisdom and the knowledge and the history that is in his bones and brain just make him indispensable, and that is Gary Myrick.

Is he here? He is very modest. So I am going to make him mad. We should all applaud him. He hates it.

(Cheers and applause.)

And, of course, Tricia Engle, his great deputy, and the wonderful team on the floor and in the cloakroom: Stephanie Paone, Rachel Jackson, Nate Oursler, Daniel Tinsley, Brad Watt, Jacky Usyk, Maalik Simmons, and Miriam Wheatley.

And, of course, my tech and IT team, what a great bunch. And for someone who is not very tech-oriented, his team is indispensable, too: Scott Rodman, Hemen Mehta, Jon Housley, and Amy Mannering.

And more staffers who work here every day in Washington—and we didn't name a lot of my staff in New York. I will just throw in the name of Steve Mann, who has been our deputy director since I started in the Senate and does a wonderful job. They all do, but I just wanted to mention him. And we commiserate with Mike Lynch over the Yankees, who are losing a lot of games these days.

Today, as I conclude, I ask unanimous consent to have the names of my entire staff printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEADER SCHUMER SENATE STAFF, AUGUST 2022

Abdelhaq, Yazeed, Legislative Correspondent; Ahiable, Immanuel, Graphic Designer; Aguilar, Joseph, Digital Communications Assistant; Allbrooks, Joshua, Community Outreach Assistant; Armwood, Garrett, Deputy State Director; Ashraf, Azmain, Digital Organizing Assistant; Avalos, Gabriel, Press Assistant; Babin, Reggie, Chief Counsel; Banez, Robert, Photographer; Barjon, Didier, Legislative Assistant; Barton, Steve, Director of Intergovernmental Relations; Battle, Sharon, Mailroom Assistant; Benavides, Jackie, Deputy Immigration Director/Community; Outreach; Biasotti, Allison, Senior Press Secretary; Bodian, Lane, Legislative Assistant; Bowman, Quinn, Director of the SDMC; Brennan, Martin, State Director; Brutus, Gerdine, Staff Assistant; Cardinal, Jon, Director of Economic Development; Cardenas, Natalia, Deputy Director of Hispanic Media.

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Flood, Sam, Research Aide; Fuentes, Matt, Legislative Assistant; Geertsma, Joel, Platform Director; Glander, Megan, Hudson Valley Regional Director; Goodman, Justin, Communications Director; Gutmaker, Joshua, Policy Aide; Haberl, Gunnar, Policy Aide; Harris, Jasmine, Director of African American Media; Hickman, Rob, Transportation Counsel; Housley, Jon, Systems Administrator; Hsi, Alex, Capitol Staff Assistant; Huus, Amber, Administrative Assistant; Iannelli, Mike, Long Island Regional Director; Jackson, Rachel, Cloakroom Assistant; Jamaica, Jessica, Digital Organizing Assistant; Jean, Mike, Special Assistant; Johnson, Sidney, Press Assistant; Kaluza, Abby, Executive Assistant; Kanigher, Gracie, Press Assistant; Karney, Kellie, Deputy Director of Scheduling.

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Mr. SCHUMER. Madam President, I want them to know how much I appreciate their work, how great a difference they have made. This bill is going to change America for decades, and you did it. Wherever you go, whatever you do, you should never forget how much you have helped make the world and the globe a better place—never forget it.

So, to every single staffer on my team, to staffers in other offices, committees here on the floor: Thank you, thank you, thank you, very, very much.

I yield the floor because Mr. PADILLA has some important words about a New Yorker.

The ACTING PRESIDENT pro tempore. The junior Senator from California.

TRIBUTE TO VINCENT "VIN" SCULLY

Mr. PADILLA. Madam President, as Mr. SCHUMER said, I rise today to honor the life and mourn the passing of Vincent "Vin" Scully, who will be remembered as the greatest broadcaster in sports history, and a true ambassador for Los Angeles, the Dodgers, and the game of baseball.

Born in 1927 in the Bronx, he grew up near the Polo Grounds and actually became a big fan of the New York Giants baseball team as a child—and I never held that against him.

He served our Nation as a member of the U.S. Navy for 2 years before attending Fordham University. And at Fordham—listen to this—at Fordham, he managed to play on the baseball team, work on the school paper, and broadcast many of the university's football, baseball, and basketball teams.

His career as a broadcaster took off soon after he graduated from college. By 1950, he joined the Brooklyn Dodgers broadcast team. And in 1954, he became the team's principal announcer—a position he would hold until his retirement in 2016. He was the longest tenured announcer for any team in any professional sport.

In 1953, at only age 25, Vin became the youngest person to ever broadcast a World Series—a record that remains to this day.

When the Dodgers moved from New York to Los Angeles in 1958, Vin moved with the team, and he quickly became the voice of baseball in Southern California.

Vin was the voice of the Dodgers for 67 years, but his unparalleled storytelling and love of sports allowed him to transcend baseball. Many fans will recall Vin's unique calls on some of the most memorable football games and golf tournaments of the 20th century.

He was also a presence in pop culture, appearing in dozens of movies, TV shows, and documentaries. Vin lent his talents to everything ranging from the sketch comedy series "Laugh-In" to the iconic science fiction show "The X-Files," to the classic baseball movie—and one of my favorites—"For the Love of the Game"; and he relished serving as grand marshal of the 125th Rose Parade ahead of the 2014 Rose Bowl.

In 2016, President Obama awarded Vin Scully the Presidential Medal of Freedom, recognizing Vin as one of the signature sounds of America's pastime. Ever humble, when Vin was informed that he would be receiving the honor, he asked: "Are you sure?"

From Opening Day to the World Series, and every inning in between, Vin made every game memorable with his love of baseball, and for generations of fans—generations—hearing Vin Scully's soothing voice meant it was time for Dodgers baseball.

Now, I grew up in the San Fernando Valley. As a child, growing up in the 1980s, I spent many evenings dreaming of growing up to play professional baseball while listening to Vin's voice narrate the action.

While he became a legend for his talents behind the microphone, he will actually be remembered best for his decency beyond the broadcast booth. I remember a few years ago, when I was serving as California's secretary of state, I had an opportunity to introduce Angela and two of our sons to Vin at a voter registration event before the game at Dodgers Stadium. He was just so incredibly gracious with my family; it is a memory that we will cherish.

But I also know that we weren't unique in that interaction with Vin. He always made time for fans—regardless of age, regardless of occupation—wherever and whenever he met them. You see, he wasn't just a sports broadcaster; he was a figure larger than life, and he made all of us feel like family.

Angela and I certainly join the Los Angeles community, the Dodgers organization, and baseball fans around the world in mourning the passing of Vin Scully. Our hearts go out to the entire Scully family.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 985.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of John Z. Lee, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

#### CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 985, John Z. Lee, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Charles E. Schumer, Richard J. Durbin, Ben Ray Luján, Jack Reed, Jacky Rosen, Tina Smith, Angus S. King, Jr., Patrick J. Leahy, Robert P. Casey, Jr., Christopher A. Coons, Alex Padilla, Chris Van Hollen, Margaret Wood Hassan, Elizabeth Warren, Jeff Merkley, Catherine Cortez Masto, Tim Kaine, Cory A. Booker.

## LEGISLATIVE SESSION

Mr. SCHUMER. Madam President, I move to proceed to legislative session.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 736.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Andre B. Mathis, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

#### CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 736, Andre B. Mathis, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Charles E. Schumer, Mazie K. Hirono, Martin Heinrich, Tim Kaine, Jack Reed, Jacky Rosen, Ben Ray Luján, Christopher A. Coons, Alex Padilla, Sheldon Whitehouse, Sherrod Brown, Debbie Stabenow, Christopher Murphy, Patrick J. Leahy, John W. Hickenlooper, Tammy Baldwin, Angus S. King.

Mr. SCHUMER. Madam President, I ask unanimous consent that the mandatory quorum calls for the cloture motions filed today, August 7, be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Carrin F. Patman, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland; that the Senate vote on the nomination without intervening action or debate; that the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Carrin F. Patman, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the Patman nomination?

The nomination was confirmed.

## LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

## APPOINTMENTS AUTHORITY

Mr. SCHUMER. Madam President, I ask unanimous consent that notwithstanding the upcoming adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COLOMBIA

Mr. LEAHY. Madam President, on August 7, Colombia's newly elected President Gustavo Petro and Vice President Francia Marquez will begin their 4-year term. Their election represents a sharp break from the past.

The new government is inheriting every imaginable problem. Regrettably, the country has made minimal progress since the signing of the 2016 Peace Accord that ended five decades of armed conflict with the FARC, and in some parts of the country, narcotics-related violence is worse. The previous government failed to make a dent in the number of assassinations of social leaders or to hold members of the armed forces and police accountable for past atrocities. Compounded by the public health and economic shocks caused by the Covid-19 pandemic and a flood of Venezuelan refugees, Colombia remains a highly polarized society, divided between urban elites and the impoverished countryside. It will take many years to reverse decades of deeply rooted neglect, discrimination, poverty, and lawlessness.

Since 2020, the United States has invested more than $11 billion in a

Just this last week, the Director of the FBI testified at the Judiciary Committee that they had been interviewing multiple parents—moms and dads—and the House has categorized it as upward of 20 moms and dads.

This amendment says: Don't target parents as domestic terrorists—

The PRESIDING OFFICER. All time is expired.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, the FBI has told us repeatedly that domestic extremism is a very real threat in America. Last November, 60 percent of America's school leaders said that someone in their schools had been verbally or physically threatened over school policy.

There is no evidence—none—that the Department of Justice is threatening the constitutional right of parents to peaceful, free speech. But there is no excuse—none—for violence against school teachers or board members.

If you believe there is nothing peaceful or legitimate about threatening teachers, school board members or their families, vote no on this amendment.

VOTE ON MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. CRUZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. BENNET). The Senator from North Dakota.

MOTION TO COMMIT

Mr. HOEVEN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from North Dakota [Mr. HOEVEN] moves to commit the bill to the Committee on Finance with instructions to report.

Mr. HOEVEN. I ask unanimous consent that the reading of the names be waived.

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

The motion to commit is as follows:

Mr. HOEVEN moves to commit the bill H.R. 5376 to the Committee on Finance of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would prohibit the implementation of the provisions of the bill H.R. 5376 until the date on which—

(A) grocery prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "food at home") decrease below the food at home annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(B) gasoline prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "gasoline (all types)") decrease below the gasoline (all types) annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(C) diesel prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "other motor fuels") decrease below the other motor fuels annual inflation level (as reported by the Bureau of Labor Statistics for January 2021);

(D) home heating oil prices (as reported by the Bureau of Labor Statistics as annual CPI-U for "fuel oil") decrease below the fuel oil annual inflation level (as reported by the Bureau of Labor Statistics for January 2021); and

(E) housing expenses (as reported by the Bureau of Labor Statistics as annual CPI-U for "shelter") decrease below the shelter annual inflation level (as reported by the Bureau of Labor Statistics for January 2021).

Mr. HOEVEN. Mr. President, the American people are hurting. Inflation has soared to the highest we have seen in 40 years, and the Consumer Price Index is now 9.1 percent. Americans are seeing increased prices on everything from the grocery store to the gas pump. Gas prices have gone up $2.25 a gallon just since the President took office. Diesel prices since this administration took office are up $2.81—that means 60 percent more since President Biden took office. The cost of food is up more than 12 percent.

We not only have inflation, we have our economy stagnating as well—stagflation. It is something we haven't had since the late 1970s, early 1980s. We have the resources and the capabilities to reduce that inflation to address the stagnation. This tax-and-spend bill is not the way to do it.

I ask that we return this to committee and come up with a plan that will actually get our economy going and reduce inflation. I ask for support on this motion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in opposition to this amendment.

This, again, is about delay, about postponing, about putting off the job that needs to be done. What the focus of this bill is all about is cutting costs.

What I have said to colleagues—and my friend, the Presiding Officer of the Senate, knows this—is that our bill on prescription drugs kicks in this fall. We really kick in on the efforts to hold down price gouging when medicine is going up faster than the rate of inflation.

I urge my colleagues to oppose this. We can't afford any further delay in priorities like saving senior citizens from their medicine costs.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, the bill increases taxes and increases spending. It will not bring down costs, and it will not bring down inflation.

VOTE ON MOTION TO COMMIT

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

## PRAYER

The PRESIDING OFFICER. Pursuant to rule IV, paragraph 2, the hour of 12 noon having joyously arrived and the Senate having been in continuous session since yesterday, the Senate will suspend for a prayer from the Senate Chaplain.

The Senate Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our God, who rules the raging of the sea, our weekend work gently reminds us that freedom's price must be paid. As our Senators provide the currency of perseverance to protect and defend this land we love, strengthen them for the challenges and empower them for the vicissitudes. Remind them, as they strive to pay liberty's recurring bill, that You will never leave or forsake them.

Rouse Yourself, O Lord, and help them.

We pray in Your merciful Name. Amen.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO COMMIT

Mrs. BLACKBURN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Tennessee [Mrs. BLACKBURN] moves to commit the bill to the Committee on Agriculture, Nutrition, and Forestry with instructions to report.

Mrs. BLACKBURN. Mr. President, I ask that we waive the reading.

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

The motion is as follows:

Mrs. BLACKBURN moves to commit the bill H.R. 5376 to the Committee on Agriculture, Nutrition, and Forestry of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would ensure that no funding made available by the bill for the environmental quality incentives program, the conservation stewardship program, the agricultural conservation easement program, or the regional conservation partnership program may be provided to—

(A) an agricultural producer located in the United States who is a nonresident alien, foreign business, agent, trustee, or fiduciary associated with the Government of the People's Republic of China; or

(B) an entity partially or wholly owned by such an agricultural producer.

Mrs. BLACKBURN. Mr. President, right now, Chinese owners control more than 194,000 acres of farm and forestry land valued at $1.9 billion, as of the last accounting, right here in the United States. Now, much of this farmland is located in close proximity to our military institutions, and a lot of this farmland is being used so that Chinese-owned farm operations can compete with U.S. farmers.

My amendment would stop funds from this bill from ending up in the hands of agents of the Chinese Government and their businesses. This is a commonsense motion to commit.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, this motion to commit is a red herring and a complete distraction.

The Department of Agriculture already has strict rules that all producers must meet before they can participate in USDA conservation programs.

These dollars go to farmers who are American citizens or legal permanent residents for conservation practices that help protect and improve American soil and water. Farmers are only reimbursed after the practices are in place.

This would add burdensome paperwork, unnecessary bureaucracy that would really bog our farmers down. This is different than circumstances that were just talked about with state-owned Chinese companies. This is not the same thing. This amendment goes right at our farmers and the conservation practices they are asking us to support for them.

Again, the only reason for this amendment is to stop us from passing this bill, which, among other things, will cut prescription drug costs, create jobs, and tackle the climate crisis.

I urge a "no" vote.

The PRESIDING OFFICER. The Senator's time has expired.

VOTE ON MOTION

The question is on agreeing to the motion.

Mrs. BLACKBURN. Mr. President, I ask for the yeas and nays.

I urge a "yes" vote.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Florida.

MOTION TO COMMIT

Mr. RUBIO. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Florida [Mr. RUBIO] has a motion to commit to bill H.R. 5376 to the Committee on Health, Education, Labor, and Pensions of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—(1), are within the jurisdiction of such committee; and, (2) would contain a definition for the term "pregnancy" that limits maternal and infant-related program resources to biological females.

The motion is as follows:

Mr. RUBIO moves to commit the bill H.R. 5376 to the Committee on Health, Education, Labor, and Pensions of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would contain a definition for the term "pregnancy" that limits maternal and infant-related program resources to biological females.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, the only people who are capable of being pregnant are biological females; and, therefore, I think Federal pregnancy programs should be limited to biological females and that is what this would do.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, let's be clear about what is going on here. This is a procedural attempt by Republicans to derail our ability to get this bill across the finish line and deliver for families in our country.

It is actually outrageous that Republicans are trying to talk about pregnancy when in this country, right now, they are forcing women to stay pregnant no matter their circumstances, pushing cruel and extreme abortion bans.

Republicans are now resorting to tactics like this to distract from the fact that they don't have any serious reasons for working so hard to oppose this bill that lowers costs, lowers emissions, and lowers the deficit.

I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Florida has 40 seconds.

Mr. RUBIO. Mr. President, a few minutes ago, I looked back across 5,500 years of human history. So far, every single pregnancy has been a biological female. Therefore, the only thing I am trying to do is make sure that the Federal law is clear that since every pregnancy that has ever existed has been in a biological female, that our Federal laws reflect that and pregnancy programs are available to the only people who are capable of getting pregnant—biological females. Very simple.

I would accept a unanimous consent if they want to offer it, and we can move on and not waste any time.

The PRESIDING OFFICER. Senator MURRAY has 10 seconds left.

Mrs. MURRAY. When we are facing the challenges in this country and helping our constituents to lower costs, it is outrageous that Republicans are trying to define pregnancy, of all things, on this floor on this day after hours of voting on amendments.

I urge a "no" vote.

VOTE ON MOTION

The PRESIDING OFFICER. The question is agreeing to the motion.

Mr. RUBIO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER. The Senator from South Carolina.

POINTS OF ORDER EN BLOC

Mr. GRAHAM. Mr. President, I ask consent to make the following four points of order en bloc.

The first point of order concerns page 43, lines 3 through 8. This language violates section 313(b)(1)(A).

The second point concerns page 1, lines 3 through 5. This language violates 313(b)(1)(A).

The third point concerns page 547, line 18, through page 548, line 25. This language violates section 313(b)(1)(A).

And the fourth point of order concerns page 689, lines 8 through 16. This language violates section 313(b)(1)(D).

The PRESIDING OFFICER. The points of order are sustained; the provisions are stricken under 313(b), 313(e).

The Senator from Alaska.

AMENDMENT NO. 5435

Mr. SULLIVAN. Mr. President, I call up my amendment No. 5435, and I ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report.

The senior assistant executive clerk read as follows:

The Senator from Alaska [Mr. SULLIVAN] proposes an amendment numbered 5435 to amendment No. 5194.

Mr. SULLIVAN. Mr. President, I ask that the reading be waived.

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

The amendment is as follows:

(Purpose: To replace the funding for the Office of the Chief Readiness Support Officer with a $500,000,000 appropriation for the construction or improvement of primary pedestrian fencing and barriers along the southwest border)

In title VII, strike section 70001 and insert the following:

**SEC. 70001. FUNDING FOR U.S. CUSTOMS AND BORDER PROTECTION.**

In addition to amounts otherwise available, there is appropriated to U.S. Customs and Border Protection for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, which shall remain available until September 30, 2027, for necessary expenses relating to the construction or improvement of primary pedestrian fencing and barriers along the southwest border.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, we have a true crisis—a humanitarian crisis, a national security crisis—right now on our southern border.

It is a huge tragedy that my Democratic colleagues want to ignore, and that tragedy has spread across our Nation—crime; victims of human trafficking, many of them children; a fentanyl epidemic killing our young people; chaos—all fueled by a lawless border.

Secure borders work. Walls work. Just ask the Biden administration, as they are quietly building sections of the wall in Arizona right now.

The Democrats' partisan reconciliation bill does nothing—nothing—to address this crisis.

Instead, it gives DHS $500 million for sustainability and environmental programs when our kids are dying from drugs streaming in from the border, when our communities are under siege. This should not be the priority for DHS.

My amendment would take this half a billion dollars and recommit it—this DHS money—to building the wall and securing our border, which is DHS's primary mission, not environmental programs.

I ask that all my colleagues vote yes on this commonsense amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. PETERS. Mr. President, communities all across the country are suffering from exposure to PFAS—commonly used chemicals that do not break down and have been linked to serious health problems.

This amendment would strike a provision in the bill that would help DHS repair and upgrade its facilities to protect surrounding communities and frontline DHS personnel from these harmful chemicals.

This amendment, instead, seeks to continue the past administration's efforts to fund and construct an ill-conceived border wall on the southern border.

I agree that we need secure borders, but we need smart and cost-effective security measures, including technology and adequate personnel levels to meet our border security needs.

We should be working together in a bipartisan manner to develop smart investments in border security.

Let's secure our southern and northern borders instead of throwing taxpayer dollars to build a costly and ineffective wall.

I urge my colleagues to vote no.

Mr. SULLIVAN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Time is expired on both sides.

VOTE ON AMENDMENT NO. 5435

The question is on agreeing to the amendment.

Mr. SULLIVAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The amendment (No. 5435) was rejected.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Montana.

AMENDMENT NO. 5487

Mr. DAINES. Mr. President, I ask unanimous consent that the following amendments be considered as one amendment, No. 5487: No. 5425, Mr. DAINES; No. 5361, Ms. ERNST; No. 5360, Mrs. FISCHER; No. 5224, Mr. PORTMAN; No. 5411, Mr. BARRASSO; and No. 5454, Ms. MURKOWSKI. I further ask that there be 2 minutes of debate, equally divided, on each division prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. DAINES], for Mr. GRAHAM and others, proposes an amendment numbered 5487.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Montana.

Mr. DAINES. Mr. President, my amendment would strike the anti-energy provisions that snuck into this bill behind closed doors.

This partisan bill before us has a slew of provisions that raises royalty rates, fees, rents, and taxes that hurt our small oil and gas producers in America the most. By the way, it is those small oil and gas producers that produce over 80 percent of our supply. I guarantee you, if there is a rebuttal, they will talk about Big Oil, but this is not Big Oil; 80 percent is from the small guys. These producers don't have the ability to absorb the large increases from the government, so if you raise prices for energy producers, you raise energy prices for Americans.

It is not that complicated. If you want lower gas prices, vote yes.

The PRESIDING OFFICER. The Senator from Iowa.

Ms. ERNST. Mr. President, this one should be simple.

My amendment eliminates subsidies for slave and child labor. The price of buying a car has reached a record high, and what is the Democrats' answer? A tax break for wealthy coastal elites to buy electric vehicles produced with slave and child labor.

Currently, this bill already prevents vehicles containing any part sourced or assembled in foreign entities of concern, like China or Russia, from being eligible for the tax credit. My amendment doesn't change that. My amendment simply ensures that our tax dollars don't subsidize EVs from any countries using child or slave labor.

We all know the critical minerals that comprise EV batteries are largely mined in sub-Saharan Africa by companies abusing children, which are then assembled in Chinese-owned factories, many of which use slave labor. Subsidizing, to the tune of $7,500 per person, the purchase of a luxury vehicle for wealthy coastal elites that utilizes slave or child labor is a direct contradiction of our American values.

We shouldn't be sacrificing a clean conscience in exchange for a so-called cleaner car.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, my Democratic colleagues say wealthy Americans should pay their fair share. Yet they want to expand the electric vehicle tax credit for the rich once again.

In this bill, there are two separate EV tax credits: one for people who want to buy new $80,000 vehicles and one for those who want to buy used EVs.

Why two separate credits? The tax credit for new EVs is available to the wealthy, while the credit for the new EVs is limited to the folks with lower incomes. Why do my colleagues from the other side keep giving bigger tax breaks to their rich donors?

My change would at least prevent taxpayer dollars from subsidizing the wealthy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, this is a really easy one. Let's trade bureaucracy and more funding in this bill for bureaucracy at the Department of Homeland Security for desperately needed technology along the southern border to stop deadly fentanyl from coming into our communities.

Tragically, over 100,000 Americans were killed last year, which is a record, from drug overdoses. Two-thirds of those overdoses were from these synthetic opioids, like fentanyl.

We know that the vast majority of that fentanyl originates with drug cartels in Mexico now, and there is a surge of these deadly drugs coming across our southern border.

This amendment increases funding for Customs and Border Protection by $500 million for badly needed technology to detect fentanyl and other drugs. If you can believe it, right now, only 2 percent of cars—2 percent—and 14, 15, 16 percent, maybe, of commercial vehicles are being screened. Both GAO and the Department of Homeland Security IG have done reports saying we badly need this technology, and it is available. We need the funding.

The funding is more than offset by reducing huge funding increases in this bill for this Office of Chief Readiness at the Department of Homeland Security. So this money stays at DHS.

Let's make it a higher priority to stop and detect these deadly poisons coming into our communities.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, this is an amendment from Senator BARRASSO and me. It is very straightforward.

If you are a restaurant, you can deduct your business expenses. That is normal tax code. If you are a hardware store, you can deduct your business expenses. That is normal operation.

Since 1913, intangible drilling costs have been the tax deductions for oil and gas. IDCs, or intangible drilling costs, since 1913, have been set aside for preparing the space, doing all the labor costs, the services, the normal business operations, for 100 years, until now.

Slipped into this bill yesterday, into the base tax, strips away the tax deductions for oil and gas companies, what has been in place for over 100 years. If you are a wind farm, you can use renewable energy credits to take your tax rate down to zero because you can deduct your normal business expenses as well. If you are a coal company, you can use 45Q, but if you are oil and gas, your prices are going up.

Americans should remember this bill when they fill up in the days ahead and when the people in their communities are trying to get a job with oil and gas.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, the United States' mineral security has really become our Achilles' heel. It is a significant threat to our economy, to our competitiveness, to our security, and to our geopolitical leverage, all at the same time.

We know that mineral demand is skyrocketing, and yet it is harder than ever to produce minerals here in this country. So what we have done is that we have turned to imports to fill the gaps in our supply.

We are seeking, through this amendment, to put some limited assistance on the table to make sure that projects for the most critical minerals can move forward in a timely manner. That is what my amendment does for cobalt and for nickel.

Right now, we import 76 percent of our cobalt, 48 percent of our nickel, but demand is growing so dramatically for both as a result of EVs, of energy storage systems, and other clean technologies. So what we are seeking to do with this is repurpose $400 million for States to implement energy efficiency codes to instead ensure that domestic nickel and cobalt projects can advance.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New Mexico.

Mr. HEINRICH. Mr. President, these are all problematic amendments that would jeopardize the underlying legislation and the progress on climate, on prescription drugs, and on a whole host of other things. So we should all vote no. We should pass this important bill, and we should be done with this.

VOTE ON AMENDMENT NO. 5487

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The amendment (No. 5487) was rejected.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO COMMIT

Mr. HAGERTY. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. HAGERTY] moves to commit the bill to the Committee on the Judiciary with instructions to report.

Mr. HAGERTY. Mr. President, I ask to dispense with the reading.

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

The motion is as follows:

Mr. HAGERTY moves to commit the bill H.R. 5376 to the Committee on the Judiciary of the Senate with instructions to report the same back to the Senate in 3 days, not counting any day in which the Senate is not in session, with changes that—

(1) are within the jurisdiction of such committee; and

(2) would ensure that U.S. Immigration and Customs Enforcement has sufficient resources to detain and deport a higher number of illegal aliens who have been convicted of a criminal offense in the United States.

Mr. HAGERTY. Mr. President, in fiscal year 2021, Immigration and Customs Enforcement arrested more than 12,000 illegal aliens with aggravated felony convictions. An alltime record number of illegal border crossers entered our country last year. This is an unprecedented national security crisis.

Before we spend billions of dollars on Green New Deal programs, the Department should first do its core job of securing the homeland.

This same policy was adopted 53 to 46 during the budget resolution process last August, with four of my Democratic colleagues joining me. Now, 1 year later, we have a worse crisis and an opportunity to provide real funding to protect our citizens from individuals who endanger our communities.

I hope my colleagues on the other side of the aisle will maintain their previous support for this commonsense approach to fund law enforcement and put public safety and national security over partisan politics. We have a chance to address this in a real manner right now. Solving a major crisis like this is worth taking a little more time.

I urge my colleagues to support this motion.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, Members, the Senator from Tennessee just provided us with this copy of his new amendment, and I hope you will take a look at it because it is recommitting this motion for 3 days. End of conversation, end of debate, end of any possibility of passing what we consider to be a major piece of legislation, from prescription drugs, dealing with environmental issues, and the list goes on. We have faced this so many times already in the last 12 or 14 hours.

But the second thing I would like to note is, we understand the seriousness of this challenge, so much so that we have already decided it is a crime, and it is a crime that can be prosecuted. And it is a crime that is investigated and enforced by an Agency of the Federal Government which we funded just 4 months ago. Four months ago, we gave $8 billion to ICE for this purpose. Thirty-one Republicans voted against funding this purpose. One of them was the Senator from Tennessee.

So now we are told we need the money, but 4 months ago he wouldn't vote for it. I think we know what we have here. We have a challenge that really is important to this motion that both parties share, but we have a political challenge with an effort to derail this measure today. Stick together and vote against this amendment.

Mr. HAGERTY. Mr. President, do I have more time left?

The PRESIDING OFFICER. The Senator's time has expired.

VOTE ON MOTION TO COMMIT

The question occurs on agreeing to the Hagerty motion to commit.

Mr. HAGERTY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant executive clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Capito | Crapo |
| Blackburn | Cassidy | Cruz |
| Blunt | Collins | Daines |
| Boozman | Cornyn | Ernst |
| Braun | Cotton | Fischer |
| Burr | Cramer | Graham |
| Grassley | Marshall | Scott (FL) |
| Hagerty | McConnell | Scott (SC) |
| Hawley | Moran | Shelby |
| Hoeven | Murkowski | Sullivan |
| Hyde-Smith | Paul | Thune |
| Inhofe | Portman | Tillis |
| Johnson | Risch | Toomey |
| Kennedy | Romney | Tuberville |
| Lankford | Rounds | Wicker |
| Lee | Rubio | Young |
| Lummis | Sasse | |

NAYS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

The motion was rejected.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Dakota.

AMENDMENT NO. 5472

Mr. THUNE. Mr. President, I call up my amendment No. 5472 and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 5472 to amendment No. 5194.

The amendment is as follows:

(Purpose: To remove harmful small business taxes, and for other purposes)

At the end of part 9 of subtitle D of title I, insert the following:

**SEC. 13904. REMOVAL OF HARMFUL SMALL BUSINESS TAXES; EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.**

(a) REMOVAL OF HARMFUL SMALL BUSINESS TAXES.—Subparagraph (D) of section 59(k)(1), as added by section 10101, is amended to read as follows:

"(D) SPECIAL RULES FOR DETERMINING APPLICABLE CORPORATION STATUS.—Solely for purposes of determining whether a corporation is an applicable corporation under this paragraph, all adjusted financial statement income of persons treated as a single employer with such corporation under subsection (a) or (b) of section 52 shall be treated as adjusted financial statement income of such corporation, and adjusted financial statement income of such corporation shall be determined without regard to paragraphs (2)(D)(i) and (ii) of section 56A(c).".

(b) EXTENSION OF LIMITATION ON DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.—

(1) IN GENERAL.—Section 164(b)(6) is amended—

(A) in the heading, by striking "2025" and inserting "2026", and

(B) by striking "2026" and inserting "2027".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2022.

Mr. THUNE. Mr. President, Democrats say that the book minimum tax will apply only to very large corporations with a 3-year average financial statement income in excess of $1 billion, but as their bill is currently proposed—and this change occurred basically in the last 24 hours—the bill would now require unrelated companies of any size held by funds or partnerships to combine their otherwise unrelated income to determine if they meet an aggregate $1 billion income threshold, subjecting each respective company to the book minimum tax even if its own income is far too low. This significant expansion of the tax has the potential to subject thousands of American businesses to the book minimum tax's administrative and financial burdens.

The nonpartisan Joint Committee on Taxation said this change would raise $35 billion in taxes on potentially thousands of small- and medium-size businesses, not merely a hundred or so large companies as our Democratic friends would have you believe.

My amendment is fully offset by extending for 1 year the cap on the State and local tax deduction enacted in the Tax Cuts and Jobs Act.

I encourage my colleagues to support this amendment and help ensure our Nation's small- and medium-size businesses aren't hit with a misguided and entirely inappropriate $35 billion tax hike.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, there are no tax increases on small businesses in our bill. The only companies that are paying under our bill are corporations with at least $1 billion in profit per year.

Republicans are calling private equity giants and foreign corporations with at least $1 billion in profits small businesses because they want private equity and foreign corporations to get more favorable treatment. Rather than close loopholes for billion-dollar private equity firms, Republicans would raise taxes on those making less than $400,000 per year.

I urge a "no" vote.

VOTE ON AMENDMENT NO. 5472

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—57

| | | |
|---|---|---|
| Barrasso | Daines | Lee |
| Blackburn | Ernst | Lummis |
| Blunt | Fischer | Marshall |
| Boozman | Graham | McConnell |
| Braun | Grassley | Moran |
| Burr | Hagerty | Murkowski |
| Capito | Hassan | Ossoff |
| Cassidy | Hawley | Paul |
| Collins | Hoeven | Portman |
| Cornyn | Hyde-Smith | Risch |
| Cortez Masto | Inhofe | Romney |
| Cotton | Johnson | Rosen |
| Cramer | Kelly | Rounds |
| Crapo | Kennedy | Rubio |
| Cruz | Lankford | Sasse |
| Scott (FL) | Sullivan | Tuberville |
| Scott (SC) | Thune | Warnock |
| Shelby | Tillis | Wicker |
| Sinema | Toomey | Young |

NAYS—43

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Sanders |
| Blumenthal | Kaine | Schatz |
| Booker | King | Schumer |
| Brown | Klobuchar | Shaheen |
| Cantwell | Leahy | Smith |
| Cardin | Luján | Stabenow |
| Carper | Manchin | Tester |
| Casey | Markey | Van Hollen |
| Coons | Menendez | Warner |
| Duckworth | Merkley | Warren |
| Durbin | Murphy | Whitehouse |
| Feinstein | Murray | Wyden |
| Gillibrand | Padilla | |
| Heinrich | Peters | |

The amendment (No. 5472) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 5488

Mr. WARNER. Mr. President, I call up my amendment, No. 5488, and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The senior assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 5488.

Mr. WARNER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the extension of the limitation on State and local taxes and extend the limitation on excess business losses of noncorporate taxpayers, and for other purposes)

On page 545, strike line 1 and all that follows through page 547, line 17, and insert the following:

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales in calendar quarters beginning after the date which is 1 day after the date of enactment of this Act.

**SEC. 13902. INCREASE IN RESEARCH CREDIT AGAINST PAYROLL TAX FOR SMALL BUSINESSES.**

(a) IN GENERAL.—Clause (i) of section 41(h)(4)(B) is amended—

(1) by striking "AMOUNT.—The amount" and inserting "AMOUNT.—

"(I) IN GENERAL.—The amount", and

(2) by adding at the end the following new subclause:

"(II) INCREASE.—In the case of taxable years beginning after December 31, 2022, the amount in subclause (I) shall be increased by $250,000.".

(b) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 3111(f) is amended—

(A) by striking "for a taxable year, there shall be allowed" and inserting "for a taxable year—

"(A) there shall be allowed",

(B) by striking "equal to the" and inserting "equal to so much of the",

(C) by striking the period at the end and inserting "as does not exceed the limitation of subclause (I) of section 41(h)(4)(B)(i) (applied without regard to subclause (II) thereof), and", and

(D) by adding at the end the following new subparagraph:

"(B) there shall be allowed as a credit against the tax imposed by subsection (b) for the first calendar quarter which begins after the date on which the taxpayer files the return specified in section 41(h)(4)(A)(ii) an amount equal to so much of the payroll tax credit portion determined under section 41(h)(2) as is not allowed as a credit under subparagraph (A).".

(2) LIMITATION.—Paragraph (2) of section 3111(f) is amended—

(A) by striking "paragraph (1)" and inserting "paragraph (1)(A)", and

(B) by inserting ", and the credit allowed by paragraph (1)(B) shall not exceed the tax imposed by subsection (b) for any calendar quarter," after "calendar quarter".

(3) CARRYOVER.—Paragraph (3) of section 3111(f) is amended by striking "the credit" and inserting "any credit".

(4) DEDUCTION ALLOWED.—Paragraph (4) of section 3111(f) is amended—

(A) by striking "credit" and inserting "credits", and

(B) by striking "subsection (a)" and inserting "subsection (a) or (b)".

(c) AGGREGATION RULES.—Clause (ii) of section 41(h)(5)(B) is amended by striking "the $250,000 amount" and inserting "each of the $250,000 amounts".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

**SEC. 13903. REINSTATEMENT OF LIMITATION RULES FOR DEDUCTION FOR STATE AND LOCAL, ETC., TAXES; EXTENSION OF LIMITATION ON EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYERS.**

(a) REINSTATEMENT OF LIMITATION RULES FOR DEDUCTION FOR STATE AND LOCAL, ETC., TAXES.—

(1) IN GENERAL.—Section 164(b)(6), as amended by section 13904, is further amended—

(A) in the heading, by striking "2026" and inserting "2025", and

(B) by striking "2027" and inserting "2026".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2022.

(b) EXTENSION OF LIMITATION ON EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYERS.—

(1) IN GENERAL.—Section 461(l)(1) is amended by striking "January 1, 2027" each place it appears and inserting "January 1, 2029".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2026.

Mr. WARNER. Mr. President, the end is near—I hope. For those of us on this side of the aisle who have worked long and hard, this is the last substantive action we have to take before final passage of a historic piece of legislation.

Recognizing—and I want to thank the Senators on both sides of the aisle for the productive discussions in the last vote on a difficult issue that my amendment would address.

My amendment would simply strike the offset in the previous amendment known as the State and local tax deduction and replace it with a 2-year extension of a so-called loss limitation policy that has bipartisan support over many years.

This was first employed under President Trump, then employed by the Democrats. Everyone on this side of the aisle has voted for this pay-for, $52 billion, which more than offsets the $35 billion that were taken from the previous amendment.

This amendment will allow us to move forward on this historic legislation, on drug prices, climate change, reform the tax code, and bring down inflation and make sure we have got a true comprehensive energy policy.

I urge all my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I would urge my colleagues to oppose this amendment. The amendment we just voted on and passed has an offset in there, and it is a provision that works very, very well and covers getting rid of this tax on private equity on small businesses and larger businesses in this country.

And what the Senator from Virginia is proposing is an offset loss limitation. And he is right, we have voted for it. We voted for it because we put it in the tax bill in 2017 as an offset, and what it offset and paid for was the 199A deduction that benefits all our passthrough businesses, small businesses, across this country, which expires in 2026.

That very offset is how we are going to pay for extending the 199A deduction for passthrough businesses in this country. So if you want to rob it and use it here, it is not going to be available when it comes time to help out those small businesses, all of whom you represent, passthrough businesses across this country. The offset, the pay-for in my amendment is the right way to do this.

I urge you to oppose the amendment.

Mr. WARNER. Do I have any time remaining?

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 5488

The question is on agreeing to the amendment.

Mr. SCHATZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

NAYS—50

| | | |
|---|---|---|
| Barrasso | Cassidy | Daines |
| Blackburn | Collins | Ernst |
| Blunt | Cornyn | Fischer |
| Boozman | Cotton | Graham |
| Braun | Cramer | Grassley |
| Burr | Crapo | Hagerty |
| Capito | Cruz | Hawley |
| Hoeven | Moran | Scott (SC) |
| Hyde-Smith | Murkowski | Shelby |
| Inhofe | Paul | Sullivan |
| Johnson | Portman | Thune |
| Kennedy | Risch | Tillis |
| Lankford | Romney | Toomey |
| Lee | Rounds | Tuberville |
| Lummis | Rubio | Wicker |
| Marshall | Sasse | Young |
| McConnell | Scott (FL) | |

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50.

The Senate being equally divided, the Vice President votes in the affirmative, and the amendment is agreed to.

The amendment (No. 5488) was agreed to.

The VICE PRESIDENT. The majority leader.

Mr. SCHUMER. Madam President, I know of no further amendments to the substitute.

The VICE PRESIDENT. If there are no further amendments, the question is on agreeing to the substitute, as amended.

The amendment (No. 5194), as amended, was agreed to.

The VICE PRESIDENT. The clerk will read the title of the bill for the third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The majority leader.

Mr. SCHUMER. Madam President, it has been a long, tough, and winding road, but at last—at last—we have arrived.

I know it has been a long day and a long night, but we have gotten it done. Today, after more than a year of hard work, the Senate is making history.

I am confident the Inflation Reduction Act will endure as one of the defining legislative feats of the 21st century.

Our bill reduces inflation, lowers costs, creates millions of good-paying jobs, and is the boldest climate package in U.S. history.

This bill will kick start the era of affordable clean energy in America. It is a game changer. It is a turning point, and it has been a long time in coming.

To Americans who have lost faith that Congress can do big things, this bill is for you. To seniors who face the indignity of rationing medications or skipping them altogether, this bill is for you. And to the tens of millions of young Americans who have spent years marching, rallying, demanding that Congress act on climate change, this bill is for you.

The time has come to pass this historic bill.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. SCHUMER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—50

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Reed |
| Bennet | Hirono | Rosen |
| Blumenthal | Kaine | Sanders |
| Booker | Kelly | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Leahy | Sinema |
| Carper | Luján | Smith |
| Casey | Manchin | Stabenow |
| Coons | Markey | Tester |
| Cortez Masto | Menendez | Van Hollen |
| Duckworth | Merkley | Warner |
| Durbin | Murphy | Warnock |
| Feinstein | Murray | Warren |
| Gillibrand | Ossoff | Whitehouse |
| Hassan | Padilla | Wyden |
| Heinrich | Peters | |

NAYS—50

| | | |
|---|---|---|
| Barrasso | Graham | Portman |
| Blackburn | Grassley | Risch |
| Blunt | Hagerty | Romney |
| Boozman | Hawley | Rounds |
| Braun | Hoeven | Rubio |
| Burr | Hyde-Smith | Sasse |
| Capito | Inhofe | Scott (FL) |
| Cassidy | Johnson | Scott (SC) |
| Collins | Kennedy | Shelby |
| Cornyn | Lankford | Sullivan |
| Cotton | Lee | Thune |
| Cramer | Lummis | Tillis |
| Crapo | Marshall | Toomey |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Wicker |
| Ernst | Murkowski | Young |
| Fischer | Paul | |

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the bill, as amended, is passed.

The bill (H.R. 5376), as amended, was passed.

(Cheers and applause.)

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. SCHUMER. Madam President, I have got to compose myself a little here. Every Senator knows an undeniable truth: We can never do what we do without our amazing, incredible staff. They work behind the scenes; they never fall under the spotlight. But they do incredible work, nonetheless.

Now that we finished passing the Inflation Reduction Act, I want to applaud all of the staffers—we already applauded them, but that is good—who made this possible. The hundreds of staffers who served in Senate offices across the various committees. I want to thank every single one of them for their remarkable work in passing the Inflation Reduction Act.

I will submit their names into the RECORD to honor their achievements and preserve forever the role they played in bringing this bill to life. And I ask unanimous consent to have the names of all of the committee staff who contributed printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE STAFF WHO CONTRIBUTED TO THE PASSAGE OF THE INFLATION REDUCTION ACT OF 2022—AUGUST 7TH, 2022

COMMITTEE ON FINANCE

Bobby Andres, Chris Arneson, Shawn Bishop, Adam Carasso, Ryan Carey, Ursula

Clausing, Drew Crouch, Michael de la Guardia, Liz Dervan, Jack Dolgin, Eva DuGoff, Mary Ellis, Grace Enda, Mike Evans, Peter Fise, Jon Goldman, Taylor Harvey, Josh Heath, Melanie Jonas, Anna Kaltenboeck.

Rachael Kauss, Sally Laing, Nadia Laniyan, Kimberly Lattimore, Michael Osbourn-Grosso, Virginia Lenahan, Eric LoPresti, Kristen Lunde, Sarah Schaefer, Ashley Schapitl, Josh Sheinkman, Arthur Shemitz, Sarguni Singh, Tiffany Smith, Ryder Tobin.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ron Storhaug, Justin Pelletier, Sean Moore.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Joe Shultz, Jacqlyn Schneider, Chu- Yuan Hwang, Lucy Hynes, Susan Keith, Mikayla Bodey, Callie Eideberg, Kirin Kennedy, Lauren Wustenberg, Mary Beth Schultz, Sean Babington, Adam Tarr, Katie Naessens, Khadija Jahfiya, Alex Noffsinger, Claire Borzner, Kyle Varner, Patrick Delaney, Lillie Zeng, Elizabeth Rivera.

COMMITTEE ON THE JUDICIARY

Joe Zogby, Dan Swanson, Phil Brest, Sara Zdeb, Sarah Bauer, Stephanie Trifone, Sonia Gill, Chastidy Burns, Doug Miller, Alexandra Gelber, Ami Shah, Manpreet Teji, Matt Joseph, Wilson Osorio, Joe Charlet, Vaishalee Yeldandi, Mady Reno, Rachel Martinez, Katya Kazmin, Yashi Gunawardena, David McCallumo.

COMMITTEE ON INDIAN AFFAIRS

Jennifer Romero, Breann Nuuhiwa, Kim Moxley, Lenna Aoki, Connie Tsosie de Haro, Manu Tupper, Denae Benson, Darren Modzelewski.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Beth Cooper, John Richards, Phil Rudd, Megan Cheney, Homer Carlisle, Emily Blaydes, Jeremy Hekhuis, Elisha Tuku, Laura Swanson.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Nicole Teutschel, Jennifer Quan, Grace Bloom, Ronce Almond, Alex Simpson, Gigi Sials, Tricia Enright, Melissa Porter, Lila Helms, Christianna Barnhart, Mary Huang, Richard-Duane Chambers, Jonny Pellish, Emma Stohlman, Rosemary Baize, Hunter Hudspeth-Blackburn, Michael Davisson, Shannon Smith.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Renae Black, Sam Fowler, Adam Berry, Luke Bassett, Brie Van Cleve, Rory Stanley, Zahava Urecki, CJ Osman, Jack McGee, David Rosner, David Brooks, Bryan Petit, Peter Stahley, Melanie Thornton, Charlotte Bellotte, Jeannie Whitler, Jeremy Ortiz, Sarah Kessel, Lance West, Wes Kungel, Sam Runyon.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Jake Abbott, Janine Barr, Jordan Baugh, Mayely Boyce, Annie D'Amato, Greg Dotson, Brian Eiler, Maureen French, Laura Haynes Gillam, Beth Hammon, Rebecca Higgins, Dylan Hoff, Tyler Hofmann-Reardon, Caroline Jones, John Kane, Susan Kimball, Trevor Lalonde, Rachel Levitan, Elizabeth Mabry, Carolyn Mack, Kenneth Martin, Matthew Marzano, Yasmeen Moten, Mary Frances Repko, Alex Smith, Hanna Sweet, Christophe Tulou.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Evan Schatz, John Righter.

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Michelle Benecke, Lena Chang, Chris Mulkins, Annika Christensen, Matthew Cornelius, Ben Schubert, Emily Manna, Allison Green, Naveed Jazayeri, Chelsea Davis, David Weinberg.

Mr. SCHUMER. Madam President, to the floor staff, particularly the Parliamentarian, who worked so hard under not easy conditions. And especially because we had to do so much in such a short period of time, we thank you so.

The clerks, the doorkeepers, the reporters—thank you.

Thank you to the pages who worked over time to help us in this historic endeavor. You will tell your grandchildren you were here. You were here.

Thank you to the cafeteria workers, custodial staff, and Capitol Police. The Senate can't function without all of you. And I thank the Office of Legislative Counsel, the Joint Committee on Taxation, the Congressional Budget Office. And, of course, I cannot forget my own staff—the best staff ever on Capitol Hill—and my Members know it. The Members know how good my staff is. I am so dedicated to them, the best in the business. Of course, every Senator thinks their staff is the best on Capitol Hill; but in my case, it happens to be true.

To Mike Lynch, who has been with me all these years and is so strong and steadfast and steady; to his deputy chief and my deputy chief Erin Sager Vaughn, another person who has been here a very long time and is just amazing. We praise her for her EQ, among other talents. She told me that.

To Martin Brennan, another like Mike Lynch—Mike Lynch and Martin Brennan have been with me just about since I started to be a Senator, and they are just such rocks in our office—incredible. Probably the team of husband and wife who have done more to save the Earth this year than just about anybody else is Gerry Petrella and Meghan Taira. They met and got married on my staff. They have a beautiful little boy, George. And when you have two people so important as policy director and legislative director and a little child at home, it is tough. But they managed to be great parents at the same time as being great and amazing staffers. And they are brilliant. They are just brilliant.

My executive team is world class: Emily Sweda, Kellie Karney, Abby Kaluza, and Raisa Shah—who just left a few weeks ago; an amazing press team, Justin Goodman, Alex Nguyen—nicknamed "Win," of course—Monica Lee, Alice Nam, Ken Meyer, Cyre Velez, Jasmine Harris, Jonathan Uriarte, Natalia Cardenas, and everyone on the digital team, the Senate Media Center who worked day and night, to record, edit, finalize photos, graphics and videos of every sort. They are a blessing.

And I want to recognize my press staff up in New York. They are just incredible. Amazing. I am just so blessed: Angelo Roefaro, Ally Biasotti, Paige Tepke; my speechwriter, Tony Rivera; my rapid response director, Dan Yoken; the amazing team of researchers: Hanna Talley, Thaha Sherwani, Mikael Tessema. And to our talented press assistants, thank you so much: Gabriel Avalos, Gracie Kanigher, Riya Vashi, and Sidney Johnson.

Two people who do an amazing job reaching out to the community: Cletta Kiandoli and Julietta Lopez—incredible. They talk to all the groups and make them feel part of what we are doing and they know what we are doing. It is so wonderful, the job they do. And a brilliant legislative team—brilliant. "Brilliant" is an overused word, but it is not overused in the case of my staff. The ideas they come up with, the way they manage to get everything done. It is amazing.

So there is Adrian Deveny and Tim Ryder, Matt Fuentes, Dili—it is a hard, long last name. I always call him Dili. I'm glad it is just Dili. It is Sundaramoorthy. How did I—Where is he? Oh, he is not here to correct me. Good.

Anna Taylor. Anna Taylor is so damn dedicated. She had a baby 2 days ago, and she is still on the phone talking. And I said: Anna, stop.

No, no, no. She was so dedicated and put so much time into this that she kept working. And her little beautiful child, Posey. We heard her crying happily in the background as we were moving through all of this. Jon Cardinal—an amazing guy who worked so hard on this and on CHIP fab—Reggie Babin on counsel, Rob Hickman, Annie Daly, Ramon Carranza, Catalina Tam, Sam Rodarte, Jillian McGrath, Justine Revelle, Ryan Eagan, Didier Barjon, Grace Magaletta, Bre Sonnier-Thompson, Vandan Patel, Leela Najafi, Leeann Sinpatanaskul, Jeff Dickson, Mike Kuiken, Lane Bodian, Reza Zomorrodian, Yazeed Abdelhaq, Beth Vrabel, Kai Vogel, Josh Gutmaker, and Gunnar Haberl.

And the floor staff—you know, there are certain people you say: We couldn't have done it without you, and a bunch of the names I have mentioned fall in the "couldn't have done it without you" category. But we all know that just the wisdom and the knowledge and the history that is in his bones and brain just make him indispensable, and that is Gary Myrick.

Is he here? He is very modest. So I am going to make him mad. We should all applaud him. He hates it.

(Cheers and applause.)

And, of course, Tricia Engle, his great deputy, and the wonderful team on the floor and in the cloakroom: Stephanie Paone, Rachel Jackson, Nate Oursler, Daniel Tinsley, Brad Watt, Jacky Usyk, Maalik Simmons, and Miriam Wheatley.

And, of course, my tech and IT team, what a great bunch. And for someone who is not very tech-oriented, his team is indispensable, too: Scott Rodman, Hemen Mehta, Jon Housley, and Amy Mannering.

And more staffers who work here every day in Washington—and we didn't name a lot of my staff in New York. I will just throw in the name of Steve Mann, who has been our deputy director since I started in the Senate and does a wonderful job. They all do, but I just wanted to mention him. And we commiserate with Mike Lynch over the Yankees, who are losing a lot of games these days.

Today, as I conclude, I ask unanimous consent to have the names of my entire staff printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEADER SCHUMER SENATE STAFF, AUGUST 2022

Abdelhaq, Yazeed, Legislative Correspondent; Ahiable, Immanuel, Graphic Designer; Aguilar, Joseph, Digital Communications Assistant; Allbrooks, Joshua, Community Outreach Assistant; Armwood, Garrett, Deputy State Director; Ashraf, Azmain, Digital Organizing Assistant; Avalos, Gabriel, Press Assistant; Babin, Reggie, Chief Counsel; Banez, Robert, Photographer; Barjon, Didier, Legislative Assistant; Barton, Steve, Director of Intergovernmental Relations; Battle, Sharon, Mailroom Assistant; Benavides, Jackie, Deputy Immigration Director/Community; Outreach; Biasotti, Allison, Senior Press Secretary; Bodian, Lane, Legislative Assistant; Bowman, Quinn, Director of the SDMC; Brennan, Martin, State Director; Brutus, Gerdine, Staff Assistant; Cardinal, Jon, Director of Economic Development; Cardenas, Natalia, Deputy Director of Hispanic Media.

Carranza, Ramon, Legislative Assistant; Chang Prepis, Joyce, Director of Constituent Services; Clark, Bella, Staff Assistant; Cole, Emily, Staff Assistant; Cook, Andrew, Staff Assistant; Cooke, Dave, Videographer; Corbett, Hiram, Deputy Rapid Response Video Editor; Coutavas, Sophie, Deputy NY Scheduler; Daly, Annie, Legislative Aide; Dayal, Tushar, Engineer; Deveny, Adrian, Director of Energy and Environmental; Policy; Dickson, Jeff, LC Supervisor/Grants Coordinator; Dixon, Kara, Deputy Director of Video Production; Dirienzo, Lindsay, Art Director; Donovan, Patrick, Community Outreach Coordinator; Doumit, Yara, Staff Assistant/Flag Coordinator; Eagan, Ryan, Legislative Aide; Eikner, Brooks, Video Producer; Emanuel, Marissa, Director of Youth Programs; Engle, Tricia, Assistant Democratic Secretary.

Flood, Sam, Research Aide; Fuentes, Matt, Legislative Assistant; Geertsma, Joel, Platform Director; Glander, Megan, Hudson Valley Regional Director; Goodman, Justin, Communications Director; Gutmaker, Joshua, Policy Aide; Haberl, Gunnar, Policy Aide; Harris, Jasmine, Director of African American Media; Hickman, Rob, Transportation Counsel; Housley, Jon, Systems Administrator; Hsi, Alex, Capitol Staff Assistant; Huus, Amber, Administrative Assistant; Iannelli, Mike, Long Island Regional Director; Jackson, Rachel, Cloakroom Assistant; Jamaica, Jessica, Digital Organizing Assistant; Jean, Mike, Special Assistant; Johnson, Sidney, Press Assistant; Kaluza, Abby, Executive Assistant; Kanigher, Gracie, Press Assistant; Karney, Kellie, Deputy Director of Scheduling.

Kiandoli, Cletta, Director of Engagement; Kuiken, Mike, National Security Advisor; Lee, Monica, Director of Strategic Communications; Lopez, Julietta, Dir. of Community and External Affairs; Lynch, Mike, Chief of Staff; Magaletta, Grace, Legislative Correspondent; Mann, Steve, Deputy State Director; Mannering, Amy, Director of Operations; Marcojohn, Anneliese, Staff Assistant; Martin, Ryan, Upstate Press Assistant; Maslin, Evan, Staff Assistant; McGrath, Jillian, Legislative Aide; Mehta, Hemen, IT Principal Architect; Meyer, Ken, Director of Digital Media; Moore, Catey, Mailroom Coordinator; Morgan, Rachel, Mailroom Assistant; Murphy Vlasto, Megan, NY Scheduling Director; Myrick Gary, Democratic Secretary; Najafi, Leela, Nominations Aide.

Nam, Alice, Deputy National Press Secretary; Nehme, Joe, Regional Director; Nguyen, Alex, National Press Secretary; Nicholson, Jordan, Regional Director; Oursler, Nate, Cloakroom Assistant; Paone, Stephanie, Senior Cloakroom Assistant; Patel, Vandan, Legislative Correspondent; Petrella, Gerry, Policy Director; Reese, William, Dep Dir of the Senate Diversity Initiative; Revelle, Justine, Associate Counsel; Rivera, Tony, Director of Speechwriting; Rodarte, Sam, Legislative Assistant; Rodman, Scott, Director of Information Technology; Rodriguez, Crisitian, Capitol Staff Assistant; Roefaro, Angelo, New York Press Secretary; Ryder, Tim, Legislative Assistant for Disaster Policy; Seijas, Nelson, Mailroom Assistant; Sharbaugh, Tyson, Rapid Response Video Editor; Shaw, Savannah, Staff Assistant; Sherwani, Thaha, Research Assistant.

Sinpatanasakul, Leeann, Legislative Aide; Smith, Hannah, Staff Assistant; Sonnier-Thompson, Bre, Legislative Correspondent; Spellicy, Amanda, Regional Director; Sundaramoorthy, Dili, Legislative Aide; Sweda, Emily, Director of Scheduling; Talley, Hanna, Deputy Research Director; Taira, Meghan, Legislative Director; Tam, Catalina, Legislative Aide; Taylor, Anna, Director of Economic Policy; Taylor, Terri, Executive Assistant; Tepke, Paige, New York Press Assistant; Tessema, Mikael, Research/Rapid Response Assistant; Timothy, Kimarah, Constituent Liaison; Tinsley, Dan, Senior Floor Staff; Uriarte, Jonathan, Director of Hispanic Media; Vashi, Riya, Press Assistant; Vaughn, Erin Sager, Deputy Chief of Staff; Velez, Cyre, Deputy Director of Digital Media; Virgona, Nicole, Staff Assistant; Vogel, Kai, Legislative Correspondent; Vorperian-Grillo, Karine, Dir of Foreign Affairs and Immigration; Vrabel, Beth, Budget Counsel; Watt, Brad, Floor Staff; Yoken, Dan, Director of Rapid Response; Younkin, Nora, Video Production Director; Zeltmann, Chris, Regional Director; Zomorrodian, Reza, Legislative Aide.

Mr. SCHUMER. Madam President, I want them to know how much I appreciate their work, how great a difference they have made. This bill is going to change America for decades, and you did it. Wherever you go, whatever you do, you should never forget how much you have helped make the world and the globe a better place—never forget it.

So, to every single staffer on my team, to staffers in other offices, committees here on the floor: Thank you, thank you, thank you, very, very much.

I yield the floor because Mr. PADILLA has some important words about a New Yorker.

The ACTING PRESIDENT pro tempore. The junior Senator from California.

TRIBUTE TO VINCENT "VIN" SCULLY

Mr. PADILLA. Madam President, as Mr. SCHUMER said, I rise today to honor the life and mourn the passing of Vincent "Vin" Scully, who will be remembered as the greatest broadcaster in sports history, and a true ambassador for Los Angeles, the Dodgers, and the game of baseball.

Born in 1927 in the Bronx, he grew up near the Polo Grounds and actually became a big fan of the New York Giants baseball team as a child—and I never held that against him.

He served our Nation as a member of the U.S. Navy for 2 years before attending Fordham University. And at Fordham—listen to this—at Fordham, he managed to play on the baseball team, work on the school paper, and broadcast many of the university's football, baseball, and basketball teams.

His career as a broadcaster took off soon after he graduated from college. By 1950, he joined the Brooklyn Dodgers broadcast team. And in 1954, he became the team's principal announcer—a position he would hold until his retirement in 2016. He was the longest tenured announcer for any team in any professional sport.

In 1953, at only age 25, Vin became the youngest person to ever broadcast a World Series—a record that remains to this day.

When the Dodgers moved from New York to Los Angeles in 1958, Vin moved with the team, and he quickly became the voice of baseball in Southern California.

Vin was the voice of the Dodgers for 67 years, but his unparalleled storytelling and love of sports allowed him to transcend baseball. Many fans will recall Vin's unique calls on some of the most memorable football games and golf tournaments of the 20th century.

He was also a presence in pop culture, appearing in dozens of movies, TV shows, and documentaries. Vin lent his talents to everything ranging from the sketch comedy series "Laugh-In" to the iconic science fiction show "The X-Files," to the classic baseball movie—and one of my favorites—"For the Love of the Game"; and he relished serving as grand marshal of the 125th Rose Parade ahead of the 2014 Rose Bowl.

In 2016, President Obama awarded Vin Scully the Presidential Medal of Freedom, recognizing Vin as one of the signature sounds of America's pastime. Ever humble, when Vin was informed that he would be receiving the honor, he asked: "Are you sure?"

From Opening Day to the World Series, and every inning in between, Vin made every game memorable with his love of baseball, and for generations of fans—generations—hearing Vin Scully's soothing voice meant it was time for Dodgers baseball.

Now, I grew up in the San Fernando Valley. As a child, growing up in the 1980s, I spent many evenings dreaming of growing up to play professional baseball while listening to Vin's voice narrate the action.

While he became a legend for his talents behind the microphone, he will actually be remembered best for his decency beyond the broadcast booth. I remember a few years ago, when I was serving as California's secretary of state, I had an opportunity to introduce Angela and two of our sons to Vin at a voter registration event before the game at Dodgers Stadium. He was just so incredibly gracious with my family; it is a memory that we will cherish.

But I also know that we weren't unique in that interaction with Vin. He always made time for fans—regardless of age, regardless of occupation—wherever and whenever he met them. You see, he wasn't just a sports broadcaster; he was a figure larger than life, and he made all of us feel like family.

Angela and I certainly join the Los Angeles community, the Dodgers organization, and baseball fans around the world in mourning the passing of Vin Scully. Our hearts go out to the entire Scully family.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

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## EXECUTIVE SESSION

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### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 985.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of John Z. Lee, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

#### CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 985, John Z. Lee, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Charles E. Schumer, Richard J. Durbin, Ben Ray Luján, Jack Reed, Jacky Rosen, Tina Smith, Angus S. King, Jr., Patrick J. Leahy, Robert P. Casey, Jr., Christopher A. Coons, Alex Padilla, Chris Van Hollen, Margaret Wood Hassan, Elizabeth Warren, Jeff Merkley, Catherine Cortez Masto, Tim Kaine, Cory A. Booker.

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## LEGISLATIVE SESSION

Mr. SCHUMER. Madam President, I move to proceed to legislative session.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

## EXECUTIVE SESSION

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### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 736.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Andre B. Mathis, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

#### CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 736, Andre B. Mathis, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Charles E. Schumer, Mazie K. Hirono, Martin Heinrich, Tim Kaine, Jack Reed, Jacky Rosen, Ben Ray Luján, Christopher A. Coons, Alex Padilla, Sheldon Whitehouse, Sherrod Brown, Debbie Stabenow, Christopher Murphy, Patrick J. Leahy, John W. Hickenlooper, Tammy Baldwin, Angus S. King.

Mr. SCHUMER. Madam President, I ask unanimous consent that the mandatory quorum calls for the cloture motions filed today, August 7, be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## EXECUTIVE SESSION

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### EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Carrin F. Patman, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland; that the Senate vote on the nomination without intervening action or debate; that the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Carrin F. Patman, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the Patman nomination?

The nomination was confirmed.

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## LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

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## APPOINTMENTS AUTHORITY

Mr. SCHUMER. Madam President, I ask unanimous consent that notwithstanding the upcoming adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## MORNING BUSINESS

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## COLOMBIA

Mr. LEAHY. Madam President, on August 7, Colombia's newly elected President Gustavo Petro and Vice President Francia Marquez will begin their 4-year term. Their election represents a sharp break from the past.

The new government is inheriting every imaginable problem. Regrettably, the country has made minimal progress since the signing of the 2016 Peace Accord that ended five decades of armed conflict with the FARC, and in some parts of the country, narcotics-related violence is worse. The previous government failed to make a dent in the number of assassinations of social leaders or to hold members of the armed forces and police accountable for past atrocities. Compounded by the public health and economic shocks caused by the Covid-19 pandemic and a flood of Venezuelan refugees, Colombia remains a highly polarized society, divided between urban elites and the impoverished countryside. It will take many years to reverse decades of deeply rooted neglect, discrimination, poverty, and lawlessness.

Since 2020, the United States has invested more than $11 billion in a

UNITED STATES SENATE

## Roll Call Vote 117th Congress - 2nd Session

### Vote Summary

XML

**Question:** On the Amendment (Thune Amendment No.5472 )

**Vote Number:** 323 **Vote Date:** August 7, 2022, 02:33 PM

**Required For Majority:** 1/2 **Vote Result:** Amendment Agreed to

**Amendment Number:** S.Amdt. 5472 to S.Amdt. 5194 to H.R. 5376 (No short title on file)

**Statement of Purpose:** To remove harmful small business taxes, and for other purposes.

**Vote Counts:** YEAs 57
NAYs 43

*Information compiled through Senate LIS by the Senate bill clerk under the direction of the secretary of the Senate

Vote Summary By Senator Name By Vote Position By Home State

**Alphabetical by Senator Name**

Baldwin (D-WI), **Nay**
Barrasso (R-WY), **Yea**
Bennet (D-CO), **Nay**
Blackburn (R-TN), **Yea**
Blumenthal (D-CT), **Nay**
Blunt (R-MO), **Yea**
Booker (D-NJ), **Nay**
Boozman (R-AR), **Yea**
Braun (R-IN), **Yea**
Brown (D-OH), **Nay**
Burr (R-NC), **Yea**
Cantwell (D-WA), **Nay**
Capito (R-WV), **Yea**
Cardin (D-MD), **Nay**
Carper (D-DE), **Nay**
Casey (D-PA), **Nay**
Cassidy (R-LA), **Yea**
Collins (R-ME), **Yea**

Coons (D-DE), **Nay**
Cornyn (R-TX), **Yea**
Cortez Masto (D-NV), **Yea**
Cotton (R-AR), **Yea**
Cramer (R-ND), **Yea**
Crapo (R-ID), **Yea**
Cruz (R-TX), **Yea**
Daines (R-MT), **Yea**
Duckworth (D-IL), **Nay**
Durbin (D-IL), **Nay**
Ernst (R-IA), **Yea**
Feinstein (D-CA), **Nay**
Fischer (R-NE), **Yea**
Gillibrand (D-NY), **Nay**
Graham (R-SC), **Yea**
Grassley (R-IA), **Yea**
Hagerty (R-TN), **Yea**
Hassan (D-NH), **Yea**
Hawley (R-MO), **Yea**
Heinrich (D-NM), **Nay**
Hickenlooper (D-CO), **Nay**
Hirono (D-HI), **Nay**
Hoeven (R-ND), **Yea**
Hyde-Smith (R-MS), **Yea**
Inhofe (R-OK), **Yea**
Johnson (R-WI), **Yea**
Kaine (D-VA), **Nay**
Kelly (D-AZ), **Yea**
Kennedy (R-LA), **Yea**
King (I-ME), **Nay**
Klobuchar (D-MN), **Nay**
Lankford (R-OK), **Yea**
Leahy (D-VT), **Nay**
Lee (R-UT), **Yea**
Lujan (D-NM), **Nay**
Lummis (R-WY), **Yea**
Manchin (D-WV), **Nay**
Markey (D-MA), **Nay**
Marshall (R-KS), **Yea**
McConnell (R-KY), **Yea**
Menendez (D-NJ), **Nay**
Merkley (D-OR), **Nay**
Moran (R-KS), **Yea**

Murkowski (R-AK), **Yea**
Murphy (D-CT), **Nay**
Murray (D-WA), **Nay**
Ossoff (D-GA), **Yea**
Padilla (D-CA), **Nay**
Paul (R-KY), **Yea**
Peters (D-MI), **Nay**
Portman (R-OH), **Yea**
Reed (D-RI), **Nay**
Risch (R-ID), **Yea**
Romney (R-UT), **Yea**
Rosen (D-NV), **Yea**
Rounds (R-SD), **Yea**
Rubio (R-FL), **Yea**
Sanders (I-VT), **Nay**
Sasse (R-NE), **Yea**
Schatz (D-HI), **Nay**
Schumer (D-NY), **Nay**
Scott (R-FL), **Yea**
Scott (R-SC), **Yea**
Shaheen (D-NH), **Nay**
Shelby (R-AL), **Yea**
Sinema (D-AZ), **Yea**
Smith (D-MN), **Nay**
Stabenow (D-MI), **Nay**
Sullivan (R-AK), **Yea**
Tester (D-MT), **Nay**
Thune (R-SD), **Yea**
Tillis (R-NC), **Yea**
Toomey (R-PA), **Yea**
Tuberville (R-AL), **Yea**
Van Hollen (D-MD), **Nay**
Warner (D-VA), **Nay**
Warnock (D-GA), **Yea**
Warren (D-MA), **Nay**
Whitehouse (D-RI), **Nay**
Wicker (R-MS), **Yea**
Wyden (D-OR), **Nay**
Young (R-IN), **Yea**

Vote Summary | By Senator Name | By Vote Position | By Home State

## Grouped By Vote Position

**YEAs ---57**

Barrasso (R-WY)
Blackburn (R-TN)
Blunt (R-MO)
Boozman (R-AR)
Braun (R-IN)
Burr (R-NC)
Capito (R-WV)
Cassidy (R-LA)
Collins (R-ME)
Cornyn (R-TX)
Cortez Masto (D-NV)
Cotton (R-AR)
Cramer (R-ND)
Crapo (R-ID)
Cruz (R-TX)
Daines (R-MT)
Ernst (R-IA)
Fischer (R-NE)
Graham (R-SC)
Grassley (R-IA)
Hagerty (R-TN)
Hassan (D-NH)
Hawley (R-MO)
Hoeven (R-ND)
Hyde-Smith (R-MS)
Inhofe (R-OK)
Johnson (R-WI)
Kelly (D-AZ)
Kennedy (R-LA)
Lankford (R-OK)
Lee (R-UT)
Lummis (R-WY)
Marshall (R-KS)
McConnell (R-KY)
Moran (R-KS)
Murkowski (R-AK)
Ossoff (D-GA)
Paul (R-KY)
Portman (R-OH)
Risch (R-ID)
Romney (R-UT)
Rosen (D-NV)
Rounds (R-SD)

Rubio (R-FL)
Sasse (R-NE)
Scott (R-FL)
Scott (R-SC)
Shelby (R-AL)
Sinema (D-AZ)
Sullivan (R-AK)
Thune (R-SD)
Tillis (R-NC)
Toomey (R-PA)
Tuberville (R-AL)
Warnock (D-GA)
Wicker (R-MS)
Young (R-IN)

**NAYs ---43**

Baldwin (D-WI)
Bennet (D-CO)
Blumenthal (D-CT)
Booker (D-NJ)
Brown (D-OH)
Cantwell (D-WA)
Cardin (D-MD)
Carper (D-DE)
Casey (D-PA)
Coons (D-DE)
Duckworth (D-IL)
Durbin (D-IL)
Feinstein (D-CA)
Gillibrand (D-NY)
Heinrich (D-NM)
Hickenlooper (D-CO)
Hirono (D-HI)
Kaine (D-VA)
King (I-ME)
Klobuchar (D-MN)
Leahy (D-VT)
Lujan (D-NM)
Manchin (D-WV)
Markey (D-MA)
Menendez (D-NJ)
Merkley (D-OR)
Murphy (D-CT)
Murray (D-WA)

Padilla (D-CA)
Peters (D-MI)
Reed (D-RI)
Sanders (I-VT)
Schatz (D-HI)
Schumer (D-NY)
Shaheen (D-NH)
Smith (D-MN)
Stabenow (D-MI)
Tester (D-MT)
Van Hollen (D-MD)
Warner (D-VA)
Warren (D-MA)
Whitehouse (D-RI)
Wyden (D-OR)

Vote Summary | By Senator Name | By Vote Position | By Home State

## Grouped by Home State

**Alabama:**
Shelby (R-AL), **Yea** | Tuberville (R-AL), **Yea**
**Alaska:**
Murkowski (R-AK), **Yea** | Sullivan (R-AK), **Yea**
**Arizona:**
Kelly (D-AZ), **Yea** | Sinema (D-AZ), **Yea**
**Arkansas:**
Boozman (R-AR), **Yea** | Cotton (R-AR), **Yea**
**California:**
Feinstein (D-CA), **Nay** | Padilla (D-CA), **Nay**
**Colorado:**
Bennet (D-CO), **Nay** | Hickenlooper (D-CO), **Nay**
**Connecticut:**
Blumenthal (D-CT), **Nay** | Murphy (D-CT), **Nay**
**Delaware:**
Carper (D-DE), **Nay** | Coons (D-DE), **Nay**
**Florida:**
Rubio (R-FL), **Yea** | Scott (R-FL), **Yea**
**Georgia:**
Ossoff (D-GA), **Yea** | Warnock (D-GA), **Yea**
**Hawaii:**
Hirono (D-HI), **Nay** | Schatz (D-HI), **Nay**
**Idaho:**
Crapo (R-ID), **Yea** | Risch (R-ID), **Yea**
**Illinois:**

| | |
|---|---|
| Duckworth (D-IL), **Nay** | Durbin (D-IL), **Nay** |
| **Indiana:** | |
| Braun (R-IN), **Yea** | Young (R-IN), **Yea** |
| **Iowa:** | |
| Ernst (R-IA), **Yea** | Grassley (R-IA), **Yea** |
| **Kansas:** | |
| Marshall (R-KS), **Yea** | Moran (R-KS), **Yea** |
| **Kentucky:** | |
| McConnell (R-KY), **Yea** | Paul (R-KY), **Yea** |
| **Louisiana:** | |
| Cassidy (R-LA), **Yea** | Kennedy (R-LA), **Yea** |
| **Maine:** | |
| Collins (R-ME), **Yea** | King (I-ME), **Nay** |
| **Maryland:** | |
| Cardin (D-MD), **Nay** | Van Hollen (D-MD), **Nay** |
| **Massachusetts:** | |
| Markey (D-MA), **Nay** | Warren (D-MA), **Nay** |
| **Michigan:** | |
| Peters (D-MI), **Nay** | Stabenow (D-MI), **Nay** |
| **Minnesota:** | |
| Klobuchar (D-MN), **Nay** | Smith (D-MN), **Nay** |
| **Mississippi:** | |
| Hyde-Smith (R-MS), **Yea** | Wicker (R-MS), **Yea** |
| **Missouri:** | |
| Blunt (R-MO), **Yea** | Hawley (R-MO), **Yea** |
| **Montana:** | |
| Daines (R-MT), **Yea** | Tester (D-MT), **Nay** |
| **Nebraska:** | |
| Fischer (R-NE), **Yea** | Sasse (R-NE), **Yea** |
| **Nevada:** | |
| Cortez Masto (D-NV), **Yea** | Rosen (D-NV), **Yea** |
| **New Hampshire:** | |
| Hassan (D-NH), **Yea** | Shaheen (D-NH), **Nay** |
| **New Jersey:** | |
| Booker (D-NJ), **Nay** | Menendez (D-NJ), **Nay** |
| **New Mexico:** | |
| Heinrich (D-NM), **Nay** | Lujan (D-NM), **Nay** |
| **New York:** | |
| Gillibrand (D-NY), **Nay** | Schumer (D-NY), **Nay** |
| **North Carolina:** | |
| Burr (R-NC), **Yea** | Tillis (R-NC), **Yea** |
| **North Dakota:** | |

Cramer (R-ND), **Yea** Hoeven (R-ND), **Yea**

**Ohio:**

Brown (D-OH), **Nay** Portman (R-OH), **Yea**

**Oklahoma:**

Inhofe (R-OK), **Yea** Lankford (R-OK), **Yea**

**Oregon:**

Merkley (D-OR), **Nay** Wyden (D-OR), **Nay**

**Pennsylvania:**

Casey (D-PA), **Nay** Toomey (R-PA), **Yea**

**Rhode Island:**

Reed (D-RI), **Nay** Whitehouse (D-RI), **Nay**

**South Carolina:**

Graham (R-SC), **Yea** Scott (R-SC), **Yea**

**South Dakota:**

Rounds (R-SD), **Yea** Thune (R-SD), **Yea**

**Tennessee:**

Blackburn (R-TN), **Yea** Hagerty (R-TN), **Yea**

**Texas:**

Cornyn (R-TX), **Yea** Cruz (R-TX), **Yea**

**Utah:**

Lee (R-UT), **Yea** Romney (R-UT), **Yea**

**Vermont:**

Leahy (D-VT), **Nay** Sanders (I-VT), **Nay**

**Virginia:**

Kaine (D-VA), **Nay** Warner (D-VA), **Nay**

**Washington:**

Cantwell (D-WA), **Nay** Murray (D-WA), **Nay**

**West Virginia:**

Capito (R-WV), **Yea** Manchin (D-WV), **Nay**

**Wisconsin:**

Baldwin (D-WI), **Nay** Johnson (R-WI), **Yea**

**Wyoming:**

Barrasso (R-WY), **Yea** Lummis (R-WY), **Yea**

Vote Summary By Senator Name By Vote Position By Home State

Mr. MURPHY. Secretary Yellen, as you remember, there was a bipartisan amendment to clarify this in small business. Do you agree it was the intent of Congress and the Thune amendment was to maintain the current law aggregation rules, yes or no?

Secretary YELLEN. I want to make sure I understand what—you are talking about the corporate alternative minimum tax?

Mr. MURPHY. Would stay in its current state.

Secretary YELLEN. So it only applies to corporations with financial statement or book income in excess of $1 billion.

Mr. MURPHY. All right, thank you. On another topic I have heard from many small businesses in my district, I have a very research-and-development-strong district and state in North Carolina. I am very concerned about the lapsed R&D expensing loss. This is a major problem for new startups when they are trying to develop new cures and new drugs.

This is supported in the House and the Senate by Democrats and Republicans. But as far as I can tell, the R&D expensing was omitted from the budget. Will you commit to helping us get section 174, the R&D expensing, across the finish line so that these companies will not be hurt?

Secretary YELLEN. Well, we are in favor of support of R&D. Currently, the FDII, which is part of the taxation system for firms with derived intangible——

Mr. MURPHY. So it has really hurt our young businesses that are trying to start out——

Secretary YELLEN. We suggest repealing that, and working with Congress to put something more effective——

Mr. MURPHY. I appreciate that, because it hurts small businesses that are trying to put new molecules, new cures when they have no income coming in.

Secretary YELLEN. Well, we are——

Mr. MURPHY. Lastly, can you explain to me what the rationale is of taxing unrealized gains? We are taxing something that someone has not even realized yet, what—in the future that number could actually be a loss. And so we are going to go after them for a potential—it is like putting somebody in jail for a potential murder that they might do. So what is the rationale?

Secretary YELLEN. We have a situation where hardworking teachers and firefighters are paying a higher share of their income in taxation than billionaires who derive most of their income from unrealized capital gains.

Mr. MURPHY. Well, they have to realize them to gain income.

Secretary YELLEN. Well, we are suggesting a tax on individuals earning more than $100 million that would essentially be a prepayment of taxes that are due upon death.

Mr. MURPHY. So we want to get the money in now, so we can spend it now, so there will be even further deficit in the future.

Secretary YELLEN. Well, I—it is—I think it is entirely fair that extremely wealthy people should——

Mr. MURPHY. Well, I am not—thank you. I have used up my time, but it is—I am not talking about the wealth of the person, I am talking about the actual theory of attacking somebody before they have actually gained their money. And again, it is like putting somebody in prison before they have done the murder.

Chairman SMITH. We want to thank the gentleman.

Mr. MURPHY. So thank you. With that, Mr. Chairman, I will yield back.

Chairman SMITH. Yes, the lady from—the gentlelady from California is recognized.

Ms. CHU. Secretary Yellen, I thank you for being here. Last year, during our fiscal year 2023 hearing, I asked you what Treasury was doing to address the unacceptable fact that low-income EITC filers were getting audited 4.5 times more frequently than all other taxpayers earning under $500,000. You answered this. You said the resources available to the IRS have been simply gutted, and it does not have the capacity to enforce our tax laws as they apply to high-end evaders. It also meant that taxpayer experience was unacceptably poor, with long wait times for calls and a backlog of unprocessed returns.

Well, we heard you. And thanks to the Inflation Reduction Act, we put in $80 billion to the IRS to improve these functions, and we can already see the positive effect. Contrary to the massive misinformation by those on the other side of the aisle, there has been a sea change. And in fact, The Washington Post just did an article earlier this week saying the IRS braces for the unthinkable, a normal tax season. And in fact, it said the IRS's massive funding boost has begun to reach the front lines of the tax season. It has vaulted the agency from more than a decade of disarray to a once unimaginable position: a functioning tax service.

The IRS is answering 90 percent of its phone calls, has squashed its backlog of overdue returns, introduced new online taxpayer tools to keep pace with private software companies, and processed 99.7 percent of returns filed this tax season. And not only that, but tax professionals are also saying that now the agency will be able to keep up with phone calls and written correspondence and, most importantly, disburse refunds in a timely manner.

So I just have to say phone calls are getting answered with an average wait time of seven minutes only. And also, of the $850 million spent by the IRS, more than half of the funds have gone directly to taxpayer services.

Secretary YELLEN. Yes.

Ms. CHU. I also want to address an issue from earlier, which is the IRS does have a law enforcement team that they use for extremely serious cases on non-compliance.

Earlier the gentleman from Georgia demanded there be no additional ammunition purchases. But actually, these law enforcement officials need ammunition to even qualify for their job. This demand from the gentleman from Georgia would actually put law enforcement officials in harm's way, and is actually anti-police.

So can you address both issues about the increased functioning of the IRS and this law enforcement issue?

Secretary YELLEN. Well, I agree with what you said on both scores, and I appreciate the description you gave of all of the ways in which taxpayers' service has improved since the IRA provided this funding. It is a high priority, and there will be more to come.

And we—there will also be a focus on hiring skilled tax attorneys and accountants who will be able to audit the returns of high-income and wealthy taxpayers, complex partnerships, corporations where we know there is very substantial under-reporting of income, and there will be an increased payoff to that over time, and that will be another important focus that you will see play out in terms of a reduction in the tax gap over time.

With respect to the officers and the bullets, it is true there is a small cadre of—essentially, they are trained as law enforcement officers, individuals who do carry weapons to deal with very——

Chairman SMITH. The gentlelady's time has expired.

Ms. CHU. Thank you.

Chairman SMITH. The gentleman from Texas—Tennessee is recognized.

Mr. KUSTOFF. Thank you, Mr. Chairman.

Thank you, Madam Secretary, for appearing today. I want to go back and talk about the Inflation Reduction Act, and follow up on Congressman Adrian Smith's questions, and maybe Congressman Drew Ferguson.

When we have been asked—asked you about the number of audits specifically of those taxpayers making less than $400,000, your reply has been something to the effect that it won't increase compared to historical levels. My question to you is, isn't it right that the actual number of taxpayers making more—or less than $400,000, those audits will increase? Isn't that right?

Secretary YELLEN. Well, I don't——

Mr. KUSTOFF. The actual number?

Secretary YELLEN. I don't have that information. But if the size of that population goes up and you maintain a constant audit rate, the number would probably rise.

Mr. KUSTOFF. Fair enough. And that is as a result of the passage of the Inflation Reduction Act, correct?

Secretary YELLEN. Well, I am not sure what you mean by that. I mean——

Mr. KUSTOFF. Well, I mean, we just—we voted—I voted against—the creation of the Inflation Reduction Act, which increases the number of audits. We have established more than 400—those taxpayers more than $400,000. I asked you about the number—not at historical levels, the actual number—of taxpayers making less than $400,000. You gave me your answer, and I am asking you isn't that——

Secretary YELLEN. But, you know——

Mr. KUSTOFF. Ma'am, I am asking you, isn't that a direct result of the passage of the Inflation Reduction Act?

Secretary YELLEN. It depends on what the policy is. I have directed the IRS not to raise audit rates on individuals or small businesses earning under $400,000.

And what has happened is the IRS has been starved for resources. It has——

Mr. KUSTOFF. Let me ask you this.

Secretary YELLEN [continuing]. Cut dramatically——

Mr. KUSTOFF. This is in relation to the letter that was sent by the Congressional Budget Office to then Ranking Member Kevin Brady, and then ranking member of the Budget Committee, Jason Smith, dated August 25th, 2022. "How will taxpayers with incomes less than $400,000 be affected by the act?"

And I realize you don't have the letter in front of you. "The act will affect taxpayers with incomes less than $400,000 in several ways. Activities other than audits such as collections and automated screening and document matching are not constrained by the Secretary's directive. And under the 2022 Reconciliation Act, the amounts they generate will be greater for taxpayers with all amounts of income," CBO projects.

My question to you is you don't have any reason to doubt what CBO cites in this letter, do you?

Secretary YELLEN. Look, we want taxpayers to be able to pay, and to pay the amounts that are due. And presumably, improvements in technology may raise compliance in ways that are not directly related to the fraction of individuals that are audited.

And, you know, the failure of——

Mr. KUSTOFF. Automatic screening and document matching for those taxpayers——

Secretary YELLEN [continuing]. An agency——

Mr. KUSTOFF [continuing]. Under $400,000 will be increased. You don't disagree with the CBO report, do you?

Secretary YELLEN. I haven't read it in detail, but——

Mr. KUSTOFF. Fair enough.

Secretary YELLEN. I—you know, we have——

Mr. KUSTOFF. I will submit this for the record. My time has——

Chairman SMITH. Without objection.

[The information follows:]

CONGRESSIONAL BUDGET OFFICE
*U.S. Congress*
*Washington, DC 20515*

*Phillip L. Swagel, Director*

August 25, 2022

Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Honorable Jason Smith
Ranking Member
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

*Re: Additional Information About Increased Enforcement by the Internal Revenue Service*

Dear Congressmen:

On August 16, 2022, Public Law 117-169, the 2022 reconciliation act, was enacted. As a result of increases in outlays for the Internal Revenue Service (IRS) stemming from the act, the Congressional Budget Office estimates that revenues will increase by $180.4 billion over the 2022–2031 period. CBO projects that some of the increased revenues will be collected from taxpayers with income less than $400,000; the amount will be a small fraction of the total increase.

This letter provides additional information about the basis for CBO's analysis and answers several questions that you asked. CBO will publish an updated cost estimate for the entire 2022 reconciliation act in the first week of September and is providing this information about the IRS's enforcement now in response to interest expressed by you and other Members.

CBO's previous estimate of the revenue increase was $203.7 billion.[1] CBO's current estimate is about $23 billion less than its previous estimate for two reasons. This estimate incorporates changes to the legislative language—about funding the IRS and improving taxpayers' compliance—that were made after CBO published the earlier estimate, which was based on the legislative text available on July 27, 2022. Those changes removed

[1] See Congressional Budget Office, cost estimate for H.R. 5376, the Inflation Reduction Act of 2022 (August 3, 2022; updated August 5, 2022), www.cbo.gov/publication/58366.

expedited hiring authority for the newly funded positions and the ability for the IRS to pay certain employees higher rates than those in the normal government salary structure. This estimate also incorporates the projected budgetary impact of a recent directive by the Secretary of the Treasury regarding how the additional funding will be used.

**How Does the IRS Enforce Tax Laws?**

The IRS relies largely on taxpayers to report their income, calculate the amount of tax they owe, and remit that amount through withholding or other payments. However, not all income is properly reported, and unpaid taxes amount to hundreds of billions of dollars annually, the IRS estimates. To collect some of those unpaid taxes, the IRS undertakes a variety of enforcement activities:

- Auditing tax returns of corporations, partnerships, and individual taxpayers;
- Collecting unpaid taxes through mailed notices, payment agreements with taxpayers, and liens or levies;
- Identifying taxpayers who did not file returns on time and obtaining those returns;
- Correcting mathematical or clerical errors;
- Using software to flag fraudulent or questionable refunds; and
- Verifying information reported by taxpayers by checking it against information from third parties.

When additional funding is provided to the IRS for enforcement, it will, in CBO's estimation, use all available productive approaches to increase revenues and raise voluntary compliance from taxpayers with all amounts of income.[2] In CBO's analysis, the IRS typically allocates its enforcement resources—such as hours of work by a group of employees—to maximize revenues for a given amount of spending and compliance with tax rules.

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[2] For additional background about the IRS and how CBO analyzes its activities, see Congressional Budget Office, *Trends in the Internal Revenue Service's Funding and Enforcement* (July 2020), www.cbo.gov/publication/56422. For additional details about CBO's estimation methods, see Congressional Budget Office, letter to the Honorable Lindsey Graham regarding estimated revenue effects of increased funding for the Internal Revenue Service in H.R. 5376, the Build Back Better Act (November 18, 2021), www.cbo.gov/publication/57620.

Consequently, CBO generally estimates that if activities with higher predicted returns are restricted, the alternatives will generate lower returns. If the IRS is restricted from using additional funding to conduct certain audits, for example, it can use other enforcement activities instead, but they may not be as productive, and developing new ways of detecting noncompliance might take time. If the restriction required the IRS to use and track a specific allocation of funding for the audits it undertakes, its administrative costs would increase.

**How Much Is the Funding Increase for the IRS?**

Funding provided by the act is projected to make the IRS's budget 90 percent larger in 2031 than was projected in the July 2021 baseline that CBO used in its analysis of the 2022 reconciliation act. With this new funding, the IRS's budget in 2031 is projected to be about one-tenth larger than it was at its recent peak in 2010, when measured as a share of total output in the economy. Of the additional $79 billion in funding, the act allocates $46 billion for enforcing tax laws; the remainder is provided for other activities such as services for taxpayers, operations support, and business system modernization.

**How Do Legislative Changes and Administrative Actions After July 27, 2022 Affect CBO's Projection of Revenues?**

Language providing flexibility to the IRS in hiring personnel had been included in the legislative text posted on the website of the Senate Majority Leader on July 27, 2022, but it was not included in the text posted on August 6, 2022, that was subsequently enacted into law. In CBO's assessment, not including the personnel flexibility will cause the IRS to hire new personnel more slowly and could make hiring experienced candidates more difficult. CBO expects that hiring highly specialized enforcement employees who handle the most complex examinations and collections cases will be especially challenging. Also, if newly hired employees are less experienced, they will require additional training to become fully productive. As a result of the hiring challenges, the IRS will collect less revenues, CBO projects, than would have been the case if the enacted law had included the language providing personnel flexibility.

On August 10, 2022, Secretary of the Treasury Janet Yellen directed that "any additional resources—including any new personnel or auditors that are hired—shall not be used to increase the share of small business or households below the $400,000 threshold that are audited relative to historical levels."[3] In CBO's projections, the IRS complies with that directive and undertakes alternative activities that generate less revenues.

The reduction in projected revenues from those two changes is about $23 billion from 2022 to 2031, resulting in a total revenue increase of $180.4 billion. By CBO's estimates, the interaction between the two changes will reduce revenues more than either change would individually, because personnel flexibility would have aided the IRS in hiring the type of highly specialized employees needed to target noncompliance by large corporations, complex partnerships, and individuals with complicated tax returns. Because of delays in hiring, CBO expects that the revenues collected will be greater after 2031 (the last year in CBO's cost estimate for the act) than they would have been otherwise.

**What Would Have Happened If the Act Had Prohibited the IRS From Using the New Funding on Audits of Taxpayers With Income Less Than $400,000?**

When amendments to the 2022 reconciliation act were offered in the Senate on August 7, this potential change was considered and not adopted:

> "At the end of section 10301, add the following: (c) LIMITATIONS RELATED TO THE INTERNAL REVENUE SERVICE.—None of the funds appropriated under subsection (a)(1) may be used to audit taxpayers with taxable incomes below $400,000."

If that change had been made after the removal of the language regarding personnel flexibility and Secretary Yellen's directive on the use of the additional funds, the increase in revenues resulting from greater outlays for the IRS would have been $176 billion over the 2022–2031 period, CBO estimates, about $4 billion less than the amount currently projected to be collected.[4]

In CBO's assessment, the change would have imposed restrictions on the use of appropriations by the IRS, which would have caused the agency to shift to less productive enforcement activities and to incur increased administrative costs. In addition, some taxpayers, gauging their probability

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[3] See Janet L. Yellen, Secretary of the Treasury, letter to Charles P. Rettig, Commissioner of the Internal Revenue Service (August 10, 2022), https://tinyurl.com/2p9fh5tc.

[4] That estimate used CBO's July 2021 baseline projections, which were used for all estimates of the 2022 reconciliation act. New legislation changing the law would be evaluated relative to CBO's current baseline from May 2022, updated for legislative changes, which covers the 2022–2032 period.

of being audited to be lower if they report income under $400,000, would have increased their underreporting of income.

The amendment would have imposed restrictions even though, in CBO's estimation, the IRS will comply with the Secretary's directive regarding the share of audits devoted to small businesses or households with income less than $400,000. Under the 2022 reconciliation act and with that direction from the Secretary, audit rates for taxpayers with income less than $400,000 will be at roughly historical amounts, CBO expects, and thus higher than those projected in CBO's baseline.[5] The amendment would have constrained audit rates for taxpayers with income less than $400,000, keeping them lower than historical amounts.

Some of the reduction in revenues from the proposed amendment would have stemmed from lower revenues from audits of taxpayers with income less than $400,000, and some would have stemmed from less productive enforcement activity (and greater administrative cost of enforcement) in total. Some taxpayers reporting income of less than $400,000 on their tax return, for whom the proposed amendment would have barred audits using the new funding, will be found to have more income than they reported—in some cases, income greater than $400,000—if they are audited.

CBO's updated estimate presented here differs from a preliminary assessment that the agency provided to Congressional staff by email several times during August. The previous estimate was for amendment 5404, offered by Senator Crapo on August 7, which consisted of the legislative language quoted above. At that time, CBO estimated that amendment 5404 would have reduced revenues by at least $20 billion over the 2022–2031 period. That estimate did not incorporate the effects of the Treasury Secretary's directive announced on August 10, 2022, or that directive's interaction with the change that removed legislative language providing personnel flexibility to the IRS. The updated estimate of the effects of the amendment provided in this letter is smaller mainly because, in CBO's assessment, the Secretary's directive will cause many of the effects that would have occurred under amendment 5404. After those effects are accounted for, the remaining potential effects of prohibiting the use of

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[5] In CBO's baseline projections in July 2021, the IRS was anticipated to broadly reduce its enforcement activities over the next decade. Those reductions reflected the projections of budgetary resources available to the IRS growing more slowly than income subject to taxation. As part of those reductions, the share of small businesses and households with income less than $400,000 that was audited would have fallen below historical amounts, CBO expects.

newly appropriated funds to audit taxpayers with income less than $400,000 are smaller.

**How Will Taxpayers With Income Less Than $400,000 Be Affected by the Act?**

CBO projects that an increase in revenues collected from taxpayers with income less than $400,000 (as reported both before and after any enforcement activities take place) will constitute a small fraction of the total increase collected from all taxpayers resulting from the increased funding for the IRS. That fraction will be small because, CBO expects, the IRS will follow the Secretary's directive, and enforcement resources will focus on what the Secretary terms high-end noncompliance.

CBO does not have a strong basis for precisely estimating the increase in revenues collected from taxpayers with income less than $400,000 from all types of enforcement activity. The main reason is that IRS reports information on only one type of enforcement activity—audits—categorized by taxpayers' income. CBO does not have data about the distribution of revenues from other (that is, nonaudit) enforcement activities by income.

The act will affect taxpayers with income less than $400,000 in several ways:

- Audit rates at roughly historical amounts, in accordance with the Treasury Secretary's directive, will boost audit activity and thus revenues relative to the amount in CBO's July 2021 baseline.

- Activities other than audits—such as collections and automated screening and document matching—are not constrained by the Secretary's directive, and under the 2022 reconciliation act, the amounts they generate will be greater for taxpayers with all amounts of income, CBO projects.

- Voluntary compliance will increase for all taxpayers, in CBO's estimation.

- Increased funding for nonenforcement activities such as services for taxpayers can also affect revenues if the assistance enables taxpayers to report their income and calculate their tax liability more accurately.

I hope that this information answers your questions. Please contact me if you would like to discuss these issues further.

Sincerely,

Phillip L. Swagel
Director

cc: Honorable Richard Neal
Chairman
Committee on Ways and Means

Honorable John Yarmuth
Chairman
Committee on the Budget

Secretary YELLEN [continuing]. A $7 trillion tax gap. And the IRS really needs to close that, because it undermines the fairness and effectiveness of our tax system not to have a system that collects taxes that are owed and due.

Chairman SMITH. The gentleman from Pennsylvania is recognized.

Mr. FITZPATRICK. Thank you, Madam Secretary, for being here, and for your time today. We appreciate it. I want to address a separation of powers issue and concerns with the IRA.

The IRA's free trade agreement requirement, specifically for critical mineral inputs on batteries, was clear. And congressional intent upon the passage of the IRA with respect to that was clear. And yet the Administration is now seeking to redefine free trade agreements—which everyone knows to do that would require approval by the members of this body—now referring to it as a "free trade area" in order to extend the law's benefits to Japan and the European Union, with which the United States does not have a congressionally-approved free trade agreement.

Madam Secretary, are you aware that during the pandemic semiconductor chip shortage, Japan and Germany withheld semiconductor chips from U.S. automakers here in our country in favor of their own automakers?

Secretary YELLEN. I wasn't aware of that, but I——

[Pause.]

Mr. FITZPATRICK. Are you aware, also aware that the United States accepts Japanese vehicle certification on imports from Japanese autos into our country, however, Japan does not reciprocate?

Secretary YELLEN. I am not aware. I am not aware of all of those——

Mr. FITZPATRICK. Japan—in fact, Madam Secretary, Japan's rules intentionally do not conform to U.S. car regulations. U.S. car manufacturers must navigate a very complex environment when exporting to Japan. These are non-tariff barriers that disadvantage autos made here in the United States.

The next question: Are you aware that just this week the U.S. ambassador to the World Trade Organization stated that Japan must take bold steps to lower trade barriers regulated—I am sorry, related—to autos and agricultural products?

Secretary YELLEN. So, look, with respect to the IRA and Japan, Japan does process and extract critical minerals that are used by American car makers. And the thought is that, in order to improve the security of our supply chains, the United States might negotiate agreements pertaining to critical minerals—not to say that the conditions are there now, but that there would be negotiations of agreements with countries like Japan or with European countries. There would have to be requirements. They wouldn't—presumably a requirement is that you couldn't put export controls in place that——

Mr. FITZPATRICK. I understand that. But with——

Secretary YELLEN [continuing]. In a crunch would prevent—enable a country to——

Mr. FITZPATRICK. Understood.

Secretary YELLEN [continuing]. Withhold exports. So this would be a matter of arriving at agreements. They might have labor or environmental standards——

Mr. FITZPATRICK. But surely you understand that that requires——

Secretary YELLEN [continuing]. that promote free trade.

Mr. FITZPATRICK. That requires congressional approval, correct?

Secretary YELLEN. It——

Mr. FITZPATRICK. This misinterpretation is essentially a balance of power—or a separation of power issue.

Secretary YELLEN. I think we need to be in close communication with the committee.

Mr. FITZPATRICK. Understood.

Secretary YELLEN. Absolutely.

Mr. FITZPATRICK. But I just want to point out the disparity. Are you aware that U.S. autos exported to the EU incur a 10 percent tariff, however the United States only imposes a 2.5 percent tariff on European auto imports?

Secretary YELLEN. This all—may all be true, but what we are talking about are critical minerals, and attempting to meet the objective of Congress in passing this legislation——

Mr. FITZPATRICK. My time is about to expire. Last question.

Secretary YELLEN [continuing]. To improve supply chains.

Mr. FITZPATRICK. Last question. Are you also aware—this is to my point—that China is the biggest supplier of battery technology and production to both Japan and EU, the countries I am referencing?

Secretary YELLEN. We are trying to reduce our dependance on China with this legislation.

Mr. FITZPATRICK. My time is expired. I yield back.

Chairman SMITH. The gentlelady from Wisconsin is recognized.

Ms. MOORE of Wisconsin. Thank you so very, very much, and thank you for appearing, Secretary Yellen. I have so enjoyed our relationship back from when you were chair of the Fed, and really—you are so qualified to appear before this committee and answer some of our important questions.

I have a couple of questions, and if I have repeated things that others have already made inquiry about, please forgive me. I was called away for other business not more important than you, but just other business.

Recognizing tribal sovereignty, I was really pleased to see that the Biden Administration included a recommendation to include tax parity for Indian Health Services scholarships. And I am working with Mr. Schweikert here on the committee, and Mr. Kildee here, and Congressman Kelly, looking forward to going forward on tax parity for tribal nations, unconstrained by artificial and arbitrary essential government function test, so that we can increase the effectiveness of the Low-Income Housing Tax Credit and the New Markets Tax Credits on tribal communities.

So I am so happy that you are moving forward with that, and how do you think that will inform—will improve our GDP?

Secretary YELLEN. I think it is an important initiative. The Low-Income Housing Tax Credit is critical, and I think improving situation with respect to housing and tribal lands addresses a critical need.

Ms. MOORE of Wisconsin. It really does, because the infrastructure needs on Indian land are tremendous. And so this would create a lot of economic activity.

I wanted to ask you—and you are Secretary of Treasury now, but, again, you are very brilliant and——

Secretary YELLEN. Thank you.

Ms. MOORE of Wisconsin [continuing]. You have been chair of the Fed.

You say that the Biden budget will cut the deficit by nearly $3 trillion over 10 years, and I am delighted to see that you are not proposing doing that with austerity tactics like just eliminating—you know, of course, we are getting out of the emergency stuff, but the EITC is expanded, the Child Tax Credit is here. SNAP you haven't talked about reducing. You certainly are protecting the ACA, recommending childcare. And yes, you want people to get back to work, but the dignity of work doesn't necessarily mean working at $7.25 an hour.

How are you able to reduce the deficit by three trillion without austerity?

Secretary YELLEN. So the President's focus is on hardworking families who are struggling to make ends meet, and providing them with the tools they need to make life a little bit easier, whether it is improvements in the cost of health care, lowering prescription drugs, educating their children by adding a year of preschool, a child tax credit, making childcare affordable.

These are ways of giving working families some breathing room, and the budget focuses on that, and it doesn't raise taxes by a penny on any household or small business earning less than $400,000. And it pays for those initiatives by remedying what I think is an unfairness about our tax system that lets wealthy individuals, very high-income individuals, and corporations off with lighter tax loads than a school teacher or a firefighter or a policeman have to pay.

And so it raises additional revenue in a variety of different ways by asking those high-income, wealthy individuals, and corporations to pay their fair share.

Ms. MOORE of Wisconsin. Thank you so much, Mr. Chairman, and I would yield back.

Chairman SMITH. I recognize the gentlelady from New York.

Ms. TENNEY. Thank you, Mr. Chairman. And before I get started, I just wanted to say thank you to Ms. Sewell, Mr. Davis, and Mr. Kelly, and I look forward to working with you on this crucial legislation relating to the new markets tax credit, and making it permanent. The credit has delivered for districts in my own upstate New York district, and I am committed to pushing this priority across the finish line.

Secretary Yellen, I just want to say thank you for appearing here today, and thank you for your service.

There are so many important topics that we need to be—need to be addressed, and Americans are suffering from the biggest price increases in over 40 years. Small businesses like mine and all of upstate New York are feeling the pain of labor shortages and

Democratic tax hikes. Taxpayers' personal information is being exposed in massive leaks, and your Treasury Department is actively working to bypass Congress and cede U.S. tax authority to foreign countries.

U.S. companies and workers need an international tax landscape that offers certainty, promotes investment and innovation, and incentivizes critical research and development here in America. Instead, it seems like Treasury has unwittingly bitten off more than it can chew by negotiating a deal with the Organization for Economic Cooperation and Development, the OECD, that gives away our tax revenues, reduces the competitiveness of U.S. companies and workers, and erodes overall economic strength. And I know many of my colleagues have talked about this. If this deal were finalized, it would result in fewer jobs and less prosperity for millions of Americans and their families.

Secretary Yellen, Treasury has the responsibility of negotiating at the OECD, but why do you believe that Treasury has the authority to do so without proper consultation with Congress?

And I might add you have testified today that you have reported to Congress, but you have not consulted or collaborated with Congress in a way before cutting these deals with Europe. And don't you agree that you are appointed to this position, not anointed to this position?

Secretary YELLEN. I certainly am appointed, not anointed, absolutely agree. And we have consulted, and not only informed.

Ms. TENNEY. Can you explain where you get this——

Secretary YELLEN. We have had ongoing——

Ms. TENNEY. Can you explain where the consultation and collaboration has been done so in a public forum with both sides, where we have seen this——

Secretary YELLEN. I——

Ms. TENNEY [continuing]. And that has—I just—we have not seen that. We have seen reporting. Reporting is not consultation.

Secretary YELLEN. Our staff have regular briefings with staff of this committee. And I have had many conversations with the chair and ranking member of this committee on ongoing developments whenever there is something new that occurs in the negotiations.

And I don't know if you are talking about Pillar One or Pillar Two of the tax agreement. Pillar Two is certainly something that cedes no taxing rights, is an international agreement by which other countries have——

Ms. TENNEY. If I may reclaim my time, you have allowed other countries to tax our own countries, and not—you stood a—again, the United—the GILTI tax, and also the book minimum tax, you have—we got these, and then you didn't fight for a fair treatment of these and these negotiations. So why didn't you protect these taxes, and why are other foreign entities and countries in the agreement allowed to now tax our U.S.-based countries?

Secretary YELLEN. Well, look——

Ms. TENNEY. Companies, excuse me.

Secretary YELLEN. We have every right to tax our companies as we see fit. Congress is not obliged to do anything. But the Pillar Two does allow punishment by countries that participate in the agreement in the sense of countries that——

Ms. TENNEY. So wait. You are——

Secretary YELLEN [continuing]. Decide they wish to be tax havens by—they may undertake—and this is one of their taxing rights—to impose additional taxes——

Ms. TENNEY. So let me reclaim my time. You are admitting——

Secretary YELLEN [continuing]. On firms that——

Chairman SMITH. The gentlelady's time is expired.

Ms. TENNEY [continuing]. That we have given our priorities up to foreign countries.

Secretary YELLEN. We haven't given any——

Chairman SMITH. The gentlelady's time is expired.

Secretary YELLEN. We haven't given anything up.

Chairman SMITH. The gentlewoman from Minnesota is recognized.

Mrs. FISCHBACH. Thank you very much, Mr. Chair, and thank you, Secretary, for being here today, and I just—I want to talk a little bit—I know we talk a lot about big things in D.C., but we don't always talk about what is happening in real America.

And I—you know, most of the work in my district is done by small businesses, family farms, small manufacturers, and they and I are very concerned that the taxes in the President's budget will hurt them. It will affect them, no matter what we say. It is going to affect them. And, you know, they are already faced with increased costs: fuel, for farmers input costs due to inflation in the economy right now.

And the President's budget includes more than $300 billion in new taxes on non-corporate taxpayers. Secretary, why does the President believe that now, as we are just emerging from the economic destruction of COVID, we should increase taxes on small, family-owned businesses?

Secretary YELLEN. The President's budget doesn't contain a penny of new taxes on any individual earning under $400,000, or small business earning under $400,000. So, the taxes that are raised are all on high-income, especially very high-income individuals, and on corporations that are not small businesses, and that benefit from many tax preferences and lower tax rates.

In some cases, income isn't taxed at all, and it results in a situation where many of your constituents who are concerned about rising costs, and health care costs, and the cost of education, and are burdened by such costs, it results in a situation where they are paying higher tax rates, a higher fraction of their income than a billionaire who earns most of their income——

Mrs. FISCHBACH. I reclaim my time. And Secretary, with all due respect, I mean, we are facing limits. And so I just wanted to—because I think we disagree on that. And I think that we are reading things differently in understanding what is in the proposal. And I think that is why the chair earlier asked for the legislative copy, the legislative language of it, because—and I am reading the Green Book, I am——

Secretary YELLEN. I am sorry, the Green Book contains as——

Mrs. FISCHBACH. I am looking at it.

Secretary YELLEN [continuing]. Much description as you could——

Mrs. FISCHBACH. Ma'am, I am looking at it. Secretary, I am looking at it right now. But I think that is—so that we are looking at the same thing, because we have a much different understanding of how the taxes are going to affect those people in my district.

And just, you know—so I will say, with the tax increases that are included and the death tax included in the President's budgets, you know, I really—I got to wonder, how does the President expect family farms to survive with all of the things that we are burdening them with? And I have a real concern about that.

And I know that last year we fought very hard regarding the stepped-up basis, and I believe it is back in here. Like I said, I am continuing to read, because we got the green sheet, or whatever you call it, yesterday. So we are continuing to read. But I—if we have your assurance that these people are not going to pay any more taxes, they are not going to see those death taxes—but I have real concerns.

And with that, I yield back. My time is up.

Chairman SMITH. The gentlelady from Alabama is recognized.

Ms. SEWELL. Thank you, Mr. Chairman.

Madam Secretary, thank you for being here today to provide further insight into this Administration's budget request.

It is my belief that our federal budget must present opportunities for all Americans to achieve economic prosperity. This is done so with the commitment of significant investments in communities, especially those communities that have lived on the margins, due to the—due to economic circumstances. I can think of no better tool to achieve the kind of leveling the playing field in marginalized vulnerable communities than the New Market Tax Credit.

I want to join Representative Tenney in applauding President Biden's proposed budget for including a permanent extension of New Market Tax Credits. This crucial tax credit has been instrumental in promoting economic growth and development in underserved communities, creating jobs, expanding businesses, and including access to health care, job training, child care, and other important social services.

The New Market Tax Credit is a valuable tool that has enabled investors to inject much-needed capital into distressed communities. Since its inception, this program has delivered over $120 billion—with a B—in total project investments, providing a lifeline to businesses and communities that have been long overlooked.

In my hometown of Selma, Alabama, the New Market Tax Credit is supporting the expansion of a business called GMI, which produces silicone-based alloys and other strategic materials which feed our nation's supply chain for semiconductors, solar energy products, military energy storage, and the like. The expanded facility in my hometown generated 100 skilled jobs. It is this level of success that I would like to see replicated in districts all around the country.

I know that this is currently in the proposed budget, but I want to assure you that it has bipartisan support. In the 117th Congress, I introduced the bipartisan legislation to make the New Market Tax Credits permanent, H.R. 1321, and we had 126 cosponsors. I look forward to working with my colleagues, like Congresswoman Tenney, in also reintroducing a similar piece of legislation.

Last Congress I also introduced the Rural Jobs Act with Chairman Jason Smith to expand the program and to provide $1 billion in New Market Tax Credit allocation targeted to persistent under-served rural communities.

My question is, can you elaborate on how this tool can be used, why it is so important that we make it permanent, and how you see this affecting under-served communities all across this country?

Secretary YELLEN. Well, I agree with you. I think it is a very important tool to promote investment in communities that have historically been left behind, and can be a real spur to economic development. And that is why the budget does propose to make it permanent.

And I would say, more broadly, a priority of the Biden Administration has been a focus on place-based policies so that communities that historically have suffered—we have had areas of the country that have grown very rapidly, seen big——

Ms. SEWELL. Absolutely.

Chairman SMITH. Thank you.

Secretary YELLEN [continuing]. Increases in income, and others that have lagged. And many of the acts that have already been passed, the IRA, the Infrastructure Act, the Semiconductors Act, and the ARP that increased funding of community CDFIs——

Chairman SMITH. To respect the——

Secretary YELLEN [continuing]. And MDIs——

Chairman SMITH. The—time expired, Secretary. To respect your time and to make sure we get——

Secretary YELLEN. Yes.

Chairman SMITH [continuing]. Every one of these, when that clock hits——

Secretary YELLEN. Sorry, apologies.

Chairman SMITH. Let's just stop talking.

Secretary YELLEN. Okay.

Chairman SMITH. The gentleman from Utah is recognized.

Mr. MOORE of Utah. Secretary Yellen, thank you for being here. This is substantive work. It is important for our nation. I appreciate you—willing to come so quickly after the budget was released, and I hope you have felt that we do respect your expertise.

I am going to talk something—about something very personal, something that—I think that this entire committee is supportive of, and that is those individuals that are in the adoption space, and the adoption tax credit.

According to a GAO report from 2011 and a taxpayer advocate report from 2012, families claiming the Adoption Tax Credit in those years faced an audit rate nearing 70 percent, a 69 percent of audit rate. The national average is 0.8. So, I mean, the discrepancy here is enormous, and it is concerning. So, this is a specific example of what we want to talk about, because a lot gets said here in this—in the concept of audits, but these are staggering numbers.

I haven't been able to find any data more recent than 2012. What has been the audit rates for families claiming the Adoption Tax Credit over the past five years?

Secretary YELLEN. So, I don't have that information at my fingertips, but I would be glad to get back to you. And I think the issue that you are raising is certainly a legitimate one that I would try to work with you on and better understand.

Mr. MOORE of Utah. These are families that are watching——

Secretary YELLEN. Sure.

Mr. MOORE of Utah [continuing]. What is going on. They are concerned that this is only going to ramp up, as opposed to go away.

Secretary YELLEN. Sure.

Mr. MOORE of Utah. And that is a staggering issue. Is—the fact that you don't have it here is okay—is it something that is being collected over the past several years, to your knowledge?

Secretary YELLEN. I honestly—I need to look into that. I just am not certain. I assume that that data is available, but I——

Mr. MOORE of Utah. I joined——

Secretary YELLEN. I need to check into it, and——

Mr. MOORE of Utah. I joined this committee——

Secretary YELLEN [continuing]. We will get back to you.

Mr. MOORE of Utah. Thank you, Secretary. I joined this committee with real legislation that should be hugely bipartisan to help address this, this and other issues with our folks that are out there adopting foster care and—you know, from infancy. And I mentioned that this is very important for us.

One piece of your testimony—and I am going to keep to time here—one piece of your testimony, it talked about the race to the bottom with respect to corporate tax rates. I can give specific examples from Procter and Gamble, from Nucor. These are rural-based companies in my district. And I have met and sat down with each of them. When they talk to me about when their taxes become globally competitive—so from the Tax Cut and Jobs Act, you know, the things—the two things that they highlight the most is, one, their ability to pay middle-class and frontline workers more salary. And they have been able—they have got the data that shows that they raised those wages. And the second thing is what they have been able to do to give back to their communities: ambulances for Box Elder County, a specific example that sticks out to me.

I am concerned at the communication that just raising—going ahead and not looking at what actually happened with some of these tax rates when we became globally competitive, and just going ahead and raising them just to cover more spending that we are seeing from the President's budget, what am I to tell these companies right now, as there is a potential from 21 to 28 percent increase, which is enormous, and it will be a very impactful increase, what am I to tell these individuals?

Secretary YELLEN. Well, I think that the tax cut on the corporate level that was introduced by the Tax Cut and Jobs Act, I think it was appropriate to cut corporate tax rates. It wasn't—we had one of the highest rates globally, and it needed to come down, and it wasn't very effective in raising corporate tax revenue, but it came down too much. And I don't think we have seen the economic payoff from that in the form of great increases in investment spending.

Mr. MOORE of Utah. Thank you.

Secretary YELLEN. And we——

Mr. MOORE of Utah. I am going to—and thank you so much for that.

Chairman SMITH. The gentlelady from California is recognized.

Mrs. STEEL. Thank you, Chairman Smith, for holding this important hearing.

And thank you for your service, Secretary Yellen.

Progressive spending has led to record inflation, and now this Administration wants to add fuel to the fire. I was alarmed yesterday when I discovered that President Biden's request includes a 15 percent increase to the IRS annual funding. That is a $2.1 billion increase over the enacted funding levels for 2023, on the top the extra $80 billion progressive gave to the IRS last year. The IRS exists to serve Americans, not to make the lives of taxpayers harder.

It has been reported that millions of tax returns from previous years are still not processed. In my district that—we have been getting a lot of inquiries about how to get the refunds from the IRS. If the IRS owes my constituents money, it could take years from them to receive their return.

Many have expressed concerns about the IRS snooping on their private bank records and transactions heightened with sensitive personal information being released in years past.

You claim that you are not going to—going after lower and middle-class Americans, yet progressives have been working behind the census (sic) lowered the 1099–K threshold. Why should every Americans who are dealing with record inflation, pay their rent, and repay for their ticket events—event tickets now go out of their way to file unneeded, burdensome tax forms with lack of proper security?

And why are you in favor of adding more unnecessary filing when the IRS is already dealing with the endless backlogs?

Secretary YELLEN. Well, the objective of this legislation with respect to 1099–Ks was to make sure that Americans have the information they need to accurately file their returns and pay the taxes that are due because there are Americans who receive money from businesses—business that they do—may be relatively small—and most Americans receive reports they use to file their income taxes on their wages and salaries, their——

Mrs. STEEL. Madam——

Secretary YELLEN [continuing]. Interest in dividend income, and this is——

Mrs. STEEL. Madam Secretary——

Secretary YELLEN [continuing]. Other income on which taxes are due.

Mrs. STEEL. I reclaim my time. I totally get that, but we already have that in the law right now. That 1099–K, when you receive more than $600 transaction, then you have to file it, that is adding another burdensome to the taxpayers. That is——

Secretary YELLEN. It was lowered in the ARP from, I believe, $20,000 to $600, because many Americans who earned less than $20,000 probably weren't getting that information and paying the taxes that were due.

And it is—you know, this was in the law. The IRS needed to implement what is in the law.

Mrs. STEEL. And my time——

Secretary YELLEN. And it is up to Congress to decide what the right——

Mrs. STEEL. I yield back. Thank you.

Chairman SMITH. The gentleman from Michigan is recognized.

Mr. KILDEE. Thank you, Mr. Chairman.

And Madam Secretary, thank you. It is good to see you.

First, let me just comment. I listened to Mr. Fitzpatrick's questions and comments regarding trade authority, and I just want to state for the record that we don't agree on everything across the aisle, but I think there is general concern about the direction of trade negotiation, and where that authority lies. And I look forward to further conversation with the Administration to provide greater clarity, and to protect the prerogatives of Congress in that in that respect.

Secretary YELLEN. That is fair.

Mr. KILDEE. We learned a lot, Madam Secretary, during the pandemic about supply chains, what can go wrong when we rely too heavily on other countries, particularly China, for example, for critical goods and components that are essential to our economy. And I was really proud to work with the Administration on the CHIPS and Science Act, the Inflation Reduction Act, both of which will support American workers bringing manufacturing jobs back to our country.

In my district, I happen to have a company, Hemlock Semiconductor, that makes polysilicon, a base material for both semiconductors and for solar panels. Included in the CHIPS and Science Act, is a tax credit to onshore production of these really important materials. As Treasury drafts its guidance for this credit, does Treasury plan to include the entire supply chain of semiconductors, including polysilicon?

Secretary YELLEN. So I don't—I think we are in the process of drafting those regulations. I don't have the answer to your question, but we would value your input on this, certainly take it into account, and get back to you on this matter.

Mr. KILDEE. I appreciate that. I am certainly not in a position, as a single Member of Congress, to express congressional intent. But I know, as I was working on this legislation, this is certainly the sort of application that we had in mind for the credit. And so I would ask you to take a very close look at that.

Secretary YELLEN. Certainly, we will do that.

Mr. KILDEE. The Inflation Reduction Act also supports domestic manufacturing of solar panels——

Secretary YELLEN. Yes.

Mr. KILDEE [continuing]. Right here in the U.S., instead of relying on those produced in China. I worked on legislation to do this because it makes sense for us to trade foreign dependence on oil to a foreign dependence on solar panels. We don't want to do that.

Secretary YELLEN. Of course.

Mr. KILDEE. Our legislation includes a domestic content bonus to spur domestic manufacturing, not just domestic jobs for installing solar panels. So a strong domestic content standard will enable larger investment in U.S. solar manufacturing. Does Treasury plan to issue any guidance that incentivizes domestic manufacturing for across the solar panel value chain? A similar question to my first question.

Secretary YELLEN. So I believe we are in the process of—we have rules that we have to write in connection with claiming those credits. And there are an enormous number of rules that we need to write. We have prioritized some of the most urgent ones, but we will be producing a rule on that.

Mr. KILDEE. Thank you very much. I appreciate that, and thank you for being here.

I yield back the balance of my time.

Chairman SMITH. I recognize the lady from Texas, the gentlelady from Texas.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman.

You know, for a party that can't even define what a woman is, I find it rich that some of my Democrat colleagues want to highlight International Women's Day and go after—as if we are supposed to go soft on the Secretary today. I am going to demand that everybody treat us as equals, and don't demean us just because we are born with ovaries. I don't care if it is International Women's Month.

It is disturbing that this Administration continues to peddle the big lie that people making less than $400,000 are not paying more in taxes. You said it yourself this morning that people making less than $400,000 won't pay a penny more in new taxes, not a penny more. And maybe you need to get out of D.C. more, because a lot of us are paying more in new taxes.

Let's just review a few. Income taxes. Wages have artificially increased but, because of inflation, the dollar value has actually decreased. So many people that are making less than $400,000 that saw wage increases are now paying more in income taxes, correct?

Secretary YELLEN. Well, it is—we don't have perfect——

Ms. VAN DUYNE. Fuel taxes. Gas prices have increased from a national average of $2.35 when Biden took office to now $3.41 a gallon this week. So, are people making $400,000 paying more in fuel taxes?

Secretary YELLEN. More in fuel taxes?

Ms. VAN DUYNE. Correct, yes.

So sales taxes. Groceries have increased by 12 percent. Eggs have increased by nearly 60 percent. Flour is up over 21 percent. Used cars are up over nine percent. Are people making less than $400,000 paying more in sales taxes for simple things like food?

[No response.]

Ms. VAN DUYNE. Okay. Ad valorem taxes. Housing prices have more than doubled in many markets around the country. A lot of times that is dependent on how much people are paying in ad valorem taxes. So would you agree that people making more than $400,000 and own a house are paying more in ad valorem taxes?

Secretary YELLEN. Well, these are often state or local taxes——

Ms. VAN DUYNE. Oh, sure.

Secretary YELLEN [continuing]. That you are talking about.

Ms. VAN DUYNE. But we are talking about taxes. And here is the problem. When you are stuck in D.C., we don't see beyond D.C. But people are being taxed to death, and are absolutely sick of it. And when you said people who make more than $400,000 are not being taxed a penny more, I guarantee you they would disagree with that.

Secretary YELLEN. What I said was that the President's budget——

Ms. VAN DUYNE. People are paying more than they have in taxes, even if they are making less than $400,000, and it is a direct result of policies that have come out of this Administration. And it is alarming that you all don't seem to understand that over-regulating, over-spending, and increasing debt contributes to increased inflation.

All of us are suffering from increased inflation, 14.4 percent. And yet, this Administration keeps throwing its hands up and saying, "It is not our fault, we didn't do anything." You have had party rule for the last two years. Take some responsibility.

Secretary YELLEN. The President has said——

Ms. VAN DUYNE. Last June, you told this committee that spending had come down, and that there was no doubt that inflation was too high. And yet, the Inflation Reduction Act that you just lauded used budget gimmicks and, in fact, added $745 billion in new spending. And now the President has come out with a massive budget, $7 trillion almost, of spend, and then $4.7 trillion of new tax hikes. That makes—that meets the very definition of tax and spend. And is that not a return to increase in spending?

Secretary YELLEN. The President's budget in the——

Ms. VAN DUYNE. I yield back my time, thank you.

Secretary YELLEN [continuing]. And the laws that have been passed reduce many burdens on American households. It makes health care through the ACA far more affordable than it was.

Ms. VAN DUYNE. I yield back my time. Thank you, Mr. Chairman.

Chairman SMITH. The gentleman from——

Secretary YELLEN. It prevented an increase in premiums.

Chairman SMITH. The gentlelady has yielded back her time. The gentleman from Iowa is recognized.

Mr. FEENSTRA. Thank you, Secretary Yellen, for being here today. I greatly appreciate it.

Both Congress and the U.S. companies have been sounding alarms about Pillar Two since the model rules were released in December of 2021. You know the concerns, obviously, of how it was negotiated and also what was exactly agreed to, but I want to focus on probably the most common issue that I am hearing about from our companies.

Under the agreement, non-refundable tax credits can bring a company's U.S. Pillar Two effective tax rates below a 15 percent minimum. As you know, our tax laws are full of non-refundable business tax credits enacted by this committee over the decades, most notably the R&D credit. Other countries, like the United Kingdom, were able to protect this credit in their negotiations, and I am trying to understand why the Treasury Department would agree to curb and eliminate this incentive created by Congress to encourage investment because we saw it beneficial to this economy.

So the question is this. Secretary Yellen, why did the U.S. Treasury not try to negotiate rules that protected the U.S. R&D incentives in the same way the UK did, in the same way other European countries did, and we lost ours?

Secretary YELLEN. Well, I think that some of these incentives would have been lost under the BEAT, and our proposal would repeal the BEAT in favor of the under-taxed payments rule consistent with the model agreement, and in that sense is more favorable for R&D than what would otherwise have been the case.

Mr. FEENSTRA. So, in all fairness, so you are saying you are fine with it, that you are not going to go to bat for this R&D tax credit, you are not going to ask other countries to accept it?

Secretary YELLEN. Well, we have said that we would look forward to working with Congress on an R&D credit that would be effective.

Mr. FEENSTRA. Yes, but you know and I know that is a refundable tax credit. That is never going to happen, because that is worth, you know, billions and trillions of dollars. That is just not going to happen.

I mean, this is a big deal. I mean, this is a really big deal to every company, when they can't take this R&D credit, part of—to lower that 15 percent minimum, and yet the UK did and other countries did. I mean, we are at a tremendous advantage (sic).

Now, I hear what you are saying. I hear what you are saying, and it is sort of capitulation. But, I mean, do you understand what these companies are asking here?

Secretary YELLEN. Well, most companies are able to make use of it because they don't come under these rules.

Mr. FEENSTRA. That is not the case.

Mr. Chairman—Secretary Yellen, thank you for those comments.

Mr. Chair, I would like to submit a letter for the record stating that R&D is the manufacturing industry's number-one priority. And the—this committee has already received that letter.

Thank you, and I yield back.

Chairman SMITH. Without objection, so ordered.

[The information follows:]

NATIONAL ASSOCIATION OF Manufacturers

**Aric Newhouse**

*Senior Vice President,*
*Policy and Government Relations*

Jan. 30, 2023

| | |
|---|---|
| The Honorable Ron Wyden<br>Chairman<br>Committee on Finance<br>U.S. Senate<br>Washington, DC 20510 | The Honorable Mike Crapo<br>Ranking Member<br>Committee on Finance<br>U.S. Senate<br>Washington, DC 20510 |
| The Honorable Jason Smith<br>Chairman<br>Committee on Ways and Means<br>U.S. House of Representatives<br>Washington, DC 20515 | The Honorable Richard Neal<br>Ranking Member<br>Committee on Ways and Means<br>U.S. House of Representatives<br>Washington, DC 20515 |

Dear Chairman Wyden, Chairman Smith, Ranking Member Crapo and Ranking Member Neal:

Manufacturers' ability to create jobs in the United States, invest in communities and effectively compete against China and others in the global economy is threatened by recent harmful tax changes that make it more costly to perform research, buy machinery and finance important investments. These damaging changes come at time when 62% of manufacturing leaders already expect a recession in 2023, according to the most recent National Association of Manufacturers' Outlook Survey.

Manufacturing employs nearly 13 million Americans, contributes $2.81 trillion to the U.S. economy annually, pays workers over 18% more than the average for all businesses and has one of the largest sectoral multipliers in the economy. Taken alone, manufacturing in the United States would be the eighth-largest economy in the world. But that economic leadership—and therefore the economic security of American families—is in jeopardy.

As the largest manufacturing association in the United States, the NAM represents small and large manufacturers in every industrial sector and in all 50 states, and for all manufacturers in the U.S., it is critical that Congress act without delay to reverse these harmful tax changes to help ensure a strong and competitive manufacturing economy here in the U.S.

**1. <u>Ensure the tax code continues to support innovation</u>.**

Manufacturers in the United States drive more innovation than any other sector, performing 55% of private-sector research and development in the U.S. In 2021 alone, manufacturers spent nearly $350 billion on R&D. Research is the lifeblood of manufacturing: new products, new materials and new processes help propel manufacturing in America forward. Unless Congress acts, manufacturers' ability to innovate and create new products, technologies and lifesaving medicines will be harmed.

Since 1954, the tax code has recognized the important role of R&D in creating jobs and spurring innovation by providing a critical incentive for investments in R&D. Specifically, the tax code has allowed businesses to immediately deduct 100% of their R&D expenses in the same year in which they are incurred. However, as of Jan. 1, 2022, businesses have been required to amortize, or deduct over a period of years, these expenses—making R&D more costly to conduct in the U.S.

Coming at a time of increasingly fierce global competition for research dollars, this policy—if not reversed—will hurt jobs, innovation and competitiveness. According to a recent economic analysis, the U.S. economy would lose 263,382 jobs and experience a GDP reduction of $82.39 billion in 2023, with the manufacturing industry projected to lose nearly 60,000 jobs, if the harmful R&D amortization policy is not reversed quickly.[1]

Unless Congress acts, the U.S. will continue to be just one of two developed countries with an amortization requirement for R&D expensing (the other being Belgium). Meanwhile, China, which has made no secret of its ambition to become the world leader in advanced manufacturing, currently provides a 200% deduction for R&D expenses for manufacturers.

For these reasons, the NAM strongly encourages Congress to act without delay to pass legislation reversing the R&D amortization provision so that manufacturers in the U.S. can continue leading the world in innovation, growing the economy and creating well-paying jobs.

### 2. Enable manufacturers to continue to finance growth.

Debt financing plays an important role in supporting manufacturing growth. Many manufacturers borrow funds to finance long-term investments in equipment and facilities, which in turn help create jobs and enable manufacturers to compete effectively in today's global economy. At the beginning of 2022, a stricter limitation on the deductibility of the interest payments on business loans went into effect, increasing the cost of financing critical investments in machinery and equipment.

The maximum interest deduction under section 163(j) is now limited to 30% of a company's earnings before interest and tax ("EBIT")—a substantial change from the standard in place prior to 2022, which was based on earnings before interest, tax, depreciation and amortization. ("EBITDA"). By excluding depreciation and amortization, the EBIT-based limitation makes it more expensive for capital-intensive companies to finance critical purchases, grow their businesses and hire new workers. This stricter limitation effectively acts as a tax on investment, and it makes the U.S. a global outlier. Of the more than 30 OECD countries with an earnings-based interest limitation, the U.S. is the only one that employs an EBIT standard.

According to a recent study, failing to reverse this harmful change could cost the U.S. economy 467,000 jobs and reduce U.S. GDP by $43.8 billion.[2] The NAM encourages Congress to support job-creating manufacturing investments here in the U.S. by acting expeditiously to protect interest deductibility.

[1] *New Data: Taxing R&D Will Cost U.S. More Than 260,000 Jobs Next Year If Congress Doesn't Act.* National Association of Manufacturers (Dec. 16, 2022). *Available at* https://www.nam.org/new-data-taxing-rd-will-cost-u-s-more-than-260000-jobs-next-year-if-congress-doesnt-act-19948/.

[2] *Economic Impact of Not Addressing the More Stringent 163(j) Interest Expense Limitation.* EY (September 2022). *Available at* https://documents.nam.org/tax/nam_interest_deductibility_study.pdf.

**3. Make permanent a key incentive for capital equipment purchases.**

For the past several decades, the tax code has provided businesses with varying degrees of first-year expensing (i.e., bonus deprecation). A 100% deduction for the purchase of equipment and machinery in the tax year purchased has been in place since 2017. This critical incentive for capital-intensive industries like manufacturing reduces the after-tax cost of capital equipment purchases and increases the return on investments. These projects in turn support job creation and retention. According to recent analysis by the nonpartisan Joint Committee on Taxation, manufacturers led all sectors in the use of expensing by a wide margin.[3] Unfortunately, the 100% level of full expensing began to phase out this year and will be eliminated completely by 2027. If this occurs, it will be much more expensive for manufacturers to undertake job-creating investments and effectively compete on a global scale. As such, the NAM encourages Congress to protect full expensing.

* * * *

Competitive tax policies are critical to supporting growth and long-term investment in manufacturing in the U.S. Those investments create jobs and opportunity and family-supporting careers. They help communities grow and strengthen the supply chains that determine whether the products Americans need reach their stores and their homes.

By reversing the harmful change to the tax treatment of R&D, returning to an EBITDA-based standard for interest deductibility and restoring full expensing, Congress can help ensure that manufacturers, especially small manufacturers, can continue to invest in their operations, their workers and America's future.

Sincerely,

Aric Newhouse

Aric Newhouse
Senior Vice President, Policy and Government Relations
National Association of Manufacturers

cc: Members of the Senate Finance Committee
Members of the House Ways and Means Committee

[3] *Tax Incentives for Domestic Manufacturing*. Joint Committee on Taxation (March 12, 2021). *Available at* https://www.jct.gov/publications/2021/jcx-15-21/.

Chairman SMITH. The gentleman from Pennsylvania is recognized.

Mr. EVANS. Thank you, Madam Secretary.

Chairman SMITH. Would you turn on the mic?

Mr. EVANS. Thank you, Mr. Chairman.

Madam Secretary, I would like to agree that the President's budget reflects the progress that we have made, and I want to make sure that he knows I thank him for his leadership and what you are doing. So, I sincerely thank you very much.

I want to speak about an issue I have spoken to you in the past about, an issue that really concerns around school buildings and facilities. I want to raise the issue about the rehabilitation historical tax credit, and that is the issue I have been working on for a long period of time.

We have two high schools in my congressional district that discovered life-threatening asbestos. And basically, what I have been attempting to do is to see if we can put together—the school buildings are at age 70, and I have basically been attempting to find ways to deal with school.

So, what I want to do is get your thoughts on our nation's public schools access to historical tax credit, and to use that tool is the issue I have consistently been raising. I would like to get your thoughts on it.

Secretary YELLEN. Well, I think you are raising a very important issue in terms of dealing with school buildings, and it is something the Administration thinks is important, as well. And we can discuss what might be appropriate to deal with that issue——

Mr. EVANS. Okay.

Secretary YELLEN [continuing]. And work with you on that.

Mr. EVANS. Good. I want to thank you, Madam Secretary, for coming before the committee. Thank you for your honestness. Thank you, again.

I yield back, Mr. Chairman.

Secretary YELLEN. Thank you.

Chairman SMITH. The gentlelady from New York is recognized.

Ms. MALLIOTAKIS. Madam Secretary, you know my district very well because you were born in Bay Ridge, Brooklyn. Your alma mater is Fort Hamilton High School. So you also know that my district is one that is home to hardworking Americans who are trying to make ends meet during record-high inflation.

As this Administration continues to recklessly print and spend money, it is pushing American people to the limits. This Administration is literally giving money with one hand, and then they are taking it with the other when people are paying higher costs, whether it be the supermarket, the gas pump, the utility bills, et cetera.

Seniors in my district—and you know Bay Ridge is home to many seniors—are struggling to stay in their homes, and it is nearly impossible for young families to buy their first home. And CNBC reports credit card debt is at an all-time high, putting households near a breaking point. And all this while the Fed continues to raise interest rates, and Democrats continue their spending spree.

The public deserves to know, as do the members of this committee, how long you are aware that the massive spending packages were pushing us closer to the debt limit, and why you stayed silent for so long.

As you know, on December 23rd, 2022, Congress, under the Democrat control, passed $1.7 trillion omnibus spending package, which came after 2 years of aggressive, unchecked spending and record deficits. However, you waited nearly a month, until January 13th, to send a letter to Speaker McCarthy in saying that we had reached—we will be reaching the statutory limit, and that you would have to take extraordinary measures.

Yes or no, did you warn the President at the time that he was jamming through this package that you were going to be reaching that limit?

Secretary YELLEN. Well, look, we have run deficits for most of our history, and it is clear that we continually need to issue more debt in order to finance them. So——

Ms. MALLIOTAKIS. But did you warn the President that we——

Secretary YELLEN [continuing]. When Congress——

Ms. MALLIOTAKIS [continuing]. Were going to be hitting the debt limit, or did you wait? Did you purposely wait, or did you tell the President——

Secretary YELLEN. The President knows very well that we——

Ms. MALLIOTAKIS. Okay.

Secretary YELLEN [continuing]. Would reach the debt limit, and Members of Congress know that, as well.

Ms. MALLIOTAKIS. Why did you wait until January 13th to——

Secretary YELLEN. And we sent you——

Ms. MALLIOTAKIS [continuing]. Make it public?

Secretary YELLEN. We sent Congress, as we always do, a notification when it became clear that we would reach the debt limit, and need to use——

Ms. MALLIOTAKIS. Were you told by anyone in the White House not to say anything during that time of negotiation?

Secretary YELLEN. Of course not. And it is very clear what the outstanding debt is. It is all—it is entirely public information.

Ms. MALLIOTAKIS. Now, it is true, but I find it odd that that three-week period between when that package passed—or when it was even negotiated, that you didn't say anything as a Treasury Secretary to sound the alarm that we were heading down this—that we were going to hit the—you were going to have to take extraordinary measures. It seems like something that the American people would want to know while they were jamming through this excessive package.

But I will move on to say that the Federal Reserve continues to raise interest rates to slow the amount of money circulating through the economy, to drive down demand for goods and services, with the goal of lowering prices and reducing inflation. But this, as you know, will not work. It does not work when government spending and the printing of new money continues at unsustainable levels, reducing the value of the dollar.

Isn't it kind of like trying to pour water on a fire, while also pouring gasoline? I mean, you admitted you were wrong when you said inflation was transitory. Will you be honest with the American people today, and just tell them the truth, that the inflation will not reduce—return back to the 1.4 percent of 2021 as long as government continues to print and spend?

Secretary YELLEN. No, I certainly wouldn't agree with that. And this year the Federal budget has—the deficit has declined substantially, and there has been a reduction in fiscal impetus toward inflation.

Ms. MALLIOTAKIS. I understand. We are still at 6.4 percent, and we were at 1.4 percent at the beginning of this Administration. I believe, as long as we keep printing this money, we will never get back down to that inflation. And so, I hope you will pass that on to the Administration. Thank you.

Chairman SMITH. I thank the gentlelady. The gentleman from Ohio is recognized.

Mr. CAREY. Madam Secretary, thank you for being with us today, and I appreciate your service to the country.

Secretary YELLEN. Thank you.

Mr. CAREY. I am going to go through a statement. I am going to try to keep my time brief. I am a firm believer that those who don't know history are doomed to repeat it, and so I am just going to go back, as we have time, to go through the Green Book and, obviously, look at all the—dive into the budget.

But, on March of 2021 you said there was only a small risk that inflation would be a problem. And on May 2nd of 2021 you said you don't believe that inflation will be an issue. On May 27th, you stated that the recent inflation we were seeing at the time would be temporary. You also said that you believed interest rates would stay low. Then, on October 29th of 2021, you said that monthly inflation rates would return to levels close to 2 percent towards the second half of the year.

When referring to the Biden Administration's infrastructure spending proposals, you actually said, "I don't think these investments will drive up inflation at all." You even went as far as to say that these spending packages were actually anti-inflationary.

Finally, on June 1st of 2022, you conceded that you were wrong about the path that inflation would take and, as we all know, we were also wrong regarding your projections of the interest rates. And as the Fed right now is signaling that more rate hikes will probably happen until inflation gets under control, it makes me wonder when we are going to get off the spending merry go round.

But with that, I really would like to focus on just a couple of things, because energy is something that is very important. But perhaps the biggest failure I have seen in U.S. sanctions over the last two years has been the inability to stop Iranian oil exports to China. And I appreciate the Administration's recent sanctioning of the companies involved in the Iranian illicit oil trade, however, I am concerned that these efforts are insufficient.

So a real quick question, and then I am going to yield back. Would you agree our sanctions have been ineffective in stopping Iranian oil from being exported to China?

Secretary YELLEN. My sense is that there is—you know, I need to look into that more fully. But probably our sanctions have not been fully effective. We are constantly looking to enforce them better, and to step them up in order to meet this objective, so——

Mr. CAREY. Thank you. Thank you, Madam Secretary. Mr. Chairman, I yield back.

Chairman SMITH. The gentleman from Illinois is recognized.

Mr. SCHNEIDER. Thank you, Mr. Chairman.

Madam Secretary, thank you. Thank you for giving us a little bit of extra time so we all have a chance to ask a question. It is greatly appreciated.

And I want to commend the Administration's work bringing the world together to try to address tax policy. The multilateral Pillar One/Pillar Two processes aim to provide certainty and predictability for U.S. companies operating abroad. That said, I do believe we have to ensure that the U.S. remains committed to following through on these efforts, working with Congress, and protecting the competitiveness of U.S. firms to ensure that we not only are growing American companies, but we are starting new companies and inspiring other countries to come here. So I thank you on that.

I want to ask a quick question on the debt ceiling. I will go home this weekend, and I will hear from all of my constituents what is going to happen, what is going to happen. Can you just remind us—I know we have talked about it—what do I say to Illinois taxpayers when they ask, "What is going to happen if we don't address the debt ceiling?"

Secretary YELLEN. I think we are going to be faced with economic and financial catastrophe.

The United States Government has always paid its bills since 1789. And not just some bills, but all bills that come due. U.S. Treasuries are the safest asset in the entire financial system, and the U.S. dollar serves as the reserve currency. If there is a thought that Congress would allow the United States to default on its payments that it has to make, that will call into question the safety of these assets, and potentially lead to a financial crisis.

And if we got to the day when we are not able to make our payments, and somehow, we have to no longer make good on our obligations to Social Security recipients, and veterans, and the military, and to all those providers——

Mr. SCHNEIDER. And I apologize. With limited time——

Secretary YELLEN. And interest rates will spike. We saw that in 2011.

Mr. SCHNEIDER. It will be painful.

Secretary YELLEN. And U.S.——

Mr. SCHNEIDER. So let me just ask a follow-up question.

Secretary YELLEN. We were downgraded, and that was a hit to the interest rates that all Americans have to pay——

Mr. SCHNEIDER. Right. As someone once said, if we don't learn from history, we are going to repeat it. We saw it in 2013.

We talked yesterday. We had a markup on this idea of prioritization, paying some of our bills, not all of our bills. Does paying some of our bills—is it feasible? And even if it was, would that still result in default?

Secretary YELLEN. It is still a default, because I think most Americans would think—and most people in financial markets would feel that a country has obligations, and they are looking to see if the country meets the obligations it has, not some of the obligations, but all of the obligations.

Mr. SCHNEIDER. Great. And my last comment is thank you. In the Inflation Reduction Act my legislation on sustainable aviation fuel was a part of what is the greatest investment we have ever made in addressing climate change. I look forward to working with you and your department, making sure that we get that in place so that——

Secretary YELLEN. Great.

Mr. SCHNEIDER [continuing]. America can lead the way in sustainable aviation fuel.

Secretary YELLEN. We are working hard on that.

Mr. SCHNEIDER. I yield back.

Secretary YELLEN. Thank you.

Chairman SMITH. The gentleman from California is recognized.

Mr. PANETTA. Thank you, Mr. Chairman.

Thank you, Madam Secretary. It seems that right now you have policymakers trying to bring about a managed slowdown of our economy, and you have investors trying to figure out if the economy is going to have a hard landing or a soft landing. But also, it seems, because the economy is so stubbornly successful right now, we are trying to figure out if the economy is going to land at all.

And so that is because the American economy right now is strong for a number of factors. And consumers and firms, especially in major economies, they are in good financial health.

Secretary YELLEN. Yes.

Mr. PANETTA. But the acceleration of our economy means that the recession may not be imminent is what we are seeing right now.

So, despite some of the complaints that we are hearing, it seems that we do still have to figure out a way to slow down the economy by bringing down inflation so that we can bring down inflation. And we have to figure out, you know, does that mean we raise interest rates to get inflation to that two percent target?

Now, as you know, when you talk about rate adjustments and when they are made, there are long and variable lags for which and how they work. But experts are thinking that the previous interest rates that were just made, they might have been already played out. So looking forward now, looking forward, where do we go?

Do we accept this continued inflation, or do we have to continue to raise interest rates for a second year in a row?

And if we raise those rates, what is appropriate, Madam Secretary?

Secretary YELLEN. So, you know, this is a matter we leave up to the best judgment of the independent Federal Reserve. Having worn that hat in a prior life, I know that the kinds of judgments you are asking me to make are very difficult ones, and require tremendously careful analysis of the economy, what is playing out, and how monetary policy operates.

I know that my colleagues at the Fed are engaged in these discussions every day, and want to do the best they can. They are clearly committed to bringing inflation back to their two percent target.

Mr. PANETTA. Okay, thank you. Thank you.

Secretary YELLEN. They also have a commitment to——

Mr. PANETTA. Thank you. I got a minute left, and it is——

Secretary YELLEN. The——

Mr. PANETTA [continuing]. Your last minute, so just—I am going to make it real quick. What should our long-term goals be, Madam Secretary, when it comes to our debt?

Secretary YELLEN. That we have a sustainable fiscal trajectory. And to me, the single best metric is real net interest burden of the debt. And that is something we have focused on carefully in this budget. Historically, it is been at or a little bit above one percent.

And if you look at the budget, with the deficit reduction it contains, it—we keep the real net interest burden as a share of GDP right around one percent. So, to me, that is a sustainable budget path, and it is one I use to evaluate fiscal sustainability.

Mr. PANETTA. Thank you, Madam Secretary.

Mr. Chairman, I yield back. Thank you.

Chairman SMITH. Thank you.

Madam Secretary, thank you for your testimony. Sorry we went 12 minutes over, but we appreciate that you stayed for all of it.

Please be advised that members have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record.

With that, the committee stands adjourned.

[Whereupon, at 12:12 p.m., the committee was adjourned.]

## MEMBER QUESTIONS FOR THE RECORD

**United States House of Representatives**
**Committee on Ways and Means**
**Hearing on President Biden's Fiscal Year 2024 Budget Request**
**Friday, March 10, 2023**

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*Responses to Questions for the Record*

**Representative David Schweikert**

**Question 1**

*There has been discussion of having the IRS prepare returns on behalf of taxpayers by using information reported to the IRS, including wages and investment income. Does the IRS need additional legislative authority to prepare tax returns in this manner?*

a. *If so, what additional legislative authority would the IRS need to prepare returns in this manner?*
b. *If not, what existing authority allows the IRS to prepare returns in this manner?*

**Answer:** The IRS does not have plans to prepare returns on behalf of taxpayers. As described in the IRS Strategic Operating Plan, the IRS will focus on helping taxpayers get it right the first time, quickly address issues when they arise, and claim credits and deductions they are eligible for. Core to those customer service improvements will be providing taxpayers and their authorized tax professionals with data and information to help them populate their own tax returns based on prior-year returns and current-year information.

On May 16, 2023, the IRS released a study evaluating taxpayer opinions, cost, and feasibility of a Direct File option that would allow taxpayers to file their taxes directly with the IRS for free, as required by the Inflation Reduction Act (IRA). The report showed that a majority of taxpayers—72%--- are interested in the IRS providing this option. It also showed that IRS is technically capable of delivering a Direct File option. .

**Question 2**

*There has been some discussion of having the IRS develop their own software for taxpayers to prepare and file their tax returns. Does the IRS need additional legislative authority to develop and administer a filing software for this purpose?*

a. *If so, what additional legislative authority would the IRS need to develop and administer a filing software for this purpose?*
b. *If not, what existing authority allows the IRS to develop and administer a filing software for this purpose?*

**Answer:** As described in the IRS Strategic Operating Plan, the IRS will focus on helping taxpayers get it right the first time, quickly address issues when they arise, and claim credits and deductions they are eligible for.

On May 16, 2023, the IRS released a study evaluating taxpayer opinions, cost, and feasibility of a Direct File option that would allow taxpayers to file their taxes directly with the IRS for free, as required by the Inflation Reduction Act (IRA). The report showed that a majority of taxpayers—72%--- are interested in the IRS providing this option. It also showed that IRS is technically capable of delivering a Direct File option. IRS has the legal authority to develop a Direct File option, which would be an additional online service option for taxpayers as part of the IRS' commitment to provide taxpayers a seamless interaction with the IRS in the ways that work best for them, whether on the phone, in-person, and online. There is substantial precedent for the IRS providing assistance and advice to taxpayers to meet their tax filing obligations and complete their returns accurately, such as through the Tele-File program, which allowed taxpayers to file their tax returns by telephone, and through taxpayer assistance centers, in which IRS employees provide in-person tax preparation services. The IRS also offers individualized tax preparation assistance by phone, through calculators and other tools on its website, through formal private letter rulings, and by partnering with third-party volunteer organizations including those participating in the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs to provide tax advice.

As a result of the study's findings, the Treasury Department directed the IRS to develop a limited scope pilot for a Direct File option for filing season 2024.

**Representative Darin LaHood**

**Question 1**

*On December 29, 2022, the Treasury Department issued a proposed regulation (REG- 100442-22) under the Foreign Investment in Real Property Tax Act (FIRPTA) that would reverse the IRS' prior position concerning domestically-controlled Real Estate Investment Trusts (REITs) and effectively raise capital gains taxes on certain foreign investments in U.S. real estate. The proposed regulation may be a significant deterrent to future inbound real estate investment. Moreover, it raises the risk of a harmful "rush to the exits" by existing investors.*

*The Tax Section of the American Bar Association has recommended that Treasury withdraw this proposed FIRPTA "look-through" rule, among other reasons, because the proposal does not reflect Congressional intent.1 The Tax Section pointed out that Congress specifically declined to adopt a look-through rule for C corporations when it amended FIRPTA look-through rules in the Protecting Americans from Tax Hikes Act of 2015.*

a. *In developing this proposed regulation, what was Treasury's reasoning in suddenly altering long-settled tax policy under FIRPTA that conflicts with Congressional intent in this area?*
b. *Given the current challenges facing the real estate market including rising interest rates, demand shifts, and supply chain disruptions, does Treasury have any available analysis that was conducted that would provide some explanation for this sudden shift in policy?*

**Answer:** The proposed regulation is intended to implement the policy underlying the FIRPTA regime as enacted by Congress. FIRPTA aims to put both foreign investors and U.S. investors on a level playing field for tax treatment on U.S. real property sales by causing foreign investors to be subject to tax on those sales. U.S. real property includes equity in "U.S. real property holding corporations." As part of the regime, Congress also enacted an exception from the FIRPTA tax for foreign investments in such entities that are domestically-controlled REITs. A REIT is considered domestically controlled if less than 50 percent of the value of its stock is held "directly or indirectly" by foreign persons.

The proposed regulations did not alter long-settled tax policy, but rather represented an initial proposal to address an area of uncertainty. Neither the Code nor the original legislative history of the enactment of the domestically-controlled REIT exception provide guidance for determining whether stock is held "directly or indirectly" by foreign persons. While Congress did not include rules that would require a look-through approach to C corporations in the Protecting Americans from Tax Hikes Act of 2015, there is no stated guidance in legislative history or elsewhere that explains the reason Congress did not adopt this approach. In the absence of specific guidance from Congress, Treasury and the IRS interpret the statutory language consistent with the underlying policy of the statute. Given FIRPTA's overall goal of eliminating tax advantages that foreign investors had in the U.S. real property market, Treasury and the IRS have proposed an interpretation of the domestically-controlled REIT exception that prevents foreign investor groups from forming REITs that have tax advantages over U.S.-controlled REITs. This interpretation could also address the potential use of U.S. corporations by foreign owners to avoid FIRPTA tax for themselves or their co-investors using the domestically-controlled REIT exception. For these reasons, Treasury and the IRS proposed a look-through rule for non-public domestic C corporations (i) as part of broader, needed guidance on the meaning of "direct and indirect" ownership and (ii) to ensure alignment with FIRPTA policy when determining whether REITs are "domestically controlled." We are committed to fully engaging in the notice-and-comment process and are now considering the comments' recommendations.

**<u>Representative Kevin Hern</u>**

**<u>Question 1</u>**

*The Administration's 2024 budget proposes eliminating the FDII deduction and redeploying that revenue into an unspecified R&D incentive. Not only will this proposal encourage offshoring and discourage U.S. innovation and job growth, but it also directly counters strong, bipartisan Congressional support for FDII. Congress has repeatedly demonstrated support to not only retain FDII, but also ensure that it remain in parity with the GILTI regime.*

*In July 2021, I led a letter signed by all W&M Republicans highlighting the important role FDII has in keeping successful R&D and intellectual property in the United States. As we outlined in that letter, trading FDII for an unspecified R&D incentive conflates provisions that serve distinct purposes, both of which encourage domestic innovation. While research incentives serve as "input" measures—reducing the cost of research on the front-end (whether or not that research is successful), the FDII—in addition to providing parity with GILTI to discourage tax-motivated offshoring—serves a complimentary purpose to research incentives as an "output" measure which rewards successful research, leading to more investment in innovation.*

*Moreover, as this Administration's OECD negotiations will result in the GILTI being an unsustainable revenue source, the FDII is even more important as a U.S. tax base expander: it allows the U.S. to collect tax on highly mobile foreign market IP income rather than other countries collecting it under Qualifying Domestic Minimum Top-up Taxes (QDMTTs).*

*What is even more confounding is that your proposal puts you in direct opposition with your House Democratic colleagues, who thoughtfully preserved this important provision as a part of the international tax changes made in the House-passed Build Back Better Act. Given the overwhelming bipartisan support for the FDII, we would expect you to strongly defend U.S. law at the OECD's Forum for Harmful Tax Practices.*

a. *Given that your Democratic colleagues in Congress have clearly spoken in support of maintaining FDII in its current form, do you intend to defend U.S. law and U.S. interests at the Forum on Harmful Tax Practices?*

   **Answer:** FDII is current law and as such we intend to defend this law at the Forum on Harmful Tax Practices.

**<u>Question 2</u>**

*The OECD global tax agreement likely will have a significant effect on US revenues and jobs, and Congress needs to be supplied with Treasury's analysis of the deal so that we can properly evaluate its impact.*

a. *Have any documents containing estimates and analysis of the OECD global tax agreement on US revenues and jobs been transmitted by Treasury to Congress?*

b. *If so, please identify the title of the documents and the dates on which such documents were transmitted.*
c. *If not, will you commit to providing such documents, even if they include preliminary estimates and analyses?*

**Answer:** The Pillar 1 negotiations are ongoing, and there are important design elements that remain unresolved. As a result, it remains premature to provide a precise fiscal impact assessment. Moreover, to our knowledge, and as we have previously communicated to your staff in discussions and multiple bipartisan briefings, it continues to be the case that no country has published interim data of its estimates of Pillar 1 reallocation or provided such estimates before Pillar 1 negotiations are complete, presumably because doing so could undermine that country's national interests and its negotiating position.

With respect to tax revenue and other reports estimating the economic impact of Pillar 2, the Administration's Fiscal Year 2024 Budget, released on March 9, 2023, includes proposals that would align U.S. tax rules with the OECD Pillar 2 Agreement. Treasury estimates that the proposal to revise the global minimum tax, limit inversions, and make related reforms would raise $493 billion over ten years and the proposal to adopt the undertaxed profits rule would raise $549 billion over ten years.

**Representative Carol Miller**

**Question 1**

*1099-K Reporting Requirements*

*In December of last year, the Internal Revenue Service delayed implementation of the 1099-K threshold change that Congress had authorized in the American Rescue Plan Act. This change was recommended to Congress in your Fiscal Year 2022 Revenue Proposals and was placed into the American Rescue Plan Act with no debate or congressional consideration. One cited reason for the delay is the difficulty in administering this program at the lower threshold, since so many Americans would be unnecessarily caught and sent a 1099-K form.*

a. *If Congress does not act by the end of this year to change the 1099-K threshold, will the IRS implement another delay?*
b. *If the IRS will not implement another delay, what plans do you have to make this program easier to implement and what further guidance will you provide to the American taxpayers to ensure they are not paying taxes they do not owe?*

**Answer:** Notice 2023-10 announced that calendar year 2022 will be regarded as a transition period for purposes of Internal Revenue Service (IRS) enforcement and administration with respect to the implementation of the amendments made to the de minimis exception for third party settlement organizations (TPSO) under section 6050W(e) of the Internal Revenue Code (Code) by the American Rescue Plan Act of 2021 (ARP), Pub. L. 117-2, 135 Stat. 4 (March 11, 2021), for returns for calendar years beginning after December 31, 2021. The transition period described in the notice was intended to facilitate an orderly transition for TPSO compliance with section 6050W and participating payee compliance with income tax reporting.

The change under the ARP is important because tax compliance is higher when amounts are subject to information reporting, like the Form 1099-K. However, the change in law must be managed carefully to help ensure that Form 1099-Ks are only issued to taxpayers who should receive them. In addition, it is important that taxpayers understand what to do as a result of this reporting, and tax preparers and software providers have the information they need to assist taxpayers.

IRS issued updated frequently asked questions in December 2022 to provide additional guidance to taxpayers about this change and Form 1099-K. See https://www.irs.gov/pub/taxpros/fs-2022-41.pdf. IRS provided more information in March 2023 through additional frequently asked questions and Tax Tip 2023-37, *What taxpayers should do when they receive Form 1099-K*. See https://www.irs.gov/pub/taxpros/fs-2023-06.pdf and https://www.irs.gov/newsroom/what-taxpayers-should-do-when-they-receive-form-1099-k. These releases provided clarity surrounding the sale of personal items and de minimis exception for reporting third party network transactions and guidance on what to do when a Form 1099-K is incorrect. The IRS has a substantial outreach plan to help ensure taxpayers and impacted stakeholders (issuers) understand their reporting and filing responsibilities and have the knowledge necessary to take the requisite action to comply with the tax law change.

**Question 2**

*Organisation for Economic Co-operation and Development Pillar 2 Negotiations*

*Unlike US Companies, Chinese companies are not operated to generate profit for shareholders but rather to further the strategic aims of the State. The enforcement mechanism of Pillar 2, like you repeatedly mentioned during your testimony, is the "Undertaxed Profit Rule" or "UTPR" which designed to force compliance from multinational entities (MNEs) domiciled in tax jurisdictions that do not implement qualified tax regimes. This is accomplished via an extraterritorial tax levied on a parent group through their foreign subsidiaries by the host jurisdiction.*

a. *Given this divergent philosophy of Western and Chinese companies, how will the international community ever know if a Chinese MNE's should be subjected to UTPR?*

   **Answer:** The UTPR applies to companies regardless of where the company is headquartered. Large multinational companies will be required to file a GloBE Information Return, which will disclose whether any top-up tax is due to be collected under the UTPR.

b. *What information is required by Treasury to assess the amount of UTPR owed by a parent group via their US subsidiary? How will Treasury know if the information provided is accurate?*

   **Answer:** The United States has not yet adopted the UTPR and thus no UTPR would be owed by any United States subsidiary at this time. If the United States were to adopt the UTPR, the amount of UTPR to be collected by the United States would be disclosed on the GloBE Information Return filed by the MNE. The accuracy of the information could be confirmed through the same methods as other self-reported information collected by the IRS, including audits.

c. *Should a dispute arise between a taxpayer and a jurisdiction levying a UTPR, what dispute resolution mechanisms are available?*

   **Answer:** The UTPR is a tax imposed by a jurisdiction on its residents, so we expect that a taxpayer will be able to challenge a liability under the UTPR as provided under that jurisdiction's laws, including through judicial proceedings. Bilateral and multilateral dispute resolution mechanisms for the Pillar 2 rules, including in the case of the UTPR, are currently under discussion. A public consultation document was released by the OECD Secretariat in December that identifies a number of options currently under consideration to achieve tax certainty, including both dispute prevention and dispute resolution mechanisms.

d. *Does Treasury expect China to support their own MNE's that file a dispute or side with the Country that levied the UTPR against the Chinese MNE?*

**Answer:** The dispute resolution mechanisms in connection with the UTPR are still under consideration and certain design choices, including which parties would participate in the dispute resolution process, have not yet been made.

e. *If US-based MNE claimed treaty protection related to UTPRs asserted by our treaty partners, would the US Treasury support the US-based taxpayers in these claims?*

**Answer:** To the extent that a treaty partner acts inconsistently with their treaty obligations with respect to U.S. residents, the U.S. Treasury is ready to support those residents.

**Question 3**

*Article 9.3 of the Model Rules provides an exception for MNEs in the initial phase of their international activity. This is widely accepted to have been added because of concerns raised by China about the impact of the UTPR on Chinese MNEs. There are additional carveouts in the model rules for State-Owned industries and MNE's under 750M Euros in revenue. China's concerns that a UTPR would be levied on their own MNE's resulted in their success in securing a strategic exemption. American MNE's do not enjoy the same benefit of exclusion; the R&D credit was not protected by Treasury in the negotiations and the US GILTI regime was not grandfathered as compliant under the model rules. Congressional Democrats explicitly rejected Treasury's international tax modifications in last Congress' reconciliation legislation.*

a. *Were any other concession made to secure China's commitment to the 2 pillar project?*

**Answer:** During the course of the negotiations, China wanted special carveouts that would benefit them disproportionately. Taking into account congressional feedback, we did not allow that. The UTPR rule will apply to Chinese companies equally. In other words, China will not gain an advantage by failing to implement the deal, because the top-up tax will be collected from multinationals headquartered in China and paying less than the minimum 15% rate there, regardless of whether China implements or not.

b. *Why should Congress allow UTPR's levied against American MNE's, undercutting incentives that previous Congresses & Presidents have enacted?*

**Answer:** Pillar 2 serves the important goal of leveling the playing field for U.S. businesses, while also protecting U.S. workers and middle-class families by ending the race to the bottom in corporate tax rates. The UTPR is an important design element of the Pillar 2 rules in that it prevents a country from gaining an advantage for its own MNEs by declining to adopt the Income Inclusion Rule (IIR). If a country could exempt its MNEs from the Pillar 2 rules in that way, it would give them an advantage over U.S. MNEs that are subject to a global minimum tax under GILTI and MNEs in other countries that will be subject to Pillar 2. In order to achieve a level playing field, the rules must apply equally to MNEs headquartered in all jurisdictions. By leveling the playing field, Pillar 2 will create a system where U.S. businesses will be more competitive than they are now.

c. *Why should this Congress agree to limit (on behalf of ourselves and all future congresses) the fiscal policy tools available to us as we work to strengthen the American economy?*

**Answer:** The Pillar 2 rules neither mandate nor prohibit the use of any fiscal policy tools. Instead, they seek to level the playing field by imposing top-up tax if a particular MNE's effective tax rate in a given country falls below the minimum rate of 15%.

d. *If it is possible for China to levy a UTPR against American companies should their ETR fall below 15% (example, the R&D credit causing a sub-15% ETR), what prevents China from assessing the UTPR at a rate greater than 15%?*

**Answer:** All countries participating in the Pillar 2 project have agreed that, if they adopt the Pillar 2 rules, they will do so consistent with the Model Rules and other guidance that is multilaterally agreed. The Model Rules expressly require that the minimum effective tax rate at which the UTPR operates must be 15%. If a country were to purport to apply the UTPR at a higher rate, that would violate the Pillar 2 agreement and would not be recognized by other countries applying the Pillar 2 rules. In addition, the United States would maintain all the other tools at our disposal to respond to discriminatory taxation by a foreign country.

**<u>Question 4</u>**

*Tax experts and academics have published numerous papers suggesting that the UTPR is inconsistent with our existing tax treaty obligations as well as historic international norms.*

a. *How did the US Treasury arrive at the conclusion that this extraterritorial tax regime is consistent with the existing treaty obligations previously negotiated by the United States?*
b. *Why did Treasury choose not to pursue a multilateral instrument to resolve these questions?*
c. *Once established by the UTPR, what principle or agreement would limit the ability of a foreign jurisdiction to assess extraterritorial taxes on US based MNEs?*
d. *In our efforts to reduce deficits in the United States, should the US Congress*

*enact additional extraterritorial taxes on foreign-based MNEs?*

**Answer:** When developing legislative proposals that would affect the international provisions of the Internal Revenue Code, the Treasury Department takes care to closely evaluate the question of the compatibility of the proposals with the obligations of the United States under its bilateral income tax treaties. The Treasury Department has taken the same approach with the development of Pillar 2 and believes that the Pillar 2 rules are compatible with U.S. tax treaties. As a general matter, the enactment of Pillar 2 in the United States would require the passage of legislation by the Congress without the need for a multilateral instrument. Nevertheless, the Treasury Department is actively participating in the ongoing discussions at the OECD about the possibility of a multilateral instrument that would facilitate the resolution of disputes between countries regarding the application of the Pillar 2 taxes.

**Representative David Kustoff**

**Question 1**

*Secretary Yellen,*

*I remain concerned about the effect of the Foreign Tax Credit Final Regulations that took effect for calendar year 2022. I appreciate the guidance Treasury and IRS has provided to date, but it doesn't go far enough for our U.S. based companies with operations in some countries- for instance, Brazil.*

*U.S. headquartered companies operating in Brazil are still exposed to double taxation until Brazil adopts arm's length principles. The regulation puts U.S. companies at a competitive disadvantage with foreign-headquartered companies, allowing foreign companies to grow foreign market share at the expense of goods and services made by U.S. companies and U.S. workers. Fortunately, Brazil is moving now to adopt the arm's length rules, but with 2024 as the earliest date for mandatory adoption.*

a. *Will Treasury provide guidance to account for Brazil's plan to adopt arm length's principles?*

   **Answer:** Treasury and IRS are monitoring developments in Brazil and are considering additional foreign tax credit guidance to provide certainty to U.S. taxpayers. However, the IRS has a longstanding policy of not issuing rulings on the creditability of a particular foreign tax. This policy pre-dates the issuance of the most recent final foreign tax credit regulations, and Treasury and IRS intend to continue that policy.

b. *Will Treasury consider delaying implementation of the regulation with respect to Brazil for two years to provide time for Brazil to adopt its new rules?*

   **Answer:** Treasury and IRS do not intend for different rules to apply to taxes assessed by Brazil as compared to taxes assessed by other jurisdictions.

c. *What can Treasury do to help US business remain globally competitive with their Brazil operations, in light of the double taxation resulting from the FTC regulations?*

   **Answer:** Treasury continues to encourage Brazil's adoption of the arm's length principle, which will be a significant positive development for U.S. companies operating in Brazil.

**Question 2**

*Secretary Yellen,*

*Over the past several months, CDFI financial institutions have repeatedly identified that changes* *to the CDFI certification process conflicts with legal and regulatory requirements. For example, the CDFI Fund's proposed methodologies to assess whether CDFIs are serving certain target populations violate fair lending laws. Similarly, responsible financing practices requirements would prohibit the use of balloon payments mortgages, which Congress has previously expressed is an important to serving rural areas and which prudential regulators sometimes encourage use of to manage risk. We are glad to hear that the CDR Fund has announced its intention to take a harder look at these issues before finalizing the application.*

*However, CDFI financial institutions have indicated that more expertise on the regulatory environment and safety and soundness expectations inside the CDA Fund would be incredibly helpful. Financial institutions are able to provide cradle-to-grave education, counseling and services which loan funds simply cannot match. It seems critical for the Fund to operate seamlessly with financial institutions and their regulators.*

a. *What is the Treasury's perspective on appointing a Director with meaningful experience with insured depositories and consumer finance and what considerations you think are important to finding the right person to head the Fund?*

   **Answer:** As indicated in the 2020 publication of United States Government Policy and Supporting Positions manual (Plum Book), which is published by the Senate Committee on Homeland Security and Governmental Affairs and House Committee on Oversight and Accountability after each presidential election, the Director of the Community Development Financial Institutions Fund (CDFI) is a Career Senior Executive Service (SES) position. Career appointments made to SES positions are governed by the Civil Service Reform Act of 1978 and requires that selections be made based on merit competition. Per this statute, SES positions are established to "ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality." The U.S. Treasury Department is working with the Office of Personnel and Management (OPM), which oversees the overall Federal executive program.

   The selection process for SES positions (such as the CDFI Fund Director), includes widespread notification of the position opening job openings, review of applications by Treasury's Office of Human Resources, rating and ranking of applicants by a panel with in-depth knowledge of the job's requirements, and evaluation of each candidate's qualifications by the agency's Executive Resources Board. In addition, SES candidate qualifications are evaluated by a Qualifications Review Boards (QRB), which are OPM-administered independent boards consisting of senior executive service members who assess the executive core qualifications of SES candidates. All SES candidates must have their executive qualifications certified by an independent QRB before being appointed as career members of the SES.

   The Treasury Department will comply with all applicable SES hiring requirements and guidelines, as mandated by OPM and the Civil Services Reform Act of 1978.

**Question 3**

*Secretary Yellen,*

*The Corporate Alternative Minimum Tax (CAMT) imposes a minimum tax of 15% on corporations with an adjusted financial statement income ("book income") of over $1 billion. It is clear for that this tax was meant to apply to the largest publicly traded companies, as some types of firms, such as S-corporations, were excluded from the CAMT.*

*Firms that I represent have raised the concern that, despite being explicitly excluded from the CAMT, some S corporations' book income may be combined or "aggregated" with income from small C corporations--resulting in a small C corporation becoming subject to the CAMT. This would result in an expansion of the CAMT beyond the scope and purpose of the law. Further, the strict limitations and features of the S corporation structure--as well as the applicable tax rate on S corporations--make it impossible for tax planners to utilize an S corporation to "game the system" and avoid the CAMT.*

*Implementation of the law can and should address these issues related to excluded S corporations, and that doing so will adhere to the intended scope and purpose of the Jaw without creating opportunities for avoidance.*

a. *Can you comment on your views on the implementation of the CAMT as it relates to S corporations-and particularly the question of S corporation income being aggregated or "combined" with that of small C corporation for purposes of the CAMT's threshold testing?*

   **Answer:** The new CAMT regime imposes a minimum tax on any corporation that meets the definition of an "applicable corporation." S corporations are explicitly excluded from this definition and the new CAMT regime does not impose a minimum tax on any S corporations or any S corporation income. However, C corporations that are owned by S corporations can meet this definition if the C corporation's book income exceeds the relevant CAMT testing threshold. For purposes of this determination, the CAMT statutory language requires C corporations to aggregate their book income with the book income of other entities that are part of the same controlled group (as determined under existing statutory and regulatory aggregation rules). Those existing rules do not appear to exclude S corporations from being included as part of a controlled group for this purpose.

**<u>Representative Brian Fitzpatrick</u>**

**<u>Question 1</u>**

*During Friday's hearing, my colleague, Mr. Kildee, inquired about the interpretation of the CHIPS and Science Act 48(D) tax credit established to promote onshore production of semiconductors. Congress enacted this legislation to assure our nation develops a reliable supply chain for semiconductors – so we do not wake up one morning and find ourselves at the mercy of potentially unreliable countries for this component critical to our national defense and our economy.*

*Included in the CHIPS and Science Act is language clarifying the eligibility of upstream manufacturers for incentives under the Act to help assure a reliable supply chain for semiconductors. It strikes me that this approach must apply to tax credits made available under the Act if those credits are to be effective in helping establish a secure supply chain.*

*So, allow me to join my colleague from Michigan in asking:*

a. *Will the Treasury, in interpreting the CHIPS and Science Act, assure its tax credits are available to upstream manufacturers in the semiconductor supply chain?*

   **Answer:** In coordination with the Department of Commerce and the Department of Defense, Treasury and the IRS published a <u>notice of proposed rulemaking</u> (NPRM) on March 23, 2023, containing proposed rules to implement the section 48D investment tax credit and the special "applicable transaction" recapture rule in section 50(a)(3). The NPRM expressly requests public comment on the definition of the term "semiconductor" because this term is not specially defined in section 48D or section 50(a). However, beginning with the definition of "applicable transaction" in section 50(a)(6)(D), a series of statutory cross-references, including as amended by Division A of the CHIPS and Science Act, ends with the following definition of "semiconductor" in section 4651(13) of title 15, U.S. Code: "The term 'semiconductor' has the meaning given that term by the Secretary [of Commerce]." That definition is used for various purposes of the CHIPS for America Program established under section 102 of the CHIPS and Science Act, under which "covered entities" may receive funding for "investment in facilities and equipment in the United States for the fabrication, assembly, testing, advanced packaging, production, or research and development of *semiconductors, materials used to manufacture semiconductors, or semiconductor manufacturing equipment*." (Emphasis added).

   In contrast, the section 48D investment tax credit is only available for investment in "*a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.*" (Emphasis added). In this regard, the NPRM specifically requests comments on "whether this term, for purposes of the section 48D credit, should include semiconductive substances—materials with electronic properties controllable by the addition of, typically small, quantities of specific elements or dopants—on which an electronic device or system is manufactured, such as, but not limited to polysilicon and compound semiconductor wafers. If so, commenters are requested to explain in detail what principle, standard, or parameters could be incorporated in a definition of the term "semiconductor" so as to prevent extending the definition of that term to also include other materials and supplies used in the manufacture of finished semiconductors." We will, of course, need to coordinate any adjustments to the definition of "semiconductor" with the Department of Commerce and the Department of Defense, as required by law.

**Representative Gregory Steube**

**Question 1**

*When speaking at the Federal Bar Association Conference on March 3rd, Nikole Flax, Director of the IRS Inflation Reduction Act Transformation and Implementation Office said of the IRS expansion, "we really are doing it with an agency wide focus, but with a level of transparency that I think we haven't seen before." More than seven months after the passage of the Inflation Reduction Act, there has been no transparency on the IRS's expansion plans.*

a. *What specific actions will Treasury and IRS take to demonstrate improved transparency?*

   **Answer:** The IRS is committed to an ongoing dialogue with Congress, the tax community, and the public on the implementation of the IRS' Strategic Operating Plan (Plan). Feedback from stakeholders and transparency is critical to the success of the IRS transformation effort. In the years ahead, the Strategic Operating Plan will evolve as the IRS receives more input and assesses the impact of improvements. The IRS will prepare an annual update of the Plan based on lessons learned, progress made, and any changes needed. The IRS will also provide updates at least annually to external stakeholders – including Congress and the public – through existing reporting and review processes like the Annual Performance Plan and Report. The IRS welcomes the opportunity to discuss progress more regularly with Congress and other stakeholders.

**Question 2**

*During his confirmation hearing, IRS Commissioner Werfel committed to allowing Congress and the public to weigh in on the expansion and enforcement plan.*

a. *Can you confirm that Treasury and IRS will allow Congressional and public input before the enforcement plan is implemented?*

   **Answer:** Shortly after enactment of the Inflation Reduction Act, Treasury and the IRS initiated an effort to develop the Strategic Operating Plan. The planning process leveraged prior IRS planning efforts, including the Taxpayer First Act Report to Congress and new thinking around best practices and available technology capabilities. Treasury and the IRS also sought input from a wide range of stakeholders in tax administration, including IRS employees and their representatives, technology experts, small business groups, tax professionals, and more.

**Question 3**

*The President's Budget Request includes $1.8 trillion in tax increases targeted at small businesses organized as pass-throughs. In addition, the Budget Request would impose higher* *taxes on the nearly one million small businesses organized as "C" corporations, which would face a 33 percent rate hike.*

a. *Does the Budget Request protect owners of small business "C" corporations earning less than $400,000 from a tax hike?*

   **Answer:** The President's budget would ensure that the wealthy and large corporations pay their fair share and, in doing so, fully pay for the investments proposed in the budget while generating nearly $3 trillion in additional deficit reduction over the next decade. It closes tax loopholes for the wealthy and cracks down on tax cheats, and it once again ensures that no one earning less than $400,000 a year will pay a penny more in new taxes.

**Question 4**

a. *How much revenue from the higher corporate tax rate will come from small business "C" corporations with fewer than 500 employees and $25 million or less in gross receipts?*

   **Answer:** According to the IRS Statistics of Income Corporation Income Tax Returns Complete Report, among active corporations other than those filing forms 1120S, 1120-REIT, and 1120-RIC in tax year 2019, the most recent year for which data is available, corporations with business receipts under $10 million account for 4 percent of income tax after credits. This report does not separately report information for corporations under a $25 million gross receipts threshold, and data on the number of employees is not generally available for C corporations.

**Representative Blake Moore**

**Question 1**

*Secretary Yellen, SECURE 2.0 includes over 90 new provisions impacting retirement savings. As with any new major bill, federal regulators must work diligently to implement regulations as directed by Congress and provide regulatory clarity. As I understand it, the list of additional guidance needed to implement SECURE 2.0 is long.*

a. *Given the Department of the Treasury and the Internal Revenue Service's role in overseeing retirement plans and the existing priorities as outlined the regulatory fall agenda, can you explain how you plan to prioritize the guidance for implementation of SECURE 2.0 so that plan participants and other retirement savers are not harmed or disadvantaged due to regulatory uncertainty?*

   **Answer:** The Treasury Department's Office of Tax Policy (OTP) is well aware of the need to implement the SECURE 2.0 provisions expeditiously. OTP is working closely with the Internal Revenue Service (IRS) and the Department of Labor, as applicable, to identify the provisions for which guidance is most urgently needed due to: (i) a near-term effective date, (ii) questions from stakeholders who need guidance to commence implementation of the provision, or (iii) requirements for which guidance is needed for plan sponsors and the IRS to program their payroll and IT systems to comply with the provision. OTP and IRS are moving forward to draft and issue priority guidance as soon as possible.

**Representative Randy Feenstra**

**Question 1**

*Secretary Yellen,*

*At the hearing, I asked "Why did the US Treasury not try to negotiate rules that protected the U.S. R&D incentives in the same way that the U.K. did, in the same way other European countries did and we lost ours?"*

*You responded: "I think some of these incentives would have been lost under the BEAT and our proposal would repeal the BEAT in favor of the [UTPRJ consistent with the model agreement and in that sense is more favorable for R&D than what otherwise would have been the case."*

*There are a number of reasons why I found your response to be problematic. But the most fundamental issue I see is that it suggests the Department of the Treasury views itself as having the same power as Congress - to raise taxes on US businesses by cutting back domestic tax incentives - but exercising that power through a multilateral bureaucracy to allow other countries to collect the tax. Congress enacted the BEAT to raise US revenue.*

a. *While it is true that Congress will need to confront the issue of R&D credits under the BEAT after 2025, don't you think there is a difference between a tax provision enacted by Congress and the U.S. Treasury effectively giving license to foreign countries to fill their coffers by clawing back US tax incentives?*

   **Answer:** Pillar 2 does not mandate or grant new taxing rights to any jurisdiction. Congress has the authority to adopt the tax policy it wants, and Pillar 2 does not change that. Similarly, other sovereign countries also have the right to adopt their own tax policies.

**Question 2**

*Secretary Yellen,*

*As you know, the "QDMTT" takes priority over other top-up taxes in Pillar Two -IIR and UTPR- and, in the case of the U.S. companies, the tax is applied on the profits of their foreign operations by the country where they are operating.*

*Since the U.S. has a lot of major companies who operate around the world, we are particularly sensitive to the revenue impacts of these changes. We have a substantial number of MNCs, and we're also the only country with a minimum tax, GILTI, that already taxes their foreign operations.*

*It is possible that most of the global Pillar 2 revenue will be collected under QDMTTs, which will reduce US revenue under GILTI. So, the problem is, if foreign countries with low corporate* *rates like Ireland start taxing U.S. companies under the QDMTT, depending on Treasury's determination on the creditability of QDMTTS, that's either going to 1) double tax our companies or 2) reduce the tax revenue we collect under GILTI. So, either U.S. companies or the U.S. fisc. are getting hit by this, and that seems like a lose-lose situation.*

a. *Do you expect U.S. companies to see double-taxation as a result of the QDMTT and GILTI?*

   **Answer:** The Treasury Department is considering additional foreign tax credit guidance regarding Pillar 2 taxes. The Treasury Department supports the Pillar 2 agreement, which includes rules on the ordering rules of the taxes that are intended to prevent double-taxation and will seek to uphold the agreement in any guidance issued.

b. *If not, does your current budget account for this impact of QDMTT in reducing revenue?*

   **Answer:** The revenue estimate for the GILTI proposal was done following long-standing revenue estimating conventions and is consistent with the policies of foreign countries at a given point in time. The estimate would change as foreign countries enact Pillar 2.

**<u>Question 3</u>**

*Specifically, the Greenbook includes proposals to align GILTI with Pillar 2, but at a significantly higher rate, and adopt a UTPR. Treasury estimates these proposals combined would raise more than $1 trillion over 10 years.*

a. *Do Treasury's estimates assume the widespread adoption of QDMTTs by investment hub countries? If so, what is the amount? If not, then isn't it misleading for the President's budget to count on that much revenue coming in, when in reality, a substantial amount will go to other countries?*

   **Answer:** The revenue estimates for the GILTI and UTPR proposals were prepared in accordance with long-standing revenue estimating conventions and are consistent with the policies of foreign countries at a given point in time. The estimate would change as foreign countries enact Pillar 2.

**Representative Richard Neal**

Secretary Yellen,

**Question 1**

*The Biden Administration has initiated negotiations with the European Union and Japan on separate critical minerals agreements which the administration intends to treat as "free trade agreements" for purposes of the Inflation Reduction Act clean vehicle battery critical minerals requirement.*

a. *Could you please identify the statutory authority the Biden Administration will rely on to negotiate and enter into these agreements?*

   **Answer:** The Office of the United States Trade Representative (USTR) is the agency in the Administration chiefly responsible for trade negotiations in general and negotiation of the referenced agreements in particular. I would refer you to that Office for a response to your question about statutory authority to negotiate and conclude agreements.

**Question 2**

*According to a white paper issued by the Department of the Treasury in December Treasury and the IRS expect to seek comment in proposed guidance on what criteria should be used to identify free trade agreements for purposes of the Inflation Reduction Act clean vehicle critical minerals requirement. Treasury and the IRS expect to propose that these criteria include whether an agreement reduces or eliminates trade barriers on a preferential basis, commits the parties to refrain from imposing new trade barriers, establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions, including for the critical minerals contained in electric vehicle batteries. Treasury and the IRS also expect to propose that the term encompasses, at minimum, the comprehensive trade agreements of the United States with Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, South Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, and Singapore. Further, Treasury and the IRS expect to propose that the Secretary may identify additional free trade agreements for purposes of the critical minerals requirement going forward and will evaluate any newly negotiated agreements for proposed inclusion during the pendency of the rulemaking process or inclusion after finalization of the rulemaking.*

a. *Could you please specify the statutory authority the Secretary of the Treasury intends to rely on to identify such free trade agreements for purposes of the IRA clean vehicle critical minerals requirement?*

   **Answer:** In the Inflation Reduction Act, Congress directed Treasury to issue "such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes" of the new critical mineral and battery component requirements and to "issue proposed guidance with respect to [those] requirements." Earlier this year, the Department of Treasury and the IRS released proposed regulations under section 30D of the Internal Revenue Code regarding the clean vehicle credit. As explained in the notice of proposed rulemaking, the term free trade agreement is not defined in the IRA or in the tax code. The proposed regulations would define the term "country with which the United States has a free trade agreement in effect," and the NPRM explains the basis for this proposal at greater length. We will carefully consider public comments before issuing a final rule.

**Question 3**

*Secretary Yellen, please indicate whether the Department of the Treasury will submit the proposed guidance on what criteria should be used to identify free trade agreements for purposes of the Inflation Reduction Act clean vehicle critical minerals requirement for public notice and comment as established by the Administrative Procedures Act?*

**Answer:** Earlier this year, the Department of Treasury and the IRS released proposed regulations under section 30D of the Internal Revenue Code regarding the clean vehicle credit. Those proposed regulations provide criteria that would be used to identify countries with which the United States has a free trade agreement in effect for purposes of section 30D.

As set forth in proposed §1.30D-3(c)(7)(i), those criteria would include whether an agreement between the United States and another country, as to the critical minerals contained in electric vehicle batteries or more generally, and in the context of the overall commercial and economic relationship between that country and the United States: (A) reduces or eliminates trade barriers on a preferential basis, (B) commits the parties to refrain from imposing new trade barriers, (C) establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or (D) reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions on exports. The proposal is subject to an ongoing rulemaking process, and we will carefully consider public comments before issuing a final rule.

**Question 4**

*Secretary Yellen, please explain how the Department of the Treasury determined the proposed criteria that should be used to identify free trade agreements for purposes of the Inflation Reduction Act clean vehicle critical minerals requirement. Please explain why the proposed criteria by the Department of the Treasury does not include whether an agreement is enforceable or whether it includes a binding dispute settlement mechanism.*

**Answer:** The proposed definition of a country with which the United States has a free trade agreement in effect takes into account the term's meaning, use and context in the statute. The IRA's amendments to section 30D expand the incentives for taxpayers to purchase new clean vehicles and for vehicle manufacturers to increase their reliance on supply chains in the United States and in countries with which the United States has reliable and trusted economic relationships. The Treasury Department and the IRS recognize that more secure and resilient supply chains are essential for our national security, our economic security, and our technological leadership. The Treasury Department and the IRS propose to identify the countries with which the United States has free trade agreements in effect for purposes of section 30D consistent with the statute's purposes of promoting reliance on such supply chains and of providing eligible consumers with access to tax credits for the purchase of new clean vehicles. The proposal is subject to an ongoing rulemaking process, and we will carefully consider public comments before issuing a final rule.

**Question 5**

*Secretary Yellen, please describe what factors the Department of the Treasury will use to determine if an agreement reduces or eliminates trade barriers on a preferential basis, commits the parties to refrain from imposing new trade barriers, establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions, including for the critical minerals contained in electric vehicle batteries.*

**Answer:** The Treasury Department is proposing to consider several factors to determine if a country has a free trade agreement in effect with the United States for purposes of section 30D. These factors would include whether an agreement between the United States and another country, as to the critical minerals contained in electric vehicle batteries or more generally, and in the context of the overall commercial and economic relationship between that country and the United States: (A) reduces or eliminates trade barriers on a preferential basis, (B) commits the parties to refrain from imposing new trade barriers, (C) establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or (D) reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions on exports. The proposal is subject to an ongoing rulemaking process, and we will carefully consider public comments before issuing a final rule.

**Representative Mike Thompson**

**Question 1**

*I wrote to the Department last year to express my support for rapid implementation of the Taxpayer Correspondence Delivery Tracking (TCDT) system. I understand the second phase of that project has been funded. While I certainly appreciate the range of competing priorities IRS must manage, I would appreciate confirmation that IRS is proceeding with implementation of the TCDT program as quickly as possible.*

a. *Could you please provide a status update?*

   **Answer:** Taxpayer Correspondence Delivery Tracking (TCDT) Phase 1 deployed March 2022. This phase allows the United States Postal Service (USPS) to provide data on delivery, address changes, and reply mail in real time and provides this information to its customers electronically without requiring the return of a physical piece of mail. In addition, the Taxpayer Correspondence Delivery Tracking (TCDT) system Phase 2 is awaiting final procurement approval; we still anticipating being able to deploy in FY 2024.

**Question 2**

*The Inflation Reduction Act provided historic and much-needed investments in renewable energy. I was proud to author the energy tax portions of that legislation with my colleagues on the Committee, including the bonus credit in Section 48 for products that meet domestic content criteria.*

a. *Could you please describe the steps Treasury is taking to ensure that this bonus credit is implemented in a manner that incentivizes the domestic production of parts not currently made in the U.S., such as solar cells?*

   **Answer:** The domestic content bonus is one of the important provisions in IRA that boost U.S. manufacturing and help ensure American workers benefit from the clean energy economy they are building. On May 12, 2023, Treasury and IRS released Notice 2023-38, a notice of intent to propose regulations on the domestic content bonus. Consistent with the statute, the Notice in general provides that for projects or facilities to qualify for the bonus, all of the structural iron or steel items in the project or facility that are Applicable Project Components, and an applicable percentage of manufactured products (including Applicable Project Components) in the project or facility, must be produced in the United States. The Notice provides detailed information to help clarify how taxpayers can satisfy the requirements for the bonus. We welcome input on Notice 2023-38 and the domestic content bonus provision.

**Representative Bill Pascrell**

**Question 1**

*On March 8, 2022, I wrote to you requesting that the Treasury Department issue guidance on irrevocable grantor trusts to limit rampant abuse of the egregious stepped-up basis loophole. On June 8, 2022, while sitting before the Ways and Means Committee, you promised the Department would crackdown on this tax thievery "very soon." The Department took a step in the right direction in its 2022-2023 Priority Tax Guidance Plan and Fiscal Year (FY) 2024 Revenue Proposal. Assets outside an estate in an irrevocable grantor trust should not qualify for stepped-up basis treatment under the letter of the law. It has been nearly a year since your testimony.*

a. *How and when will the Department implement this necessary guidance?*

   **Answer:** Revenue Ruling 2023-2, which was issued on March 29, 2023, implements this guidance.

**Question 2**

*The Department's FY24 Revenue Proposal includes tax fairness solutions I have long championed, including finally closing the infamous carried interest loophole. My Carried Interest Fairness Act closely resembles the Department's proposal to tax carried interest as ordinary income and subject it to self-employment tax.*

a. *Does the Department support the Carried Interest Fairness Act (H.R. 1068), as introduced in the 117th Congress?*

b. *The Congressional Budget Office has previously estimated that taxing carried interest as ordinary income would raise $14 billion in revenue over ten years. Victor Fleischer, a law professor at the University of San Diego, has stated his analysis suggests closing the carried interest loophole could return as much as $180 billion over ten years to American taxpayers. How much revenue does the Treasury Department estimate its carried interest proposal would raise?*

   **Answer:** The FY24 Budget includes a proposal to tax carried interest as ordinary income. The Treasury Department estimates that this proposal would raise $6.5 billion over ten years.

**Question 3**

*The onerous $10,000 cap on the State and Local Tax (SALT) deduction imposed by the 2017 Republican tax scam targeted my constituents. In the year prior to its imposition, 1.9 million taxpayers in New Jersey deducted their local property and state income taxes – constituting approximately 42% of New Jersey taxpayers – averaging $19,162 per deduction. You have* *acknowledged that the SALT cap caused "disparate treatment" across taxpayers and expressed the need to study "just what impact it's had." I am disappointed that the Department's FY24 Revenue Proposal again fails to include any path toward SALT relief.*

a. *Will you commit to supporting robust SALT relief to middle-class families in high cost-of-living states like New Jersey?*
b. *Has the Department conducted an analysis of the disparate impact of the SALT cap on taxpayers by state and zip code of residence?*
c. *What is the Department's view on the merits of the final regulation entitled "Contributions in Exchange for State or Local Tax Credits" which became effective on August 12, 2019?*
d. *Why has the Department not sought to repeal this burdensome rule enacted by the Trump regime restricting states and municipalities from providing state and property tax relief to residents?*

   **Answer:** Decisions on the SALT question should be part of a legislative process in Congress. Treasury and IRS stand ready to implement any changes that may be made.

**Question 4**

*Last year, the Internal Revenue Service (IRS) audited Earned Income Tax Credit (EITC) recipients at a rate five and one-half times greater than the general public. Meanwhile, audits of wealthy taxpayers have declined precipitously over the last decade. Tax enforcement funding provided by the Inflation Reduction Act (IRA) must go toward closing our tax gap and bringing fairness to our tax system. Low-income families should not face the consequences of failing tax enforcement policies while the rich get off scot- free.*

a. *During my line of questioning to you on March 10, 2023, you raised the issue of "high rates of improper payments" made to EITC recipients as an explanation for the elevated audit rate. Does the rate of error detected on returns of EITC recipients fully account for the disproportionate audit rate?*

   **Answer:** The IRS is committed to fair and impartial administration of the tax law. For tax year 2018 returns, the most recent tax year outside the statutory period, the IRS conducted 240,000 EITC audits, equating to about a 0.9% audit rate. The service and technological transformation made possible by the resources provided by the IRA will focus on helping taxpayers get it right the first time, quickly fixing errors, and making sure taxpayers have the education and tools to understand and meet their tax obligations. We expect that this work will help reduce enforcement actions on honest taxpayers. For example, it will help EITC recipients properly claim the credit and prevent unnecessary delays with their refunds. The IRS is dedicating significant resources to better understanding the drivers of the disparity and will continue to update Congress on this work.

b. *On March 10, you also acknowledged that these improper payments are "partly* *because of firms" and "not the fault of individuals." The numerous complex eligibility requirements to claim the EITC are a significant barrier for working families. Are the errors detected on returns filed by EITC recipients related to the mistaken over-claiming of refundable tax credits or the total under-reporting of tax liability? How much revenue does the IRS capture each year from auditing EITC recipients?*

**Answer:** Objective 3 within the Strategic Operating Plan lays out initiatives and projects which focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance. This includes high-income and high-wealth individuals, complex partnerships and large corporations that are not paying the taxes they owe. The IRS will focus IRA enforcement resources on hiring the expert staff needed to examine these returns and improving analytics to better support risk-based enforcement decisions and inform opportunities to expand use of existing resources to address high-income and high-wealth noncompliance. The IRS will comply with the Secretary's directive not to raise audit rates on small businesses and households earning less than $400,000 relative to historic levels.

**Question 5**

*The 2021 National Taxpayer Advocate (NTA) Annual Report to Congress characterized the correspondence audit process as "structured to expend the least amount of resources to conduct the largest amount of examinations." The IRS has previously asserted that it cannot address the disproportionate audit rate of low-income families without additional funding. Blessedly, that funding was provided by Congress in the Inflation Reduction Act.*

a. *Will you commit to directing IRA funding toward overhauling audit selection methodology to prioritize the returns of wealthy tax evaders with rampant under-reporting instead of chasing low-income families whose returns require less resources?*

   **Answer:** The IRS is committed to building trust with taxpayers, and confidence that the tax system is administered in a fair manner. This includes ensuring that audits do not disproportionately fall on any one particular segment of the population. The IRS will focus IRA enforcement resources on hiring the expert staff needed to examine the complex returns of high-income and high-wealth individuals, complex partnerships, and large corporations that are not paying the taxes they owe. This includes high-income and high-wealth individuals, complex partnerships and large corporations. Improved analytics will better support risk-based enforcement decisions and inform opportunities to expand use of existing resources to address high-income and high-wealth noncompliance. The IRS will comply with the Secretary's directive not to raise audit rates on small businesses and households earning less than $400,000 relative to historic levels. Objective 3 within the IRS Strategic Operating Plan lays out initiatives and projects which focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance. The IRS has no plans to increase audit rates for households making less than $400,000.

Objective 3 within the Strategic Operating Plan lays out initiatives and projects which focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance. This includes high-income and high-wealth individuals, complex partnerships and large corporations that are not paying the taxes they owe. The IRS will focus IRA enforcement resources on hiring the expert staff needed to examine these returns and improving analytics to better support risk-based enforcement decisions and inform opportunities to expand use of existing resources to address high-income and high-wealth noncompliance. The IRS will comply with the Secretary's directive not to raise audit rates on small businesses and households earning less than $400,000 relative to historic levels.

**Question 6**

*I share your view that we need to focus on "education and outreach" to EITC recipients. Providing adequate taxpayer services and support to low-income families claiming this vital lifeline is a far better route toward lowering the rate of improper payments than socking struggling households with often confusing and burdensome correspondence audits. The 2021 NTA Annual Report found that the IRS conducts correspondence audits with "limited or no taxpayer interaction" in contravention of section 3705(a) of the IRS Restructuring and Reform Act (RRA) of 1998 which requires correspondence audits to include the name, telephone number, and unique identifying number of an IRS employee. The NTA further noted that the IRS's view that correspondence audits are "non-complex" is an "inaccurate description of the complexity of the issues that taxpayers must navigate when reconciling the various filing status and refundable credit implications" in the Internal Revenue Code (IRC).*

a. *Can you further elaborate in detail on the education and outreach efforts to EITC recipients the Department plans to engage in moving forward?*

   **Answer:** In administering the EITC, we have two goals--increasing participation and reducing errors that lead to delays and improper payments. Through expanding communications, outreach and education, we seek to increase information available to taxpayers and tax professionals about the availability of refundable credits, including the EITC, and the eligibility requirements that must be met.

   IRS pursues a variety of efforts to ensure taxpayers eligible for refundable credits can receive them with minimal burden. We leverage engagement with internal and external stakeholders in carrying out a robust outreach and education program to reach the approximately 4.3 million individuals who are eligible but don't claim available credits. EITC Awareness Day, for example, is an annual collection of local events across the country where IRS invites community organizations, elected officials, state and local governments and other entities throughout the nation to raise awareness of EITC publications and online tools. We also collaborate with members of the private, public, and nonprofit sectors by hosting the Refundable Credit Summit, an annual gathering where IRS executives share current modernization efforts, updates to IRS forms and publications, and outreach activities led by the IRS's Stakeholder Partnership, Education & Communication organization. The summit includes breakout sessions of the Refundable Credits Participation and Software Development Working groups to strategize future awareness and compliance approaches. We further engage with the public by collaborating with state and local municipalities and presenting information at the National Tax Forums as well as conferences such as the Latino Tax Festival. IRS' Information Technology and Online Services teams have created tools and content on IRS.gov dedicated to EITC such as EITC Central (https://www.eitc.irs.gov/) and the EITC Assistant (https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant).

Using funding provided the IRA, the IRS will help taxpayers get it right the first time, quickly fix errors, and make sure taxpayers have the education and tools to understand and meet their tax obligations. For example, IRS will send notifications to identify potential issues as taxpayers file returns so they can quickly fix errors. This will help EITC recipients properly claim the credit and prevent unnecessary delays with their refunds.

*b. Will you direct IRA funds to implementing the RRA requirement that correspondence audits include the contact information for an individual IRS employee?*

**Answer:** The IRA Strategic Operating Plan lays out critical IRS initiatives and plans to improve taxpayer experience when resolving an issue. Thanks to the resources of the IRA, taxpayers will have access real-time status updates on taxpayer refund and return processing, audits, and other service interactions through the channel of their choice. Status-tracking tools will provide details about processes, incorporating data and analytics into messaging about estimated processing times, and for both employees and taxpayers, provide clear instructions for next steps when appropriate.

*c. Will you direct IRA funds to restructuring IRS correspondence audit processes to ensure low-income families are provided timely and clear details regarding audit procedures, are adequately supported throughout the process, and are followed up with by an IRS employee should the taxpayer be nonresponsive?*

**Answer:** The IRA Strategic Operating Plan (SOP) lays out IRS initiatives and plans to improve audit processes, clarity of notices and letters, and availability of information to taxpayers. As part of implementing the SOP, the IRS is working to redesign all taxpayer notices to improve the taxpayer experience. This includes notices issued to lower-, middle-, and higher-income families alike. These redesigned notices will be written in plain language, delivered in ways they prefer, and provide clear explanations of issues and steps to resolution.

**Question 7**

*On December 20, 2022, the Ways and Means Committee issued a comprehensive report regarding the IRS's failure to properly examine the tax returns of Donald Trump under its mandatory audit program. The Committee found the IRS under the Trump regime did not conduct timely audits of presidential or vice-presidential tax returns in keeping with statutorily established precedent and procedure. On the exact day Chairman Neal made a legal request under Section 6103 of the IRC for Donald Trump's business and personal tax records, the IRS began an incomplete and haphazard presidential audit for tax year 2015 with just a single revenue agent responsible for examining his incredibly voluminous and complex tax records. This dereliction remains a black eye on the IRS's entire credibility. The Internal Revenue Manual contains little guidance regarding the scope of a mandatory examination and merely stipulates that "[i]ndividual income tax returns for the President and Vice President are subject to mandatory examinations."*

a. *The Committee recommended the IRS "review the mandatory audit program and revise the procedures set forth in the Manual for the program." Will the Department ensure that guidance regarding the timing and processes governing mandatory presidential and vice-presidential examinations is clearly outlined in the Internal Revenue Manual?*
b. *The Committee further recommended that the IRS "provide adequate and appropriate staffing and resources necessary for a full and timely audit of the President and prescribe that the audit team be comprised of two senior IRS agents, a partnership specialist, a foreign specialist, and a financial products specialist." Will you direct funding to strengthening and staffing the mandatory audit program as recommended by the Committee?*

**Answer:** In order for our tax system to work, taxpayers must have confidence that all taxpayers, regardless of who they are, are being treated fairly and impartially. The IRS must administer the tax laws with respect to a President in the exact same way that it would administer the tax laws with respect to any ordinary American. The mandatory audit program is administered by the IRS. Please direct your questions on the administration of this program to the IRS.

**Question 8**

*Last year, IRS telephone service was terrible through the filing season, with only two in every 10 taxpayers who wanted to talk to IRS customer service representatives being able to do so.*

a. *What is the level of service so far this filing season?*

**Answer:** Thanks to the 5,000 new hires made possible by Inflation Reduction Act resources, IRS customer service representatives answered nearly 4 million more taxpayer calls with live assistance since the start of Filing Season 2023 through May 27, compared to the same period in 2022. IRS also cut phone wait times to five minutes, down from 29 minutes in Filing Season 2022. IRS achieved an 88% level of service with live assistance since the start of Filing Season 2023, meeting the goal set by Secretary Yellen last year. This is a sixfold increase in Level of Service over Filing Season 2022. The IRS integrated new technology features like customer callback options, which will be available for up to 95% of taxpayers calling for toll-free live assistance by the end of July 2023. The IRS will continue to integrate improved technology to bring customer service into the 21st century by looking at the full picture and giving taxpayers options that work for them through the channel of their choice.

**Question 9**

*Last year, the IRS began the filing season with over 20 million tax returns and pieces of correspondence in its backlog. At the beginning of this current filing season, the backlog had been reduced down to 5 million tax returns and pieces of correspondence.*

a. *What is the current level of the backlog?*

**Answer:** IRS worked through more inventory in calendar year 2022 than any other year in its history. The IRS has cleared all original individual and business paper returns received in 2022 that did not contain errors or other issues that necessitated follow up with taxpayers. This puts us 5+ months ahead of where we were at the same time last year. For comparison, in calendar year 2022, all 2021 original returns, that did not contain errors or necessitated follow up with taxpayers, were processed by mid-June. As of May 27, 2023, we had 4 million unprocessed individual returns. These include tax year 2022 returns, 2021 returns that need review or correction, and late filed prior year returns. Of these, 1.8 million returns require error correction or other special handling, and 2.2 million are paper returns waiting to be reviewed and processed. This work does not typically require us to correspond with taxpayers, but it does require special handling by an IRS employee, so in these instances it is taking the IRS more than 21 days to issue any related refund. As of May 27, 2023, we had 4.2 million unprocessed business tax returns. These include tax year 2022 returns, 2021 returns that need review or correction, and late filed prior year returns. Of these, 1.6 million returns require correction or special handling, and 2.6 million are paper returns waiting to be reviewed and process.

b. *How many business and individual returns received in 2021 and 2022, respectively, are in the backlog?*

**Answer:** IRS worked through more inventory in calendar year 2022 than any other period in its history. We have processed all paper and electronic individual and business returns received prior to January 2023, and we are opening mail within normal time frames.

c. *How many IRS Forms 941-X are in the backlog?*

**Answer:** As of May 31, 2023, total inventory of unprocessed Forms 941-X was approximately 740,000.

**Question 10**

a. *With the additional IRS funding, how many employees does the IRS expect to hire through 2031 and what percentage will work in taxpayer service, operations, enforcement, and business modernization?*

b. *How many will replace employees lost through attrition and retirement, and how many will be new positions?*

**Answer:** The Plan includes IRA hiring information through FY 2024, because we have solid sense of what we think hiring will look like over a shorter time span. IRS is working to refine longer term estimates, acknowledging that anything we provide beyond the next few years will be highly preliminary because staffing needs will change as we improve technology and improve efficiency.

IRS faces an urgent need to replace retiring staff and train the next generation of IRS employees. Over the FY 2023 to FY 2025 time period alone, around 26,000 IRS employees are expected to retire or leave the agency. About half those departures (14,500) are expected in the taxpayer service area and about 30% (8,000) are in the enforcement area. These losses equate to roughly 30% of the employees working at IRS at the end of FY 2022. IRS will need to hire to both backfill for these losses and bring on additional staff in priority areas where it has historically lacked resources like taxpayer service and enforcement staff focused on wealthy and corporate tax evaders. From FY 2022-FY 2025, IRS expects to achieve a net increase of about 32,000 new employees, with more than 60% of that staffing focused on taxpayer services, energy security implementation, operations, and IT. (Note: these figures are net of expected attrition.) IRS is ramping up hiring of accountants, data scientists, attorneys, and other staff focused on high-income individuals, large partnerships, and large corporations. :

**Question 11**

*On June 22, 2022, in my capacity as Chairman of the Ways and Means Subcommittee on Oversight, I wrote to the IRS concerning the haphazard approval process for tax-exempt organizations under 501(c)(3) of the IRC. Although Form 1023-EZ was developed to curtail an increasing backlog of exempt organization applications, the form seemingly led to fraudulent applications being approved with lax IRS oversight. On October 3, 2022, the Treasury Inspector General for Tax Administration (TIGTA) issued a report which found the information provided on Form 1023-EZ to be "insufficient to make an informed determination about tax-exempt status." TIGTA successfully obtained 501(c)(3) status for four of five nonexistent organizations it submitted as part of its investigation.*

a. *Will you direct IRA funding to strengthening the application and oversight process for 501(c)(3) tax- exempt organizations?*

**Answer:** The IRS is committed to ensuring effective oversight of the tax-exempt sector, including the operation of 501(c)(3) tax-exempt charities. Taxpayer confidence in the tax-exempt sector is essential to preserving and protecting charitable tax deductions. The Tax Exempt & Government Entities division of the IRS (TE/GE) serves exempt sector taxpayers by helping them understand and comply with applicable tax laws and reporting obligations. This includes issuing determination letters to qualifying tax-exempt organizations and examining tax-exempt organizations using referrals and data analytics to focus on high-risk issues.

The IRS is committed to using available funding, including from the IRA, to strengthen efforts in this area. While the IRS recognizes most stakeholders and taxpayers in the tax-exempt sector strive to remain compliant, there are purposeful bad actors engaging in transactions and structures to avoid taxation and to mask other illegal activities. The additional resources requested will be applied to strengthen compliance efforts and directly address fraudulent activities and trends in the tax-exempt sector.

**Question 12**

*On February 9, 2022, in my capacity as Chairman of the Ways and Means Subcommittee on Oversight, I wrote to you regarding the report issued by the Bureau of the Fiscal Service on June 17, 2021, entitled "Report for the Redemption of Savings Bonds, Response to Executive Order 13968." The report found the Treasury Department currently holds nearly $30 billion in mature unredeemed debt, savings bonds bought years or decades ago by Americans, and documents the problems the Treasury Department is having in locating these bondholders. Reducing this volume of mature unredeemed debt will get more money back into the hands of working families. I never received any response to the several questions I raised regarding the Department's efforts to return nearly $30 billion in mature unredeemed debt to bondholders.*

a. *When can I expect a substantive response?*

**Answer:** Treasury's Office of Legislative Affairs returned a letter to your office on April 15, 2022.

**Question 13**

*Congress identified offshore wind as separately eligible for the Investment Tax Credit (ITC) as part of the Consolidated Appropriations Act of 2021. For years, there has been demand for guidance clarifying that the entirety of an offshore project is considered wind energy property eligible for the ITC. This approach is consistent with congressional intent. The Bluebook released by the Joint Committee on Taxation for the 116th Congress (JCS- 1-22) contained language identifying that subsea cables and voltage transformers are necessary properties to* *condition electricity for the grid.*

a. *How and when will the Department incorporate these clear statements of congressional intent into long-requested guidance clarifying that offshore wind project assets, including the equipment leading up to the onshore transformer and project substation, qualify for the ITC?*

   **Answer:** Treasury and IRS are actively working on proposed regulations to clarify the definition of energy property for purposes of the investment tax credit. This project was a priority prior to the Inflation Reduction Act's passage, and the passage of the Inflation Reduction Act has highlighted the need for additional guidance in this area in the near term. With respect to offshore wind, Treasury understands the need to provide certainty around the issue of certain assets to allow projects to move forward.

**Question 14**

*Recognizing the importance of nuclear energy to a carbon-free future, the IRA established IRC Section 45U, a first-of-its-kind production tax credit to enable existing merchant nuclear plants to continue producing the clean power our nation needs. As the lead sponsor of the Zero-Emission Nuclear Power Production Credit Act on which Section 45U was based, it is important to me that the Department implements this essential credit consistent with congressional intent. While Section 45U does not take effect until next year, there are critical issues regarding the definition of 'gross receipts' that require interim guidance by the Department as soon as feasible. We understand that the Department may be prioritizing guidance that could impact deployment of capital for new projects, but the purpose of the nuclear PTC is to stabilize existing zero-emission nuclear plants and prevent their premature closure, which would have devastating impacts on long range climate goals and today's workforce.*

a. *The Department must provide a definition of gross receipts accounting for the geographical differences in energy prices across the nation and among generators operating in the same region. Relying on national or regional prices to estimate gross receipts is inadequate. The Department should use each merchant facility's spot market revenue to determine gross receipts, which would ensure that fluctuations in energy prices received by individual generators are accurately reflected. When will the Department issue interim guidance which provides a clear definition of gross receipts based on spot market revenue?*
b. *The Department must also clarify that hedging income and losses are included in a facility's gross receipts. Longstanding language in 1221(a)(7) of the Internal Revenue Code recognizes hedging transactions used by taxpayers to reduce price risk. Merchant generators routinely enter into forward hedges on the price of energy, and subsequent hedging income and losses significantly impact the facility's earnings. When will the Department issue interim guidance to clarify that realized hedging income and losses are included in a facility's gross receipts?*

**Answer:** Treasury and IRS are working on guidance on the 45U Zero-Emission Nuclear Power Production Credit, including considering the public comments and other input we have received on it. I do not have a specific timeframe to offer at this time. But we understand the need for clarity and certainty on the 45U credit and are working expeditiously to provide it as soon as is feasible.

**Question 15**

*We've heard several concerns from the European Union on the IRA over domestic tax incentives driving manufacturing and production in the United States to combat climate change. Meanwhile, Digital Services Taxes (DSTs) and other digital sovereignty measures continue to target U.S.-based multinational companies.*

a. *Why hasn't the Biden administration taken a stronger stance in defending American industry against DSTs?*

   **Answer:** The Biden Administration has taken and continues to take a strong stance against DSTs that discriminate against American business. The Administration has led Pillar 1 negotiations to develop an updated and modernized international tax architecture that will end the proliferation of DSTs. As part of that work, we negotiated a standstill agreement with other jurisdictions to halt the enactment of new DSTs and we continue to take steps to prevent discriminatory DSTs.

**Question 16**

*Canada has announced proposals for a DST taking effect in 2024 or 2025 but applying retroactively to 2022. This unusually aggressive approach clearly sidesteps language included in the OECD/G20 Inclusive Framework on BEPS agreed to by Canada and 142 other nations. The agreement was clear that new DSTs would not be enacted prior to the earlier of December 31, 2023, or the coming into force of the Pillar One framework. Canada's DST measure is particularly punitive. Most taxes are prospective to develop sound compliance and payment mechanisms.*

a. *What is the Administration doing to safeguard American industry against Canada's proposed retroactive DST?*

   **Answer:** The Administration views the Pillar 1 negotiations as the best path forward on resolving the issues presented by provisions such as Canada's proposed DST. Any agreed upon solution under the Pillar 1 framework will prohibit discriminatory DSTs, including the Canadian DST. We are working to bring those negotiations to conclusion as soon as possible and intend as part of those negotiations to ensure protections for American business against discriminatory DSTs.

**Representative Linda Sanchez**

**Question 1**

*On March 28, 2023, Ambassador Katherine Tai will sign the Japan Critical Minerals Free Trade Agreement. The Biden Administration has also concluded consultations as the Treasury and USTR have tabled text on a critical mineral free trade agreement with the European Union. Both agreements seek to grandfather in the EU and Japan to Section 30D of the Inflation Reduction Act (IRA).*

a. *Why did the Treasury Department decide to allow significant provisions of the labor and environmental sections of the Japan Critical Minerals Free Trade Agreement to be non-binding? Does the United States consider these agreements non-binding?*

   **Answer:** USTR was the lead agency negotiating the binding U.S.-Japan Critical Mineral Agreement, and we defer to them on addressing those negotiations.

**Question 2**

*Several unions and battery manufacturers worry that providing concessions to other nations undermines the goal of bringing jobs and investment to the U. S's electric vehicle industry and detracts from the IRA's intent of creating a domestic electric vehicle supply chain.*

a. *Does the Administration intend on expanding critical mineral pacts to other countries?*

   **Answer:** Eligibility for the full electric vehicle tax credit requires North American final assembly of the electric vehicle, and North American manufacture or assembly of battery components. We are implementing the law in a way that will help promote job creation in the United States. As to your specific question, USTR leads on the negotiation of free trade agreements, including critical mineral agreements. We would defer the question on future critical mineral agreements to them.

**Question 3**

a. *Can you explain how the recent agreements being made with Japan and the European Union to supply critical minerals for EVs fit within the definition of a Free Trade Agreement for the purposes of the IRA?*

   **Answer:** The term free trade agreement is not defined in the IRA or in the Code. The proposed definition of a country with which the United States has a free trade agreement in effect takes into account the term's meaning, use and context in the statute. The IRA's amendments to section 30D expand the incentives for taxpayers to purchase new clean vehicles and for vehicle manufacturers to increase their reliance on supply chains in the United States and in countries with which the United States has reliable and trusted economic relationships. The Treasury Department and the IRS recognize that more secure and resilient supply chains are essential for our national security, our economic security, and our technological leadership. The Treasury Department and the IRS propose to identify the countries with which the United States has free trade agreements in effect for purposes of section 30D consistent with the statute's purposes of promoting reliance on such supply chains and of providing eligible consumers with access to tax credits for the purchase of new clean vehicles.

Based on these considerations, the Treasury Department and the IRS propose criteria the Secretary would consider in identifying these countries. As set forth in proposed § 1.30D–3(c)(7)(i), those criteria would include whether an agreement between the United States and another country, as to the critical minerals contained in electric vehicle batteries or more generally, and in the context of the overall commercial and economic relationship between that country and the United States: (A) reduces or eliminates trade barriers on a preferential basis, (B) commits the parties to refrain from imposing new trade barriers, (C) establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or (D) reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions on exports.

The proposal is subject to an ongoing rulemaking process, and we will carefully consider public comments before issuing a final rule.

**Question 4**

a. *Does reinterpreting the definition of a Free Trade Agreement align with the IRA?*

   **Answer:** Please see the response to Question 3.

**Representative Suzan DelBene**

**Question 1**

*In 2014, the Obama Administration issued its green book for tax proposals for the 2015 budget. Included in the Green Book, the Obama Administration proposed to repeal IRC section 5010. This was included in the FY fiscal 2014 through 2017 Green Books and included justifications for a full repeal of the credit.*

*Specifically, the Green Book states "the Administration reasons that calculating the credit and enforcing compliance with the provision is complicated for producers and the government, since it requires information about the specific components of the beverage rather than alcohol content alone. Repeal would raise revenue and simplify tax collections credit for distilled spirits and tax all distilled spirit beverages at the $13.50 per proof-gallon rate."*

*The JCT's analysis scored this proposal to raise $1.946B over ten years.*

a. *Does the Treasury under the Biden Administration remain supportive of repealing IRC 5010?*
b. *Instead of subsidizing the blending of two alcoholic ingredients through the 5010 credits, does the Biden Administration believe that the $2 billion in lost revenue could be used more efficiently and effectively to support other important federal programs?*
c. *Is the Treasury Department concerned that subsidizing this type of production activity through the tax code could be thought of as unnecessary in 2022, for a mature and stable industry?"*

**Answer:** The Treasury has not included a proposal to repeal IRC 5010 in the Greenbook during the Biden Administration. We welcome input and recommendations for proposals that we could include in future years.

**Question 2**

*My Democratic colleagues and I want to work with the Biden administration to ensure that the climate provisions of the Inflation Reduction Act are implemented successfully to meet our ambitious climate goals. It is my understanding that the Treasury Department and the U.S. Trade Representative (USTR) are negotiating agreements with Japan and the European Union, and maybe others, to enable them to gain access to the electric vehicle tax credit supply chain without any plan to submit the agreements to Congress for a vote. When Congress passed that law, we said that only "free trade agreement" partners could qualify.*

a. *What is your definition of a free trade agreement partner?*
b. *What are examples of trade agreements you would consider free trade agreements?*
c. *What are examples of trade agreements that you would not consider free trade*

*agreements?*

d. *Do you consider the countries participating in the Indo-Pacific Economic Framework (IPEF) free trade agreement partners?*
e. *Do you consider countries that ratified the World Trade Organization Uruguay Round Agreement free trade agreement partners?*

**Answer:** The term free trade agreement is not defined in the IRA or in the Code. The proposed definition of a country with which the United States has a free trade agreement in effect takes into account the term's meaning, use and context in the statute. The IRA's amendments to section 30D expand the incentives for taxpayers to purchase new clean vehicles and for vehicle manufacturers to increase their reliance on supply chains in the United States and in countries with which the United States has reliable and trusted economic relationships. The Treasury Department and the IRS recognize that more secure and resilient supply chains are essential for our national security, our economic security, and our technological leadership. The Treasury Department and the IRS propose to identify the countries with which the United States has free trade agreements in effect for purposes of section 30D consistent with the statute's purposes of promoting reliance on such supply chains and of providing eligible consumers with access to tax credits for the purchase of new clean vehicles.

Based on these considerations, the Treasury Department and the IRS propose criteria the Secretary would consider in identifying these countries. As set forth in proposed § 1.30D–3(c)(7)(i), those criteria would include whether an agreement between the United States and another country, as to the critical minerals contained in electric vehicle batteries or more generally, and in the context of the overall commercial and economic relationship between that country and the United States: (A) reduces or eliminates trade barriers on a preferential basis, (B) commits the parties to refrain from imposing new trade barriers, (C) establishes high-standard disciplines in key areas affecting trade (such as core labor and environmental protections), and/or (D) reduces or eliminates restrictions on exports or commits the parties to refrain from imposing such restrictions on exports.

The proposal is subject to an ongoing rulemaking process, and we will carefully consider public comments before issuing a final rule.

The proposed regulations include countries with which the United States has comprehensive free trade agreements (that is, agreements covering substantially all trade in goods and services between the parties, including trade in critical minerals). These are Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, and Singapore. In addition, the Treasury Department and the IRS also propose to include additional countries that the Secretary identifies after considering the factors listed in proposed § 1.30D–3(c)(7)(i). One example of such a country is Japan, with which the United States recently concluded a Critical Minerals Agreement (CMA) containing robust obligations to help ensure free trade in critical minerals, including a commitment to refrain from imposing duties on exports of critical minerals that are currently essential to the electric vehicle battery supply chain, a commitment for the

United States and Japan to confer on investments in this sector that may affect national security, and detailed undertakings related to the enforcement of labor and environmental laws related to trade in those critical minerals. The CMA was concluded in the context of an earlier trade agreement the United States concluded with Japan in 2019, a related 2019 agreement on digital trade, and the U.S.-Japan Partnership on Trade announced in November 2021. The Treasury Department and the IRS have consulted with the U.S. Trade Representative in applying the proposed factors. IPEF is still under negotiation and not yet a completed agreement, and we have not proposed to identify the WTO Uruguay Round Agreement as a free trade agreement.

**Representative Gwen Moore**

**Question 1**

*As you may be aware, a question has arisen regarding whether SECURE 2.0 inadvertently eliminated all catch up provisions starting in 2024.*

a. *Will the Treasury Department provide guidance to ensure that those American close to retirement can utilize this important retirement tool?*

   **Answer:** The Treasury Department is well aware of this issue. Treasury's Office of Tax Policy (OTP) has been working with Congressional staff to determine the proper course of action, including whether a technical correction is appropriate. OTP also is reviewing the provision to assess how best to interpret the provision in a manner that is consistent with Congressional intent.

**Question 2**

*Recognizing Tribal Sovereignty or meeting our trust obligation to Native Americans is important to me. I was glad to see that the Administration's proposed Budget includes a recommendation to provide tax parity for Indian Health Service scholarships and loan repayment plans with similar programs under the National Health Service Corps but disappointed by how much the Budget left out. I'm working to advance legislation to better assist Tribal nations through the tax code.*

a. *Do you agree that we must enact legislation this Congress to bring parity to our tax code, including by enabling tribes to issue private activity bonds and governmental bonds, unconstrained by the artificial and arbitrary essential government function test, increasing the effectiveness of Low-Income Housing Tax Credits on tribal lands and the New Markets Tax Credit for tribal communities?*

   **Answer:** Parity among State and Tribal governments in the tax code is a worthy policy goal, and we would welcome a chance to work with your staff to discuss how best to amend section 7871 or other sections of the tax code, including how to make the low-income housing credit and new markets tax credit more effective for Indian Country.

**Question 3**

a. *Does the Child Tax Credit (CTC) affect inflation and will extending the CTC enhancements we enacted in the American Rescue Plan Act exacerbate inflation?*

   **Answer:** The President's budget includes proposals to reduce everyday costs for families and give them more breathing room—including lower costs for health insurance, prescription drugs, housing, college, child care, and utilities. It also invests in continuing to strengthen supply chains to address some of the underlying drivers of inflation. Because the policies proposed in the budget are fully paid for and generate additional deficit reduction, those policies should lower costs for families without adding to inflationary pressures.

**Question 4**

*I lead an Earned Income Tax Credit (EITC) expansion proposal, the Worker Relief and Credit Reform (WRCR) Act which would (1) simplify the structure of the EITC to remove the consideration of "qualifying children" from the computation, (2) extend the EITC to caregivers and students and (3) make the EITC an advance credit, among other changes.*

a. *I appreciate the permanent EITC proposals included in the American Families Plan but would like to know if the Administration is thinking of going further and would support changes like those I am proposing to help more in our communities keep up with our changing economy?*

   **Answer:** The EITC is a critical anti-poverty policy and the President's budget proposes to expand the EITC for workers without qualifying children to make it even more effective. We welcome additional ideas to further strengthen this important policy.

**Question 5**

*I understand that complexity claiming the Earned Income Tax Credit (EITC) is a barrier to the credit's success and that determining a qualifying child can be especially difficult. I have a bill, the Worker Relief and Credit Reform (WRCR) Act that would restructure and simplify the credit by decoupling it from the number of children so that the credit would be based on each individual worker's earned income.*

a. *Would you support this reform or do you have any recommendations on how to otherwise simplify the credit?*

   **Answer:** Simplification is a worthy policy goal, and we welcome your proposals for how the EITC can be simplified.

**Question 6**

*I'm a co-chair of the Congressional Foster Youth Caucus and a long-time champion of strengthening the Earned Income Tax Credit (EITC). I was glad to see your proposal to reduce the EITC lower eligibility age to 18 for former foster children and qualified homeless individuals, regardless of student status. This change was included in the Build Back Better* *legislation that the Ways and Means Committee marked up last Congress, but that was not enacted.*

*a. Can you talk about why this provision – to lower the eligibility age to 18 for this population rather than 19 – is so important?*

**Answer:** Under current law, the EITC is restricted to taxpayers between the ages of 25 and 64 years old. These age restrictions prevent young workers living independently from their families from benefiting from the EITC. This restriction means that young people who are just beginning to build the habits that will allow them to be successful throughout their working lives won't benefit from the EITC. Among other changes to the age restriction, the President's budget would make former foster children and qualified homeless individuals eligible at 18, regardless of student status, allowing them to benefit from this important policy.

**Question 7**

*I'm really concerned about working Americans who get stuck being renters and are effectively locked out from a key tool for generating wealth from themselves and intergeneration wealth because all their income is tied into paying rent and meeting other expenses. So, they can't afford a down payment, for example. I'm working on a proposal and I'm hoping it's something that you would support, to help residents at Low Income Housing Tax Credit (LIHTC) properties transition to homeownership by facilitating the conversion of LIHTC properties at the end of the affordability compliance period into homeownership opportunities for existing residents.*

*a. Do you agree we need to help renters living in LIHTC properties who want to own their own home make that step?*

**Answer:** The Administration has taken a series of measures to help American families achieve and maintain homeownership. For example, in March 2023, the HUD Federal Housing Administration (FHA) lowered its annual mortgage insurance premium by about one-third, saving the average FHA borrower approximately $800 in the first year of their mortgage loan. But we agree that additional investments are necessary, particularly for first-time, first-generation homebuyers facing down payment barriers to homeownership, which includes many families living in LIHTC properties. That is why the 2024 Budget includes $100 million for a HOME down payment assistance pilot to expand homeownership opportunities for first-generation and/or low wealth first-time homebuyers, as well as $10 billion in mandatory funding for a new First-Generation Down Payment Assistance program. The 2024 Budget also includes several reforms to LIHTC, which will make it more effective in supporting rental housing for low-income tenants.

**Representative Dan Kildee**

**Question 1**

*Lead in drinking water is a national threat to public health, and removing lead service lines is one of the most effective ways to reduce lead in drinking water. Lead service lines are unique infrastructure and are often owned by both a local government and private entity, like a household or business. Under our tax code, if a public drinking water utility issues tax-exempt bonds to finance lead service line replacement on private property at no cost to their customers, the bond issue must pass the U.S. Internal Revenue Service' (IRS) private business use test. This test requires that utilities undertake an extensive and costly analysis of their entire service area. In some cases, the analysis required is so costly that it will deter local governments from pursuing tax- exempt bond financing at all.*

*I have introduced bipartisan legislation, the Financing Lead Out of Water (FLOW) Act, that would exempt bonds issued by public water systems to finance lead service line removal and replacement from private business use test, if the water utility is replacing the lead service lines with the goal of complying with a national drinking water regulation for lead.*

a. *Does the U.S. Department of Treasury (Treasury) support this legislation to ease this administrative burden on public water utilities seeking to replace lead service lines?*

   **Answer:** Removing lead service lines is an important policy, and the Treasury stands ready to implement any legislation that is enacted.

**Question 2**

*Last year, the Treasury's Office of Tax Analysis published an analysis of the implementation of the Opportunity Zones policy. This data gave us insights into how the policy works for communities, but we want to know more about its reach and effectiveness. The bipartisan legislation I've supported, the Opportunity Zones Transparency, Extension, and Improvement Act, would require an annual report to Congress of important metrics on how the policy is working.*

*It is my understanding that Treasury has previously felt constrained on the data the agency can collect and release from investors and Opportunity Funds.*

a. *Would Treasury welcome more congressional direction in providing that evidence to the public?*

   **Answer:** Whether to provide additional legislative direction with regard to reporting on Opportunity Zones is a matter for Congress to determine. Treasury stands ready to implement any legislation that is enacted.

**<u>Question 3</u>**

*The corporate alternative minimum tax (CAMT) is one of the key provisions in the Inflation Reduction Act to advance tax fairness and responsibly raise revenue. Congress intended for this tax to apply to the largest publicly traded companies – and specifically the "most aggressive corporate tax avoiders" with wide disparities between the book earnings they report to Wall Street and their taxable income. Congress explicitly excluded S-Corporations, Real estate investment trust (REITs) and businesses organized as pass-throughs from the CAMT.*

*I have heard from firms in Michigan and around the country that are concerned that the guidance the Treasury released in December 2022 groups the income of S-Corporations with the income of hold smaller, umbrella partnership C-Corporations for the purposes of the CAMT, including some taxpayers in a way that runs counter to the intent of the law.*

a. *Can Treasury take additional action to provide clarity or relief to potentially affected taxpayers?*

   **Answer:** The new CAMT regime imposes a minimum tax on any corporation that meets the definition of an "applicable corporation." S corporations are explicitly excluded from this definition and the new CAMT regime does not impose a minimum tax on any S corporations or any S corporation income. However, C corporations that are owned by S corporations can meet this definition if the C corporation's book income exceeds the relevant CAMT testing threshold. For purposes of this determination, the CAMT statutory language requires C corporations to aggregate their book income with the book income of other entities that are part of the same controlled group (as determined under existing statutory and regulatory aggregation rules). Those existing rules do not appear to exclude S corporations from being included as part of a controlled group for this purpose.

**<u>Question 4</u>**

*During the pandemic, we unfortunately learned a lot about supply chains—and what can go wrong when we rely too much on other countries, like China, for critical goods and components. America should not have to rely on foreign-made chips or energy to support our businesses and workers.*

*Congress passed two pieces of legislation last year, the Chips and Science Act and the Inflation Reduction Act. These laws will support American workers and bring manufacturing jobs back to America. Included in the Chips and Science Act is the 48D tax credit to onshore production of semiconductors.*

a. *As Treasury drafts its guidance for this tax credit, does Treasury plan to include the entire value chain of semiconductors, including polysilicon?*

   **Answer:** In coordination with the Department of Commerce and the Department of Defense, Treasury and the IRS published a <u>notice of proposed rulemaking</u> (NPRM) on

March 23, 2023, containing proposed rules to implement the section 48D investment tax credit and the special "applicable transaction" recapture rule in section 50(a)(3). The NPRM expressly requests public comment on the definition of the term "semiconductor" because this term is not specially defined in section 48D or section 50(a). However, beginning with the definition of "applicable transaction" in section 50(a)(6)(D), a series of statutory cross-references, including as amended by Division A of the CHIPS and Science Act, ends with the following definition of "semiconductor" in section 4651(13) of title 15, U.S. Code: "The term 'semiconductor' has the meaning given that term by the Secretary [of Commerce]." That definition is used for various purposes of the CHIPS for America Program established under section 102 of the CHIPS and Science Act, under which "covered entities" may receive funding for "investment in facilities and equipment in the United States for the fabrication, assembly, testing, advanced packaging, production, or research and development of *semiconductors, materials used to manufacture semiconductors, or semiconductor manufacturing equipment*." (Emphasis added).

In contrast, the section 48D investment tax credit is only available for investment in "*a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.*" (Emphasis added). In this regard, the NPRM specifically requests comments on "whether this term, for purposes of the section 48D credit, should include semiconductive substances—materials with electronic properties controllable by the addition of, typically small, quantities of specific elements or dopants—on which an electronic device or system is manufactured, such as, but not limited to polysilicon and compound semiconductor wafers. If so, commenters are requested to explain in detail what principle, standard, or parameters could be incorporated in a definition of the term "semiconductor" so as to prevent extending the definition of that term to also include other materials and supplies used in the manufacture of finished semiconductors." We will, of course, need to coordinate any adjustments to the definition of "semiconductor" with the Department of Commerce and the Department of Defense, as required by law.

**Question 5**

*The Inflation Reduction Act included legislation I authored, the Solar Energy Manufacturing Act, that would support domestic manufacturing of solar panels here in the U.S., instead of relying on China as we do now.*

*My legislation includes a domestic content bonus to spur domestic manufacturing, not just domestic jobs for installing solar panels. A strong domestic content standard will enable larger investments in*
*U.S. solar manufacturing of core components needed to move solar manufacturing away from China.*

a. *Does Treasury plan to issue guidance that incentivizes domestic manufacturing for across the solar panel value chain?*

**Answer:** The domestic content bonus is one of the important provisions in IRA that boost U.S. manufacturing and help ensure American workers benefit from the clean energy economy they are building. On May 12, 2023, Treasury and IRS released Notice 2023-38, a notice of intent to propose regulations on the domestic content bonus. Consistent with the statute, the Notice in general provides that for projects or facilities to qualify for the bonus, all of the structural iron or steel items in the project or facility that are Applicable Project Components, and an applicable percentage of manufactured products (including Applicable Project Components) in the project or facility, must be produced in the United States. The Notice provides detailed information to help clarify how taxpayers can satisfy the requirements for the bonus. We welcome input on Notice 2023-38 and the domestic content bonus provision.

**Question 6**

*As a Member of Congress, a separate but co-equal branch of government, I am concerned about the administration's recent actions and your recent comments when it comes to one aspect of the implementation of the Inflation Reduction Act. In passing this law, Congress' intent was clear: when it comes to qualifying for the 30D electric vehicle tax credit, countries with Free Trade Agreements (FTA) with the United States would be eligible. An FTA is an agreement between two more countries, ratified by Congress.*

*These "critical mineral agreements" with Japan and the EU the administration is negotiating are "executive agreements", not FTAs, because they have not gone through Congress. I am concerned that the administration is taking it upon itself to redefine and expand the definition of what an FTA is.*

a. *Does the administration plan to engage in additional "critical mineral agreements" beyond Japan and the EU?*

   **Answer:** USTR leads on the negotiation of free trade agreements, including critical mineral agreements. We would defer the question on future critical mineral agreements to them.

**Question 7**

*As you know, supply chain disruptions resulted in massive vehicle inventory shortages as well as tax penalties that uniquely affect automotive dealers. I was disappointed that the Treasury Department did not grant relief under Section 473 of the Internal Revenue Code, as I believe the department could have granted relief under its existing authority. However, I appreciate the Treasury Department's cooperative effort to provide a technical fix and legislative solution that complements the existing authority in the tax code.*

a. *Will Treasury continue to work with Congress to pass the bipartisan Supply*

*Chain Disruptions Relief Act to grant temporary and targeted relief to dealers who cannot replenish their inventory through no fault of their own?*

**Answer:** Treasury stands ready to continue to work with Congress on this topic and to implement any legislation that is enacted.

**Question 8**

*The work of the Community Development Financial Institutions (CDFI) Fund at Treasury is critical to expanding CDFIs' capacity to provide credit and financial services to underserved populations and communities across the country, including my constituents in mid-Michigan. I appreciate the important work that national and local CDFIs do for the communities I represent.*

*Unfortunately, I have heard from some financial institutions in Michigan that are certified as CDFIs that changes to the certification process – particularly requirements regarding Target Markets – have left them unable to maintain their certification. Even after undergoing an extensive "cure" period, these local financial institutions, which provide badly needed financial services to low-income families, have seen their certification revoked due to circumstances beyond their control, and have been told that their record with the CDFI Fund will be permanently damaged because of their inability to maintain compliance their certification agreement.*

a. *When will the CDFI Fund end its current blackout period for certifications and release its new CDFI certification application? How will the CDFI fund be treating applicants who were previously decertified through no fault of their own?*

   **Answer:** In order to maintain their Certification status, Community Development Financial Institutions (CDFIs) must recertify on an annual basis and verify that they continue to meet each of the Certification requirements. In the event a CDFI indicates it is no longer compliant with Certification requirements, it is placed into a cure period and provided an opportunity to rectify the deficiency. The CDFI Fund's long-standing policy is that:

   - all organizations with a Certification-related deficiency are first provided an opportunity to cure that deficiency;
   - CDFIs do not lose their Certification status unless they fail to cure the deficiency; and
   - CDFIs in a cure period remain fully eligible to apply for CDFI Fund-administered assistance awards.

   Organizations that may be interested in applying for Certification—either as a new CDFI or to regain their CDFI Certification status—will again be able to do so once the CDFI Fund resumes accepting Certification Applications. There are no additional requirements for applicants who were previously decertified beyond meeting the revised Certification criteria.

Because the CDFI Fund is still in the process of reviewing and considering public comments to proposed changes, no revisions to the CDFI Certification Application have been finalized. As such, prior to the blackout period, neither the process nor the criteria by which current CDFIs were required to recertify (including Target Market requirements), had changed (as part of the revised certification the CDFI Fund has proposed expanding opportunities for Certified CDFIs to serve additional geographic Target Market areas without seeking additional approval from the CDFI Fund).

In order to provide the CDFI Fund additional time to review the substantial number of letters received during the most recent of several comment periods, the CDFI Fund's current pause on CDFI Certification Application submissions will remain in place. Further refinements and changes to the Application are anticipated and will be released publicly prior to the Application becoming effective in late 2023, when the blackout period will be lifted.

**Question 9**

*I am in favor of making our tax code fairer for working families, and believe the IRS should devote its resources to ensuring the wealthiest individuals and corporations are paying their fair share in taxes. This is one of the reasons I was pleased the IRS delayed the implementation of the new $600 1099-K reporting threshold.*

a. *Do you believe that if the 1099-K reporting threshold was higher, IRS would have fewer forms to process and for that reason, would be able to focus its resources more efficiently on enforcement?*

**Answer:** Information reporting enables more efficient administration and enforcement of tax law. The net misreporting percentage for income subject to substantial information reporting and withholding is 1 percent while the net misreporting percentage for income subject to little or no information reporting is 55 percent. As a result, an increase in information reporting generally allows the IRS to use its enforcement resources more efficiently.