

THE PRESIDENT'S FISCAL YEAR 2025 BUDGET

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

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MARCH 21, 2024
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THE PRESIDENT'S FISCAL YEAR 2025 BUDGET

THURSDAY, MARCH 21, 2024

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

The hearing was convened, pursuant to notice, at 10:02 a.m., in Room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Hassan, Cortez Masto, Warren, Crapo, Grassley, Cassidy, Lankford, Daines, Young, Barrasso, Johnson, Tillis, and Blackburn.

Also present: Democratic staff: Jonathan Goldman, Senior Tax Counsel, International; Eric LoPresti, Detailee; Joshua Sheinkman, Staff Director; and Tiffany Smith, Deputy Staff Director and Chief Counsel. Republican staff: Courtney Connell, Chief Tax Counsel; Jamie Cummins, Senior Tax Counsel; Michael Gould, Tax Counsel; Gregg Richard, Staff Director; and James Williams, Tax and Economic Policy Advisor.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. As much as we value the free press, we are going to have to move on, because the Secretary is on a very tight schedule.

Welcome, Madam Secretary. And today, of course, we are having a hearing on the budget.

The hearing always covers a range of economic issues, so we will start with a look at the State of the economy as we meet this morning. Right now, the United States has the strongest major economy in the world. You do not have to take my word for it. Trump advisor Stephen Moore agreed with that statement in a recent interview.

Wages are rising significantly faster than inflation, which has come down. The labor market has never been better for workers. There has been real progress on income inequality. This is a period of booming entrepreneurship in America, as new business applications are up.

Go back 4 years, when COVID cases were filling up the hospitals and Americans were stuck at home wondering if and when they would be able to stock up on toilet paper, forecasts for the economy were dire. The economy under President Biden has smashed those negative forecasts to bits. Nearly every other country in the world

with a developed economy would love to trade places with the United States in 2024.

Now, if you listen to Donald Trump, you would believe that the United States is on a fast track to the Dark Ages. What does he want to do when it comes to big economic policy? For one, Trump allies are developing a new tax agenda, cooking up big plans for tax hikes on working Americans and middle-class families. There will be more tax breaks for multinational corporations, and big hand-outs to those up at the very, very top—the billionaires. Donald Trump wants to repeal the Inflation Reduction Act. Colleagues, we spent a lot of time working on that in this committee room. He wants to, as part of that repeal, include the funding for the IRS that has vastly improved customer service and cracked down on wealthy tax cheats.

All in all, Donald Trump's proposals would run bigger deficits and pile up more debt. That would make it impossible to shore up bedrock American programs like Medicare and Social Security. Recently Donald Trump told an interviewer, in the first interview on economics in quite some time, that Donald Trump believes there is lots of room for cuts to these vital programs, particularly Social Security. His campaign had to walk it back, because they know his real plans on these issues are a loser for the public.

In my view, Americans want a strong economy. They want a fair shake for people who do not have big fortunes and political power, and they want policies that drive down the cost of living in our country. That is not what Donald Trump has on offer, but that is exactly what we are zeroing in on. For example, last year I introduced the Billionaires Income Tax. There are now 18 Senate co-sponsors.

President Biden's budget includes his own proposal, which is focused on ending the scheme that allows billionaires to pay what they want, when they want to, and sometimes nothing at all for years on end. And it all involves, as the Secretary notes, three words. If a billionaire does not want to pay taxes for a long time, they can just buy, borrow, and die. Do those three things, and you do not pay much if any taxes, and here is how it works. The billionaire acquires an asset that just gains in value. Maybe they just buy five or six houses. You cannot live in but one at a time, but they buy all these houses, just sit on them, borrow against them, and then when they die, all the taxes are reconfigured.

Meanwhile, people who earn a wage are paying taxes out of each and every paycheck. That is a basic unfairness. I share the President's view that we are capitalists. We want people to be successful, make plenty of money. But we also believe in fairness, and that is what is on the line now. And the billionaires tax ought to be the centerpiece of the effort to save Social Security for future generations and uphold the Medicare guarantee.

We also want to keep upgrading taxpayer service—already vastly improved thanks to the Inflation Reduction Act funding—while giving every American the opportunity to file tax returns directly with the IRS. By the way, this whole approach has been bipartisan in this committee for many years. I am looking at our friend from Tennessee. Dan Coats at one time was on this committee and wrote a bipartisan bill with me to do just that.

Direct File opened widely in a handful of States last week. In just a matter of days, tens of thousands of Americans have filed or started their returns using this new system, and they are saving big on fees when they do so. That is progress that is going to have to continue. Donald Trump's allies want to stop it. They will side with the tax prep companies against typical taxpayers, and it is safe to say that Donald Trump himself is no champion of tax enforcement against the billionaires and the people at the top.

Before I wrap up, I want to mention one other topic that members of this committee know a fair amount about. It has now been 7 full weeks since 357 members of the House voted to pass legislation that was developed by Republican Chair Jason Smith and myself over a period of many months. The legislation restores important incentives, particularly for small business research and development incentives, and expands the Child Tax Credit. Now, I have listened to many of my Republican Senate colleagues, and I have made it clear that I will work with anybody who wants to find a way to get this done quickly.

You have heard all this talk, Madam Secretary, about, well, maybe you put it off until 2025. There are some big businesses that might be able to survive that, but these innovative, small companies that look at that R&D break as a lifeline, they are not going to make it until 2025.

The number one concern I have heard from Republicans is the Child Tax Credit lookback policy. I heard that from a number of colleagues. They think that, as structured by Chairman Smith and I, this would somehow discourage work. I do not happen to agree with that. The Joint Committee on Taxation does not happen to agree with it.

But in order to make for a bipartisan bill—it has been a long time since we have had a bipartisan tax bill around here; some of my colleagues have not even seen one—I have offered to take the lookback provision out of what Chairman Smith and I developed, if it helps us get this bipartisan bill over the finish line. Working with community leaders, Madam Secretary, we have found a way to do this and still lift the same number of kids out of poverty.

I want colleagues of both parties on the committee to know that the offer to remove the lookback policy that was in the Smith-Wyden legislation is still on the table as of this morning, if we can find common ground and move ahead. And as I mentioned, this idea of waiting until 2025, Madam Secretary, particularly for these innovation-oriented small businesses—Senator Hassan has led the effort to point this out over several years—I think would cause us to do significant damage to the economy, and certainly to the innovation ethic that colleagues on both sides of this dais have supported.

Now, I will wrap up by way of saying I believe that there are more than 60 members of the Senate who want to act on this in a bipartisan way. So I am going to keep at it. You know, members may be tired of hearing about it after a few days, but I sure believe that it is important to do bipartisan tax work now that actually helps people. And if anything, it sets the table for 2025.

With that, I turn it over to Senator Crapo.

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

**OPENING STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO**

Senator CRAPO. Thank you, Mr. Chairman. Madam Secretary, thank you for being here.

Last week, President Biden released his staggering \$7.3-trillion budget proposal. As expected, it was filled with familiar partisan tax-and-spend proposals, doubling down on an agenda that was rejected even when the Democrats had majorities in both the House and the Senate.

The President proposes nearly \$5 trillion in new and increased taxes. Tax increases of that magnitude will affect all Americans through lower paychecks and higher household expenses. However, the most notable tax increase Americans would face under the Biden budget is one that went conspicuously unmentioned: the tax increase that would result for households earning less than \$400,000 if the tax cuts from Republicans' Tax Cuts and Jobs Act, the TCJA, are not extended. While the administration continues to spread misleading information about the TCJA, they cannot deny that if the TCJA individual tax cuts are not extended, individuals making less than \$400,000 would face more than \$2 trillion in the tax increase, breaking the President's pledge.

As many TCJA provisions are set to expire after next year, the differences between Biden's plan and the Republicans' actions have never been more stark. The TCJA led to one of the strongest economies in generations. Prior to the pandemic, the TCJA's pro-growth policies translated into wage increases, record-low unemployment, higher incomes, stronger wage and wealth gains for lower-income Americans than higher-income Americans, and reduced inequality. In fact, the largest wage gains were concentrated in the bottom quarter of the wage scale.

For American businesses, TCJA introduced a competitive tax rate while broadening the base, including by enacting the first global minimum tax of its kind, GILTI, and putting an end to corporate inversions. It also led to record-high corporate tax receipts, both nominally and as a share of gross domestic product.

Instead of taking note of TCJA's successes, President Biden for the fourth time proposes trillions of dollars of tax hikes on American businesses. The Biden proposal proposes increasing the corporate tax rate to 28 percent, which according to the U.S. Tax Foundation would result in the United States having the second-highest combined rate among developed countries. Economists agree a tax increase on American businesses will be passed on to working families in the form of higher prices and lower wages.

The administration's failure to prioritize American businesses and workers extends to its international tax negotiations. Instead of defending the U.S. global minimum tax, GILTI, the administration again uses the OECD's global tax code to justify hiking taxes on American companies at rates far exceeding those imposed by other countries. Even more unfathomable is the administration agreeing to a deal that punitively treats vital congressionally enacted investment incentives like the R&D tax credit, while blessing

identical activities if delivered as government subsidies. But the global tax code is not the only concerning part of the international tax negotiations. The administration should have deep reservations about signing on to the OECD's global tax treaty at month's end. The Joint Committee on Taxation's recent analysis indicates that this deal reduces revenue; fails to provide certainty or stability; and would not halt discriminatory taxes targeting American companies, which was the sole impetus for entering these negotiations.

The list of tax increases goes on. Tax hikes on American energy production that would decrease our energy independence and eliminate good-paying jobs; a tax hike on savings and investments; a tax hike on generational family businesses. While the list of tax increases grows, so does one tax giveaway, the green energy tax incentives included in the Inflation Reduction Act, which benefit China and foreign manufacturing, and have ballooned from an estimated cost of \$270 billion over 10 years to \$663 billion over 10 years.

In stark contrast to the Republicans' achieved objective of lower taxes and competitive rates across the board, President Biden's vision for American workers and companies is clear: higher taxes and uncompetitive rates for the majority to support government subsidies for a few.

Thank you, Mr. Chairman.

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

The CHAIRMAN. Thank you, Senator Crapo.

Welcome, Madam Secretary. I know you've got a hard stop at 12:30. We have great member interest on both sides, so, colleagues, we are all going to have to stick to 5 minutes, and I will just go out on a limb here. Senator Crapo and I will stick to that, and we will make sure everybody gets in.

Okay, Madam Secretary, welcome.

**STATEMENT OF HON. JANET L. YELLEN, SECRETARY,
DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Secretary YELLEN. Thank you, Chairman Wyden, Ranking Member Crapo, and members of the committee. Thank you for the invitation to testify.

Well, for the past 3 years, the Biden administration has driven a historic economic recovery. GDP growth is strong, inflation has come down significantly, and the labor market is remarkably healthy. Real wages and household median wealth have increased since before the pandemic. Families are putting their additional income and accumulated savings back into the economy, and we see many signs of optimism, from the record 16 million small business filings under this administration to improved consumer sentiment over the past 3 months.

President Biden and I recognize that many American families still face challenges, such as high prices, so we are taking additional actions to bring down the cost of key household expenses, like energy and health care. We are also focused on expanding our economy's capacity to produce and create good jobs, while reducing the deficit.

As we implement the bipartisan infrastructure law, the CHIPS and Science Act, and the Inflation Reduction Act, we are creating economic opportunity for Americans regardless of where they live and whether they have college degrees. We have seen companies announce \$650 billion in clean energy and manufacturing investments since the start of the administration.

The modernization of the IRS, made possible by the IRA and discretionary appropriations, is enabling Americans to receive the support they deserve, including by driving significant improvements in customer service. Investments in the IRS are also enabling enforcement actions against tax evasion by the wealthiest Americans, which cost our country over \$150 billion a year—actions such as recovering \$500 million in taxes owed by millionaires to launching a new initiative to end abuse of corporate jet write-offs.

The President's budget proposes additional investments to lower costs for workers and families and to strengthen our economy while reducing the deficit. It proposes making health care more affordable for millions of Americans by making permanent the expansion of tax credits for health insurance programs enacted in the American Rescue Plan Act and extended in the Inflation Reduction Act. And the budget includes expanding the Earned Income Tax Credit, Child Tax Credit, and the Low-Income Housing Tax Credit, proposals which would contribute to lowering child poverty and giving working families more breathing room in their household budgets. We can make these investments while reducing the deficit by \$3 trillion over a decade, through a combination of smart savings and tax proposals.

President Biden and I continue to urge Congress to act so that the United States plays its part in the global minimum tax deal, which is currently being implemented in jurisdictions around the world, to end the race to the bottom in corporate taxation. We have also proposed implementing a billionaire minimum tax so that the top 100th of 1 percent pay their fair share; raising the tax on corporate stock buybacks to encourage businesses to reinvest profits in their workers and grow their companies; and closing estate and gift tax loopholes that allow wealthy Americans to pay less than they would otherwise owe. We will also continue to oppose misguided proposals that will grow the deficit by offering large tax breaks to the wealthy and big corporations. As a whole, the budget will enable us to continue to grow our economy and support workers and families, while upholding our commitment to fiscal responsibility and reducing the deficit.

I will be happy to take your questions.

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

The CHAIRMAN. Thank you, Madam Secretary. You just set a land speed record for a Secretary getting through their statement, and we thank you.

Madam Secretary, tax dodging in America has many faces. Whether it is a crooked Swiss banker hiding American income, a billionaire deducting the personal use of private jets and super-yachts, or the nearly 1,000 millionaires who somehow got away without even filing a tax return until the IRS really began to crack

down, we have seen these tax dodges in a whole assortment of different strategies. The biggest loophole, as I indicated, is “buy, borrow, and die.” You know, buy, borrow, and die is a glidepath for billionaires to pay little or nothing, as I said, for years on end. Can you explain, Madam Secretary, why it is so important for billionaires to start paying taxes on this income, because that is what it is?

Secretary YELLEN. I agree with you. Under current law, some of the wealthiest Americans pay very little tax, because they receive their income as capital gains, and those capital gains aren’t taxed until realized and may escape income taxation entirely at death.

So the President’s budget would impose a minimum tax of 25 percent on total income, inclusive of unrealized capital gains. It would apply to the wealthiest 100th of 1 percent of taxpayers with more than \$100 million in wealth. And the proposal would put an end to the situation that exists today, in which wealthy households, as you noted, borrow against their wealth. They use that borrowed wealth to finance a lavish lifestyle, while at the same time reporting that their wealth generates little or no income for tax purposes.

Your proposal for a Billionaires Income Tax would address the same root problem using a slightly different approach, marking to market the value of publicly traded assets every year, and imposing a deferral charge on other assets. And both the President’s proposed approach, like yours, would really put an end to the problem of wealthy taxpayers with large investment gains reporting little income for tax purposes and often escaping any taxation at death.

The CHAIRMAN. I remember the announcement. The President apparently was surprised one day when they said, “What do you think of Ron Wyden’s proposal?” He said, “I like Ron Wyden’s proposal,” and then I was surprised a few weeks later because the President—and I appreciate it—looked at some of our concepts. So we have a good strategy.

Let’s go next to the employee retention tax credit, which has been riddled by fraud. Chairman Smith and I both have said, we have 95 percent of the claims coming in essentially tainted by fraud. If Congress does not cut off these employee retention claims by passing this bipartisan legislation, would you expect fraudulent claims to continue to flood the Internal Revenue Service?

Secretary YELLEN. Well, I would. The administration has serious concerns about improper ERC claims. We have seen claims made by entities that did not exist or did not have employees during the period of eligibility. Right now, the IRS is actively auditing and conducting criminal investigations that are related to the false ERC claims.

And the legislation that you have proposed, I believe, the administration believes makes critical investments in America to grow our economy and lower costs for families. It advances bipartisan priorities like increasing the supply of housing, helping parents provide for their children, and supporting American innovation by investing in research and development.

And I think it is a tremendous positive that the bill pays for these key investments by really protecting honest small business owners and ending a pandemic-era program that is just like—

The CHAIRMAN. Let me get my last question in under the gun. So this committee, in effect, started breaking 50 years' worth of gridlock on climate change. For 50 years, there has not been anything on carbon taxes, there has not been anything on cap and trade. In late Spring of 2021, we came together around a private-sector approach without mandates. It rewarded reducing carbon emissions, and particularly it was technologically neutral, which authorities said was right at the heart of what we ought to do to have a new kind of system.

Can you commit that the Treasury Department is going to issue the proposed rules for these technology-neutral incentives by June?

Secretary YELLEN. Well, what I will commit is, it is a very high priority for us. We are working hard on it. I cannot give you a precise date, but we are working on it. All of these tax rules involve collaboration with the Department of Energy and EPA.

But these are at the top of our priority list. We want to get it out soon, and these will be important successors to the production tax credit and investment tax credit that have been driving explosive growth in the wind and solar industry.

The CHAIRMAN. Thank you.

Senator CRAPO?

Senator CRAPO. Thank you.

Secretary Yellen, according to the White House, under President Biden's 2025 budget, no one earning less than \$400,000 per year will pay a penny in new taxes. I agree with that. I agree it is a bad idea to raise taxes on Americans suffering from record inflation at this point. Interestingly though, the President's budget is essentially silent on extending the individual tax provisions of the Tax Cuts and Jobs Act, many of which expire next year. This first question can be just a simple "yes" or "no." Are you aware that the Tax Cuts and Jobs Act, which Republicans passed in 2017, reduced the taxes for Americans of all income groups, including those earning less than \$400,000?

Secretary YELLEN. Yes; and the President has made clear that he will oppose raising back the taxes for working people and families making under \$400,000, when those provisions expire.

Senator CRAPO. So he would support extending those tax cuts?

Secretary YELLEN. He will.

Senator CRAPO. Good. That is good news.

The TCJA also nearly doubled the standard deduction. Would that be included in what the President will continue to agree to support extending?

Secretary YELLEN. Well, I cannot give you details, other than saying that whatever agreement is reached, he is committed to not raising taxes on households making under \$400,000.

Senator CRAPO. All right.

I think that this next one you have already answered too, but I want to ask it specifically. The TCJA also doubled the Child Tax Credit to \$2,000 per child. Would you agree that if the TCJA Child Tax Credit provisions are not extended, this would also result in a tax hike for Americans making under \$400,000?

Secretary YELLEN. Well, as I said, he is committed to not raising taxes on households making under \$400,000 and has expressed

commitment to the importance of the Child Tax Credit, which has dramatically lowered child poverty.

Senator CRAPO. Well, this is good news. I am understanding you to say that the President will support extending these policies in the TCJA that would result in an increase in taxes on people making under \$400,000.

I would also like to follow up, however, on the President's serious proposals for increasing taxes on the corporate rate. The bottom line there is, if the President's proposal to increase the corporate tax rate to 28 percent is adopted, it will make it the highest combined corporate rate in the world, which will again result in corporate inversions; capital leaving the United States; increased prices for Americans, adding on to inflation; and reduced wages. Is the President seriously considering causing those kinds of economic impacts when we need to have our economy stay strong and have our wage growth be vibrant?

Secretary YELLEN. I agree with you that we need a strong economy, and we would not want to see capital flee from the United States to foreign shores. That is the reason for supporting the OECD's tax pact, which many countries, including the UK, Japan, the European Union, and others are now putting into effect. They are putting into effect a 15-percent minimum tax on multinational corporations.

Senator CRAPO. Well, let me move to the OECD now, because as you know, the budget once again proposes to align U.S. global minimum tax with certain aspects of Pillar 2, but proposes a much more onerous version of it, including a rate 40-percent higher than the OECD deal, which is 21 percent versus 15 percent, and without any substance-based exclusion as provided under the deal.

Last year, the administration's budget estimated that that proposal, combined with adopting Pillar 2's Undertaxed Profits Rule, would raise over a trillion dollars. But this year's budget estimates for those two combined proposals come in at more than half a trillion dollars lower. Is the year-over-year \$500-billion estimated decrease a result of countries adopting Pillar 2 rules into law over the last year?

Secretary YELLEN. Yes, in the sense where standard procedure is to estimate what the tax savings or expense would be under the assumption the United States adopts a policy, but does not assume that everyone else does. So, when there are changes abroad, it does change the estimates.

Senator CRAPO. Well, my time is expiring. I will just say that the JCT has estimated that if both the rest of the world and the U.S. enacted Pillar 2 next year, the U.S. would lose over \$50 billion in revenue. This is a revenue-loser for America, and is damaging to our economy.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Menendez?

Senator MENENDEZ. I am pleased to have supported the American Rescue Plan, which restored the Child Tax Credit to offer vital assistance to diligent, hardworking families. This expansion aids children from diverse backgrounds and supports communities where parents face disproportionate representation in low-wage positions, due to systemic discrimination and other obstacles to ad-

vancement. With additional expansion, approximately 16 million children could see benefits within the initial year, with over one-third of all Black and Latino children under 17 seeing benefits as well.

So, Secretary Yellen, is expanding the Child Tax Credit a way to create more economic stability for eligible families, and isn't having monthly payments as a way in which it is ultimately paid out a critical element of reducing child poverty?

Secretary YELLEN. Yes. I believe the Child Tax Credit has been, and if expanded in the future would reduce child poverty absolutely dramatically. In 2021, when we had monthly payments, that was something that the IRS, in spite of all of the funding shortages it had and difficulties, quickly put into effect very effectively.

What we saw was that 5.3 million people moved out of poverty, including 2.9 million children. There were—

Senator MENENDEZ. So, it clearly is one thing that government can do—

Secretary YELLEN. Absolutely—

Senator MENENDEZ [continuing]. That can dramatically help particularly children get out of poverty. So I look forward to the chairman's bill being brought to the floor.

Currently, 43 million people have outstanding student debt totaling \$1.6 trillion, which keeps hardworking Americans from achieving financial security. Previously, student loan debt that was canceled was considered taxable income by the IRS, and thus individuals who received that cancellation would face a large surprise tax bill, which undermines the importance of loan forgiveness in the first place. I am proud to have had my Student Loan Tax Relief Act included as part of the American Rescue Plan. That provision made any college loan forgiveness tax-free, ensuring borrowers whose debt is fully or partially forgiven aren't hit with thousands of dollars in surprise taxes—ensuring that that does not happen.

But the provision sunsets in 2025, and I am worried that any forgiven student debt in the future will result in a burdensome tax bill. So, Madam Secretary, isn't it just common sense to have canceled student debt be considered tax-free?

Secretary YELLEN. Certainly, the administration was supportive of that, and I do not know that they have taken a position going forward. But President Biden has felt very strongly about wanting to relieve the burden of this debt.

Senator MENENDEZ. Right, and in his desire to relieve debt, which I share, it just does not make sense to then have it taxed at the end of the day. So I hope we can extend it.

I was pleased to see that the budget calls for a permanent extension of the New Markets Tax Credit. This credit has brought over \$1.4 billion to New Jersey alone, bringing much-needed private investment to community development entities that provide loans, investments, and financial counseling to low-income communities across the State. Madam Secretary, what possibilities will making this credit permanent lock in for low-income communities?

Secretary YELLEN. Well, I think it is a tremendously important tool for bringing much-needed investment into communities, especially some of the poorest communities that really can benefit from

it and are suffering from a severe shortage of investment, and we would like to see it made permanent.

Senator MENENDEZ. Well, according to an analysis from the Urban Institute, the New Markets Tax Credit leads to the creation of jobs through funding for manufacturing and other businesses, expansion of health-care services, construction and housing services for vulnerable populations, and much more. And so, if we allow it to lapse, then we will miss out on all of that economic investment, not just for those communities, but for others.

Finally, the one disappointment that I do have, Mr. Chairman, about this budget is the State and local property tax deduction, which is about middle-class families in New Jersey and across the country. We have not restored it. It was the oldest provision of the tax code, and while it expires next year, I just want to wave the saber to say that when it expires, we are going to fight like hell to make sure it does not continue to expire.

With that, thank you very much, and I give you back 8 seconds.

The CHAIRMAN. Thank you.

Senator Grassley?

Senator GRASSLEY. Yes. Let's start with the President's \$5-trillion tax hike and the fact that he says that nobody under \$400,000 is going to pay anything. And then let's go to the website in your Department's Office of Tax Analysis. It provides a distributional analysis for all major taxes. I ask unanimous consent to put this in the record, Mr. Chair.

The CHAIRMAN. Without objection, so ordered.

[The analysis appears in the appendix beginning on p. 42.]

Senator GRASSLEY. This analysis shows that households with income below \$310,000 bear approximately 37 percent of the corporate tax under current law. The fact is that millions of middle-class Americans with 401(k)s or IRAs bear the burden of the corporate taxes, as do workers, in the form of lower wages. So my question, based on Treasury's own analysis of the corporate tax burden, is, is it not true middle-class Americans will shoulder the burden of the President's tax hike, to the tune of hundreds of billions of dollars?

Secretary YELLEN. So, I think, when you change taxes on corporations, what the impact is on families involves a web of channels that are speculative. They are included in models that sometimes the Treasury uses for the purpose of analysis. But a tax that is levied on corporations that has no obvious direct effect on households, I do not believe the President would regard as raising taxes on families making under \$400,000.

Senator GRASSLEY. Well, we all know that corporations are just a tool to pass through taxes to either management, consumers, or workers, and I think that it is realistic to say that the President's tax is going to hit people with either lower wages or salaries, or the consumers are going to pay it.

Secretary YELLEN. I think if you look at the entire budget and the President's overall program, what you will see is a budget that not only reduces the deficit by about \$3 trillion, but also invests in our economy in ways that especially benefit low-income workers and the middle class. It reflects an approach I have called modern supply-side economics, which is already showing itself to be tre-

mendously effective in generating investment in our economy, and is creating jobs all throughout the country.

Senator GRASSLEY. I want to move on. The President's budget purports to stabilize the national debt as a share of the economy, at levels that rival World War II records. Even the *Bloomberg* editorial board, in a recent article that expressed support for much of the President's agenda, questioned the administration's math.

This is because the budget relies on rosy economic and interest rate assumptions, along with many other gimmicks. This includes assuming the 2017 tax law expires, which would mean a \$2-trillion tax hike on those earning under \$400,000, a direct violation of the President's pledge. Rather than being fiscally responsible, doesn't the President's budget, by making no real effort to address runaway spending, set the middle class up for larger tax hikes down the road? Isn't that what the budget does?

Secretary YELLEN. Well, I would strongly disagree with that description of the budget. First of all, the economic assumptions, if anything, are less optimistic than current data suggests. Economic growth has proven stronger, the labor market stronger than is reflected in our economic assumptions. The economic assumptions do show a rise in interest rates, which does impact that surface cost. But the most important metric of sustainability of fiscal policy is real net interest paid on the debt, and that is stabilized in the President's budget.

Senator GRASSLEY. Let me sum it up this way. You are telling us something much more optimistic than what we hear from our own Congressional Budget Office.

The CHAIRMAN. The time of the gentleman has expired.

Senator Cassidy is next.

Senator CASSIDY. Hey, Madam Secretary, thank you for being here.

Madam Secretary, as we know, Social Security goes insolvent in 8 to 9 years. The President has not put out a plan; he has put out a series of talking points. He calls them general principles, but there is nothing detailed in that report. In it, he very loudly is saying that he is going to raise taxes on those over \$400,000 a year, as he said 4 years ago when he was campaigning for office the first time, but he has still not updated. Now, I will note that there has already been \$4.9 trillion in new taxes proposed for those making over \$400,000 a year.

It seems to be the go-to place, fill in the blank, we are going to tax those over \$400,000 a year for whatever. Of that \$4.9 trillion, none of that has been dedicated to Social Security. So, with that context, if you are going to address the unfunded accrued liability for Social Security, what would the tax rate have to be or what would the total amount of taxes have to be on those making over \$400,000 a year?

Secretary YELLEN. I do not have that computation to offer you, but the President has in the past discussed the possibility of raising the ceiling on what income would be included. Of course, he would protect those—his pledge is to protect households making under \$400,000.

Senator CASSIDY. But let me ask, because the President theoretically has a plan, and if I am rubbing my forehead, it is just because

it seems worse than I thought. If there has not been a computation, if there has not been a calculation of what the tax rate would have to be on those making over \$400,000 a year, has Treasury really not looked at, well, are we charging \$4.9 trillion for the deficit for Medicare, for a lot of other things, and now we have to add Social Security, but we have not done the math to figure out how much that tax rate would have to be?

Secretary YELLEN. The President does not have a plan. He has principles. He wants to work with Congress to find a way to protect Social Security and extend its solvency beyond 2031.

Senator CASSIDY. Now, if the President wishes to work with Congress, why does he continually demagogue Republicans on anything that does not exactly line up to what apparently suits his reelection? If I am frustrated—there is going to be a 23- to 25-percent cut for those receiving benefits now, which will double the rate of poverty among the elderly—double the rate of poverty among the elderly—in 8 years, and he does not have a plan. Madam Secretary, how could he justify not having a plan when he has been in office for 3 years already?

Secretary YELLEN. He believes it is important to work with Congress and—

Senator CASSIDY. Madam Secretary, he has not worked with us at all. On this Senate Finance Committee, we have not heard—at least I haven't, and I have been very active in this issue—we have not heard from the President one peep, except to hear demagoguery rhetoric yelled at us on State of the Union addresses as regards Social Security.

So, can the American people who rely upon Social Security—when can they expect the President to come to us and ask to begin to work on that plan?

Secretary YELLEN. Well, the President has laid out a plan for Medicare—

Senator CASSIDY. That is not my question.

Secretary YELLEN. Which is—

Senator CASSIDY. He has laid out general principles, as you said earlier, but he has certainly not come to us and said, "I want to enter negotiations."

Secretary YELLEN. It is true that he started with Medicare—

Senator CASSIDY. Then let me ask you on that. On Medicare, there is a certain ratio of public funds supporting Medicare relative to the trust fund, and when it exceeds a certain threshold, it is called an emergency, and within 15 days, the President is supposed to submit a plan. Last year we hit that threshold. This year we hit it again, and I have not seen a President's plan submitted.

Secretary YELLEN. The President did lay out a plan for Medicare. It involves extending trust fund solvency by modestly increasing Medicare tax rates on incomes above \$400,000, and then closing loopholes in existing Medicare taxes.

Senator CASSIDY. I'm sorry. Did the President include the SMI in that plan, the SMI covering Parts B and D? I don't think he covered B and D.

Secretary YELLEN. This is with respect to the hospital trust fund.

Senator CASSIDY. So Medicare, of course as we know, also includes Parts B and D, and the funding and the cost of those, which

are almost entirely out of the general fund, about 85 percent out of general fund, are going to exceed expenditures from the hospital trust fund.

The President's plan did not include those two areas. I am a doctor. I know how important Medicare is, and the President has not submitted a plan for that, which is the fastest-growing portion of the plan, in order to address it. Madam Secretary, this has been a very disappointing performance by a man who wants to once more be our President for the next 4 years, on two programs incredibly important to our seniors.

With that, I yield.

The CHAIRMAN. The time of the gentleman has expired.

Secretary YELLEN. I believe the President has laid out a plan for the hospital trust fund, and he has laid out a budget that contains \$3 trillion of deficit reduction, and that provides enough general revenues to be able to support the expenditures that are projected for Part B.

The CHAIRMAN. Senator Johnson?

Senator JOHNSON. Madam Secretary, welcome.

In your testimony, you repeat what OMB Director Young also said, that the President's budget reduces the deficit by \$3 trillion. President Obama in his final budget, Fiscal Year 2017, his cumulative deficit was about \$6 trillion. Four years later in President Trump's final budget for Fiscal Year 2021, his cumulative deficit over 10 years was \$5.6 trillion. I mean, neither one of those Presidents ever projected a deficit more than a trillion dollars. Since President Biden came into office, he has yet to produce a budget where he proposed a deficit of less than \$1.3 trillion.

So, we went from President Trump's budget in Fiscal Year 2021 of \$5.6 trillion; a year later President Biden projects a 10-year deficit of \$14.5 trillion. The following year, another \$14.4 trillion. Last year's budget, he was projecting \$17 trillion of 10-year cumulative deficit. This budget now is \$16.3 trillion. Now I see President Biden's budget going up \$8 trillion over Trump's, then going up another \$3 trillion over his own budget, and now coming down a trillion less than last—not even a trillion, about \$700 billion less. Where do you come up with saving \$3 trillion in deficit?

Secretary YELLEN. Well, that is a straightforward calculation, which compares the budget that he has proposed with the baseline that would exist if current law continues.

Senator JOHNSON. Madam Chair, again the baseline he came in with was \$5.6 trillion. He bumped that baseline to \$14.5 trillion, maintained the \$14.5 trillion, bumped that to \$17 trillion. So, he increased it \$3 trillion, then I guess brought it down \$700 billion.

Again, where do you get a \$3-trillion reduction in deficit, other than just making it up, pulling it out of thin air, which is what you have done?

Secretary YELLEN. Well, the President is not pulling it out of thin air. He has proposed a number of savings—

Senator JOHNSON. Where is the calculation? Tell me how you calculate a \$3-trillion decrease in the deficit when you go from \$5.6 trillion to \$14.5 trillion, \$14.5 trillion, \$17 trillion, and now \$16 trillion. Where is a \$3-trillion reduction in deficit ever shown in the President's own budgets?

Secretary YELLEN. Well, I think if you look at the budget and you examine the tables, the table—

Senator JOHNSON. I am looking at the budget. I have the numbers here. I can do the math.

Secretary YELLEN. Table S-3 gives the budget baseline, and then Table S-4 gives the proposed budget, and you compare those two and you will see exactly where those numbers come from.

Senator JOHNSON. Okay. Provide me that calculation please. I would like to see that, because I am giving the numbers here, so I would appreciate the calculation.

Let me ask you a question. Do you know how much the Federal Government spent in total only 4 years ago in Fiscal Year 2019?

Secretary YELLEN. Well, that was pre-pandemic.

Senator JOHNSON. I realize that.

Secretary YELLEN. I do not have that number in front of me, but—

Senator JOHNSON. Well, it was \$4.4 trillion. You know how much the U.S. population has grown since that point in time?

Secretary YELLEN. A few percent.

Senator JOHNSON. Yes, less than 2 percent. Do you know how much you are proposing—what percent increase you are proposing spending next year? We went up from \$4 trillion, \$4.4 trillion; the population grew at 2 percent.

Secretary YELLEN. The population aged, and because we have an older population, spending on Social Security, Medicare—

Senator JOHNSON. The answer to the question is, you are increasing spending 63 percent, almost \$3 trillion over what we spent, \$4.4 up to \$7.3 trillion. How can you justify that?

The CHAIRMAN. Senator Johnson, let's let the Secretary answer your question.

Secretary YELLEN. Well, the President has proposed a budget that I regard as fiscally responsible. You were looking at one metric, which is the dollar value of the deficit. I think a more relevant economic measure is real net interest as a share of GDP.

We have a strongly growing economy, with a much larger GDP, and if you look at Table S-1, you will see that the proposed budget stabilizes real net interest over 10 years at a historically normal level. The President's budget helps Americans lower costs that are tremendously burdensome to them. It provides adequate funding to the Internal Revenue Service so that they can collect taxes that are due and shrink what is an utterly enormous tax gap amounting to about \$150 billion.

The CHAIRMAN. The time of the gentleman has expired.

Senator JOHNSON. The President's massive deficit spending has caused the value of the dollar to decrease from a dollar to 85 cents during his administration. That is what the President's budget has done.

The CHAIRMAN. The time of the gentleman has expired.

Senator Bennet?

Senator BENNET. Thank you. Thank you, Mr. Chairman.

Thank you, Madam Secretary for being here. Thank you for your testimony, and I also want to say "thank you very much." I am not going to ask you any questions about it today, but thank you very much for working with us on the Colorado TABOR issues and the

other issues that we have raised. I feel like we are constantly pounding on your door for help, and you have been very willing to help understand the situations that we are facing, including our efforts to try to protect working families in Colorado from tax increases, the result of a different opinion about TABOR. So, thank you for that.

You know, it might surprise people here to say that I worry a little bit about the rise in interest rates, and what that is going to mean in terms of our ability to be able to not just deal with our deficits, but also make sure we do not erode substantially the discretionary spending that we have. We have had 10 years or more of 0-percent interest rates, which I think is the result in part of—and we might disagree about this, Madam Secretary—but I would say overly aggressive monetary policy from the Fed that kept rates at zero for probably longer than they should have, and with an expansive quantitative easing that I think had the effect of driving problematic income inequality—or wealth inequality, I guess I should say—as a result of the appreciation of asset prices here.

I think we are sort of dealing with the back end of that now, and it is worrisome. But things are going to set in at a more normalized rate for families and for the Federal Government, and the young people around here have never seen an interest rate environment really that was more normal, like 4 percent or 5 percent. They may have seen 0 percent for a decade. That is not the way it used to be, and that is not the way it will be, and I think that is not the way our economy should run. I think we are at a moment where we need to think about how we bring in line our revenues and our expenditures.

One of the things that drives me crazy, though—I never hear it from my colleague who was banging on this dais a few minutes ago—is the degree to which tax cuts for the wealthiest people in America have created so much of the deficit situation that we are dealing with. I mean, take the Bush tax cuts, take the Trump tax cuts, and I think more than 60 percent of the delta that he is talking about in terms of our deficit is the result of those tax cut provisions. Most wealthy people I know, they might like to have tax cuts, they might philosophically believe that tax cuts are good, but they certainly do not need the money.

When I think about things like the Child Tax Credit, which cut childhood poverty in half in this country, that has, I would argue, enormous fiscal benefits as well as just moral benefits. It just seems crazy to me that we are continuing to use this trickle-down economics as an argument to borrow a whole bunch of money to give the wealthiest people in America tax cuts.

I mean, think about this, Mr. Chairman. When you take the Bush tax cuts and the Trump tax cuts together, about a quarter of those cuts went to the top 1 percent of Americans, about a quarter of those cuts. That is about \$2.5 trillion that went to the top 1 percent of Americans. That is 1.6 million people. Americans at the bottom quintile—you know, that is 10 million people by the way, 10 million versus the people at the very top—they got \$100 billion out of those two deals.

So, could you talk a little bit about that, Madam Secretary, the way in which—you know, if you, I guess, were helping set the pri-

orities in this country, maybe if you were being fiscally responsible, the first thing you might not do is cut taxes for the very wealthiest people in America, without paying for a single cent of it.

Secretary YELLEN. I completely agree. And if you look at CBO calculations, look at what was projected in terms of tax collections, I believe that in 2017, before TCJA passed, CBO was projecting revenues would be about 18 percent of GDP. And instead, they were about 16½ percent last year, and CBO was projecting around 17 percent.

So, a significant part of the deficit comes from that, and what President Biden is proposing to do is to ask wealthy people, high-income people, to pay their fair share. It is important that they be successful, that we have an economy where people can invent things and run businesses and earn healthy profits. But then they need to pay their fair share, and with tax rates on dividends and capital gains—they are lower than many people pay on ordinary income, with step-up of basis, with no taxation of unrealized capital gains.

The wealthy pay—I believe a recent calculation shows that some of the very wealthiest pay on average about 8 percent of their total incomes in taxes, and that should be remedied. And it provides a very ample pool to invest in our economy and to grow the economy from the bottom up and the middle out.

Senator BENNET. Thank you.

The CHAIRMAN. As much as I agree with Senator Bennet, we have to move on.

Senator Blackburn, you are next.

Senator BLACKBURN. Thank you, Mr. Chairman. Madam Secretary, thank you so much for your time today.

I do want to get to the budget. Before I do, I want to ask about Treasury's activities and your activities with Communist China. I am so concerned about what appears to be appeasement coming from Treasury. And of course we know China has practiced intellectual property theft, and you have the genocide that is taking place against the Uyghurs. They are in Xinjiang, and the Trump administration had sanctioned the Xinjiang Production and Construction Corps, because they are a paramilitary organization with a 50-percent stake in more than 2,800 Chinese companies.

What we have received are reports that, under your leadership at Treasury, you all have not fully enforced these sanctions or issued new sanctions against subsidiaries of this entity. That is disturbing, so I would like to know what specific actions you are taking to ensure that this Chinese Communist Party entity is sanctioned to the fullest extent of the law, and what you are doing to identify individuals and entities to sanction, to put further pressure on Communist China for its ongoing genocide and its crimes against humanity.

Secretary YELLEN. Well, I absolutely agree with you that Treasury and the Biden administration should be sanctioning human rights violations that are occurring in Xinjiang. And there is no appeasement, I want to assure you, on this matter.

Senator BLACKBURN. Okay.

Secretary YELLEN. If you are aware of some specific matter that you think involves a problem, I will put your staff in touch with

mine to try to clarify what we are doing. But there has not been, to the best of my knowledge, any weakening of these sanctions. We take them seriously.

Senator BLACKBURN. Okay. Well, Treasury sits on the Forced Labor Enforcement Task Force and has the ability to make recommendations for Chinese entities to be added to the Uyghur Forced Labor Prevention Act entity list. Currently, the majority of entities were put on the list by the Departments of Commerce and Homeland Security, and you have broad capabilities for identifying bad actors, such as through the Office of Foreign Asset Control. Yet Treasury has not made recommendations for new actors to be added to the entity list. So, as you review this, if you could let me know why you have not and what you plan to do about that, that would be helpful.

Secretary YELLEN. I would be glad to get you a briefing on it, but I do want to emphasize that these human rights violations are a very serious concern, and our sanctions and use of our authorities are intended—

Senator BLACKBURN. Yes, and we would like to see those used to the fullest extent of the law, and it is disturbing to hear that they are not.

Let me ask you one other thing. It is National Ag Week, and I just was talking to some of our producers in Tennessee. U.S. ag exports dropped by \$17 billion last year, and China did not live up to their ag purchase. We hear this from our soy and our cotton farmers in Tennessee, and there were some great provisions put in place under President Trump's Phase One deal. So, have you or your staff raised this to Chinese officials in your meetings?

Secretary YELLEN. Yes. The U.S. Trade Representative has tried to hold China to the agreement to carry out the commitments that they made. China has failed to do so, and we have not lowered any of the tariffs that we put in place. I think as you are aware, we have taken many other actions to deal with unfair Chinese practices, including threats to our national security.

Senator BLACKBURN. Yes, yes. Madam Secretary, I will send you this in writing, but I do want to talk to you about Pillar 1 and Pillar 2, because the cost to the U.S. on Pillar 1 is \$1.4 billion, and the revenue loss from Pillar 2 is estimated to be in the range of \$60 to \$120 billion, and that is a Joint Tax number.

And we are very concerned about that. You look at that, and then you look at what is happening with ag products, and we are quite concerned about where these actions are taking us.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. And, Madam Secretary, would you like to give a quick response. I know we are staying within 5 minutes, or would you like to just get back to my colleague in writing?

Secretary YELLEN. I could give a brief response on Pillar 1, if that is okay.

The CHAIRMAN. Great.

Secretary YELLEN. We are attempting to negotiate in the OECD a Pillar 1 agreement that will bring significant benefits to American businesses that have been hit with unfair and discriminatory tax burdens in many parts of the world. We are really trying to

eliminate that, and we are also trying to get tax certainty for American companies that face significant and costly disputes about transfer pricing and other matters.

There would be substantial benefits to American businesses from this agreement, if we concluded it. Our own internal estimate is—there is a lot of uncertainty—but our own internal estimate is about \$500 million. I think in the grand scheme of things, when you look at what the benefits are for the United States, that that needs to be evaluated. We have not concluded a deal and are not ready to bring it to you yet.

The CHAIRMAN. The time of my colleague has expired. I know we will be talking a lot about this in the days ahead.

Senator Lankford?

Senator LANKFORD. Mr. Chairman, thank you. And I would hope that we would spend a lot more time talking about Pillar 1 and Pillar 2 in the days ahead. Let me just do a quick follow-up question on that.

Secretary Yellen, the Pillar 1/Pillar 2 agreements, are these planned to be an executive agreement only, or is it planned to be able to come through this committee? Anything on the tax policy issues for the Finance Committee—congressionally required, constitutionally required to be able to have a tax issue for an American entity to actually come through Congress, or do you plan for this to be executive only?

Secretary YELLEN. I mean, I believe a Pillar 1 agreement would involve congressional action. It is not something that could be just signed into law and effective with an executive order. It requires—

Senator LANKFORD. Pillar 1 or 2, or either of them?

Secretary YELLEN. Pillar 2 also needs to be adopted by Congress.

Senator LANKFORD. Right; thank you.

Secretary YELLEN. We have proposed that.

Senator LANKFORD. You talked about just American business having uncertainty. This is an issue right now obviously where people do not know what the tax policy is, and do not know if it is even going to come through this committee. It is good to be able to hear the plan is, whatever agreement, whatever requirement is done, it is your intention to actually bring it through Congress.

Secretary YELLEN. We will bring it to Congress, and we have tried to keep this committee informed on a bipartisan basis.

Senator LANKFORD. Thank you. I appreciate that.

The IDCs—I noticed in the budget the intangible drilling costs for oil and gas production. I thought it was interesting in the President's budget, in the proposal, every other business in America that does manufacturing can deduct their normal business expenses, but in the President's proposal, it is except oil and gas production. They cannot and should not be able to deduct normal business expenses. Is there a reason why those particular manufacturing locations should not be able to deduct normal expenses and every other manufacturer in the country should?

Secretary YELLEN. Well, in general, subsidies to fossil fuels are something that the President wants to phase out.

Senator LANKFORD. Right, but this is not a subsidy. Intangible drilling cost is not a subsidy. That is the cost of actual production.

That is the cost of all the equipment, of everything else around it. That is not a subsidy. Every manufacturing business can write off their normal business expenses. I guess my question is, why do those manufacturers not get to write off their business expenses and everyone else does?

Secretary YELLEN. Yes, because the fossil fuel industries have benefited from many subsidies over many years. That makes it difficult for clean energy to be taken up.

Senator LANKFORD. Well, I noticed recently that Treasury and the State Department have reduced the sanctions on Venezuela, and that we are now buying oil from Venezuela when we were not for the last 4 years.

So I guess my question is, the President's proposal is to make it harder to produce American energy, but there is still an acknowledgment that we need oil still, and so now we are buying oil from Venezuela when previously we were not. If you go back 2 years ago, even the first 2 years of the Biden administration, we were not buying any oil from Venezuela, knowing that it is the Maduro regime and all that they are doing to their people.

But there is a proposal to increase taxes on American companies, but buy more from Venezuela. Why would that be?

Secretary YELLEN. The relief that was put into place reflected progress that seemed to be made in Venezuela, in respect to our foreign policy, our goals for—

Senator LANKFORD. Would that be the same with Iran, because I know for some of the Iranian sanctions, there was a—*The New York Times* reported 27 tankers that have been insured by an American company. They were able to be able to bring in and put Iranian oil on the world market, when we have pretty strict sanctions on Iran.

Secretary YELLEN. We have very strict sanctions on Iran, and I am not aware of anything that we do that is permissive in terms of Iranian oil exports.

Senator LANKFORD. I will have my team share this *New York Times* article with you that detailed how Iran is avoiding American sanctions, and it is not as tight as it was, and that there are even American companies providing insurance for Iranian tankers moving oil now in a way that it wasn't in the past.

Secretary YELLEN. I would be happy to look at it, but we are very focused on trying to impose the strictest possible regime on Iran.

Senator LANKFORD. As well we should be. Iranian proxies have attacked American forces 200 times, and they have taken the lives of Americans, even in the last few months.

One last question, just on one of the 30D clean vehicle credits that is out there. I know the President's been very focused on the Made in America requirements. He talked about that during the State of the Union address.

We had testimony, sitting at that same table just a few days ago, of an American company that is producing a product, or was attempting to produce a product, but China got a waiver from Treasury for a product that was coming in. So the American company dropped it and said, "We're not going to do it anymore, because Treasury gave a waiver to the Chinese product to be able to go in and get this 30D clean vehicle credit."

It seems to be a gap still that Treasury is giving waivers to some Chinese companies that literally undercut an American company in production. It is one that I am not going to have you try to walk through, because you could not have known that.

But literally, sitting at that table just a few days ago was an American company saying, "I am having to struggle with the Treasury right now because they are giving waivers to Chinese companies."

Secretary YELLEN. I am not aware of any waiver that we have given. There are—30D has Foreign Entity of Concern restrictions that are coming into play this year and next, and they essentially make it impossible for any electric vehicle to qualify for the 30D credit if it contains minerals that are extracted or processed in China, or battery components that are produced there, and that is a very stringent requirement that is coming into play.

Senator LANKFORD. We will have staff follow up.

The CHAIRMAN. The time of the gentleman has expired.

I am going to put into the record of the hearing that our technology neutrality requirements give everybody in the energy field an opportunity to get rewards for reducing carbon emissions.

Senator Cardin?

Senator CARDIN. Thank you very much, Mr. Chairman. Secretary Yellen, welcome; a pleasure to have you here.

I want to talk a little bit about the President's budget as it relates to affordable housing. We have a shortage of affordable housing in the country, so the stock itself is one of the concerns. There is a challenge on affordability issues generally for housing, and then there is the wealth gap in America, in which housing can help fill the wealth gap.

So I have introduced, along with Senator Young, bipartisan legislation, the Neighborhood Homes Investment Act. It is included in the President's budget, and I just want to give you an opportunity to talk about the priority in the budget as it relates to affordable housing.

Secretary YELLEN. So, the President and our administration have been very focused on the burdens that American families face, because in so many parts of the country it is impossible to find affordable housing. So many households find themselves spending half or more of their income just to put a roof over their heads.

And so, the President's budget contains a package of proposals to increase the supply of affordable housing. The one that he focused on most in the State of the Union would provide first-time homebuyers, as well as sellers of—potential sellers of starter homes, because they may have very low-interest mortgages, are reluctant to sell these homes and create a supply on the market.

This would create tax credits that would stimulate and make it easier for first-time homebuyers to do that. In addition, there is a neighborhood homes credit that would provide a credit for builders and homeowners who are seeking to rehabilitate homes and encourage residential development in neighborhoods and communities where property values are low.

Senator CARDIN. And I am very pleased to be working with Senator Young on that. I want to just compliment Senator Wyden. I want to thank you very much for including affordable housing in

the tax package, so hopefully we will be able to get it on the floor. But we need to do more, and I just appreciate the President's budget on this.

Another one of those tools is the New Markets Tax Credit program. I know Senator Menendez has talked about that. The permanency of that credit would give predictability to investors and is included also in the President's budget. I have been working with Senator Daines on that, and I hope that we will be able to get that done also. I want to just compliment the administration for including that provision in their budget.

I want to ask you one more question about SECURE 2.0, the retirement bill that passed last year. It has a very important provision in regard to the Saver's Credit and refundability. Now, I know we are still a couple of years away from its implementation, but I want to make sure we stay on schedule. So, can you give us some assurances that the implementation of SECURE 2.0—particularly as it relates to those provisions that are particularly important for low-income families, working families—how that is coming along?

Secretary YELLEN. It is an important provision. The IRS and Treasury have already started preparing for implementation in 2027. They have convened a working group that has experienced staff. There are a number of technical rules, IRS system issues, and external communications. This group meets informally regularly. They meet with outside stakeholder groups to try to get a better handle on what they need to do to be ready for 2027 when it goes into effect.

Senator CARDIN. And I would appreciate it if you would keep us informed as to how that is being implemented.

And last, let me just ask you about the implementation of the production tax credit in regards to nuclear power production, the 45U.

Secretary YELLEN. Forty-five U?

Senator CARDIN. Yes, how that is coming along.

Secretary YELLEN. We are working on rules on that. I can't give you a definite date at which we expect to get that rule out. But it is part of our work program. We are investing a huge amount of energy in trying to get at the rules associated with the green tax credits in the IRA.

Senator CARDIN. Thank you.

The CHAIRMAN. I thank my colleague. I would just say to colleagues on both sides, if everybody sticks to the 5-minute rule, we can get everybody in.

Senator Daines?

Senator DAINES. Mr. Chairman, thank you. Secretary Yellen, good to have you here today.

My observation has been the administration has a pattern of saying one thing and doing something else, and that is creating harm for Montanans. First, you said inflation was transitory. I remember being right here in this same room when you said the inflation was transitory, and we were challenging that assumption. And then we had Bidenflation's 40-year high level cost the average taxpayer \$34,000 in lost wages, and wipe out over 26 million low-income earners' life savings. Finally, it took severe economic hardship for you to admit the truth, and that was the inflation that you said

was transitory did not in fact end up being transitory, just like members of your own party predicted.

Next, Americans were assured sky-high interest rates driven by President Biden's out-of-control spending would go back to normal. But just last week, you admitted these rates would most likely never come down to the levels seen in the prior administration.

Then you and President Biden enacted the so-called Inflation Reduction Act to, in this administration's terms, finally force businesses—and I am using your terms—to pay what you all believe to be their fair share. This is the same Inflation Reduction Act that every single Senate Democrat voted for and is now funding projects to make our border more green, rather than more secure. It is funding projects for all-electric buildings, solar panels, and EV chargers at the border.

Finally, the Biden budget unveiled a slew of additional tax increases, tax hikes on American companies, delivering yet another blow to taxpayers. For years, President Biden has vowed no tax increases on individuals earning less than \$400,000. But the truth is this administration has already broken that promise. Inflation is a tax on all Americans. High interest rates have kept families from buying homes and hindered the growth of small businesses. Now President Biden is choosing to let the Tax Cuts and Jobs Act expire and increase the corporate tax rate, forcing American families and workers to bear the cost of these policies.

Secretary Yellen, are you refuting the evidence showing that both an increased corporate rate and letting TCJA expire, increase taxes on those earning less than \$400,000?

Secretary YELLEN. The President has pledged that he will not raise taxes on anyone making under \$400,000, and when TCJA, the individual income tax provisions in it expire at the end of 2025, he wants to work to make sure that households earning under \$400,000 do not see an increase in their tax bills.

Senator DAINES. Well, I will take that as a “no,” and I will move on.

Perhaps the most egregious fiscal decision we have seen from the administration is the complete dereliction of duty to the disastrous OECD Pillars 1 and 2 negotiations. You completely bypassed Congress's authority and entered into a terrible deal that will harm the competitiveness of U.S. businesses.

The role of the Treasury Secretary is, according to your website, “to enable economic growth, stability, and to create job opportunities.” I assume that is American job opportunities. These negotiations do the direct opposite of each of those. Through unprecedented extraterritorial taxes, you have bargained a deal that would not only raise taxes on U.S. companies, but also send that money overseas to Communist China and line the pockets of European bureaucrats. This thus completely disregards your role as Treasury Secretary and uses American companies as a piggybank for foreign governments.

According to the Joint Committee on Taxation, both Pillar 1 and Pillar 2—again, according to JCT—will lose revenue. Can you provide justification for supporting this deal?

The CHAIRMAN. And, Madam Secretary, just excuse me. We have an equal number of Democrats and Republicans in the queue, so when you are done giving your response, we are going to move on.

Secretary YELLEN. Well, I would strongly disagree with the way you have characterized the impact of Pillar 1 and Pillar 2. Pillar 2 is a historic agreement that ends the race to the bottom that we have seen around the world in corporate tax rates. It levels the playing field. The United States to date has been the only country with a minimum tax on multinational foreign earnings.

Senator DAINES. Do you refute the JCT data that says it loses revenue?

Secretary YELLEN. I think we need to—I do not want to answer that, because there are several things to take into account. Our estimate is that Pillar 2 and the UTPR that goes with it result in a big increase in tax revenue for the U.S.

The CHAIRMAN. The time of the gentleman has expired.

Senator Carper?

Senator CARPER. Thanks so much. Madam Secretary, thank you for a lifetime of service to our country. It is great to see you.

Secretary YELLEN. Thank you so much.

Senator CARPER. It is a pretty cold, crisp morning here in our Nation's capital, but we know that last summer was the hottest summer in years. Last year was the hottest year on record, and we know what is causing it. It is too much carbon and other similar kinds of substances in the air, leading to global warming.

As it turns out, one of the best ways to address it—we are doing a lot of good stuff: methane emission reduction programs; HFCs, hydrofluorocarbons, stepping them down; electric vehicles; oh gosh, Diesel Emission Reduction Act legislation—a lot of things that we have passed and are implementing.

One of the things that can help a whole lot is hydrogen, and hydrogen in the hubs, and we are all over that, and the administration is all over that. I think it is a pretty good bipartisan issue. But you know the Treasury—I helped write, Senator Wyden and I helped write, with the help of a few members of our staff, a provision called 45V for hydrogen. The idea is to produce more hydrogen to help us decarbonize our economy. But Treasury has—well, let me just ask. Has Treasury considered how its 45V proposed rule affects the domestic supply chain for clean hydrogen components needed to achieve what we will call a “lift-off” with respect to hydrogen, to really get us rolling on producing more hydrogen to meet our decarbonization needs?

Has Treasury considered how its 45V proposed rule—if you will, the guidance that you guys have been working on—how it will affect the domestic supply chain for clean hydrogen components needed to achieve a lift-off on the hydrogen side?

Secretary YELLEN. Well, we did put out a proposed rule for 45V. We worked very closely with the Department of Energy and the EPA in order to craft a rule that would make sure that companies qualifying for the largest credit were really producing hydrogen in ways that would greatly diminish emissions, that was truly clean, and that would not have indirect effects in boosting greenhouse gas emissions.

There were some difficult areas. We have asked for guidance on a number of contentious matters, and we are trying to now go through and review some of the guidance that we have received and continue working. If you have particular views—

Senator CARPER. We have. Senator Wyden and I have met with your folks and others in the administration to say, “These are our concerns. This is what we are hearing from the folks who are producing hydrogen, want to produce hydrogen, in order for them to be successful and for our hydrogen hubs to work.”

So let me just—I just want to plant that. It sounds like you are on it. That is good.

Secretary YELLEN. We would be happy to work with you on that.

Senator CARPER. Good. Thank you, and we appreciate that. As you finalize the guidance as it relates to what I just asked, how is Treasury considering the impact of the hydrogen tax credit on the viability and success of these hydrogen hubs and creating these hydrogen hubs around the country, to create a lot of hydrogen, to help meet our hydrogen needs?

We can use hydrogen for—oh gosh, we can use it for cars, trucks, vans, airplanes, all kinds of stuff. We can use it for producing electricity. We can use it for manufacturing operations. So, it can be hugely helpful in this battle. But my question would be, how is Treasury considering the impact of the hydrogen tax credit on the viability and success of hydrogen hubs that we are creating?

Secretary YELLEN. Well, I think maybe with the hubs, we will be able to meet the requirements in order to qualify for the largest credit. There are some issues around those that are relying on nuclear. A question is, what is the impact of allowing nuclear to be used in the hubs, when it is nuclear that is already being supplied onto the grid? We are required to take account of indirect emissions.

Senator CARPER. To your point, we could use nuclear in the process of creating hydrogen. We can use—what do you call it, water, hydro—we can use hydro, through electrolysis, to create hydrogen. We just want to make sure, at the end of the day, we have the guidance from Treasury that will enable that to happen.

Thank you, and thanks again for all your service. You do good work.

Secretary YELLEN. Thank you very much, Senator.

Senator CARPER. Thanks for coming and testifying today.

The CHAIRMAN. Thank you, Senator Carper.

Now, in order of appearance, the next three would be Senator Brown, Senator Barrasso, and Senator Whitehouse, so that members know the order.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. And, Madam Secretary, nice to see you again. And whenever I see you, I think about the most important work that I have done in this body and your help with that on the Child Tax Credit, and how you have made such a difference in 2 million families, the families of 2 million children in my State, and 60 million around the country. So, thank you. I’ll always be indebted to you for that.

Secretary YELLEN. Thank you, Senator.

Senator BROWN. I want to ask you about something where I do not agree with you so much, and that is about the proposed Treasury regs that hurt my State, dealing with the production tax credit for clean hydrogen. I walked in and heard much of what Senator Carper was talking about, and I want to echo his concerns about 45V, the proposed rules, what happens when people in Washington—who so often don't know, have no idea about the real-world impact in States like Ohio and Michigan and Pennsylvania and Wisconsin—make policy.

Ohio's Appalachian hydrogen hub, or ARCH2, received a Department of Energy grant done right. This hub can help create thousands of good-paying jobs. The problem, as we have talked about, is that Treasury's hydrogen regulations work against this DOE-supported project, not for it.

The 45V proposals undermine the good work done by DOE and, frankly, this Congress. Treasury regulations would eliminate grandfathering for projects built by 2028, by requiring them to switch to hourly matching. I don't want to bore my colleagues, but when you build a hydrogen facility, you must decide from the start whether you are qualifying for the credit using the annual matching system everyone already uses, or whether you are using a brand new untested hourly matching system.

You can't just flick a switch down the road and flip from one to the other. To be clear, the administration must change course on this. My question is, Madam Secretary, will you revise the Treasury regulations to support the Appalachian economy—an economy that is so often left behind by Presidents of both parties—and as a compromise, allow taxpayers to continue operating their projects in the same manner as before and after any transition date?

Secretary YELLEN. So, the Treasury guidance that we issued in the NPRM on 45V was developed through extensive consultation with external stakeholders and with experts at the Department of Energy and EPA. The objective here was to advance the production of hydrogen with all the benefits it offers in the United States, but to make sure that there are environmental safeguards. And many companies are moving forward with projects that include the safeguards. We have asked for comment on various provisions. We have heard concern about hydrogen hubs and how they will be treated under this regulation. We welcome feedback, and you know we will listen to the input we get as we revise the regulation.

Senator BROWN. Well, thank you. This still isn't good enough, but we will continue the discussions with you and other agencies until we get this right. I have additional concerns, Mr. Chairman, about the three pillars under 45V, which I will submit as questions for the record.

But I want to talk about 45X, and I wanted to ask about another credit critical to future manufacturing. That's the 45X advanced manufacturing tax credit. Our tax code must support American manufacturers building out genuine domestic supply chains. We shouldn't give the Chinese Communist Party the chance to exploit tax credits designed to support genuine American manufacturing.

I am working with colleagues from both sides of the aisle to tighten restrictions on the 45X credit, to ensure that taxpayer money is not going to Chinese companies and other, the term is

“Foreign Entities of Concern.” I am glad Senator Lankford mentioned this earlier.

As you prepare 45X regs, will you ensure that companies connected to Foreign Entities of Concern cannot just import—this is what they do—foreign parts qualifying for the credit by merely doing the assembly here? Will you ensure that those companies don’t, can’t do that?

Secretary YELLEN. Well, the company is supposed to receive the credit only if they are producing in the United States. The purpose is to benefit U.S. workers and to onshore supply chains. And so, we will try to put in effect rules that accomplish that. There are antiabuse provisions that, if there really is essentially no production in the United States, I think would capture that. But we will be sensitive to that.

Senator BROWN. Thank you. And that is way more than just the assembly made from parts overseas, when the intellectual property stays overseas and all that.

Fifteen more seconds, if I could, Mr. Chair, about the House tax bill. I know that Chairman Wyden negotiated that in good faith, brought Senator Crapo and others into the negotiations. We all knew what was going on.

It passed the House 357 to 70. Only three Democrats on the Ways and Means Committee voted “no”; all the Republicans voted “yes.” It extends the Child Tax Credit; protects residents of my community, East Palestine, OH from a tax bill. It contains low-income housing credits and really, really, really supports American manufacturing with R&D.

I will submit a question about what those benefits are if we pass that, and thank the chairman for—

The CHAIRMAN. I thank my colleague. And as much as I would like to continue the conversation, Senator Barrasso, you are up.

Senator BARRASSO. Thank you, Mr. Chairman. Madam Secretary, thank you. I just came from the Energy Committee, where we are discussing energy for America which is affordable, available, and reliable for the American people.

So, energy producers in my home State of Wyoming and across the country are facing a whole-of-government assault from this administration on that component of energy. President Biden has shown time and time again that he is going to use every tool at his disposal to target the American energy industry. He is making life very difficult for the men and women who are working to provide American families and our allies with affordable, available, reliable energy. And President Biden has recently banned leases for oil and gas. He has halted permitting for natural gas pipelines and storage facilities.

Last month, he announced a new export ban on liquified natural gas, and once again the Biden administration is proposing more than \$110 billion in new tax increases on energy production. My former colleague, Mike Enzi, used to always talk about a book that reminded me of this, listening to Senator Brown. It was called *The Hidden America*. It says “from coal miners to cowboys, the people who keep the lights on and who keep food on that table, the people that many, many in America don’t see, don’t know about, and the impact that they have on their lives.”

So this tax proposal that you and the President have come across is going to deny our energy producers the ability to recover costs associated with the production. Your proposal repeals necessary and ordinary deductions that give producers parity to every other business, large and small, in America. To me, the tax code is being weaponized. Under your policies, many energy companies would cease to exist. These are the very companies that keep the lights on in our homes, that put gas in our cars, provide the building blocks for materials that go into everyday products. So what would you say to the small energy producer in Wyoming, for example, who is concerned that they are not going to be able to continue to operate if they cannot deduct these expenses?

Secretary YELLEN. Well, I would say that first of all, we will need oil and gas through a substantial transition, and oil production has, I believe, reached new highs. It has expanded quite a lot over the last year or two. But on a long-term basis, clearly the goal is to move to clean energy, which is important for reducing greenhouse gas emissions so that we can be on a livable planet. We want to make sure that that transition proceeds in a way where we do not destroy the planet in the process.

And there have long been tax preferences for oil and gas and coal that we believe distort markets by encouraging more investment in fossil fuels than would occur under a neutral system. So, there are a set of proposals that are intended to level the playing field, to reduce those advantages that the fossil fuel sector has enjoyed, and to speed the process of reducing greenhouse gas emissions.

Also, I would say that this supports energy security, because in global markets where, although the U.S. plays a significant role, we also have countries in the Middle East and Russia playing critical roles in the global oil market. Geopolitical events can have very significant domestic spillovers, and we will not experience that when we increase our dependence on wind, solar, hydrogen, electric vehicles.

Senator BARRASSO. Madam Secretary, thank you. I appreciate it. And as you are well aware, emissions in the United States have been down and down and down and down over the last 15 to 20 years, and it is what is happening around the world where emissions are going up.

I would say we are all here trying to make energy as clean as we can as fast as we can, and do it in ways that do not raise costs for consumers, because they are the ultimate deciders about how our country is governed and how we rule and how we move forward.

You know, this morning I sent a letter to you and your Department signed by 24 Senators—I am sure you have not seen it yet—on the energy tax proposals, which I believe are disastrous. Chairman Wyden, I ask unanimous consent to include this into the record.

The CHAIRMAN. Without objection, so ordered.

[The letter appears in the appendix beginning on p. 39.]

Senator BARRASSO. The letter outlines concerns about the tax proposals on oil, natural gas, and coal producers that we have been discussing. So, I just want to give you a chance to clarify your energy tax proposals. In the Treasury Green Book, the summary of

the administration's tax proposals says, "These oil, gas, and coal preferences encourage more investment in the fossil fuel sector than would occur under a neutral system. This market distortion is detrimental to the long-term energy security."

Do you believe that oil, natural gas, and coal production are detrimental to the energy security of the United States, because I think you just said it is? Because if we don't have the solar and—so it sounded to me like you were saying that additional coal production and oil and gas is detrimental to our country.

The CHAIRMAN. The time of the gentleman—

Secretary YELLEN. I did not say that. I said the distortion is detrimental, because it impedes clean energy production. We need oil and gas, but there needs to be a more level playing field.

The CHAIRMAN. Okay.

Senator BARRASSO. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Whitehouse?

Senator WHITEHOUSE. Thank you. First of all, let me say that if there is a Biden whole-of-government assault on fossil fuel, the industry seems to be weathering it very well, considering that production is now higher than ever, and indeed higher than ever in any country ever.

Let me offer you a few "thank you"s, if I may, Madam Secretary. First of all, contrary to Senator Brown, I would actually applaud the IRA hydrogen rule 45V. Thank you very much for doing that.

Secretary YELLEN. Thank you.

Senator WHITEHOUSE. If you find that specific hydrogen projects that we would like to see go forward need some adjustment in order to make them credible in the market, I am happy to have those conversations. But I think you certainly started in the right place, and I am grateful.

I want to thank you also for the FinCEN rulemakings. The world is swarming with international corruption and a dark economy that supports it, and FinCEN's rulemakings and the resources we have been able to get to FinCEN, I think, have been very helpful. I know you are now defending the Corporate Transparency Act from a spectacularly misguided decision, and I look forward to supporting you in that. And then your work on the global minimum tax has, I think, been extremely helpful.

People like to say that it does not help with competition, but in fact it really does help with competition. And one of the competitions that is constantly overlooked is small businesses versus really big businesses that can go and hide revenues and move jobs overseas, and get all these benefits, and then compete with and crush small businesses that cannot play in that space and take advantage of those tricks. So, thank you for leveling that playing field.

Secretary YELLEN. Thank you; thank you.

Senator WHITEHOUSE. I saw your enthusiastic nodding through my comments, so—

Secretary YELLEN. I agree with what you have said.

Senator WHITEHOUSE. We are not going to solve the climate predicament that we are in under present policy. Pretty much every survivable scenario—or habitable may be the better way to say it, scenario—requires carbon pricing. The two things that are pending

right now are the social cost of carbon that OMB has directed everyone to respond to—and I would love to see Treasury and other agencies respond to that OMB directive—and then the Carbon Border Adjustment Mechanism, the CBAM, coming out of Europe for us.

Not only would I like to see the Biden administration figure out who is in charge on that, I would like to have them figure out that you should be in charge on that. And in any event, I hope that you will participate energetically in the interagency process as they figure out how to respond to that, because a robust international tariff on carbon emissions is exactly how you solve the problem that Senator Barrasso mentioned of the pollution in the rest of the world. China is not going to reduce its pollution out of kindness. It is going to reduce its pollution because we are sending a powerful economic signal that gives them a huge incentive to lower their pollution.

So, I would encourage you to get involved in that as much as you possibly can, because I think you may be the Biden administration's best Cabinet official on climate things.

And last, I just wanted to go over our ongoing discussions about 501(c) enforcement, which has not—it is indirectly under you because it is happening in the IRS, and we are going to continue working with Administrator Werfel about it.

But you and I have had correspondence that I will put into the record, initially in February 2021, about our conversation during your confirmation hearings. Treasury got back to us with a letter June 23, 2023, and we have sent a follow-up letter to both you and Commissioner Werfel September 25, 2023. I would like to ask unanimous consent to submit those three letters.

The CHAIRMAN. Without objection, so ordered.

[The letters appear in the appendix beginning on p. 44.]

Senator WHITEHOUSE. Here is the problem. We have now over a billion dollars in dark money floating around in our elections. It is creepy as hell, and it is corrupting. The tricks that have come to facilitate it are having a whole series of 501(c)s that break the 50-percent rule, because they all sit in the same room at the same table and take the million-dollar check and take 50 percent, and then pass the 50 percent to the next fake entity down the table, which takes half of that and passes it to the next fake entity down the table.

By the time you are done, you've got five fake entities around the table, and 97 percent or whatever it is of the money is going through potentially to the same SuperPAC. There is a lot of fakery, and nobody is looking at it at the IRS.

The other problem is that every 501(c)(4) has its little twin 501(c)(3), and nobody is policing the corporate veil between the 501(c)(3)s, which are supposed to do zero politics, and the 501(c)(4)s, which are limited to 50 percent politics. So, we really need investigation into that area.

Thank you for calling an end to the creepy appropriations riders, but the riders do not prevent investigation, and I would urge you to investigate.

The CHAIRMAN. I thank my colleague.

Senator Hassan is next.

Senator HASSAN. Thanks, Mr. Chair, and thanks to you and Ranking Member Crapo for this hearing. And, Madam Secretary, thank you so much for being here.

Secretary Yellen, I wanted to ask you about a barrier that American businesses face in working to out-compete their counterparts in China. Currently, when a Chinese company invests \$1 million in R&D, the Chinese Government gives them an immediate \$2-million tax deduction. By contrast, when an American business invests \$1 million in R&D, our tax code provides an immediate \$100,000 tax deduction.

How does this unlevel playing field harm our efforts to out-compete China?

Secretary YELLEN. Well, that certainly creates an unlevel playing field, and it is something that I think harms American businesses in comparison with China. I think the Wyden-Smith legislation would help correct that. It restores the incentives to engage in R&D by restoring that tax incentive, as well as doing a lot of other good things including the Child Tax Credit. It pays for those things in ways that essentially enable us to address the fraud and scams that are now serving not to help, but actually to harm, small businesses.

Senator HASSAN. Well, thank you. I certainly agree. We need to restore the full R&D deduction in our tax code to better level the playing field with China, to support investments and innovative products, and to create jobs here at home. So I am really hopeful that the Senate will come together as soon as possible to pass the pending bipartisan tax package, the Wyden-Smith package, which would restore the R&D deduction and cut taxes for hardworking families.

There is also strong bipartisan support for making homeownership affordable by expanding the Low-Income Housing Tax Credit, which is also part of the bipartisan tax package that we were just talking about.

Another bipartisan effort I am working on with Senator Tillis would cut taxes for families who purchase a home with mortgage insurance because they cannot afford the full 20-percent down payment. Specifically, the bill would restore and expand the tax deduction that these families can take for their mortgage insurance payments. Secretary Yellen, how can providing tax cuts to homebuyers and expanding programs like the Low-Income Housing Tax Credit make homeownership more affordable?

Secretary YELLEN. Well, you note that there is a huge shortage of affordable housing, and the proposals that you have described would help to address what has been a very longstanding problem. I think they are important in making sure that rents, especially for lower-income individuals, are affordable. LIHTC currently is the biggest support we have for housing, affordable housing, and we would be happy to work with you also on the mortgage insurance proposal.

Senator HASSAN. I appreciate that very much.

Last question. I want to talk a little bit about supporting retirement plans for employees who work for small businesses. Currently, small businesses can get a tax cut to help cover the cost of starting a retirement plan for their employees. It is worth \$250 per

employee. Due to the structure, the smallest businesses with only a few employees get a very small tax credit that does not fully cover the cost of starting a retirement plan because, regardless of how many employees you have, there is still a basic overhead for starting up the plan. I am working on a bipartisan bill with Senator Budd that would address this issue by ensuring that the smallest businesses get a tax cut of at least \$2,500 to cover retirement plan startup costs.

Madam Secretary, how can tax cuts for small businesses help increase access to retirement plans for their workers?

Secretary YELLEN. Well, I think it is critically important that American workers have access to retirement plans, so that they can look forward to a secure retirement, and clearly U.S. tax policy has been designed to promote those ends. So, if the smallest businesses face disproportionate costs, it makes sense that a proposal like the one you just mentioned could promote that goal.

Senator HASSAN. Well, I appreciate that very much. And we also know that in small businesses, women—and especially women in vulnerable and marginalized communities—are often going in and out of the workforce in small businesses. So this is a way to really address some of the coverage gaps. So I look forward to working with you and your team on that. Thank you.

Secretary YELLEN. Thank you, Senator.

The CHAIRMAN. The time of my colleague has expired.

I would just appreciate—we are constantly coming back to the research and development effort, which you have consistently made bipartisan and done so for years. So I very much appreciate your leadership.

Next is Senator Warren and then Senator Cortez Masto.

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

So last week, the IRS launched a pilot program called Direct File, a first-of-its-kind tool for Americans to file their taxes online directly with the IRS for free—for real. So, this is a big win for taxpayers.

The average American spends about \$150 and 9 hours on average just preparing their taxes. Why? Because TurboTax and other big tax-prep companies advertise their services as free, then suck people in and then pile on fees and charges. That is how they make money.

Now the IRS is starting small with a pilot that the Treasury Department requested, to gather feedback from taxpayers, to figure out how to improve the tool. Direct File is live right now in 12 States, including Massachusetts, for about a third of taxpayers, mostly people with pretty simple taxes. Secretary Yellen, from what you can tell so far in the pilot, have taxpayers found Direct File accessible and easy to use?

Secretary YELLEN. Well, I think they have, and I think a good example would be the very first individual who used it was interviewed for an AP story—

Senator WARREN. Sort of Patient Zero? Is that—

Secretary YELLEN [continuing]. And she was really thrilled. She said that she had saved \$400, that it was easy to use, and it actually—she is somebody who I think does not like computations. She

found it gave her the confidence to be able to do her own taxes using this tool, rather than having to go to a paid preparer.

And of course the feedback that we got before launching it formally—people who tried a trial version of it liked it very much. We saw a clear need to provide a simple and free tool, and we are really hoping to build on what we learned.

There is a little bit more time to go. We expect many more filers to use it. They will give feedback on what their experience was. This is something that should be easy, user-friendly, and free. There is feedback within the program, a chat function. You can call someone if you have a question. We will try to improve it over time, start small, build on it.

Senator WARREN. Free and easy; those are two great words here. I like this. This is a five-star review, and I am really pleased to see what the IRS is doing with the funding that Congress provided.

Secretary YELLEN. Absolutely. This is because there was the IRA funding.

Senator WARREN. Yes, yes. So, a recent report said that expanding the tool, if the tool eventually goes nationwide and is available in all the States and available in more situations where you file your taxes, that it could save taxpayers \$23 billion a year. That would be a return of over \$100 for every \$1 that the IRS invests in this program, and that is why Deputy Secretary of the Treasury Wally Adeyemo said this year's pilot would be, and I will quote him, "The first step in an iterative process, and a way to use lessons learned to inform the growth of the tool."

So let me ask you, Secretary Yellen, if taxpayers continue to give Direct File these kinds of rave reviews, will you expand it and extend it in 2025?

Secretary YELLEN. Well, look. We are going to evaluate the feedback we get, but if they like it, it would be very natural to continue to build on it. There is a lot more functionality that can be built into this system, and one day we hope that, for example, information the taxpayers receive, W-2s and other things, could be used to pre-populate the program, making it even more useable and friendly.

Senator WARREN. I am so glad to hear this. You know, look. No one is excited to go pay their taxes, but if you are going to pay your taxes, making it free, making it easy, trying to do everything we can to make government work for the American consumer, I think, is terrific.

And so, I just want to say to all the taxpayers tuning in from Massachusetts or any of the 11 other States that are now in the pilot project, go to *DirectFile.irs.gov*, click on, and see if you are eligible to try this free and easy opportunity to pay your taxes.

Secretary YELLEN. That is great, terrific.

Senator WARREN. Thank you. Thank you, Madam Secretary.

Secretary YELLEN. Thank you, Senator Warren.

The CHAIRMAN. I thank my colleague. And I would just say, this has been a very important exchange, and it is little-known, Madam Secretary, that the original roots of Direct File were bipartisan. Senator Dan Coats used to sit way down at the end. He was a junior member like me. We teamed up. So this has been a very impor-

tant exchange between you and Senator Warren, and I look forward to the progress we are going to make.

Okay. Senator Cortez Masto?

Senator CORTEZ MASTO. Thank you. Madam Secretary, it is great to see you again.

Secretary YELLEN. Thank you.

Senator CORTEZ MASTO. Similar to my colleague from Wyoming, I just came from the Energy and Natural Resources Committee as well. So, I want to talk to you a little bit about it.

But I do—I think for the record, I would also like to echo really what you were saying. And this is from the words of the chairman of the Energy Committee here in the Senate, who just penned an opinion in *The Washington Post*, who wanted to congratulate President Biden for the “record-breaking energy production we are seeing in America today. The United States is producing more oil, gas, and renewable energy than ever before. We are exporting more fossil fuel energy than we import, and our country has never been more energy-independent than we are today.” And he cites the Bipartisan Infrastructure Law, as well as the Inflation Reduction Act that we have all worked on to get us there today.

And I start there, because this is important for me from Nevada, talking about the benefits of renewable energy that have really promoted jobs, good union jobs in Nevada and across the country. Our economy—it helps us, and it helps us be energy-independent. A lot of that work started here in Senate Finance as well. The chairman talked about this, the important role that the tax code plays in helping us with those projects, to continue those investments long-term, to keep us energy-independent.

So my first question for you—and you are probably not going to be surprised, because I penned a letter to you—is around 45X, which is the extraction tax. As you know, I am concerned with the proposed rule. It is a proposed rule right now for 45X. It is the Advanced Manufacturing Production Tax Credit on critical mineral extraction and processing, namely the administration’s decision to exclude raw materials and extraction costs in the proposed rule.

Really, extraction of minerals is a key part of building our secure supply chain. Not just coal mining; it is hard rock mining. It is the critical minerals we need for that renewable energy future that we are all leaning into.

And so my question to you is if you are willing to elaborate now on where Treasury’s viewpoint is on this issue. I know you are in the comment period, but I do think having extraction costs as eligible is the clear intent—I know, of my intent when we drafted and passed this legislation.

Secretary YELLEN. Well, let me just say that expanding the full supply chain of critical minerals in the United States is certainly an administration priority. The proposed rules sort of focus the incentive on the cost of the value-added activity that is happening in the United States when you transform inputs into eligible components. We thought that that was the way to thus support the goal of building a domestic supply chain. But we specifically, in the NPRM, asked for comments on how to design the rules in a way that would appropriately credit extraction costs, without creating economic distortions or risking waste, fraud, or abuse.

We recognize there are a range of views on this. We are reviewing the comments we received. This is an important issue, I agree with you, and it is our goal to make sure that critical minerals are produced in the United States.

So we welcome your input, and we are reviewing comments that we have received, and we will try to figure that in as we go forward.

Senator CORTEZ MASTO. Thank you; I appreciate that.

Let me talk a little bit about another issue I have worked on, which is Tribal tax reform. I was pleased to see that the Green Book includes a proposal to treat Tribal health loans and scholarships with the same preferential tax treatment as other health professional programs. This is part of legislation that I have been working on to address Tribal tax reform in this committee.

I will say we are looking at other areas. For example, my bill addresses a number of issues in the tax code where Tribal Governments and citizens are not treated the same as non-Tribal entities. For example, Tribes are not able to issue tax-free bonds for infrastructure, and Tribal employee benefit plans are not treated in the same way as State Government plans. These are issues I have heard from them, talked with them, and want to continue to try to address, to bring that to committee, because I think it is important, in a bipartisan way, for all of our Tribes across the country.

But my question to the administration is, would you be willing to work with us?

Secretary YELLEN. Absolutely.

Senator CORTEZ MASTO. Thank you.

Secretary YELLEN. We are very concerned with Tribal matters. I think you know that we have established a first-ever Office of Tribal and Native Affairs in Treasury. They are working very closely with our Office of Tax Policy. There are a lot of issues around Tribal tax issues we want to get right. We would like to work with you on this.

Senator CORTEZ MASTO. Thank you. I appreciate that. And again, for the chair and ranking member, I think Tribal tax parity is really an opportunity for us to focus on this in this committee going forward.

The CHAIRMAN. My colleague has always been a little bit too logical for Washington sometimes, but I strongly, Madam Secretary, support what the Senator is saying, and she is our go-to person for the committee.

Senator Young sprinted to get here to ask his questions, and, Senator Young, you are up.

Senator YOUNG. Thank you, Mr. Chairman.

Madam Secretary, I share the concerns raised by my Republican colleagues about the Biden administration's handling of the OECD tax negotiations. Every single member of this committee, Republican or Democrat, should be outraged, outraged at the way President Biden has undermined Congress's constitutional role in tax writing. The President has used you, your office, and the Treasury Department to make an end run around Congress by rewriting American tax laws. It has been done in collusion with bureaucrats in Paris, all the while raising taxes on American employers and giving our tax base away to Europe.

What is even more frustrating to me is that the OECD minimum tax manages to both raise taxes on U.S.-based businesses, and likely reduces U.S. tax revenue at the same time. Now, at this same hearing last year, I raised concerns with how the OECD Pillar 2 deal, as currently negotiated by you and your team, would completely undermine important tax credits such as the research and development credit. I have not heard of any significant movement from Treasury on that front since the time of that hearing, until earlier this week, on Tuesday, your Deputy Assistant Secretary for International Affairs, Scott Levine, was quoted saying that while he “believes favorable tax treatment for the U.S. R&D credit will be resolved with OECD administrative guidance, it’s possible it will be necessary for the Biden administration to revert” to what he called “Plan B.”

He went on to clarify that this “Plan B” referred to “legislation—legislation—that would have to be passed by this body.” Now, Madam Secretary, this is the first that I had heard of the need for legislation to address the administration’s failure to secure U.S. interests in the Pillar 2 model rules.

This needs to be fixed. I said it last year; I will say it again now. You need to go back to the table and negotiate, and if you are unable to fix this with the OECD, please tell me more about this Plan B. Please tell me more about this Plan B so we know what is coming, including how much this hypothetical legislation is going to cost the American taxpayer.

Secretary YELLEN. So, countries participating in the OECD process understand that the treatment of the R&D tax credit is a critical issue for us, and we believe we have an opening to negotiate with them to try to resolve this in a way that will be favorable.

Senator YOUNG. And that will be through OECD administrative guidance presumably, and if that fails, according to Deputy Assistant Secretary Levine, we will be resorting or reverting to Plan B.

Secretary YELLEN. Well, look. We have resolved a number of issues favorably through administrative guidance that affect the United States, such as the treatment of partnerships, the Low-Income Housing Tax Credit, the green energy credits, and—

Senator YOUNG. That was the administrative guidance. But if that fails, Plan B is—and I have a minute left. Plan B; tell me more about Plan B, Madam Secretary.

Secretary YELLEN. I do not think there is a detailed Plan B.

Senator YOUNG. Not yet.

Secretary YELLEN. But it is clear that refundable tax credits would not be penalized by the global minimum tax. And so, it is conceivable that this could be restructured—

Senator YOUNG. It is conceivable—

Secretary YELLEN [continuing]. To clearly qualify, and we would stand ready to work with you to accomplish that.

Senator YOUNG. Do you commit to providing this committee with updated revenue estimates for Pillar 2, and for the proposed Plan B legislative action within the next say 60 days? I mean, this committee needs to know what to expect and what sort of Plan B to prepare for.

Secretary YELLEN. We are working to resolve this issue, and we will stay in close touch with you as we do that.

Senator YOUNG. Can we get this information in the next 60 days, Madam Secretary?

Secretary YELLEN. We will let you know how the negotiations are proceeding. I am not promising to provide estimates of a Plan B that has not been worked out, or does not exist, while we are working to resolve this.

Senator YOUNG. It sure would be nice to have Treasury's assistance to contingency plan for the failure of providing some inference of what OECD's administrative guidance looks like, because I am not highly optimistic that that will be resolved, and thus we would be required, per the Deputy Assistant Secretary, to exercise Plan B, which is quite vague.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague, and I think this is an important issue to be clear on. First of all, Senator Young has always been a champion of research and development, and we appreciate it.

I would only say that because Article 1 of the Constitution gives the Congress the authority in terms of taxes and trade, whatever the administration proposes in this area will come to us, and we will try, as we always have, to work in a bipartisan way. So I thank my colleague for it, and I think it all starts with Article 1, and we will go from there.

So, Madam Secretary, it has been a long morning. We appreciate your patience and, under normal circumstances I would give a passionate closing statement. But I want to let you get on your way.

I think we understand that Americans—and I think whatever political party you are in, you want a strong economy, you want a fair shake if you don't have big fortunes and lobbyists, and we want policies that drive down our costs in medical and housing and energy. And in my view, it really starts with the bipartisan effort that got 357 votes in the House of Representatives. Folks, you cannot get 357 members of the Congress to agree on ordering a soda, and yet virtually every Democrat and every Republican said, "We are together." We want to get this done, and we continue to try to find common ground here.

As I have talked to my colleagues who are in the room, when I have visited with Republican Senators, they have said their number one concern about the Smith-Wyden proposal was the lookback provision, because they thought that in some way this could discourage work. Now, the Joint Committee on Taxation said specifically they do not share that view. But in the effort to find common ground, we have offered—and it is on offer today as of 12:15, right now—to remove the lookback provision in an effort to find common ground and do something bipartisan.

Colleagues, people hardly can remember the last time the Congress did a significant tax bill in a bipartisan way. We are on the precipice of being able to do that, with 357 votes and a willingness to keep talking and try to find common ground. The clock is really ticking down, you know? The filing deadline is on, and I just, as we wrap up, say that in terms of this agenda for the American people—and Senator Young correctly talked about research and development—this is all about what is actually going on out there. I have talked to a lot of these small companies that are research-

oriented; some of them in North Carolina apparently are in the press.

They heard about the idea that well, maybe Congress will just wait, just wait till 2025, and some of them have said, "We are not going to be around in 2025."

So, Madam Secretary, thank you for your time this morning. We have a lot of work to do, and I think it begins with a bipartisan effort that got kicked off in the House of Representatives with 357 votes.

Our door is open to make sure that we can find common ground over here and get a big vote over here. And with that, Madam Secretary, we are adjourned.

Secretary YELLEN. Thank you.

[Whereupon, at 12:16 p.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

SUBMITTED BY HON. JOHN BARRASSO,
A U.S. SENATOR FROM WYOMING

United States Senate

WASHINGTON, DC 20510

March 21, 2024

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen:

We write with grave concern regarding the administration's continued hostility towards American energy production. Working families and small businesses are facing immense challenges including high energy prices. At the same time, our allies and partners across the globe are asking for reliable American energy resources to escape their dependence on Russian energy and to deal with the energy crisis. Instead of increasing U.S. energy production, the administration is focused on increasing energy taxes. The administration has once again doubled down on weaponizing the tax code against U.S. energy producers. The Department of Treasury's *General Explanations of the Administration's Fiscal Year 2025 Revenue Proposals* (Green Book) is filled with crippling tax hikes on the production of oil, gas, and coal.

The latest Green Book calls for \$5 trillion in new tax increases, which will fall on a wide range of industries, as well as workers. These taxes will fall on workers and families in the form of lower wages and higher prices. The broad tax hikes alone will deliver a heavy blow to energy production while simultaneously suppressing growth in numerous sectors of the economy. But, the administration has decided to go even further by specifically imposing additional burdens on energy producers by removing virtually every longstanding tax provision in the Internal Revenue Code designed to support traditional energy production. Specifically, the Green Book calls for more than \$110 billion in targeted tax increases on oil, gas, and coal production.

What is most troubling is that the administration explicitly acknowledges its intention to chill investment in conventional energy production, stating, "These oil, gas, and coal tax preferences distort markets by encouraging more investment in the fossil fuel sector than would occur under a neutral system. This market distortion is detrimental to long-term energy security and is also inconsistent with the administration's policy of supporting a clean energy economy, reducing our reliance on oil and reducing greenhouse gas emissions."

It is alarming that the administration believes utilizing our Nation's abundant natural resources will be detrimental to long-term energy security. Sadly, the administration would willingly suppress energy production knowing it means fewer jobs and higher prices for the American people. The Green Book proposals are neither policy neutral nor do they consider the fact that conventional energy production is the highest taxed industry in the world, and pays high rates of tax to the Federal Government—as well as State and local governments. This relentless action from the

administration lacks the foresight necessary to realize the detrimental impact that these repeals will have.

Many of the President's targeted tax hikes would repeal cost recovery provisions and deny necessary and ordinary deductions which give energy producers parity with other sectors of the economy. One example of this is the proposed repeal for the expensing of Intangible Drilling Costs (IDCs), which are widely utilized by independent producers to deduct expenses related to drilling. These expenses include labor, site preparation, repairs, equipment rentals, and survey work. Often times these items represent between 60 and 80 percent of total production costs.

Another important cost recovery mechanism the administration seeks to eliminate is Percentage Depletion. This is a type of depreciation for mineral-based assets that allows for a deduction from taxable income to reflect the declining production of reserves over time. Percentage Depletion is in line with standard depreciation for other assets and is necessary to recover costs associated with maintaining production on marginal wells, mines, and deposits. The entities benefitting from Percentage Depletion are often independent and family-owned production companies, as well as farmers and ranchers who may rely on small royalty payments.

There are more than a dozen other related energy tax provisions in the crosshairs of the administration's tax plan, all of which pale in comparison to the lavish subsidies and refundable tax credits afforded to the renewable energy industry. These proposals undermine the industry responsible for providing 80 percent of the Nation's energy, as well as the foundation for modern manufacturing. The administration is attacking the industry providing our allies with an alternative to relying on foreign adversaries for their energy needs. No other Nation produces, or refines, with the same environmental standards we see with American-made energy.

America is fortunate to have abundant energy resources. Our Nation needs to be focused on unleashing American energy and innovation instead of throwing away one of our biggest economic and geopolitical advantages. When facing a whole-of-government assault, American energy producers cannot continue to make long-term investments, which provide stability and energy security both at home and overseas. These crushing tax proposals, paired with the administration's heavy-handed regulations and mandates, would threaten American families' access to affordable and reliable energy, while giving our adversaries the upper-hand in global energy markets.

Sincerely,

John Barrasso, M.D.
United States Senator

John Cornyn
United States Senator

Thom Tillis
United States Senator

John Thune
United States Senator

Bill Cassidy, M.D.
United States Senator

Cynthia M. Lummis
United States Senator

Shelly Moore Capito
United States Senator

Cindy Hyde-Smith
United States Senator

Eric S. Schmitt
United States Senator

Katie Boyd Britt
United States Senator

John Kennedy
United States Senator

John Hoeven
United States Senator

Mike Crapo
United States Senator

James Lankford
United States Senator

Steve Daines
United States Senator

Marsha Blackburn
United States Senator

Tim Scott
United States Senator

James E. Risch
United States Senator

Kevin Cramer
United States Senator

Ted Budd
United States Senator

Rick Scott
United States Senator

Lisa Murkowski
United States Senator

Dan Sullivan
United States Senator

Mike Braun
United States Senator

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Thank you, Mr. Chairman. Secretary Yellen, thank you for being here.

Last week, President Biden released his staggering \$7.3-trillion budget proposal. As expected, it was filled with familiar partisan tax-and-spend proposals, doubling down on an agenda that was rejected even when Democrats had majorities in the Senate and House.

The President proposes nearly \$5 trillion in new and increased taxes. Tax increases of that magnitude will affect all Americans through lower paychecks and higher household expenses.

However, the most notable tax increase Americans would face under the Biden budget is one that went conspicuously unmentioned: the tax increase that would result for households earning less than \$400,000 if the tax cuts from Republicans' Tax Cuts and Jobs Act (TCJA) are not extended.

While the administration continues to spread misleading information about the TCJA, they cannot deny that if the TCJA individual tax cuts are not extended, individuals making less than \$400,000 would face a more than \$2-trillion tax increase, breaking President Biden's pledge.

As many TCJA provisions are set to expire after next year, the differences between Biden's plans and Republicans' actions have never been starker. The TCJA led to one of the strongest economies in generations. Prior to the pandemic, the TCJA's progrowth policies translated into wage increases, record-low unemployment, higher incomes, stronger wage and wealth gains for lower-income Americans than higher-income Americans, and reduced inequality. In fact, the largest wage gains were concentrated in the bottom quarter of the wage scale.

For American businesses, TCJA introduced competitive tax rates while broadening the base, including by enacting the first global minimum tax of its kind, GILTI, and putting an end to corporate inversions. It also led to record-high corporate tax receipts, both nominally and as a share of gross domestic product.

Instead of taking note of TCJA's successes, President Biden, for the fourth time, proposes trillions of dollars of tax hikes on American businesses. Biden proposes increasing the corporate tax rate to 28 percent, which, according to the Tax Foundation, would result in the U.S. having the second-highest combined rate among developed countries.

Economists agree that a tax increase on American businesses will be passed on to working families in the form of higher prices and lower wages.

The administration's failure to prioritize American businesses and workers extends to its international tax negotiations: instead of defending the U.S. global minimum tax, GILTI, the administration again uses the OECD's global tax code to justify hiking taxes on American companies at rates far exceeding those imposed by other countries.

Even more unfathomable is the administration agreeing to a deal that punitively treats vital congressionally enacted investment incentives—like the R&D credit—while blessing identical activities if delivered as government subsidies.

But the global tax code is not the only concerning part about the international tax negotiations: the administration should have deep reservations about signing on to the OECD's global tax treaty at month's end. The Joint Committee on Taxation's recent analysis indicates the deal reduces revenue, fails to provide certainty or stability, and would not halt discriminatory taxes targeting American companies, which was the sole impetus for entering the negotiations.

The list of tax increases goes on—tax hikes on American energy production that would decrease our energy independence and eliminate good-paying jobs; a tax hike on savings and investments; a tax hike on generational family businesses.

While the list of tax increases grows, so does one tax giveaway—the green energy tax incentives included in the Inflation Reduction Act, which benefit China and foreign manufacturing, and have ballooned from an estimated cost of \$270 billion over 10 years to \$663 billion.

In stark contrast to the Republicans' achieved objective of lower taxes and competitive rates, President Biden's vision for American workers and companies is clear: higher taxes and uncompetitive rates for the majority to support government subsidies for a few.

Thank you for your service, Secretary Yellen. I look forward to your testimony.

90 to 95	5.0	5.6	11.2	12.7	13.2	8.8	13.6	11.4	0.0
95 to 99	4.0	4.6	15.2	18.7	23.2	16.9	14.0	14.5	0.1
99 to 99.9	0.9	1.1	9.7	14.5	21.5	17.4	4.9	9.0	3.8
Top .1	0.1	0.1	8.9	14.9	21.4	27.8	1.7	7.1	94.9
							--- Average Rates ⁴ ---		
0 to 10 ³				0.1	-7.0	0.6	4.8	1.7	0.0
10 to 20				-4.8	-14.1	0.6	7.9	0.8	0.0
20 to 30				2.8	-7.7	0.6	9.1	0.8	0.0
30 to 40				7.6	-2.4	0.7	8.6	0.7	0.0
40 to 50				10.1	0.7	0.8	7.9	0.7	0.0
50 to 60				12.1	2.6	1.0	7.8	0.7	0.0
60 to 70				14.4	4.3	1.1	8.2	0.7	0.0
70 to 80				16.9	6.4	1.2	8.5	0.7	0.0
80 to 90				20.0	8.9	1.4	8.9	0.7	0.0
90 to 100				27.0	17.2	3.4	5.5	0.7	0.3
Total ³				20.0	9.8	2.2	7.2	0.7	0.1
90 to 95				22.8	11.6	1.7	8.8	0.7	0.0
95 to 99				24.6	14.9	2.4	6.6	0.7	0.0
99 to 99.9				29.7	21.5	3.9	3.6	0.7	0.0
Top .1				33.5	23.5	6.8	1.4	0.6	1.3

October 30, 2023

U.S. Department of Treasury
Office of Tax Analysis

¹ Cash income consists of wages and salaries, net income from a business or farm, taxable and tax-exempt interest, dividends, rental income, realized capital gains, unrealized gains at death, cash and near-cash transfers from the government, retirement benefits, and employer-provided health insurance (and other employer benefits). Employer contributions for payroll taxes and the Federal corporate income tax are added to place cash on a pre-tax basis. Families are placed into deciles based on cash income adjusted for family size, by dividing income by the square root of family size.

² The taxes included are individual and corporate income, payroll (Social Security, Medicare and unemployment), excises, customs duties, and estate and gift taxes. The individual income tax is assumed to be borne by payers, payroll taxes (employer and employee shares) by labor (wages and self-employment income), excises on purchases by individuals in proportion to relative consumption of the taxed good and proportionately by labor and capital income and excises on purchases by businesses and customs duties proportionately by labor and capital income, and the estate and gift taxes by decedents. The share of the corporate income tax that represents cash flow is assumed to have no burden in the long run; the share of the corporate income tax that represents a tax on supernormal returns is assumed to be borne by supernormal corporate capital income as held by shareholders; and the remainder of the corporate income tax, the normal return, is assumed to be borne equally by labor and positive normal capital income. Payroll taxes also include the employer shared responsibility payment as part of the "employer mandate" under the Affordable Care Act.

³ Families with negative incomes are excluded from the lowest income decile but included in the total line. Families with negative income pay a significant share of the estate tax. ⁴ Average tax rates are calculated as total tax burden for the income group divided by cash income for the income group. Negative average tax rates are shown when net federal tax burdens are negative for the income group.

Note: Percentiles begin for an average family (2 people) at family size-adjusted cash income of: \$15,525 for 10 to 20; \$30,301 for 20 to 30; \$42,780 for 30 to 40; \$56,512 for 40 to 50; \$72,531 for 50 to 60; \$91,675 for 60 to 70; \$115,956 for 70 to 80; \$151,983 for 80 to 90; \$220,803 for 90 to 95; \$310,680 for 95 to 99; \$713,506 for 99 to 99.9 and \$3,166,003 for Top .1.

SUBMITTED BY HON. SHELDON WHITEHOUSE,
A U.S. SENATOR FROM RHODE ISLAND

Department of the Treasury

WASHINGTON, DC

ASSISTANT SECRETARY
FOR LEGISLATIVE AFFAIRS

June 23, 2023

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Dear Senator Whitehouse,

Thank you for your continued engagement with the Treasury Department on addressing the challenges of dark money in politics and for your leadership on this issue. We share your goal of increasing transparency in the system and, for reasons discussed at greater length below, we agree that Congress should lift the appropriations rider that prevents the Department from clarifying the extent to which organizations can engage in political or election-related activity while maintaining their tax-exempt status under Section 501(c)(4) of the Internal Revenue Code.

First, the Department agrees that dark money in politics is a serious problem for our democracy and can undermine public trust in government. As Secretary Yellen affirmed in congressional testimony, “I understand the importance of this issue. . . . We really need to get dark money out of politics. . . . I found out how very complicated it has been. And I know, for example, that the IRS has been prohibited from issuing guidance in this area for a number of years.” She also recently reiterated, in response to your thoughtful questions, “I agree with you that we absolutely need to get dark money out of politics. We’ll work with you to try to do that.” The Department remains committed to addressing this issue.

Second, we know that there are sound constitutional reasons for promoting transparency in political activity. The Supreme Court emphasized these principles in its decision in *Citizens United v. Federal Election Commission*: “The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” Indeed, the Court specifically upheld disclaimer, disclosure, and reporting requirements that aimed to help citizens better evaluate political advertisements and to make informed choices in the political marketplace. The widely accepted principle of promoting transparency and greater information in the political system, recognized by an overwhelming majority of the Court, remains equally sound today—and continues to be critical to preserving the public’s trust in our electoral system.

Third, the Department has limited tools to ensure that organizations do not abuse their tax-exempt status under Section 501(c) by engaging in a prohibited level of political activity. This is an area of the law that could benefit from clearer rules and guidance. Charitable organizations established under Section 501(c)(3), for example, may not “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” But the rules are more nuanced for 501(c)(4) entities that are “not organized for profit but operated exclusively for the promotion of social welfare.” For more than 60 years, the Department has interpreted “promotion of social welfare” to exclude “direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.” But it has also interpreted “operated exclusively” to mean “operated primarily” and thus allowed entities to retain their tax-exempt status even if they engage in some degree of political activity—and in a way that does not require the disclosure of those who fund it under 52 U.S.C. § 30120(a).

The Department is aware of the importance of providing guidance on the contours of these rules, but its efforts to do so are now subject to a clear appropriations rider. In 2013, the IRS issued an NRPM to clarify the 501(c)(4) regulations, including what it means for an organization to be engaged “primarily” in candidate-related political activity. The IRS received more than 169,000 comments, demonstrating the

significant public interest in this topic. In 2014, IRS withdrew the NPRM and announced it would issue a revised NPRM. Since 2015, however, Congress has imposed an annual rider on appropriations for the IRS. These riders have been intended to restrict the Department's ability to clarify the criteria that govern an organization's eligibility for tax exemption under 501(c)(4) when that organization engages in political or election-related activities. As a result, until Congress acts to remove the rider, the Department will be unable to provide the regulatory clarity that could provide guidance to tax-exempt organizations and potentially increase public transparency in political spending by these organizations.

The most recent version of this appropriations rider states that “[N]one of the funds made available in this or any other Act may be used by the Department of the Treasury, including the Internal Revenue Service, to issue, revise, or finalize any regulation, revenue ruling, or other guidance not limited to a particular taxpayer relating to the standard which is used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code of 1986.” The current rider also attempts to restrict enforcement by providing that “the standard and definitions as in effect on January 1, 2010, which are used to make such determinations shall apply after the date of the enactment of this Act for purposes of determining status under section 501(c)(4) of such Code of organizations created on, before, or after such date.”

You have raised several significant and understandable concerns about the practical consequences of handcuffing efforts to cut back on dark money in politics. For example, you have emphasized that, following *Citizens United*, there is no limit on the amount of money a group organized under section 501(c)(4) can spend on campaign and election-related activity so long as that is not its primary activity. Although a 501(c)(4) organization must include a disclaimer that it paid for an election-related communication, it does not need to publicly disclose its donors. It can therefore be more difficult for the public to learn what individuals or entities are funding an advertisement paid for by a 501(c)(4), compared to an advertisement paid for by a campaign or committee which must submit public reports of its donors to the Federal Election Commission. You have also raised concerns about the proliferation of 501(c)(4) organizations and their political activity, noting that it is not uncommon for an entity formed under section 501(c)(3)—which is prohibited by statute from intervening in political campaigns—to share staff, board members, office space, or other resources with a 501(c)(4) organization that may engage in such activity. You have also raised concerns that the statutory and regulatory requirements of section 501(c)(4) can be abused to enable the proliferation of dark money in politics.

We share the overarching concern about the need to address abuses of the tax code. Enforcement of the law has been hampered by a lack of clarity regarding the scope of “direct or indirect participation or intervention” in political campaigns on behalf of or in opposition to any candidate for public office. In addition, IRS has been significantly constrained in the past by its limited resources in all areas of IRS enforcement authority, and not just in the tax-exempt space. The IRS had been severely underfunded for decades, and its budget has been declining even while the number of tax filers has been growing. This is why we appreciate your strong support for advancing the IRS funding provisions of the Inflation Reduction Act.

We support removal of the appropriations rider. We would welcome the opportunity to re-engage with the public on how best to clarify the requirements of section 501(c)(4) and increase transparency in political spending, while appropriately protecting the speech and associational interests of tax-exempt organizations. We have appreciated your advocacy on this point, and we welcome efforts by you, your Senate colleagues, and House colleagues to prevent the imposition of this and other riders on future IRS appropriations.

Thank you, again, for your continued leadership and engagement with Treasury on these issues. We look forward to continuing our productive discussions. If you

have any further questions, please do not hesitate to contact the Office of Legislative Affairs.

Sincerely,
Jonathan C. Davidson

Congress of the United States
Washington, DC 20515

September 25, 2023

The Honorable Janet Yellen
Secretary, Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Daniel Werfel
Commissioner, Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Werfel,

We appreciate the Treasury Department’s concern for the serious problem dark money poses for our democracy and the Department’s commitment to increasing transparency, as expressed in your recent letter regarding the political activities of groups organized under Section 501(c)(4) of the Internal Revenue Code.¹ We appreciate your call for Congress to remove the appropriations rider preventing the Department from clarifying the extent to which organizations can engage in political or election-related activity while maintaining their tax-exempt status under Section 501(c)(4).

As noted in your letter, the appropriations rider has prevented the Internal Revenue Service (IRS) from issuing new regulations to clarify the definition of political activity or from issuing any “other guidance” that would help the Department clarify the criteria governing an organization’s tax-exempt status under 501(c)(4) when that organization engages in political activities.² We share fully your view that Congress must remove the rider, allowing the Department to provide additional clarity to tax-exempt organizations, and to increase public transparency in election-related spending funneled through 501(c)(4) organizations.

Until this is achieved, we urge the Department and the IRS to use its existing enforcement powers to deter bad actors from abusing tax-exempt organizations to engage in impermissible political activity. Even with the rider in place, current IRS rules contain clear prohibitions against a 501(c)(4) organization dedicating half or more of its activity to political campaign intervention, or a 501(c)(3) organization engaging in any political campaign intervention, direct or indirect.³ If the IRS finds a violation, it can revoke the group’s tax-exempt status, levy excise tax penalties, or refer the case to the Department of Justice to conduct a review for criminal prosecution. As I emphasized in a May 2022 hearing in the Finance Taxation and IRS Oversight Subcommittee, and in my previous letters to the Department, flagrant violations of law, if left uninvestigated, send a terrible message and encourage mischief and corruption.

For example, 501(c)(3) organizations continue to engage conspicuously in political campaign intervention. Despite the 501(c)(3) status of an organization called the Conservative Partnership Institute (CPI), publicly available information about its activities indicates that CPI is participating in prohibited political campaign intervention such as selectively offering its facilities and services to Republican candidates and political committees, and selectively featuring Republican candidates at its events and on its social media.⁴ Such activities appear clearly to contravene the IRS’s regulations on permissible activities for 501(c)(3) organizations.

¹See Letter from Assistant Secretary Jonathan Davidson to Senator Sheldon Whitehouse (June 23, 2023).

²*Id.*

³See 26 CFR § 1.501(c)(4)–1(a)(2)(i); 26 U.S.C. § 501(c)(3); 26 CFR § 1.501(c)(3)–1(b)(3).

⁴See Letter from Senator Sheldon Whitehouse to Mr. Cameron T. Seward (November 21, 2022) https://www.whitehouse.senate.gov/imo/media/doc/Letter%20to%20CPI_11.21.2022

Other 501(c)(3) groups seem virtually indistinguishable from their 501(c)(4) “twins,” with overlapping boards, staff and donors, and shared locations, yet there has been no apparent effort to audit or police the 501(c)(3)/501(c)(4) boundaries in such overlapped groups.

Additionally, reporting discrepancies by 501(c)(4) organizations—in which groups report spending on political activity to the Federal Election Commission (FEC) or its state equivalents while reporting to the IRS that they did not engage in any political activity—present prima facie cases of noncompliance with IRS rules. As mentioned in a May 2022 letter, a report published by Citizens for Responsibility and Ethics in Washington (CREW) identified over 2 dozen flagrant inconsistencies between IRS filings and disclosures to the FEC or state equivalents.⁵ Whether or not those inconsistencies are wrongful, they at least merit investigation.

In one example, CREW found the National Rifle Association disclosed nearly 11 million dollars in political spending to the FEC between 2008 and 2013, but reported zero dollars in political spending to the IRS for the same time period.⁶ By matching political spending reports with FEC data, the Department can work to identify instances of reporting discrepancies and use its authority to refer clear instances of misrepresentations, which would predicate potential “false statement” offenses, to the Department of Justice for further investigation and prosecution.

Unfortunately, numerous reports have found that the IRS is doing little or nothing to enforce laws prohibiting impermissible political activity. According to a 2015 bipartisan Senate Finance Committee investigation, the IRS did not perform *any* examinations of 501(c)(4) groups based on outside referrals alleging impermissible political activity between 2010 and 2014.⁷ According to a GAO review, the IRS conducted 226 examinations involving impermissible political campaign intervention between 2010 and 2017 and most resulted in no penalties.⁸ An investigation by the Treasury Inspector General for Tax Administration estimated that over 1,000 referrals alleging impermissible political activity out of 6,500 met the criteria for forwarding to the Political Activities Referral Committee but were not actually forwarded.⁹

Last year, the Inflation Reduction Act made an historic investment in the IRS. Resource constraints are no longer a significant barrier to effective enforcement. The prevalence of dark money in our political system is a corrupting force undermining faith in our democratic institutions. Removing the appropriations rider is a step towards increasing transparency and providing guidance on the boundaries of political activities for nonprofit organizations. In the meantime, the Treasury Department and the IRS must use its audit and enforcement powers to deter bad actors from engaging in impermissible political activity. We urge the IRS to exercise its enforcement authority against 501(c)(3) and 501(c)(4) organizations that fail to adhere to the IRS’s existing regulations.

Sincerely,

Sheldon Whitehouse
United States Senator

Ron Wyden
United States Senator

Bill Pascrell, Jr.
Member of Congress

Michael F. Bennet
United States Senator

FINAL.pdf; see also Tom Dreisbach, *Experts say a Trump-backed charity is pushing the boundaries of tax law*, NPR (Aug. 31, 2022), <https://www.npr.org/2022/08/31/1119751840/experts-say-a-trump-backed-charity-is-pushing-the-boundaries-of-tax-law>.

⁵See Matt Corley and Adam Rappaport, *The IRS Is Not Enforcing the Law on Political Nonprofit Disclosure Violations*, Citizens for Responsibility and Ethics in Washington (Apr. 28, 2022), <https://www.citizensforethics.org/reports-investigations/crew-reports/the-irs-is-not-enforcing-the-law-on-political-nonprofit-disclosure-violations/>.

⁶*Id.*

⁷“The Internal Revenue Service’s Processing of 501(c)(3) and 501(c)(4) Applications for Tax-Exempt Status Submitted by ‘Political Advocacy’ Organizations from 2010–2013,” Committee on Finance, United States Senate, Bipartisan Investigative Report as Submitted by Chairman Hatch and Ranking Member Wyden (2015), <https://www.congress.gov/congressional-report/114th-congress/senate-report/119/1>.

⁸“Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives,” U.S. Government Accountability Office (Feb. 3, 2020), <https://www.gao.gov/products/gao-20-66r#:~:text=FEC%3A%20The%20FEC%20is%20responsible,%2C%20investigations%2C%20and%20civil%20litigation,39>.

⁹“Review of the Processing of Referrals Alleging Impermissible Political Activity by Tax-Exempt Organizations,” Treasury Inspector General for Tax Administration (Oct. 4, 2018), <https://www.treasury.gov/tigta/auditreports/2019reports/201910006fr.pdf>.

Elizabeth Warren
United States Senator

Chris Van Hollen
United States Senator

Lloyd Doggett
Member of Congress

Robert Menendez
United States Senator

Jimmy Gomez
Member of Congress

United States Senate

WASHINGTON, DC 20510

February 3, 2021

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen,

Congratulations on your swift confirmation. We write today to follow up on the conversation at your Senate Finance Committee hearing regarding Treasury's role in overseeing the political activity of social welfare organizations organized under section 501(c)(4) of the Tax Code. As was discussed at the hearing and we outline below, the IRS's regulation and enforcement related to 501(c)(4) organizations has been woefully inadequate in the post-*Citizens United* era. We urge you to undertake a careful review of what the IRS has done, reform its approach, and rein in abuse by "dark money" organizations.

Citizens United and Donor Disclosure

In *Citizens United*, the Supreme Court struck down provisions of the Bipartisan Campaign Reform Act ("BCRA")¹ and allowed unlimited spending in elections. That decision presumed that BCRA's disclosure requirements, which remained intact, would create a regime of "effective disclosure" that would "provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters."² That presumption utterly failed: following *Citizens United*, "effective disclosure" collapsed. This collapse among non-profit groups took place largely because of ambiguous and permissive Treasury regulation of political spending.

Corporate special interests, and their sophisticated political operatives, lawyers, and contributors, identified and exploited the IRS's weak and outdated regulations. They funneled money into organizations under section 501(c)(4) of the Internal Revenue Code precisely because these organizations do not have to publicly disclose their contributors,³ and then turned those organizations to political work.

Once *Citizens United* allowed unlimited political spending in elections, the value of hiding donors' identities exploded, and political activity by 501(c)(4) groups exploded in parallel. Since 2010, 501(c)(4) organizations have spent over \$900 million on political expenditures, compared to \$103 million in the previous decade.⁴ In one representative case, the American Action Network raised \$41.9 million in one year, \$24.6 million of which came from a single anonymous donor.⁵ According to an analysis of the 2020 election, 70% of outside spending came from groups that do not

¹ *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).

² *Id.* at 370. The justices upheld BCRA's disclosure requirements by an 8–1 margin. *Id.* at 372.

³ See, e.g., Trevor Potter & B. B. Morgan, *The History of Undisclosed Spending in U.S. Elections & How 2012 Became the Dark Money Election*, 27 NOTRE DAME J.L. ETHICS & PUB. POL'Y 383, 463–64 (2013) (discussing the formation of Crossroads GPS, a 501(c)(4) spin-off of super PAC American Crossroads, formed to protect donors from disclosure).

⁴ *Outside Spending*, OPENSECRETS.ORG, <https://www.opensecrets.org/outsidespending/index.php?type=A&filter=N> (last visited Jan 26, 2021).

⁵ Scott Bland, *Ryan-linked group Raised \$24.6M From an Anonymous Donor*, POLITICO (May 18, 2018), <https://www.politico.com/story/2018/05/18/american-action-network-24-6-million-anonymous-donor-554680>.

fully disclose their donors, meaning they have dark money or shell company donors.⁶

Citizens United wrought a seismic shift in the political ecosystem. These figures, while staggering, show only a facet of the massive, sophisticated political operation of these big influencers. For example, these figures do not include money spent on “issue ads” (often thinly veiled political attack ads), nor on official lobbying expenditures, nor on conventions and retreats in exotic locations designed to “educate” policy makers, nor on impact litigation and amicus briefs that these organizations have turned into a burgeoning legal influence industry, nor do they contemplate the value of private threats and promises that the prospect of unlimited spending enables.

While the amount of spending is immense, the number of outside groups doing the bulk of the spending is not. In 2016 alone, just ninety-five 501(c)(4) and 501(c)(6) trade associations made independent expenditures of \$50,000 or more, which totaled more than \$185 million.⁷ The ten largest of those spenders were responsible for 77% of this total, and the top three spenders were responsible for nearly half.⁸ Our most powerful political forces now hide from open debate and public accountability by virtue of having interposed a one-way mirror between themselves and the public sphere. The result has been widely described as a “tsunami of slime.”⁹

The IRS Has Wrongly Given Up the Fight Regulating Non-Profit Political Activity The impotence of the IRS’s existing 501(c)(4) regulations has been thoroughly discussed.¹⁰ By law, 501(c)(4) groups must be set up “*exclusively . . . for the promotion of social welfare,*”¹¹ which, according to the IRS’s own regulations, “*does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.*”¹² Nevertheless, Treasury regulations allow 501(c)(4) social welfare organizations to engage in campaign activity so long as the “primary” activity of the organizations is social welfare.¹³

The IRS permits 501(c)(4)s to engage in express political activity as long as it is less than half of the organization’s spending. The remainder of that spending can be on “issue ads” or transfers to other organizations that then spend the money on political ads.¹⁴ In some cases, 501(c)(4) organizations have operated in a manner indistinguishable from Political Action Committees,¹⁵ and some operatives and contributors have created intricate webs of organizations to further thwart disclosure and shield contributors from scrutiny.¹⁶

These groups have an obvious imperative for ambiguous and unenforced regulation, so they and their political allies have spent the last decade deriding and threatening the IRS to keep it from cleaning up these murky waters. In 2013, the Treasury Inspector General of the Tax Administration (TIGTA) found that the IRS had singled

⁶2020 Election To Cost \$14 Billion, *Blowing Away Spending Records*, OPENSECRETS.ORG (Oct. 28, 2020), <https://www.opensecrets.org/news/2020/10/cost-of-2020-election-14billion-update/>.

⁷*Political Nonprofits: Top Election Spenders*, OPENSECRETS.ORG, https://www.opensecrets.org/outsidespending/nonprof_elec.php?cycle=2016 (last visited Dec. 3, 2019).

⁸*Id.*

⁹Joe Hagan, *The Coming Tsunami of Slime*, N.Y. MAG. (Jan 22, 2012), <https://nymag.com/news/features/negative-campaigning-2012-1/>.

¹⁰See, e.g., Letter from Senators to Department of Treasury and IRS (Feb. 27, 2014), <https://www.whitehouse.senate.gov/imo/media/doc/2014-02-27%20501c4%20Rules%20Comments%20Signed%20FINAL.pdf>.

¹¹26 U.S.C. § 501(c)(4)–1(a)(1)(ii) (emphasis added).

¹²Treas. Reg. § 1.501(c)(4)–1(a)(2)(ii) (emphasis added).

¹³Treas. Reg. § 1.501(c)(4)–1(a)(2)(i).

¹⁴See, e.g., Kim Barker, *New Tax Return Shows Karl Rove’s Group Spent Even More on Politics than it Said*, PROPUBLICA (Nov. 25, 2013), <https://www.propublica.org/article/new-tax-return-shows-karl-roves-group-spent-more-on-politics-than-it-said>.

¹⁵See, e.g., Tom Hamburger and Matea Gold, *Crossroads GPS Probably Broke Election Law, FEC Lawyers Concluded*, WASHINGTON POST (Jan. 15, 2014), https://www.washingtonpost.com/politics/crossroads-gps-likely-broke-election-law-fec-staff-reports-concluded/2014/01/15/15af18b6-7d73-11e3-93c1-0e888170b723_story.html; Federal Election Commission, First General Counsel’s Report, MUR: 6396 (Crossroads Grassroots Policy Strategies), Nov. 21, 2012.

¹⁶See, e.g., Matea Gold, *Koch-Backed Political Coalition, Designed to Shield Donors, Raised \$400 million in 2012*, WASHINGTON POST (Jan. 5, 2014), https://www.washingtonpost.com/politics/koch-backed-political-network-built-to-shield-donors-raised-400-million-in-2012-elections/2014/01/05/9e7cfd9a-719b-11e3-9389-09ef9944065e_story.html. (Describing the Koch-backed coalition: “Tracing the flow of the money is particularly challenging because many of the advocacy groups swapped funds back and forth. The tactic not only provides multiple layers of protection for the original donors but also allows the groups to claim they are spending the money on “social welfare” activities to qualify for 501(c)(4) tax-exempt status.”).

out certain conservative groups for increased scrutiny.¹⁷ Notably, the 2013 report did not look into whether other political groups were similarly targeted.¹⁸ Nevertheless, big special interests used the finding to batter the IRS. Powerful special interest groups and their political allies slashed the IRS budget, threatened to impeach the then-Commissioner, and even passed legislation prohibiting the IRS from issuing clarifying rules regarding 501(c)(4) political activity.

Their argument was not true: a more comprehensive 2017 audit of the IRS's treatment of potential political groups found that left-leaning groups had also been flagged for closer scrutiny.¹⁹ The new audit found that instead of ideologically targeting certain groups, the IRS under both Republican and Democratic administrations had looked into groups across the political spectrum to enforce the rule against "direct or indirect participation or intervention in political campaigns."

However, the damage had been done. The IRS was cowed from regulating or even investigating a small, powerful cadre of savvy political operatives who formed and funded a flotilla of non-profit front groups, through which anonymous money flows into elections, in contravention of a clear statute and the IRS's own rules. Enforcement has become so weak that abuses have become open and notorious.²⁰ According to one ProPublica study, from 2015–2019, the IRS failed to strip any non-profit of its tax-exempt status, despite receiving thousands of complaints of abuse from watchdog groups and concerned taxpayers.²¹ Flagrant discrepancies between sworn statements made to the IRS and sworn statements made by the same group to election regulators have been turned a blind eye.²²

The dark money problem was exacerbated under the Trump administration, which promulgated a rule in 2020 that allows 501(c)(4)s to withhold their donor information from the IRS on their annual Form 990 reports.²³ Dark money got darker.

Next Steps

Treasury and the IRS are not alone to blame for the dark money problem infecting our body politic. Republican appropriations riders have tied Treasury's and the IRS's hands, preventing promulgation of new regulations regarding 501(c)(4) political activity. We are heartened that the Senate and House are poised to take up and pass the For the People Act (H.R. 1/S. 1), which would shine more light on dark money. However, absent a legislative fix, Treasury and the IRS should shift to a more robust 501(c)(4) enforcement regime, and thoroughly investigate the situation so those appropriations riders can be reviewed.

Most immediately, Treasury should work with the Department of Justice and other law enforcement agencies investigating the attack on the United States Capitol on January 6, 2021. According to reports, a number of dark money organizations helped organize and fund the rally that eventually led to the armed attack on the Capitol.²⁴ Treasury and the IRS should provide any assistance necessary to help law enforcement in its investigations into the groups behind this tragic assault on our

¹⁷Treasury Inspector Gen. for Tax Admin., *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013) <https://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>.

¹⁸Treasury Inspector Gen. for Tax Admin., *Review of Selected Criteria Used to Identify Tax-Exempt Applications for Review* (September 28, 2017) <https://www.treasury.gov/tigta/auditreports/2017reports/201710054fr.pdf>.

¹⁹Treasury Inspector Gen. for Tax Admin., *Review of Selected Criteria Used to Identify Tax-Exempt Applications for Review* (September 28, 2017) <https://www.treasury.gov/tigta/auditreports/2017reports/201710054fr.pdf>.

²⁰*Infra*, note 22.

²¹Maya Miller, *How the IRS Gave Up Fighting Political Dark Money Groups*, PROPUBLICA (April 18, 2019), <https://www.propublica.org/article/irs-political-dark-money-groups-501c4-tax-regulation>.

²²In 2012, ProPublica investigated 501(c)(4) filings from 104 organizations that had reported electioneering activity to the Federal Election Commission or state equivalents, saying "here is what we spent on elections." ProPublica cross-checked those claims with what the organizations had reported to the IRS. Thirty-two groups had told the IRS they spent no money to influence elections, either directly or indirectly. Both statements cannot be true. See Kim Baker, *How Nonprofits Spend Millions on Elections and Call it Public Welfare*, PROPUBLICA (Aug. 18, 2012), <https://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare>; see also, Hearing: "Current Issues in Campaign Finance Law Enforcement," U.S. Senate Committee on the Judiciary, Subcommittee on Crime and Terrorism, Apr. 9, 2013.

²³85 FR 31959.

²⁴See Brian Schwartz, *Pro-Trump Dark Money Groups Organized the Rally that Led to the Deadly Capitol Hill Riot*, CNBC.COM (Jan. 9, 2021), <https://www.cnbc.com/2021/01/09/pro-trump-dark-money-groups-organized-the-rally-that-led-to-deadly-capitol-hill-riot.html>.

democracy, and should review whether organizers of the assault should keep their tax-exempt status.

Treasury should also work with the Department of Justice in its response to the *Americans for Prosperity Foundation v. Becerra* case for which the Supreme Court recently granted *certiorari*. The case involves a challenge, brought by the non-profit counterpart of the hyper-political, Koch-backed Americans for Prosperity, to a California regulation that requires non-profits to report the same donor information confidentially to the State of California that the groups report to the IRS. Americans for Prosperity, and an armada of dark money-funded *amici*, are seeking constitutional protection for the dark money scheme. We have already seen dark money groups assert such a constitutional right in response to Congressional inquiries. Such a ruling would imperil federal disclosure rules upon which the IRS relies to enforce its own regulations.

Under the Trump administration, the United States weighed in on the side of the dark money groups in *Becerra*. We urge Treasury and the IRS to work with the Department of Justice to reverse this position in the litigation and argue for the values of transparency.

On the enforcement side, we urge Treasury and the IRS to enforce existing 501(c)(4) regulations, including investigating open and notorious inconsistent statements that predicate investigation as to whether they are criminal false statements. Specifically, the IRS should investigate dark money groups that report to the IRS that they do not engage in political activity while at the same time reporting to election commissions that they do indeed make political expenditures, in some cases in the millions of dollars.²⁵ We urge Treasury to work with election regulators and the Department of Justice on these cases.

More generally, we encourage Treasury and the IRS to bear in mind that the corrosive effect of dark money on American elections is amplified by dark money's dark shadow: threats and promises. What dark money can do, dark money can also threaten (or promise) to do. These threats and promises can have a powerful political effect, and unlike the actual spending, threats and promises never appear in the form of a visible advertisement.²⁶ This element of the dark money threat has been repeatedly overlooked, but it should be overlooked no longer.

Anonymous money bears particularly on Congress's inability to tackle the climate crisis. Perhaps no industry has more utilized dark money than the fossil fuel industry, which unleashed an army of dark money groups to propagate fake science and which enforced its power against Republicans who dared to support climate legislation.²⁷ Prior to *Citizens United*, bipartisan climate bills abounded; following *Citizens United*, there have been exactly zero meaningful bipartisan climate bills, despite the mounting threat. Reining in dark money is essential to integrity in government and to a government responsive to the people, not special interests.

We seek no infringement on First Amendment speech rights. Basic, commonsense disclosure requirements restrict no one's right to speak, nor to spend money to influence elections. As Justice Brandeis said, "Sunlight is the best disinfectant"; as Justice Scalia said, "[r]equiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed."²⁸ Disclosure is what permits citizens to do the work of citizenship in a republic, knowing the identity of political actors contesting for power.

As members of the Senate both before and after *Citizens United*, we can personally attest to the corrosive influence of dark money. We hope that under your leadership Treasury will reexamine how it regulates dark money groups and restore transparency to our political landscape. We look forward to working with you on this supremely important issue.

Sincerely,

Sheldon Whitehouse
United States Senator

Elizabeth Warren
United States Senate

²⁵ *Supra*, note 22.

²⁶ See *American Tradition Partnership v. Bullock*, 132 S. Ct. 2490, Cert. Brief of *Amici Sens*. Sheldon Whitehouse and John McCain in Support of Respondents.

²⁷ E.g., Albert R. Hunt, *Flood of Money in U.S. Elections Is a Scandal Waiting to Happen*, N.Y. TIMES (April 26, 2015) (discussing the primary defeat of Rep. Bob Inglis after fossil fuel-backed groups abandoned him over his efforts to address climate change).

²⁸ *Doe v. Reed*, 130 S. Ct. 2811, 2837 (U.S. 2010) (Scalia, J., concurring).

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

This morning the Finance Committee welcomes Treasury Secretary Janet Yellen for a hearing on the budget. This hearing always covers a range of economic issues, so I want to start with a look at the state of the economy as we meet here this morning.

Right now, the U.S. has the strongest major economy in the world—as even Trump advisor Stephen Moore agreed in a recent interview. Wages are rising significantly faster than inflation, which has come way down from its peak. The labor market has never been better for workers. There’s been real progress on income inequality. This is an era of booming entrepreneurship in America, as new business applications are up.

Go back 4 years, when COVID cases were filling up hospitals and Americans were stuck at home wondering if and when they’d be able to stock up on toilet paper, the forecasts for the U.S. economy were dire. The economy under President Biden has smashed those negative forecasts to bits. Nearly every other country in the world with a developed economy would love to trade places with us in 2024.

But if you listen to Donald Trump, you’d think the U.S. is on a fast track to the Dark Ages. What does Trump want to do when it comes to the big economic policy issues facing this committee? For one, the Trump allies developing a new tax agenda are cooking up plans for big tax hikes on working Americans and middle-class families. They’re planning more tax breaks for corporations and handouts to millionaires and billionaires. Trump wants to repeal the Inflation Reduction Act, including the funding for the IRS that has vastly improved customer service and cracked down on wealthy tax cheats.

All in all, he’d run even bigger deficits and pile up more debt. That would make it impossible to shore up bedrock American programs like Medicare and Social Security. Recently he told one interviewer—in the first serious interview he’d done in months—that he believes there’s lots of room for cuts to those programs. His campaign had to walk it back, because they know his real plans on these issues are a loser with the American people.

In my view, what Americans want is a strong economy; they want a fair shake for people who don’t have big fortunes and political power; and they want some policies that drive down the cost of living in America. That’s not what Donald Trump has on offer, but that’s exactly what Democrats are focused on delivering.

For example, late last year I introduced the Billionaires Income Tax, now up to 18 Senate cosponsors. President Biden’s budget includes his own similar proposal, which is also focused on ending the scheme known as “buy, borrow, die.”

A billionaire acquires an asset that steadily gains value. They borrow against it to turn it into income. And if they hold it until they die, the tax disappears. Meanwhile, people who earn a wage are paying taxes out of each and every paycheck. That’s a basic unfairness the Congress must address. The Billionaires Income Tax ought to be the centerpiece of the effort to save Social Security for future generations and uphold the Medicare guarantee.

Democrats want to do even more to crack down on ultra-wealthy individuals and big corporations who rip off typical Americans by cheating on their taxes. We want to keep upgrading taxpayer service—already vastly improved thanks to Inflation Reduction Act funding—including giving every American the option to file their tax returns directly with the IRS.

The Direct File pilot program opened widely in a handful of States last week. In just a matter of days, tens of thousands of Americans have filed or started their returns using this new system, and they’re saving big on fees by doing so.

That’s progress that must continue. Donald Trump’s allies want to stop it. He’ll side with the tax prep companies against typical taxpayers, and it’s safe to say that Trump himself is no champion of tax enforcement among the uber-wealthy.

And before I wrap up, I also want to address another topic of debate in the Senate. It has now been 7 weeks since 357 members of the House voted to pass my bill with Chairman Smith that expands the Child Tax Credit and restores R&D incentives. I’ve listened to my Senate colleagues and spoken with many of them personally. All along I’ve said I’ll work with anybody who wants to find a way to get this done quickly, and my door is open.

The number-one concern I've heard from Republicans is the Child Tax Credit lookback policy. While I think the policy is important, I've offered to take it out of the bill if it gets this over the finish line. Working with groups, we have found a way to do this and still lift the same number of kids out of poverty. As of this morning, my offer on the lookback is still on the table.

I understand that some members prefer to wait and try to pass a bill next year. The reality is, delay will have serious consequences. A lot of innovative small businesses—for whom the R&D provision in the bill is a lifeline—are telling me they aren't going to be around in 2025 if the Senate decides to wait.

I also believe there are a lot more than 60 members who want us to act. So I'm going to keep at it. Members are probably going to get tired of hearing from me over the next few days, but I'm hopeful that the Senate is going to get this done soon.

PREPARED STATEMENT OF HON. JANET L. YELLEN,
SECRETARY, DEPARTMENT OF THE TREASURY

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the invitation.

Over the past 3 years, the Biden administration has driven a historic economic recovery. GDP growth is strong, inflation has come down significantly, and the labor market is remarkably healthy. Real wages and household median wealth have increased since before the pandemic. Families are putting their additional income and accumulated savings back into the economy, and we see many signs of optimism, from a record 16 million small business filings under this administration to improved consumer sentiment over the past 3 months.

President Biden and I recognize that many American families still face challenges such as high prices, so we are taking additional actions to bring down the costs of key household expenses like energy and health care. We're also focused on expanding our economy's capacity to produce and create good jobs, while reducing the deficit. As we implement the Bipartisan Infrastructure Law, the CHIPS and Science Act, and the Inflation Reduction Act, we're creating economic opportunity for Americans regardless of where they live and whether they have college degrees. And we've seen companies announce \$650 billion in clean energy and manufacturing investments since the start of the administration.

The modernization of the IRS, made possible by the IRA and discretionary appropriations, is enabling American taxpayers to receive the support they deserve, including by driving significant improvements in customer service. Investments in the IRS are also enabling enforcement actions against tax evasion by the wealthiest Americans that cost our country over \$150 billion a year—actions such as recovering \$500 million in taxes owed by millionaires to launching a new initiative to end abuse of corporate jet write-offs.

The President's budget proposes additional investments to lower costs for workers and families and strengthen our economy while reducing the deficit. It proposes making health care more affordable for millions of Americans by making permanent the expansion of tax credits for health insurance premiums enacted in the American Rescue Plan and extended in the Inflation Reduction Act. And the budget includes expanding the Earned Income Tax Credit, Child Tax Credit, and Low-Income Housing Tax Credit—proposals which would contribute to lowering child poverty and giving working families more breathing room in their household budgets.

We can make these investments while reducing the deficit by \$3 trillion over a decade through a combination of smart savings and tax proposals. President Biden and I continue to urge Congress to act so that the United States plays its part in the global minimum tax deal, which is currently being implemented in jurisdictions around the world to end the race to the bottom in corporate taxation. We have also proposed implementing a Billionaire Minimum Tax so that the top .01 percent pay their fair share; raising the tax on corporate stock buybacks to encourage businesses to reinvest profits in their workers and grow their companies; and closing estate and gift tax loopholes that allow wealthy Americans to pay less than they would otherwise owe. We will also continue to oppose misguided proposals that will grow the deficit by offering large tax breaks to the wealthy and big corporations.

As a whole, the budget will enable us to continue to grow our economy and support workers and families while upholding our commitment to fiscal responsibility and reducing the deficit.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. JANET L. YELLEN

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. The President's budget proposes to increase the Child Tax Credit akin to its temporary expansion during the pandemic under the American Rescue Plan Act (ARPA). The proposal expands the credit to \$3,000 a child and \$3,600 for children under 6, makes the credit fully refundable regardless of work or earned income, and facilitates advancing 100 percent of the credit in monthly installments. In effect, the credit would be transformed from a tax credit to assist working families into a near universally available subsidy untied to work.

Available data suggests that the ARPA expansion of the Child Tax Credit dramatically increased the budgetary cost of this tax benefit. The President's budget, however, only accounts for the expanded Child Tax Credit through the end of 2025, which does not show the full budgetary impact of the credit over a normal 10-year horizon.

What was the total 1-year cost of the ARPA expansion of the Child Tax Credit?

Answer. The Joint Committee on Taxation estimated that the ARPA expansion of the Child Tax Credit would cost \$110 billion. The IRS paid \$93.6 billion in advance Child Tax Credit payments in 2021, and taxpayers claimed an additional \$115.9 billion in refundable Child Tax Credit or additional Child Tax Credit on their tax year 2021 returns. These actuals include both amounts in the baseline pre-ARPA and the increment attributable to the ARPA. It is not possible to directly observe the amount that would have been paid for tax year 2021 absent the ARPA changes.

Question. By what percentage did the 2021 budgetary cost of the expanded Child Tax Credit increase from its budgetary cost in 2020?

Answer. In 2021, Treasury estimated that the tax expenditure for the Child Tax Credit in Fiscal Year 2021 was \$106.6 billion. In 2022, Treasury estimated that the tax expenditure for the Child Tax Credit in Fiscal Year 2022 was \$214.9 billion. Fiscal Year 2021 substantially but not entirely corresponds to the Tax Year 2020 credit, and Fiscal Year 2022 substantially but not entirely corresponds to the Tax Year 2021 credit. In addition, because these estimates come from different reports, caution is warranted in comparing the two estimates.

Question. If the President's proposed expanded Child Tax Credit were made permanent, what is the budgetary cost over a normal 10-year horizon?

Answer. The FY 2025 Greenbook proposes to increase the Child Tax Credit amounts through 2025 and make permanent full refundability and advanceability. This proposal costs \$310 billion over the period FY 2025–FY 2034. The cost of a permanent version of the proposal would depend on what assumptions are made about other tax policies in effect at the time.

Question. TCJA enacted the Foreign-Derived Intangible Income (FDII) deduction to work in tandem with GILTI to help protect the U.S. tax base. FDII ensures companies holding their IP in the U.S. to sell around the world are taxed at the same effective rate of income as companies who hold their IP abroad and are subject to GILTI.

Last year, the administration's budget proposed to repeal FDII. As one of the witnesses from the May 2023 Finance Committee international hearing said in a QFR response, "Repealing FDII would create a clear incentive for U.S. companies to hold their IP offshore and to develop future IP offshore." And given the adoption of Pillar 2 Qualified Domestic Minimum Top-up Taxes (QDMTTs) outside of the U.S., that result would lead to a further loss of U.S. revenue.

Since last year's hearing, I understood that the administration had changed their position on repealing it. A QFR from last year's Ways and Means hearing on the administration's FY 2024 budget asked whether you intend to defend FDII at the OECD, which is considering whether FDII should be classified as a "harmful tax practice." In response, you answered "FDII is current law and as such we intend to defend this law at the Forum on Harmful Tax Practices." Despite that statement, this year's budget once again proposes to repeal FDII.

Please explain the discrepancy between your stated position that the administration is defending FDII at the OECD and the budget proposal repealing it.

Please provide an update on the status of FDII at the Forum on Harmful Tax Practices and whether the administration is still committed to defending it.

Answer. The administration believes that FDII is not a “harmful tax practice” under the criteria that the FHTP must use to conduct this analysis. The administration nevertheless believes that FDII should be repealed because it is not an effective way to encourage U.S. R&D. FDII does not provide meaningful incentives for smaller businesses, creates incentives for large multinationals to move tangible property offshore, and disadvantages companies with a focus on domestic sales than export sales. The revenue raised from a repeal of FDII could be deployed to incentivize U.S. R&D more directly and effectively.

However, it bears repeating that the administration’s reasons for seeking to repeal FDII have nothing to do with FDII’s status at the FHTP. We continue to defend the rule in OECD discussions and have repeatedly engaged the OECD Secretariat to advocate this position. There has been no change in our commitment to defend the rule since our previous statement. FDII continues to be in “under review” status at the FHTP and we continue to discuss the topic with the Secretariat in preparation for a full presentation and analysis at a future FHTP meeting.

Question. The Corporate Alternative Minimum Tax (CAMT), enacted by the partisan Inflation Reduction Act (IRA), applies for taxable years beginning after December 31, 2022. Tax filing season for Tax Year 2023 is underway but to date, the Treasury Department and the Internal Revenue Service (IRS) have not issued proposed regulations for the CAMT.

Last summer, Treasury and IRS provided penalty relief for corporations that did not pay estimated tax in connection with the CAMT, “[i]n light of challenges associated with determining whether a corporation is an Applicable Corporation and the amount of a corporation’s CAMT liability.”¹ Just last week, Treasury’s Tax Legislative Counsel indicated proposed regulations may still be months away. With the tax filing deadline and another quarterly estimate quickly approaching, corporations must be able to determine whether or not it is an Applicable Corporate and the amount of its CAMT liability without proposed regulations. Despite these challenges, the President’s budget proposes retroactively increasing the CAMT from 15 percent to 21 percent for taxable years beginning after December 31, 2023.

Please provide an update on the status of proposed CAMT regulations.

Answer. On September 12th, Treasury and the IRS issued a notice of proposed rulemaking for the Corporate Alternative Minimum Tax (CAMT).² The comment period for these proposed rules was extended through January 16, 2025, and we will carefully consider all stakeholder feedback before issuing final guidance. Completion of these regulations is a priority for our team.

Question. Does Treasury plan to provide any additional relief due to the implementation challenges and delay in proposed CAMT regulations?

Answer. On September 12th, 2024, Treasury and the IRS issued Notice 2024–66,³ which provides penalty relief for all estimated payments of CAMT liability for tax years beginning in 2024. This notice incorporates prior penalty relief provided for estimated payments due for the first and second quarters of 2024 in Notices 2024–33 and 2024–47.⁴ Treasury and the IRS had previously issued Notice 2023–42,⁵ providing penalty relief for estimated payments for CAMT liability for tax years beginning in 2023.

Question. JCT projected the CAMT would raise \$34.679 billion for FY 2023.⁶ For that fiscal year, please provide how much actual revenue was collected from the CAMT.

Answer. Tax payments attributable to CAMT liability are not distinguishable from other corporate tax payments when received by the Treasury. Thus, it is not possible to provide actual CAMT liability for FY 2023 until all corporate tax returns for Tax Year 2023 are received, processed, and analyzed. As many large corporate taxpayers request extensions, it will still be some time before all returns reporting CAMT liability are processed and analyzed.

¹ <https://www.irs.gov/pub/irs-drop/n-23-42.pdf>.

² <https://www.federalregister.gov/documents/2024/09/13/2024-20089/corporate-alternative-minimum-tax-applicable-after-2022>.

³ <https://www.irs.gov/pub/irs-drop/n-24-66.pdf>.

⁴ <https://www.irs.gov/pub/irs-drop/n-24-33.pdf>.

⁵ <https://www.irs.gov/pub/irs-drop/n-23-42.pdf>.

⁶ <https://www.jct.gov/publications/2022/jcx-18-22/>.

Question. Why does the President’s budget propose increasing the CAMT rate when the administration has not successfully implemented the original provision to date?

Answer. The President’s FY 2025 budget proposes increasing the corporate tax rate to 28 percent and increasing the minimal rate on multinationals’ foreign earnings to 21 percent. Increasing the corporate alternative minimum tax rate in line with these other two rate increases ensures the CAMT serves as an effective floor on corporate taxes.

Question. The enacted version of the Financial Data Transparency Act (FDTA) makes clear that the rulemaking authority is vested in the Secretary of the Treasury. Prior to enactment, earlier versions of FDFTA sought to vest the rulemaking authority in the Office of Financial Research (OFR). This was changed in the enacted law. This makes sense given that the Dodd-Frank Act gave OFR very limited rulemaking authority. While the FDFTA allows the Secretary of the Treasury “to delegate the functions required under the amendments made by this subtitle to an appropriate office within the Department of the Treasury,” it is unclear whether Treasury has done so and to what degree.

Has Treasury fully delegated rulemaking authority for the FDFTA to the OFR or any other office within Treasury?

Answer. Treasury’s Under Secretary for Domestic Finance is responsible for leading Treasury’s efforts in the joint FDFTA rulemaking. The OFR, whose Director reports to the Under Secretary for Domestic Finance, has been delegated authority to help coordinate Treasury’s participation in the interagency joint rulemaking, consistent with Treasury’s co-equal role among the covered agencies charged with issuing the joint rule. For example, the OFR has contributed to the drafting of the joint proposed rule and has facilitated staff-level meetings among the participating agencies. However, the OFR has not been delegated authority to approve a proposed or final joint rule under the FDFTA. Treasury’s Office of the Chief Data Officer has also actively participated in this effort.

Question. If so, why was that office chosen?

Answer. The standardization of data reported to financial regulators is an issue within the scope of Treasury’s Office of Domestic Finance. The OFR is participating in this effort because it has significant expertise on financial data standards, represents Treasury in domestic and international organizations that develop those standards, and interacts with other Federal financial regulators on them. These activities are consistent with the OFR’s statutory purposes, which include “standardizing the types and formats of data reported and collected” under section 153(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Treasury’s Office of the Chief Data Officer is also involved because of its data-related expertise.

Question. To what degree is Treasury still involved in the rulemaking effort? Will Treasury make the ultimate decision on the rulemaking?

Answer. Treasury is actively involved in the interagency FDFTA rulemaking effort, and a duly authorized Treasury official will ultimately determine whether to approve the proposed and final rules under the FDFTA.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. The Inflation Reduction Act was designed to reshore American manufacturing jobs and capabilities at multiple levels of the supply chain. The proposed regulations for the 45X tax credit would exclude many value-adding processes and inputs, such as extracting feedstock and acquiring reactants, from the activities eligible for the credit.

Having now received significant input from industry about the supply chains for critical minerals, do you agree that these regulations should be revised to better reflect congressional intent and apply to additional productive manufacturing activities?

Answer. Expanding production of critical minerals in the United States is an administration priority, and the section 45X Advanced Manufacturing Production Credit is a key part of our strategy to do that. On October 24, 2024, Treasury and the IRS issued final regulations on section 45X that provide clarity and certainty to taxpayers and include changes to further accelerate the buildout of domestic critical mineral supply chains.

Notably, the final regulations allow taxpayers to include both direct and indirect materials costs and domestic extraction costs, in the calculation of production costs for applicable critical minerals and electrode active materials, provided certain conditions are met. Included direct and indirect materials costs must not relate to the purchase of an existing eligible component, and included domestic extraction costs must be incurred by the taxpayer that claims the credit for the applicable critical mineral or electrode active material. These requirements maximize the incentive for domestic critical mineral production, while safeguarding against potential abuse and over-crediting.

We carefully considered all feedback, including yours, before issuing final regulations.

Question. Please provide an update on the section 40B SAF credit guidance.

Will Treasury include the greenhouse gas emission reduction strategies promised in the Department's December announcement, including climate-smart agriculture practices, carbon capture and storage, renewable natural gas, and renewable electricity?

Answer. On April 30, 2024, Treasury and the IRS released Notice 2024-37, providing additional guidance on the Sustainable Aviation Fuel (SAF) credit under I.R.C. §§ 40B and 6426(k). In conjunction, the agencies comprising the SAF Interagency Working Group (IWG) jointly announced the 40BSAF-GREET 2024 model. This model provides another methodology for SAF producers to determine the lifecycle GHG emissions rates of their production for the purposes of the SAF credit. Treasury and IRS issued prior guidance regarding the SAF credit in Notice 2023-6, 2023-2, I.R.B. 328, and Notice 2024-6, 2024-2 I.R.B. 34.

The modified version of GREET incorporates new data, including updated modeling of key feedstocks and processes used in aviation fuel and indirect emissions. The modified GREET model also integrates key greenhouse gas emission reduction strategies such as carbon capture and storage, renewable natural gas, and renewable electricity.

Treasury's April 30th guidance also incorporates a USDA pilot program for the use of certain climate-smart agriculture practices for SAF feedstocks through the USDA Climate Smart Agriculture Pilot Program.

In addition, on May 31, 2024, Treasury and IRS issued Notice 2024-49, providing guidance on producer registration for the Clean Fuel Production Credit under section 45Z. The Clean Fuel Production Credit provides a credit for the production of clean transportation fuel, including SAF and non-SAF transportation fuel, beginning on January 1, 2025. We intend to provide additional guidance on section 45Z by the end of the administration.

Question. In 2022, Congress passed the Inflation Reduction Act, legislation meant to incentivize the domestic supply chain for clean energy and to reduce our reliance on our adversaries, like China. I want to ensure that taxpayer money is not going to Chinese companies and other foreign entities of concern. I believe the Chinese Communist Party is already trying to exploit this historic legislation.

As I noted in a March 13, 2024 Senate Finance hearing, "we want these companies that are getting tax incentives to actually produce here, not just assemble here, not just import from 12 countries and get a tax break when they do the assembly here, but the intellectual property is not here, and most of the equipment's not here." The IRA was intended to support the development of genuine domestic supply chains in the United States, not create loopholes for foreign adversaries who desire to keep existing supply chains in place. For the IRA to have the intended impact of onshoring our key clean energy supply chains, such as for electric vehicle batteries, we have to ensure strict and responsible implementation of the legislation. I am concerned that our adversaries may be utilizing ambiguity in current guidance from the Department of Treasury to evade the intention of the legislation.

One example includes, companies manufacturing lithium-ion battery separators outside of the United States, including in China, and importing the separator or as they call it, "base film" material, after it has been manufactured abroad, and only applying "coating" in the United States. A battery cannot function without a separator, a component manufactured utilizing a complex process. Batteries operate utilizing both coated and uncoated separators depending on the use-case. Calling a separator "base film" to argue that it is a raw material and not the actual component, as defined by Treasury's previous guidance, is just one example of our foreign adver-

saries looking to work around or change the intent of the legislation that was meant to onshore our supply chain.

Do you believe that the intention of the IRA was to incentivize U.S.-based manufacturing of all critical components of the domestic battery supply chain, such as battery separators? Do you believe that the intention of the IRA was to incentivize the entirety of the battery component supply chain versus strictly nontransformational modifications or assembly?

Answer. The IRA incentivizes the building of a resilient industrial base in the United States, strengthens the supply chains that are vital for energy security with our allies and partners, and lowers transportation costs for everyday Americans. It encourages the onshoring and friendshoring of the production activities related to critical components of the battery supply chain, including critical minerals and battery components.

Question. Do you believe that companies, including those controlled by China and other adversaries, who import separators and just apply a “coating” in the U.S., but do not “manufacture” the separator domestically, should be eligible for the tax credits created and/or enhanced by the IRA such as 30D or 45X?

Answer. For purposes of section 30D, the final regulations define a battery component to include a coated separator. In general, the base film and coating of a separator are battery materials, not battery components, because they are processed rather than manufactured or assembled. For purposes of section 45X, the final regulations define electrochemically active materials to include separators.

Question. If you do allow companies who solely coat separators in the U.S. to qualify for these tax credits, there is concern that by considering the “base film” a “raw material” versus a manufactured battery component, it could be imported from Chinese-owned companies and other FEOCs. How will your department ensure that separators or “base film” are not imported by domestic battery manufacturers from FEOCs for placement in U.S. lithium-ion batteries or EVs applying for these tax credits?

Answer. To be a new clean vehicle for purposes of the section 30D credit, the vehicle battery may not contain critical minerals extracted, processed, or recycled by a FEOC nor battery components manufactured or assembled by a FEOC. To the extent a clean vehicle battery contains base film with applicable critical minerals, it would be subject to these FEOC restrictions. The section 30D final regulations adopt a robust up-front review process, conducted by the IRS in consultation with the Department of Energy, to help ensure compliance with the FEOC restrictions.

Question. Please provide an update on the department’s progress in drafting guidance for commercial clean vehicle tax credits under 45W. Congress’s intent—in both statute and in accompanying statements for the Congressional Record—was for mobile machinery, including commercial lawnmowers and forklifts to be included under the scope of 45W, as an important step to encourage the conversion from gas to electric.

Will the guidance reflect this intent?

Answer. Treasury and the IRS understand that taxpayers need additional guidance on eligibility for the 45W credit, among other issues. We are actively working to provide this additional guidance. We intend to address a comprehensive set of issues, including mobile machinery, in future guidance.

Question. The IRS’s new Direct File program is already making a difference for taxpayers in 2024, and I believe over time it can grow to radically democratize access to the tax system, including increasing the coverage of critical credits like the EITC and CTC. I’m eager to ensure Direct File is available to Ohio taxpayers.

What steps are you taking to recruit more States to join Direct File next filing season? How are you ensuring that States have the information and advance notice they need to properly prepare State filing systems that integrate with Direct File?

Answer. In May, the IRS and Treasury announced that Direct File will become a permanent offering from the IRS and invited and encouraged all 50 States and DC to participate as soon as next year. We’ve heard from a number of States already who are interested in joining, and many have cited the success of the pilot and the stability of Direct File being permanent as key reasons behind their interest.

The IRS has had ongoing conversations with States dating back to last summer to keep States apprised of Direct File's development and the technical requirements States will need to meet to bring Direct File to their State and integrate their State filing systems with Direct File.

The IRS is proactively reaching out to all State departments of revenue and taxation, both individually and through convenings that took place in early June, to ensure that they received the invitation to join Direct File, explain the technical requirements, and advise States in their efforts to join Direct File. Treasury has similarly engaged all State Governor offices with the same support.

Question. Section 48 of the IRS code, as revised by the Inflation Reduction Act, now provides an investment tax credit to turn raw biogas captured from landfills, wastewater treatment plant, and from animal and crop waste at farms and food processing facilities into a useful fuel. Specifically, Congress included this provision in the IRA to support investment into projects that turn biogas into new productive uses, including upgrading biogas to renewable natural gas. Congress did this by incorporating the Agricultural Environmental Stewardship Act (AESAs) into the IRA to specify that that "cleaning and conditioning" equipment is part of a biogas system, considered "covered property" under the tax credit. "Cleaning and conditioning" equipment's inclusion in the AESA and as incorporated in the IRA was intended to be inclusive of "gas upgrading equipment" without limitation, in recognition of the higher-quality fuel needed in expanded and advanced end uses.

Counter to the intent of the law, Treasury originally proposed to contravene the IRA by excluding "gas upgrading equipment," which is interchangeable with "cleaning and conditioning" equipment, from the definition of a "qualified biogas property."

Subsequently, Treasury issued what it termed a correction of its proposed regulations. It still maintained that gas upgrading equipment is not qualified biogas property since it is "not a functionally interdependent component (of qualified biogas property)." Instead, it now proposes that gas upgrading equipment *may* qualify if it is an integral part of an energy property owned by the same taxpayer, if it is used directly in the intended function of the energy property, and is essential to the intended function.

I am very concerned that this vague language still leaves agriculture and other biogas projects trying to create a renewable, waste derived substitute for fossil natural gas guessing as to whether their gas upgrading equipment will qualify. Also, the integral part test excludes equipment if it is owned by a different taxpayer than the rest of the biogas property. However, there are situations involving existing biogas systems, where a new party will build and operate the expensive, complicated gas upgrading equipment. This is of benefit to existing facilities interested in extending the life and reach of their projects, but also for new facilities seeking to partner with investors to reduce emissions. These situations are common and still excluded from the biogas ITC despite Treasury's correction.

Will Treasury revise the regulatory definition of qualified biogas property to match the language and intent of the Agricultural Environmental Stewardship Act (AESAs) (as incorporated into the IRA) and directly provide in the regulations that qualified biogas property includes all "cleaning and conditioning" equipment including gas upgrading equipment needed to create pipeline quality renewable natural gas?

If yes, will Treasury ensure that the revisions allow separate ownership of portions of the biogas system to reflect the reality that landfills, wastewater treatment plants, or farm-based anaerobic digesters may be owned separately from gas cleaning equipment added to the sites to transform raw biogas into renewable natural gas?

Answer. Please see the response to the following question.

Question. As noted, biogas is derived from organic wastes that come from different sources, such as landfills, wastewater treatment plants, and agricultural operations already present throughout the U.S. Biogas projects including gas upgrading equipment facilitate the interchangeability of biogas with fossil natural gas. Congress's intent in drafting biogas section 48 ITC in the IRA was to allow common industry ownership structures to take advantage of the ITC to incentivize biogas-derived renewable natural gas development, deployment, and utilization. Unfortunately, the proposed rulemaking does not recognize the diversity of ownership structures and the need for flexibility to address the complexities inherent in the emerging RNG

industry. Instead, the proposed rule would require the taxpayer to own at least a fractional interest in the entire unit of energy property to claim the ITC.

As noted, there are situations where new biogas upgrading equipment and other investments are being made into existing biogas systems such as landfill collections systems or on-farm anaerobic digesters. In these situations, it may not be legally or commercial possible for the entire biogas system to be owned by one party. Will Treasury ensure that its rules maximize investment into systems to turn the biogas output of these facilities into pipeline quality renewable natural gas by allowing for multiple owners of qualified biogas property?

Answer. Please see the response to the following question.

Question. As proposed, the regulations would also generally apply the “80/20 rule” for investments to qualify for the ITC, which requires upgrades to existing properties to account for at least 80 percent of the overall value of the facility. As noted, the biogas opportunity in the U.S. includes adding gas upgrading equipment to existing landfill collection systems, municipal wastewater facilities and existing agriculture anaerobic digesters. Without the upgrading equipment, the raw biogas from these facilities would not be able to be moved into commerce to displace fossil natural gas. However, these investments may run afoul of the “80/20 rule,” since the existing biogas operations can often exceed 20 percent of the value of the entire system.

Will Treasury ensure that the final regulations do not impose an 80/20 requirement or other barriers to gas upgrading projects at existing landfill, wastewater treatment and agriculture biogas projects?

Answer. Treasury and IRS issued final regulations on the section 48 credit on December 4, 2024. The final rules clarify general rules for the credit and its definitions of eligible property, informed by 350 written comments from stakeholders. This includes clarifying the relevant definitions for qualified biogas property, with a number of changes from the proposed regulations that address issues raised by commenters.

QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. Treasury and the IRS have done a commendable job in engaging stakeholders, issuing guidance, and informing the public of the progress made in implementing the Inflation Reduction Act. However, I am concerned that we that we do not have any insight regarding Treasury’s implementation plans for an important provision that I authored—the zero-emission production tax credit of section 45U.

Section 45U is critical because it is designed to maintain the nation’s most significant generators of emission-free electricity—our nuclear power fleet. Without such baseline production, we will never meet our carbon reduction goals. Two key features of section 45U are that the tax credit phases out if gross receipts from a qualified nuclear facility exceed a threshold amount and that the credit is transferable.

Although section 45U is already in effect, operators of nuclear facilities need guidance from Treasury to determine whether they qualify for a credit.

When can we expect to see guidance for section 45U, the nuclear production tax credit, included in the Inflation Reduction Act?

If you need additional information in implementing this guidance, will you be sure to engage Congress and the nuclear power industry?

Answer. Treasury and IRS are working expeditiously to implement the Inflation Reduction Act clean energy tax credits, and stakeholder input has been a key component of the process. Treasury released a request for comments on the section 45U credit in Notice 2022–49,⁷ and we have engaged with industry and other stakeholders extensively on that credit and others. We do not have specific information at this time about the timing of guidance on the section 45U credit. We will continue to engage with stakeholders about how to provide clarity and certainty on this important incentive.

⁷ <https://www.irs.gov/pub/irs-drop/n-22-49.pdf>.

QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

Question. Establishing U.S. supply chains for solar and other technologies is essential for American energy security and what Congress sought to accomplish with the IRA. Solar made up about half of new energy generation added to the U.S. grid last year and will be a major source of our energy generation mix as we transition to cleaner sources. Chinese-headquartered companies now make up 99 percent of the world's solar wafer and 80 percent of the world's polysilicon production—two core components that make up half the value of the solar panel.

I recently sent a letter along with many of my colleagues on this committee, asking that Treasury work to ensure solar polysilicon and wafer manufacturing are counted under the IRA's domestic content bonus rules. This bonus is critical to ensuring that solar manufacturing thrives in Michigan.

Last week, First Solar told this committee just how critical onshoring these parts of the supply chain were to the U.S. solar industry as a whole.

How is Treasury implementing the IRA to make sure that we meet our solar energy security needs and support good-paying jobs in this critical industry?

Answer. The domestic content bonus is one of several Inflation Reduction Act provisions that promote domestic clean energy manufacturing and secure supply chains. The section 45X Advanced Manufacturing Credit and section 48C Advanced Energy Project Credit also incentivize building clean energy manufacturing facilities in the United States. Treasury and our interagency colleagues continue to evaluate potential options to further the IRA's goal of incentivizing U.S. solar manufacturing. As described in October remarks by Aviva Aron-Dine, Performing the Duties of Assistant Secretary for Tax Policy, we intend to update domestic content safe harbor guidance by the end of the administration to make technical clarifications, improve accuracy, and recognize the benefits of domestic supply chains by differentiating the treatment of solar cells that are manufactured with domestically produced versus imported wafers.

Question. I was an original cosponsor of the FABS Act, which serves as the basis of the 48D investment tax credit enacted as part of the CHIPS and Science Act. As a lead sponsor of this legislation, it was my intent for this credit to help ensure that the critical upstream manufacturing required to produce a semiconductor chip would be done here in America. This includes the manufacture of semiconductive substances, such as polysilicon, which give a semiconductor chip its semiconductive properties. I was proud to support final passage of this legislation to onshore our semiconductor supply chain.

As Treasury drafts final 48D guidance, how is it ensuring that this tax credit provides support to build out a resilient U.S. semiconductor supply chain, consistent with congressional intent?

Answer. Treasury and the IRS issued final rules for the section 48D Advanced Manufacturing Investment Credit (CHIPS ITC) on October 22, 2024, in close coordination with the Department of Commerce. The 48D statute specifies that the CHIPS ITC is only available for property integral to the operation of facilities that manufacture semiconductors or semiconductor manufacturing equipment. The final rules therefore do not expand the scope of the CHIPS ITC to include additional products and substances, such as polysilicon. The final rules clarify that manufacturing of semiconductors includes semiconductor wafer production, including the production of wafers used for photovoltaic solar energy generation.

Question. Relatedly, the investment tax credit only incentivizes manufacturing if the rules for claiming such a credit are predictable and certain. Because the final regulations for section 48D have not been released, certain taxpayers are unable to make investment decisions or obtain financing based on the credit.

Could you please share when you expect to release the final regulations?

Answer. Treasury and the IRS issued final rules for the section 48D Advanced Manufacturing Investment Credit (CHIPS ITC) on October 22, 2024.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. I appreciate that the President's FY 2025 budget request continues to prioritize critical funding for the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN). I am supportive of FinCEN's efforts to ensure the

timely and effective implementation of the bipartisan Corporate Transparency Act (CTA) and support the agency moving forward with rulemakings to extend anti-money laundering safeguards to the real estate sector and private investment funds.

At the start of the year, Treasury successfully launched the CTA's beneficial ownership reporting system, establishing a database for our law enforcement officers and national security officials to better understand who is behind otherwise anonymous companies in the United States.

Can you remind us what the stakes are if the Corporate Transparency Act is not implemented in a timely and robust fashion?

Answer. Illicit actors frequently use corporate structures such as shell and front companies to obfuscate their identities and launder their ill-gotten gains through the U.S. financial system. Not only do such acts undermine U.S. national security, but they also threaten U.S. economic prosperity: shell and front companies can shield beneficial owners' identities and allow criminals to illegally access and transact in the U.S. economy, while creating an uneven playing field for small U.S. businesses engaged in legitimate activity.

Historically, the U.S. Government's inability to mandate the collection of beneficial ownership information of corporate entities formed in the United States has been a vulnerability in the U.S. anti-money laundering/countering the financing of terrorism (AML/CFT) framework. As stressed in the 2022 National Strategy for Combating Terrorist and Other Illicit Financing (the "2022 Illicit Financing Strategy"), a lack of uniform beneficial ownership information reporting requirements at the time of entity formation or ownership change hinders the ability of: (1) law enforcement to swiftly investigate those entities created and used to hide ownership for illicit purposes; and (2) the regulated sector to mitigate risks. This lack of transparency creates opportunities for criminals, terrorists, and other illicit actors to remain anonymous while facilitating fraud, drug trafficking, corruption, tax evasion, organized crime, or other illicit activity through legal entities created in the United States.

More recent geopolitical events have reinforced the threat that abuse of corporate entities, including shell or front companies, by illicit actors and corrupt officials presents to U.S. national security and the U.S. and international financial systems. For example, Russia's unlawful invasion of Ukraine in February 2022 underscored the extent to which Russian elites, state-owned enterprises, and organized crime, as well as the Government of the Russian Federation, have attempted to use U.S. and non-U.S. shell companies to evade sanctions imposed on Russia. Such efforts pose a significant threat to the national security of the United States and its partners and allies.

In 2021, some of the principal authors of the CTA in the Senate and U.S. House of Representatives wrote to Treasury, explaining that "[e]ffective and timely implementation of the new [beneficial ownership information (BOI)] reporting requirement will be a dramatic step forward, strengthening U.S. national security by making it more difficult for malign actors to exploit opaque legal structures to facilitate and profit from their bad acts." Consistent with this perspective, FinCEN has already established the reporting framework and the beneficial ownership IT system. Between January 1, 2024, when FinCEN launched this system, and December 2, 2024, FinCEN received nearly 10 million beneficial ownership reports. Further, FinCEN launched a pilot program for access to BOI data by core Federal agency users, with the goal of helping to protect the Nation's economic prosperity and security. With the steps FinCEN has already taken, every report Treasury receives will make it increasingly harder for malign actors involved in illicit financial activities to hide in the shadows of anonymity.

However, on Tuesday, December 3, 2024, in the case of *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, No. 4:24-cv-00478 (E.D. Tex.), a Federal district court in the Eastern District of Texas, Sherman Division, issued an order concluding the CTA was likely unconstitutional and granting a nationwide preliminary injunction that: (1) enjoins the CTA, including enforcement of that statute and regulations implementing its beneficial ownership information reporting requirements, and, specifically, (2) stays all deadlines to comply with the CTA's reporting requirements. The government continues to believe—consistent with the conclusions of other courts—that the CTA is constitutional. On December 5, 2024, and the Department of Justice (DOJ), on behalf of the Department of the Treasury, filed a notice of appeal on December 5, 2024, and has sought to stay the district court's injunction pending that appeal. Still, since the day that injunction was entered, FinCEN has

received an additional nearly 2 million reports on a voluntary basis, for a total of over 11.5 million reports. On December 23, 2024, a panel of the U.S. Court of Appeals for the Fifth Circuit granted the government's motion to stay the district court's injunction pending appeal, holding the government motion was likely to succeed on the merits of its appeal. FinCEN is now working to provide the public with timely guidance on next steps while the appeal unfolds.

Question. I am committed to working with the Biden administration to get the word out to national security officials and law enforcement authorities about the promise of this new investigative tool established by the CTA.

How is Treasury getting the word out to law enforcement and national security officials about this new investigative tool?

Answer. FinCEN has engaged and consulted with law enforcement and national security counterparts throughout the implementation of the beneficial ownership regulations and has routinely discussed the benefits of the beneficial ownership database, and the contours around access. FinCEN published access-related guidance on its Beneficial Ownership Information Frequently Asked Questions webpage (<https://www.fincen.gov/boi-faqs>) (see FAQs section O). Of particular note:

- Treasury has begun a five-phase approach to accessing the BOI database to support our law enforcement and national security partners. The first phase and second phases have been initiated, and Treasury aims to initiate the remaining phases in CY 2025.
- The first phase began in the spring of 2024 as a pilot program for several Federal agencies.
- The second phase began in late summer of 2024 with the aim of extending the opportunity to request access to the BOI database to Treasury offices, as well as other Federal agencies engaged in law enforcement and national security activities that already have memoranda of understanding for access to Bank Secrecy Act information.
- The third phase will extend the opportunity to request access to additional Federal agencies engaged in law enforcement, national security, and intelligence activities, as well as to State, local, and Tribal law enforcement partners.
- The fourth phase will extend the opportunity to request access to intermediary Federal agencies in connection with foreign government requests for beneficial ownership information.
- The fifth phase will extend the opportunity to request access to financial institutions subject to customer due diligence requirements under applicable law and their supervisors.

In the planning and execution of each phase, FinCEN engages with a variety of law enforcement agencies, national security agencies, and other potential recipients of beneficial ownership information. FinCEN provides, among other things, training to ensure that authorized agency users are properly equipped to access BOI and ensure the information is safeguarded consistent with the requirements in the CTA.

Question. I am also committed to working with the Biden administration to get the word out to the roughly 32 million businesses subject to the reporting obligations under the CTA prior to the January 1, 2025 filing deadline.

Does the recently enacted Further Consolidated Appropriations Act, 2024 include the funding necessary to ensure that all businesses subject to reporting obligations under the CTA are informed of their CTA obligations before the end of Calendar Year 2024? If not, how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. While FinCEN appreciates the support from Congress since passage of the Anti-Money Laundering Act of 2020 (AMLA), the President's budget request continues to more accurately reflect FinCEN's mission requirements. The Further Consolidated Appropriations Act, 2024, funded FinCEN at \$190,193,000. This is the same level of funding that FinCEN received in FY 2023—which was roughly \$20 million less than the amount requested in the FY 2023 President's budget request. The current difference between the President's FY 2024 budget request and FinCEN's appropriated budget is \$38.7 million.

The manner in which FinCEN would utilize additional resources is outlined in the FY 2024 and 2025 President's budget requests. Of note, FinCEN's FY 2025 President's budget request provides an additional \$16 million for beneficial ownership implementation, which includes funding for a Beneficial Ownership Contact Center. It also provides funding for and outreach and public awareness campaigns to educate the public on this new reporting requirement.

Question. Does the President's FY 2025 budget request include the funding necessary to ensure that all businesses subject to reporting obligations under the CTA are informed of their CTA obligations before the end of Calendar Year 2024? If not, why? And how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. Yes, FinCEN's FY 2025 President's budget request includes \$16 million for Beneficial Ownership Implementation, which adds permanent funding for a Beneficial Ownership Contact Center and outreach and public awareness campaigns to educate the public on this new reporting requirement.

Question. The CTA requires FinCEN to validate and verify the information submitted to the new beneficial ownership information (BOI) register, and the recently-enacted Further Consolidated Appropriations Act, 2024 recommends that FinCEN ensure that the new beneficial ownership registry "validates the accuracy and completeness of information submitted." The Further Consolidated Appropriations Act, 2024 also urges Federal agencies to "cooperate with and provide information requested by FinCEN for the purpose of validating the accuracy and completeness of this information, including by developing tools that can streamline validation."

Is FinCEN currently verifying and validating the information submitted to the BOI register? If not, why?

Answer. Validation is critical to ensuring that the beneficial ownership information database is "accurate, complete, and highly useful," as stated in the Corporate Transparency Act. FinCEN has carried out limited data matching efforts to ensure that information reported in the beneficial ownership registry aligns with third-party data sources. FinCEN continues to assess options using available resources to effectuate the broad-based validation and verification of beneficial ownership information, including the anticipated launch of an assessment in early 2025 to sample a statistically significant number of BOI reports against third party data sources. Regardless of the results of such an assessment, FinCEN anticipates that the eventual validation and verification of a database estimated to contain up to 32 million reporting companies will be resource-intensive.

Additionally, pursuant to section 6502(b)(1)(C) and (D) of AMLA, the Secretary of the Treasury, in consultation with the Attorney General, will conduct a study to evaluate the costs associated with imposing any new verification requirements on FinCEN and the resources necessary to implement any such changes.

Question. Does the recently enacted Further Consolidated Appropriations Act, 2024 include the funding necessary to ensure that FinCEN is able to verify and validate the information submitted to the BOI register? If not, how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. The Further Consolidated Appropriations Act, 2024, funded FinCEN at \$190,193,000. This is the same level of funding that FinCEN received in FY 2023—which was roughly \$20 million less than the amount requested in the FY 2023 President's budget request. The current difference between the President's FY 24 budget request and FinCEN's appropriated budget is \$38.7 million. Of note, FinCEN's FY 2025 President's budget request includes \$1 million in funding for sample-based validation of information reported to the Beneficial Ownership IT System. The FY 2025 request more accurately reflects FinCEN's needs in order to effectively implement the AMLA/CTA, including funding for sample-based validation of information reported to the Beneficial Ownership IT System.

Question. Does the President's FY 2025 budget request include the funding necessary to ensure that FinCEN is able to verify and validate the information submitted to the BOI register? If not, why? And how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. FinCEN's FY 2025 President's budget request includes \$1 million in permanent funding for sample-based validation of information reported to the Beneficial Ownership IT System. These resources will be critical to evaluating and imple-

menting a long-term, sustainable approach to BO IT System data validation and verification.

Question. The Notice of Proposed Rulemaking on “Anti-Money Laundering Regulations for Residential Real Estate Transfers” (Docket Number FINCEN–2024–0005 and RIN 1506–AB54) indicates that to “implement the proposed rule, FinCEN expects to incur certain operating costs that would include approximately \$8.5 million in the first year and approximately \$7 million each year thereafter.” The NPRM indicates that, absent these additional resources, the agency would be forced to curtail five percent of their current activities.

Does the recently enacted Further Consolidated Appropriations Act, 2024 include the funding necessary to implement this NPRM without offsetting any of the agencies’ current activities? If not, how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. No. The Further Consolidated Appropriations Act, 2024, funded FinCEN at \$190,193,000. This is the same level of funding that FinCEN received in FY 2023—which was roughly \$20 million less than the amount requested in the FY 2023 President’s budget request. The current difference between the President’s FY 2024 budget request and FinCEN’s appropriated budget is \$38.7 million, which has implications for FinCEN’s ability to resource the implementation of the proposed “Anti-Money Laundering Regulations for Residential Real Estate Transfers” rule.

Notably, in addition to the \$38.7 million requested in FY 2024, FinCEN’s FY 2025 President’s budget request includes \$4 million to add additional staff support to implement many outstanding AMLA/CTA requirements and related initiatives, including the funding necessary to implement the proposed “Anti-Money Laundering Regulations for Residential Real Estate Transfers” rule.

Question. Does the President’s budget request include the funding necessary to implement this NPRM without offsetting any of the agencies’ current activities? If not, why? And how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. FinCEN’s FY 2025 President’s budget request includes \$4 million to add personnel critical to FinCEN’s continued implementation of the AMLA/CTA and related initiatives, including funding necessary to account for any shift in resource demand resulting from the need to implement the “Anti-Money Laundering Regulations for Residential Real Estate Transfers” rule. While FinCEN appreciates the funding provided to FinCEN in FY 2024 during a difficult budget negotiation, the gap between what FinCEN was appropriated in FY 2024 and the needs stated in the President’s budget request for both FY 2024 and FY 2025 may impact implementation of several initiatives across FinCEN’s operations.

Question. FinCEN recently issued a Notice of Proposed Rulemaking on “Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers” (Docket Number FINCEN–2024–0006 and RIN 1506–AB58).

Does the recently enacted Further Consolidated Appropriations Act, 2024 include the funding necessary to implement this NPRM without offsetting any of the agencies’ current activities? If not, how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. FinCEN’s FY 2025 President’s budget request includes \$4 million to add personnel critical to FinCEN’s continued implementation of the AMLA/CTA and related initiatives, including funding necessary to account for any shift in resource demand resulting from the need to implement the “Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers” rule. While FinCEN appreciates the funding provided in FY 2024 during a difficult budget negotiation, the gap between what FinCEN was appropriated in FY 2024 and the needs stated in the President’s budget request for both FY 2024 and FY 2025 may impact implementation of several initiatives across FinCEN’s operations.

Question. Does the President’s FY 2025 budget request include the funding necessary to implement this Notice of Proposed Rulemaking without offsetting any of

the agencies' current activities? If not, why? And how much more funding would Treasury and FinCEN need to accomplish this goal and how would Treasury and FinCEN utilize the additional resources?

Answer. FinCEN's FY 2025 President's budget request includes \$4 million to add personnel critical to FinCEN's continued implementation of the AMLA/CTA and related initiatives, including funding necessary to account for any shift in resource demand resulting from the need to implement the "Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers" rule. While FinCEN appreciates the funding provided in FY 2024 during a difficult budget negotiation, the gap between what FinCEN was appropriated in FY 2024 and the needs stated in the President's budget request for both FY 2024 and FY 2025 may impact implementation of several initiatives across FinCEN's operations.

QUESTIONS SUBMITTED BY HON. JOHN BARRASSO

Question. President Biden is proposing \$5 trillion dollars in burdensome tax increases on job creators and small businesses. He proposes increasing the corporate tax rate from 21 percent to 28 percent. A 28-percent rate is the second highest corporate rate in the developed world. Combined with State tax rates on corporate income, most businesses would be above 32 percent. For small pass-through businesses, they would see rates as high 44.6 percent on ordinary income as well investment income. When you include rates for State income taxes—these rates would be more than 50 percent in most States. I believe these rates will hamper investment, make us less competitive, and devastate economic growth.

Why does the administration believe this type of tax regime encourages a strong and growing economy?

Answer. The President's budget proposes additional investments to lower costs for workers and families and strengthen our economy while reducing the deficit. It proposes making health care more affordable for millions of Americans by making permanent the expansion of tax credits for health insurance premiums enacted in the American Rescue Plan and extended in the Inflation Reduction Act. And the budget includes broad tax cuts for the middle class by expanding the Earned Income Tax Credit, Child Tax Credit, and Low-Income Housing Tax Credit—proposals which would contribute to lowering child poverty and giving working families more breathing room in their household budgets.

We can make these investments while reducing the deficit by \$3 trillion over a decade through a combination of smart savings and tax proposals. President Biden and I continue to urge Congress to act so that the United States plays its part in the global minimum tax deal, which is currently being implemented in jurisdictions around the world to end the race to the bottom in corporate taxation. We have also proposed implementing a Billionaire Minimum Tax so that the top .01 percent pay their fair share; raising the tax on corporate stock buybacks to encourage businesses to reinvest profits in their workers and grow their companies; and closing estate and gift tax loopholes that allow wealthy Americans to pay less than they would otherwise owe.

Question. The Joint Committee on Taxation, the Congressional Budget Office, and other economic experts believe that the burden of tax increases, like the corporate rate, are passed on to workers. Does the administration believe this to be true, and if so, to what extent?

Answer. The incidence of a tax increase depends on both the details of the tax increase (which taxes are changed and in what ways) and the economics of the relevant markets, among other considerations. There is no single answer to the question of who bears the burden of a tax increase.

Question. Will these across-the-board tax increases make it easier or harder for businesses—large and small—to grow, invest, hire, and increase wages?

Answer. The President's agenda has driven the first, second, and third strongest years of new business application rates on record—and is on pace for the fourth—with Americans filing a record 17.2 million new business applications. Business applications are a leading indicator for new business creation, and the historic growth in business applications has coincided with a strong labor market.

The proposals in the President's budget are designed to continue this progress.

Question. Your department has negotiated a global minimum tax with foreign bureaucrats through the Organisation of Economic Co-operation and Development. Without the consent of Congress, the administration has been working to allow foreign countries to place punitive tax hikes on American companies. Other nations could claw back tax incentives from U.S. multinational companies. A foreign government could apply taxes on a U.S. company making investments domestically—if they believe the U.S. company is not paying enough tax in the U.S. This is despite the fact that the U.S. company may be utilizing longstanding, bipartisan tax provisions designed to boost domestic investment. The Joint Committee on Taxation says that if the global minimum tax is widely adopted, the U.S. could lose between \$60 billion (with U.S. adoption) and \$120 billion (without U.S. adoption).

Why, in the opinion of the Treasury Department, is it good tax policy to increase taxes on U.S. companies and lose revenue at the same time?

Answer. My understanding of the Joint Committee on Taxation's (JCT's) analysis is that the forecasting scenarios that are most likely in the near- to medium-term result in U.S. revenue gains if the U.S. adopts Pillar 2 or components of Pillar 2.

As you know, the JCT analysis presents five forecasting scenarios. A critical assumption of the two estimates that you cite is that the entire world—including those jurisdictions that have not yet proposed Pillar 2 legislation or signed onto the Two-Pillar agreement—will collectively implement Pillar 2 starting in 2025. Although approximately 40 countries, including many major economies, have already implemented or moved towards implementing Pillar 2, assuming that every country in the world will do so over the next 6 months is likely an implausible assumption.

On the other hand, the remaining scenarios discussed in the report—which assumes that the 40+ jurisdictions that have already moved to adopt Pillar 2 do so by 2025—are more likely. In two of those scenarios, U.S. adoption of Pillar 2 results in U.S. revenue gains of \$102.6 billion (in the case of U.S. QDMTT and IIR adoption) to \$236.5 billion (in the case of US QDMTT, IIR, and UTPR adoption).

Question. Why is the Treasury Department negotiating a deal that hurts U.S. companies, workers, and investment?

Answer. The Pillar 2 agreement is critical to leveling the playing field for U.S. businesses and workers and restoring stability to our international tax system. Under the Pillar 2 agreement, large multinationals from all countries will be subject to the same minimum rate on their earnings, regardless of where they are headquartered or operate. Enactment of Pillar 2 legislation will ensure the U.S. can tax these large multinationals at reasonable levels—without being undercut by other countries using their tax systems to harm investment in the U.S. by inducing our companies to shift their profits offshore. When U.S. businesses and workers compete on a stable and level playing field, they can win, which is why we support the Pillar 2 agreement.

Question. What recourse would a U.S. company have if another tax jurisdiction decided a 15-percent minimum tax was still too low and decided to grab more revenue from the U.S. tax base? Does the administration have concerns that a 15-percent minimum tax could end up being much higher?

Answer. Pillar 2 is aimed at ending tax competition by subjecting large, multinational companies to the same minimum tax rate of 15 percent. Countries that adopt Pillar 2 may raise their Pillar 2 rate in domestic legislation above the 15-percent floor. Because every jurisdiction has a sovereign right to impose or not impose taxes, it is up to each jurisdiction to evaluate the impact of adopting the Pillar 2 rules and, should they decide to adopt Pillar 2, of raising their tax rate above the Pillar 2 minimum rate.

Question. How would you propose protecting U.S. companies from more double taxation when the income they earn will be subject to both the Global Intangible Low-Taxed Income (GILTI) regime and Qualified Domestic Minimum Top-up Taxes (QDMTTs) if they are currently limited in using foreign tax credits? If QDMTTs are made creditable to reduce double taxation, what revenue impact will this have on the U.S.?

Answer. We have had productive conversations with U.S. taxpayers on this issue and have taken steps to address concerns about potential double taxation as other jurisdictions begin to adopt Pillar 2 legislation. For example, Notice 2023-80, issued on December 11, 2023, provides guidance regarding the treatment of QDMTTs and

taxes incurred under an Income Inclusion Rule (IIR) and may allow relief where double taxation would occur (even when the Pillar 2 rules would not provide that outcome). In addition, we have encouraged taxpayers to identify double taxation risks unique to U.S. companies and continue to negotiate Pillar 2 administrative guidance to further mitigate double taxation risks faced by U.S. taxpayers. In general, with respect to the situation described in the above question, once foreign tax credits have completely offset all U.S. tax on foreign earnings, additional foreign tax does not give rise to additional foreign tax credits. This is not double taxation because the United States is not imposing tax on those foreign earnings. However, concerns related to double taxation and U.S. revenue loss could both be further addressed if the U.S. adopts Pillar 2-related legislation.

Question. In the Treasury Green Book, the summary of the administration's tax proposals, it says, "these oil, gas, and coal preferences encourage more investment in the fossil fuel sector than would occur under a neutral system. This market distortion is detrimental to long-term energy security." In the hearing, I gave you a chance to clarify this statement. You reiterated that it was the distortion that was detrimental. You referred to standard cost recovery provisions for energy production as "subsidies."

In your opinion, are the cost recovery provisions for oil, natural gas, and coal production subsidies? How would you classify refundable tax credits for green energy?

Answer. See answer to question below.

Question. Do you believe that hundreds of billions of dollars in refundable tax credits for green energy production creates a market distortion? If it creates a distortion, do you believe that it's detrimental to energy security?

Answer. Externalities in the consumption or production of electricity lead to market failures, where either too little or too much of a certain economic activity occurs relative to an optimal level of activity. In the case of pollution, businesses make decisions based on the direct profits from production and do not consider the indirect costs to those harmed by pollution. Tax incentives for clean energy help address the inefficiencies and market failures in the energy sector.

The oil, gas, and coal tax preferences that the administration has proposed to eliminate distort markets by encouraging more investment in the fossil fuel sector than would occur under a neutral system. This market distortion is detrimental to long-term energy security, increases our reliance on oil, and increases greenhouse gas emissions.

The tax provisions in the Inflation Reduction Act (IRA), reduce the consumption of fossil fuels and enhance the countries energy security by diversifying the country's energy supply.

Question. Without provisions like intangible drilling costs and percentage depletion, what would cost recovery look like for conventional energy production?

Answer. The administration's proposal would repeal expensing of IDCs and 60-month amortization of capitalized IDCs. IDCs would be capitalized as depreciable or depletable property, depending on the nature of the cost incurred, in accordance with the generally applicable rules. The administration also proposes to repeal percentage depletion with respect to oil and gas wells. Taxpayers would be permitted to claim cost depletion on their adjusted basis, if any, in oil and gas wells.

Question. President Biden failed to fully enforce U.S. sanctions on Iran. As a result, Iran continues to access resources to fund terrorist proxies like Hamas, Hezbollah, and the Houthis. The world has seen the consequences. America and our allies are under attack across the Middle East. Iranian-backed Hamas brutally attacked Israel on October 7th. Iranian-backed Houthi terrorists are firing drones and missiles at U.S. Navy ships and merchant vessels in the Red Sea. Iranian-backed militias are attacking U.S. personnel and facilities in Iraq and Syria.

Why has the Biden administration failed to fully enforce sanctions on entities involved in these illicit transactions with Iran?

Regarding sanction enforcement, do you believe the problem is a gap in the existing sanctions themselves or a lack of will to enforce them thoroughly?

What is your strategy to cut off all funding and resources to Iran?

Answer. Treasury has consistently made enforcing Iran sanctions among its highest priorities, and we have a variety of tools to combat Iran's destabilizing activities. Treasury's designation actions, enforcement actions, and interdiction efforts with

our law enforcement partners disrupt the regime's access to funds, goods, services, and technology. Treasury's existing broad enforcement authorities enable it to pursue domestic and foreign actors that may support Iran's malign activities and contribute to its revenue streams. We are steadfast in our efforts to expose and cut-off Iran's ability to generate revenue. Treasury also works closely with our foreign partners and allies to take coordinated action against Iran and regularly engages regarding the enforcement of U.S. sanctions.

Treasury's strategy includes using our counterterrorism, nonproliferation, and human rights authorities to take actions that disrupt Iran's financial and material support to terrorism and destabilizing behavior in the Middle East and around the world. It also includes working with like-minded foreign partners to take coordinated action and in some cases, improve their AML/CFT laws and regulations to ensure that Iran, its partners, and proxies cannot take advantage of their banking sectors.

Over the past 4 years, we've sanctioned 730 persons and vessels connected to Iran's terrorist activity, its human rights abuses, and its financing of terrorist groups, including Hamas, the Houthis, Hizballah, and Iraqi militia groups.

Under this administration, Treasury has sanctioned more than 200 entities and individuals involved in the production, sale, and transfer of Iranian petroleum and petrochemical products abroad. Treasury has sanctioned dozens of Iranian petroleum brokers and over 40 ghost fleet tankers involved in shipping of Iranian oil.

Since December 2023, OFAC has issued 14 rounds of sanctions targeting the network of IRGC-QF and Houthi financial facilitator Sa'id al-Jamal, to include a range of shipping facilitators and vessels in multiple jurisdictions helping the network illicitly ship Iranian commodities to the People's Republic of China (PRC).

Treasury has also worked closely with our interagency partners and issued numerous advisories related to Iran's deceptive shipping practices, sanctions evasion typologies, and procurement of U.S.-origin parts for drones/ballistic missiles in an effort to disrupt funding and resources to Iran. Additionally, on May 7th, FinCEN issued an advisory flagging for financial institutions methods Iran uses to finance terrorist organizations.

QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN

Question. I find it concerning that the Internal Revenue Service (IRS) is selectively auditing on factors unrelated to the accuracy of tax returns, particularly when they're scrutinizing a tax base that has historically had no significant issues with compliance. Last July, the Government Accountability Office (GAO) examined IRS audits of large partnerships and found that the agency is starting from a weak position.⁸ Between 2010 and 2018, four out of every five of those audits resulted in no change, and of those that changed, the company overpaid taxes and was owed money back by the IRS. Additionally, business partnerships are very common and account for about 12 percent of employment in the U.S., according to a 2022 study by the consulting firm EY.

Given GAO's findings, why do you think it is wise to spend billions of taxpayer dollars to keep targeting business partnerships?

Answer. Prior to the Inflation Reduction Act, more than a decade of budget cuts prevented IRS from keeping pace with the increasingly complicated set of tools that the wealthiest taxpayers use to hide their income and evade paying their share. These challenges were particularly acute when it comes to large and complex partnerships. The audit rate on partnerships with more than \$10 million in assets plummeted from 3.8 percent in 2010 to 0.1 percent in 2019. The IRS is now taking swift and aggressive action to close this gap using IRA funds. The IRS is taking a comprehensive approach to ensure that enforcement is both fair and modern, using the full range of ways that technology, data analytics, and service improvements can improve compliance.

Question. Has Treasury examined whether new enforcement actions and other new rules from the administration will have a chilling effect on the establishment of new business partnerships and the jobs they create?

⁸<https://www.gao.gov/products/gao-23-106020>.

Answer. By ensuring that complex partnerships and large corporations pay what they owe, the IRS is leveling the playing field for small businesses, who do not have the resources to engage in complicated tax planning. The IRS is hiring accountants, data scientists, attorneys, and tax experts with the specialized expertise to examine the complex returns of large corporate taxpayers, complex partnerships and high-income high wealth individuals.

Moreover, Americans have filed a record 17.2 million new business applications during the current administration. Business applications are a leading indicator for new business creation, and the historic growth in business applications has coincided with a strong labor market.

Question. I am concerned about China's growing influence in the renewable energy market. China's intent is to dominate the renewable energy space using subsidies and unfair trade practices. Now, Beijing is targeting polysilicon, which is the building block for both solar panels and computer chips. Congress has taken action to incentivize polysilicon production by establishing the 48D tax credit through the CHIPS and Science Act of 2022, which supports investments throughout the semiconductor manufacturing supply chain.

I was disappointed Treasury's proposed regulations for section 48D excludes polysilicon and the Department's domestic content guidance provides no additional benefit for using domestic polysilicon, despite polysilicon being the essential building block for both semiconductors and energy applications.

How will Treasury maximize the benefits of these new programs for U.S. polysilicon manufacturing to counter China's growing influence, including recognizing polysilicon as a component for domestic content purposes?

Answer. Treasury and the IRS issued final rules for the section 48D Advanced Manufacturing Investment Credit (CHIPS ITC) on October 22, 2024, in close coordination with the Department of Commerce. The 48D statute specifies that the CHIPS ITC is only available for property integral to the operation of facilities that manufacture semiconductors or semiconductor manufacturing equipment. The final rules therefore do not expand the scope of the CHIPS ITC to include additional products and substances, such as polysilicon. The final rules do clarify that semiconductor wafer production includes the production of wafers used for photovoltaic solar energy generation. This clarification in concert with other historic investments made by this administration is helping strengthen the entire domestic solar supply chain.

The domestic content bonus is one of several Inflation Reduction Act provisions that promote domestic clean energy manufacturing and secure supply chains. The section 45X Advanced Manufacturing Credit and section 48C Advanced Energy Project Credit also incentivize building clean energy manufacturing facilities in the U.S. Treasury and our interagency colleagues continue to evaluate potential options to further the IRA's goal of incentivizing U.S. solar manufacturing. As described in October remarks by Aviva Aron-Dine, Performing the Duties of Assistant Secretary for Tax Policy, we intend to update domestic content safe harbor guidance by the end of the administration that will, among other things, differentiate the treatment of solar cells that are manufactured with domestically produced versus imported wafers.

Question. In July 2020, the Trump administration sanctioned the Xinjiang Production and Construction Corps, a paramilitary organization with a 50-percent or more stake in more than 2,800 companies in China. We have received reports that the Biden administration, under your leadership at Treasury, has not fully enforced these sanctions or issued new sanctions against subsidiaries of this entity. These reports are frankly unacceptable and appalling.

What specific actions are you taking to ensure that this Chinese Communist Party entity is sanctioned to the fullest extent of the law?

What are you doing to identify individuals and entities to sanction to put further pressure on Communist China for its ongoing human rights violations in Xinjiang?

Answer. Thank you for allowing my team to brief yours on May 8, 2024.

The subsidiaries of the Xinjiang Production and Construction Corps (XPCC) that are 50 percent or more owned, individually or in the aggregate, directly or indirectly, by the XPCC are blocked by operation of law, and OFAC can and will enforce against U.S. persons violating sanctions.

Since OFAC listed XPCC, we have also designated PRC officials under the Global Magnitsky sanctions program for their connection to ongoing serious human rights

abuse in Xinjiang. For example, we sanctioned two PRC officials on December 8, 2023. We have also consulted with the Department of State in connection with their issuance of the “Report to Congress on the Imposition of Sanctions Pursuant to Section 6(a) of the Uyghur Human Rights Policy Act (UHRPA) of 2020, Pub. L. 116–145),” consistent with the requirements of the UHRPA.

Question. During the hearing, you referenced Treasury’s internal estimates regarding the revenue impact of Pillar 1, stating, “our own internal estimate is, there’s a lot of uncertainty, but our own internal estimate is about \$500 million.” This estimate is at odds with the Joint Committee on Taxation’s estimate included in its report to House Ways and Means Committee estimating that Pillar 1 could cost the United States an estimated \$1.4 billion.⁹

Will you commit to providing Treasury’s internal analysis to Congress before formally signing Pillar 1?

Answer. Treasury has previously shared this estimate, along with information on assumptions and underlying data, with Senate Finance Committee member office staffs on a bipartisan basis. We would be pleased to provide this information to other interested congressional offices.

Question. Has Treasury similarly forecasted the potential revenue losses for the U.S. Government on Pillar 2, and how does that compare to the June 2023 analysis released by the Joint Committee on Taxation?¹⁰

Answer. Treasury’s estimates regarding adoption of Pillar 2-related legislation in the United States can be found in the General Explanations of the Administration’s Fiscal Year 2025 Revenue Proposals (the FY 2025 Greenbook). The FY 2025 Greenbook estimate does not forecast revenue losses. The Joint Committee on Taxation (JCT) analysis you reference presents several estimates showing both revenue losses and revenue gains and differs from the FY 2025 Greenbook in several ways. For example, the JCT analysis evaluates U.S. adoption of the Pillar 2 model rules. The FY 2025 Greenbook assumes that the U.S. will implement a modified GILTI regime at a 21-percent minimum rate. The JCT and FY 2025 Greenbook estimates also use differing assumptions with respect to the baseline countries assumed to have adopted Pillar 2 and with respect to profit shifting, among other distinctions between the two estimates such as interactions with other policy proposals.

Question. If so, will you commit to providing Treasury’s estimates on Pillar 2 revenue impacts to Congress?

Answer. Please see the response above.

Question. A recent Treasury Inspector General for Tax Administration report found that more than 2,800 IRS employees are not following the mandate from Congress regarding the use of TikTok, a Chinese Government spying app, on government devices.¹¹ Senator Thune and I sent a letter to Commissioner Werfel in January seeking answers on Treasury’s actions to comply with the No TikTok on Government Devices Act.¹² We have yet to receive a response.

What are you doing to rectify this compliance failure?

Answer. In the report you referenced, TIGTA indicated it had “identified more than 2,800 mobile devices used by CI that could access TikTok’s website and approximately 900 CI employees that had the ability to get access to TikTok’s website via computers assigned to CI.” OMB M–23–13, “*No TikTok on Government Devices Implementation Guidance*,” makes an exception for law enforcement activity that is “performed by or in coordination with an agency that is part of the Federal law enforcement community, in response to a law enforcement emergency, or in the course of investigating potential violations of Federal statutes or regulation.”

Question. Will you commit to ensuring we receive a fulsome response from Commissioner Werfel this month?

Answer. A response was sent on May 23, 2024.

Question. You and your staff have conducted robust meetings on no less than three occasions in the last 12 months, including two trips Communist China.

⁹<https://www.jct.gov/publications/2024/jcx-7-24/>.

¹⁰https://www.finance.senate.gov/imo/media/doc/118-0228b_june_2023.pdf.

¹¹<https://www.tigta.gov/sites/default/files/reports/2023-12/2024ier003fr.pdf>.

¹²https://www.thune.senate.gov/public/_cache/files/1401fe1e-8c59-42ca-a649-055958675edf/81744CBCCD1644008A456369260B7C16.1as01252024-thune.blackburn-letter-to-irs.pdf.

In any of these conversations, did you or your staff press Chinese officials on the ongoing genocide and crimes against humanity against Uyghurs in Xinjiang?

While I disagree with your planned visit to Communist China this year, do you commit to raising the ongoing genocide and crimes against humanity against Uyghurs in your meetings with your Chinese counterparts?

Despite repeated trips to Asia, you have not visited one of our key military and economic allies, Taiwan. Can you commit to visiting Taiwan in 2024?

Answer. Treasury will continue to raise our concerns about the genocide in Xinjiang against Uyghurs and other ethnic minority groups with PRC counterparts. As I have stated previously, we remain committed to using our authorities to safeguard our financial system from those who commit egregious human rights abuses. Recently, Treasury designated two PRC officials for their involvement in human rights violations against Uyghurs and Muslim minority groups in Xinjiang.

Consistent with the Taiwan Relations Act (TRA), U.S. officials regularly visit Taiwan to advance our unofficial relationship through the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO), and vice versa.

Question. I'd like you to address the IRS's cybersecurity deficiencies and instances that the IRS abused its access to confidential tax information, as seen in the ProPublica case and the recent sentencing of Charles Littlejohn, an IRS contractor who pled guilty to stealing and leaking President Trump's tax returns. Recent reports have highlighted the IRS's vulnerability to both external and internal threats, putting private taxpayer data at risk.

GAO found numerous instances of "willful unauthorized access of tax data by employees."¹³ And this past fall, your agency's watchdog found that the IRS failed to maintain cybersecurity standards to the level required by Federal law.¹⁴ These instances of negligence—and sometimes even criminal conduct—undermine the public's trust in the IRS. Law-abiding stakeholders are rightfully concerned that our tax authorities are acting in a political manner, threatening taxpayers with serious privacy breaches and punishing them for complying with the law.

How do you plan to work with the IRS Commissioner to protect taxpayers' privacy and ensure that we protect taxpayers' sensitive information?

Answer. Safeguarding taxpayer information is among the highest priorities of Commissioner Werfel and the Internal Revenue Service. During the past year, the IRS has taken dramatic steps to strengthen its internal systems, protocols and procedures by putting in place numerous improvements to bolster protection of key systems and information. These improvements include further restricting user access for the most sensitive taxpayer data sets; more robust protective security controls; more frequent data reviews; improved firewalls; stronger around the clock data monitoring; new security tools; less use of removable media; tighter email controls; new printer controls; and improved retention of data access logs. I plan to continue to work with and receive updates from Commissioner Werfel as the IRS continues to work to implement protocols and protections using Inflation Reduction Act (IRA) funding resources and industry and government best practices to better protect taxpayers.

Question. I request that you review the GAO's May 2022 report "IRS Security of Taxpayer Information: Characteristics of Employee Unauthorized Access and Disclosure Cases" (GAO-22-105872, <https://www.gao.gov/products/gao-22-105872>).

Will you commit to reviewing this report and provide a written response regarding Treasury's efforts to address the IRS's past failures to safeguard taxpayer information?

Answer. Safeguarding taxpayer information is among the highest priorities of Commissioner Werfel and the Internal Revenue Service. This report reviewed incidents of unauthorized access occurring between FY 2012 and FY 2021. The IRS has created a robust monitoring and reporting structure designed to identify unauthorized access and unauthorized disclosures, investigate cases, and adjudicate any findings of inappropriate conduct by employees and contractors. The IRS is committed to supporting the Treasury Inspector General for Tax Administration (TIGTA) as they investigate cases. The IRS adjudicates all TIGTA findings of inappropriate con-

¹³ <https://www.gao.gov/products/gao-22-105872>.

¹⁴ <https://www.tigta.gov/sites/default/files/reports/2023-09/202320064fr.pdf>.

duct by employees and contractors. Any instances of unauthorized access or intentional unauthorized disclosure are unacceptable and are treated with the utmost seriousness. As noted above, the IRS continues to work to implement protocols and protections using Inflation Reduction Act (IRA) funding resources and industry and government best practices to better protect taxpayers.

Question. Similarly, I request that you review GAO's September 2023 report "Security of Taxpayer Information: IRS Needs to Address Critical Safeguard Weaknesses" (GAO-23-105395, <https://www.gao.gov/products/gao-23-105395>).

Will you commit to reviewing this report and provide a written response addressing the GAO's recommendations to the IRS, and what steps you have taken to implement GAO's outstanding recommendations?

Answer. Safeguarding taxpayer information is among the highest priorities of Commissioner Werfel and the Internal Revenue Service. I know that the IRS values the feedback and recommendations it receives from all oversight bodies, including the Government Accountability Office (GAO) and the Inspector General for Tax Administration (TIGTA), and is working to close out open recommendations.

Question. The Free File Alliance has worked closely with the IRS for over 20 years. Taxpayers can access free tax preparation software services only through the IRS website. According to the IRS site, "With IRS Free File, taxpayers have easy access to [IRS.gov/freefile](https://www.irs.gov/freefile), which offers a list of the participating free offerings on a single web page. Under our agreement, Free File Alliance companies offer both free preparation and free e-filing services. There is no cost for a Federal tax return to qualifying taxpayers." Prior to the launch of the IRS's Direct File program, taxpayers followed this link to reach these services, as they have for years.

When the IRS launched Direct File, midway through the tax filing season, the IRS repurposed Free File's web address to direct taxpayers to Direct File. Now, if taxpayers find they are ineligible for Direct File or choose not to have the IRS prepare their tax forms, the IRS website continues to redirect users to Direct File and requiring users to scroll further down the Free File website to locate Free File links.

Given taxpayers can only access Free File through the IRS website, is Treasury concerned that this website redesign, in which taxpayers search for Free File and are directed to Direct File, will cause a chilling effect on the number of taxpayers who successfully find and use Free File?

Will Treasury commit to working with the IRS to establish clearer web URLs for these services?

Answer. Treasury is committed to working with the IRS to ensure their website helps taxpayers find, understand, and access the full ecosystem of IRS tax services and is constantly looking for opportunities to improve that experience.

Question. Will Treasury commit to working with the IRS to ensure that, once taxpayers choose not to use Direct File or find they are ineligible, they are directed to a dedicated Free File site?

Answer. Treasury and the IRS are committed to ensuring taxpayers have options to interact with the IRS quickly and easily. During the pilot and post-pilot evaluation, the IRS heard from taxpayers throughout the country that they want more no-cost filing options, and Direct File helps meet that demand.

The IRS remains committed to the Free File program and last month they announced their extension of the program through 2029. Direct File and Free File are complementary options within the IRS's ecosystem of free tax-filing services that extend access to these services to more Americans and provide taxpayers with the choice to file their taxes directly with the IRS or through commercial tax-filing options. Use of Free File increased this year.

Treasury is committed to working with the IRS to ensure the IRS website helps users find, understand, and access the full ecosystem of tax services. The IRS will be better able to answer specific questions about their website and their specific plans to help taxpayers easily and effectively navigate the available free filing options.

QUESTIONS SUBMITTED BY HON. BILL CASSIDY

Question. Can you please share an analysis or model of what tax rates would have to be for Americans making over \$400,000 in order to pay for Medicare, our budget deficit, and to ensure the 75-year solvency of Social Security?

Answer. The FY 2025 budget proposes to close loopholes in Medicare taxes, increase the Medicare tax rate to 5 percent, direct revenues from the Net Investment Income Tax to the Medicare trust fund, and credit savings from prescription drug reform savings to the Medicare trust fund. Together, these proposals would extend the solvency of the Medicare trust fund indefinitely.

The administration is committed to protecting and strengthening Social Security and opposes any attempt to cut Social Security benefits as well as proposals to privatize Social Security. The administration believes that protecting Social Security should start with asking the highest-income Americans to pay their fair share. In addition, the administration supports efforts to improve Social Security benefits, as well as Supplemental Security Income benefits, for seniors and people with disabilities, especially for those who face the greatest challenges making ends meet.

On the budget deficit, fair tax policies are only one part of the fiscal responsibility equation. The President has enacted roughly \$1 trillion in savings over the next decade through the Fiscal Responsibility Act, and provisions of the Inflation Reduction Act. The budget details the President's vision to protect and build on his administration's progress by continuing to lower costs for working families, protect and strengthen Social Security and Medicare, invest in America and the American people, and reduce the deficit by cracking down on fraud, cutting wasteful spending, and making the wealthy and corporations pay their fair share. Building on the President's record of fiscal responsibility, his budget reduces the deficit by \$3 trillion over the next 10 years—on top of paying for new investments.

Question. In the 2023 Medicare trustees report, the trustees issued a determination that triggered a Medicare funding warning, which requires the President to submit to Congress proposed legislation to respond to the warning within 15 days after the submission of the Fiscal Year 2025 budget. Does the President plan to submit legislation to address the Medicare trigger?

Answer. The President's FY 2025 budget contains proposals that would extend the Medicare Hospital Insurance (HI) trust fund's solvency indefinitely without cutting benefits by ensuring high-income individuals contribute their fair share and directing revenue from the net Investment Income Tax into the HI trust fund as was originally intended. In addition, the budget directs an amount equivalent to the savings from the budget's proposed Medicare drug reforms into the HI trust fund. The Chief Actuary for the Centers for Medicare and Medicaid Services (CMS) determined that the HI trust fund would be sufficiently funded indefinitely with the additional revenue included in the President's FY 2025 budget proposal, based on revenue estimates provided by the Office of Management and Budget.

Question. Just this week, the Congressional Budget Office released their long-term budget outlook for the Nation. In this report, CBO projects that Federal debt held by the public will rise from 97 percent of GDP at the end of FY 2023 to 166 percent of GDP by the end of 2054—more than twice the pre-pandemic level and 3.4 times the 50-year historical average. By 2051, CBO projects that interest will be the single largest line item in the Federal budget.

CBO's report illustrates that the long-term fiscal trajectory of the Nation is unsustainable. At what point do you consider the Nation's debt to GDP ratio a significant risk to the budget and economy? How do you think we should address this?

Answer. President Biden and I are committed to pursuing a fiscally responsible and sustainable path. I have repeatedly advocated for the President's budget that would reduce the deficit by nearly \$3 trillion over a decade. I believe that we need to take a balanced approach that asks the wealthy to pay their fair share while continuing to make investments that support the middle class and grow our economy.

President Biden has signed into law significant deficit-reduction policies—including establishing a corporate minimum tax, lowering prescription drug costs, and cracking down on wealthy tax cheats—that have already raised revenue and will take full effect in coming years.

Falling revenues are a significant contributor to the deficit, underscoring the importance of President Biden's enacted and proposed policies to reform the tax system.

Under the President’s budget, the economic burden of debt would remain in line with historical norms over the next decade. The budget keeps real net interest payments as a share of the economy close to the average for the last several decades, and well below the 2-percent level of the 1990s.

Question. As the Secretary of the Treasury is the Chair of the Boards of Trustees of the Social Security and Medicare trust funds, can you please provide me with the methodology upon which you calculate U.S. GDP over 75 years? If you have multiple growth scenarios, can you please share the models and associated data?

Answer. As discussed in the 2024 Social Security trustees report beginning on page 115, the value of real GDP is equal to the product of three components: (1) productivity (*i.e.*, output per hour worked); (2) average weekly total employment; and (3) average hours worked per week, times 52. Consequently, the growth rate in real GDP is equal to the combined growth rates for productivity, total employment, and average hours worked. For the period from 1969 to 2019, which covers the last six complete economic cycles, the average annual growth in real GDP was 2.76 percent, combining average growth rates of 1.59 percent for productivity, 1.35 percent for total employment, and -0.20 percent for average hours worked. The real GDP growth rate was -2.2 percent for 2020, 5.8 percent for 2021, 1.9 percent for 2022, and is estimated to be 2.4 percent for 2023 under the “intermediate”—or baseline—assumptions.

For the intermediate assumptions, the average annual growth in real GDP is 2.0 percent from 2023 to 2033, combining the average growth rates of 1.54 percent for productivity, 0.50 percent for total employment, and -0.02 percent for average hours worked. After 2033, the annual growth in real GDP averages 1.9 percent, which combines the projected ultimate annual growth rate of 1.63 percent for productivity, average annual growth rate of 0.32 percent for total employment, and the ultimate annual growth rate of -0.05 percent for average hours worked per week. The projected growth rate of real GDP is lower than the average growth rate in past years, mainly because the working-age population is expected to grow more slowly than in the past.

In addition to the intermediate assumptions, the trustees reports include low-cost and high-cost sets of assumptions. For the low-cost assumptions, the annual growth in real GDP averages 2.8 percent from 2023 to 2033 and 2.6 percent from 2033 to 2098. For the high-cost assumptions, the annual growth in real GDP averages 1.4 percent from 2023 to 2033 and 1.1 percent from 2033 to 2098.

For more detailed documentation of the economic models used by Social Security’s Office of the Chief Actuary, please see their documentation of the long-range economic model¹⁵ used to prepare trustees report estimates and their more general long-range model documentation¹⁶ for flow charts and additional information on the underlying economic modeling used in the reports.

Additionally, Table V.B.2¹⁷ provides specific historical and projected GDP data as does the supplemental single year table V.B.2,¹⁸ under low-cost, intermediate, and high-cost assumptions.

Question. Periodically, on behalf of the Medicare Board of Trustees, the Secretary of Health and Human Services convenes an independent panel of actuaries and economists to review the projection assumptions and methods underlying the Medicare trustees report. This analysis was last performed in 2017. In that report, the independent panel suggested the trustees provide information in the trustees report on the per capita level of taxation that would be required to finance projected Medicare spending.

Can you please provide me with an update as to whether you are in the process of incorporating this analysis into the Medicare trustees report? If you have performed this analysis but are not willing to share it, would you be able to brief my staff on your analysis?

Answer. The Medicare trustees report regularly reports the amount of funding needed to keep the Hospital Insurance (HI) solvent over a 75-year period, as a per-

¹⁵ [https://www.ssa.gov/oact/TR/2024/2024 Long-Range Economic Assumptions.pdf](https://www.ssa.gov/oact/TR/2024/2024%20Long-Range%20Economic%20Assumptions.pdf).

¹⁶ [https://www.ssa.gov/oact/TR/2024/2024 LR Model Documentation.pdf](https://www.ssa.gov/oact/TR/2024/2024%20LR%20Model%20Documentation.pdf).

¹⁷ [https://www.ssa.gov/oact/TR/2024/V B econ.html#308187](https://www.ssa.gov/oact/TR/2024/V%20B%20econ.html#308187).

¹⁸ <https://www.ssa.gov/oact/TR/2024/lr5b2.html>.

centage of taxable payroll, as shown in Table 9 of this document.¹⁹ When the 75-year actuarial balance as a percent of payroll is negative, it indicates that estimated income is insufficient to meet estimated trust fund obligations for all or part of the 75-year period. This calculation only applies to the Hospital Insurance program because the other parts of Medicare are funded in a way that ensures they are always permanently funded, for instance with general revenue transfers and beneficiary premiums.

The 2017 technical panel in recommendation 8–4 did not identify a specific approach to measuring future tax rates for Medicare-financed services across all programs, and the trustees have not developed such a measure. The 2024 Medicare report²⁰ does, however, show in Figure II.D.2 on page 23 both historical and projected total Medicare costs as a percentage of GDP and is intended to show how much of the Nation’s total economic output is projected to be needed to finance Medicare under current law.

Question. As the Secretary of the Treasury is the Chair of the Boards of Trustees of the Social Security and Medicare trust funds and owing to the fact that the OASI trust is going insolvent, have you considered including in the Social Security trustees report an analysis on the per capita level of taxation that would be required to keep Social Security solvent over a 75-year period? If you have performed this analysis, would you be willing to brief my staff on your results?

Answer. The Social Security trustees report regularly reports the amount of funding needed to keep the Social Security solvent over a 75-year period, as a percentage of Social Security taxable payroll, as shown in Table 9 of this document. When the 75-year actuarial balance as a percent of payroll is negative, it indicates that estimated income is insufficient to meet estimated trust fund obligations for all or part of the 75-year period.

As reported in the 2024 trustees report, solvency for the program over the next 75 years could be restored using a variety of approaches.

The Social Security trustees report also provides historical and projected annual income and cost rates²¹ as a percentage of taxable payroll, as well as summarized income and cost rates over varying valuation periods.²²

Question. In 2018, the IRS awarded an estimated \$99-million contract to use their platform to identify and uncover tax fraud, followed by a \$70-million contract in 2021 for digital modernization. However, it wasn’t until recently that Commissioner Werfel acknowledged that the IRS leveraged AI and predictive modeling to crack down on “wealthy tax cheats.” Along these same lines, *The New York Times* previously reported that the IRS is using AI to investigate partnerships whose returns show discrepancies exceeding \$1 million.

The Treasury recently announced that it has recovered over \$375 million as a result of its implementation of enhanced check fraud detection processes that utilizes artificial intelligence. On the tax side, outstanding tax evasion among the wealthy remains as high as \$150 billion, as Commissioner Werfel has publicly stated.

In 2019, the IRS released a multiyear modernization plan to enhance taxpayer service and enforcement efforts. Despite this robust plan, the IRS has made little progress with modernization and seems to be moving slowly in leveraging or adopting best-in-class commercial technology, including leading AI solutions. According to the Treasury Inspector General for Tax Administration’s March 11, 2024, IRA Transformation Efforts assessment, successful delivery of most of the 42 initiatives is directly contingent on the IRS timely completing its modernization of its core information technology structure.

Over the years, the IRS has solicited and received tech proposals, RFI responses, white papers, and proof-of-concept proposals from various third-party stakeholders on leveraging commercial solutions, yet the IRS seems to be stuck in an analysis paralysis scenario.

Given the available technological capabilities that exist and are ready to scale today, can you provide specific examples of how Treasury and the IRS have successfully utilized commercial off-the-shelf (COTS) solutions to effectively prioritize audits and combat tax fraud, money laundering, and other financial schemes?

¹⁹ <https://www.ssa.gov/oact/TRSUM/index.html>.

²⁰ <https://www.cms.gov/oact/tr/2024>.

²¹ https://www.ssa.gov/oact/TR/2024/VI_G1_OASDHI_payroll.html#170627.

²² https://www.ssa.gov/oact/TR/2024/VI_G1_OASDHI_payroll.html#196436.

Answer. While I am not at liberty to discuss details of the technology behind the IRS's anti-fraud and criminal investigation activities, I can state that the various information systems used to perform these missions are built on COTS platforms. For example, the IRS employs a widely used COTS product to identify anomalies within returns as they are filed as well as to retroactively examine historic returns for anomalies based on the emergence of novel/new fraud schemes.

Question. Can you explain the challenges the IRS is facing to moving forward with commercial off-the-shelf (COTS) solutions, and what steps are being taken to overcome these obstacles?

Answer. The IRS has been a heavy consumer of COTS products since it began adopting information technology, whether the platforms that are used to manage its infrastructure or the tools they use to detect and respond to cybersecurity threats. As the IRS continues to migrate its information systems to the cloud, it will be able to take advantage of an even larger ecosystem of COTS products to fulfill its mission.

Question. It has been 18 months since IRS received modernization funding through the Inflation Reduction Act. Which new commercial off-the-shelf solutions have been implemented or expanded to enhance taxpayer services and return processing?

Answer. IRA funding has allowed the IRS to increase its Enterprise Case Management (ECM) investment in Pega, an industry-leading case management solution that helps streamline operational efficiency, reduce costs, and help accelerate faster case resolution across the agency—improving taxpayer services and interactions.

IRA funding was also used to migrate the IRS's operations management functions to ServiceNow, another industry-leading platform that helps optimize how IRS operates its information infrastructure, which ultimately results in more resilient and reliable information systems that support return processing.

These are just two examples of how IRS has shifted its focus to COTS.

Question. Earlier this year, my office reached out to IRS Legislative Affairs asking to what extent the IRS has contracted with third-party information systems and other tech firms to modernize tax return processing and customer service over the past decade and moving forward.

To what extent are third-party contractors being used to establish cloud and AI-based systems to fulfill IRS's promise to modernize tax collection and taxpayer services?

Answer. The IRS uses a wide array of large systems integrators and small businesses to modernize tax return processing. A substantial amount of our information technology spending goes toward contractors, with much of it focused on operating/expanding cloud and AI-based systems.

Question. By April 30th, can you please provide my office with the following information: the name of each contractor and subcontractor that IRS is using in its work on IT modernization and software development; the scope and cost of work being performed in each task order or contract; the contracting approach that is being taken, including whether the services are being purchased using procurement authorities intended for commercial services such as information technology (FAR part 12), are leveraging the T-Cloud contract, are assisted acquisitions, and/or are using the Federal Supply Schedules program to increase efficiency in government contracting; and the allocation of modernization expenses, as well as how work is being split between contractors and internal IRS employees.

Answer. The IRS is best suited to address these questions, as they pertain to detailed IT acquisition and funding data.

QUESTIONS SUBMITTED BY HON. STEVE DAINES

Question. During the hearing, you said that Pillar 2 “results in a big increase in tax revenue for the U.S.,” directly contradicting an analysis from the Joint Committee on Taxation, which found that Pillar 2 would move tax revenues out of the country.

Please provide the data you were referencing.

Answer. My understanding of the Joint Committee on Taxation’s (JCT’s) analysis is that the forecasting scenarios that are most likely in the near to medium term result in U.S. revenue gains if the U.S. adopts Pillar 2 or components of Pillar 2.

As you know, the JCT analysis presents five forecasting scenarios. A critical assumption of the forecasting scenarios that result in revenue loss is that the entire world—including those jurisdictions that have not yet proposed Pillar 2 legislation or signed onto the Two-Pillar agreement—will collectively implement Pillar 2 starting in 2025. Although approximately 40 countries, including many major economies, have already implemented or moved towards implementing Pillar 2, assuming that every country in the world will do so over the next 6 months is likely an implausible assumption.

On the other hand, the remaining scenarios discussed in the report—which assumes that the 40+ jurisdictions that have already moved to adopt Pillar 2 do so by 2025—are more likely. In two of those scenarios, U.S. adoption of Pillar 2 results in U.S. revenue gains of \$102.6 billion (in the case of U.S. QDMTT and IIR adoption) to \$236.5 billion (in the case of U.S. QDMTT, IIR, and UTPR adoption).

In addition, the JCT analysis suggests that Federal revenue could increase thanks to the adoption of Pillar 2 by major negotiating parties even if the United States fails to adopt Pillar 2: the average of the upper and lower bound revenue estimates for Pillar 2 adoption by the 40+ countries that have enacted or proposed Pillar 2 legislation relative to a no-adoption counterfactual is a small but positive revenue gain.

Question. The nonpartisan Tax Foundation has found that workers and consumers bear the brunt of the corporate tax burden. It follows that an increase in the corporate rate increases that burden.

Does President Biden intend to keep his pledge to Americans earning under \$400,000 and maintain the current corporate rate, or will he violate his pledge and advocate for a higher rate as outlined in his budget?

Answer. The budget fulfills the President’s iron-clad commitment that people making under \$400,000 will not have to pay a single dollar more in new taxes, while ensuring the wealthy and big corporations pay their fair share.

Question. In the rollout of the Fiscal Year 2025 budget request, the Biden administration touted a slew of tax hikes on businesses that would, in the administration’s terms, make them “pay their fair share.” However, the Inflation Reduction Act enacted a slew of tax credits to subsidize industries, estimated to be more than \$1.8 trillion if made permanent.

Can you explain the reasoning for increasing the corporate rate on these businesses, only to subsidize industries of your choosing with credits that in effect lowers their rates?

Answer. The administration’s revenue proposals would ensure that the wealthy and large corporations pay their fair share and, in doing so, fully pay for the investments proposed in the President’s budget while generating roughly \$3 trillion in additional deficit reduction over the next decade. The Inflation Reduction Act is the single most significant legislation to combat climate change in American history and one of the largest investments into the American economy in a generation. It will help create good-paying jobs, strengthen our energy security, and tackle climate change.

Question. The Fiscal Year 2025 budget request proposes \$4.9 trillion of new tax increases.

Do you believe these proposed tax hikes will have a positive impact on growth in the next 5 years?

Answer. Under President Biden, the United States has experienced historic economic progress. Thanks to President Biden’s policies, the U.S. saw the fastest, most equitable economic recovery in its history. The President’s long-term strategies led to the lowest average unemployment rate of any administration in 50 years, increased real wages for Americans to above pre-pandemic levels, reduced inflation by more than two-thirds from its peak, and led to robust GDP that which has blown past expectations.

President Biden’s budget proposal builds on America’s historic economic recovery by making fiscally responsible investments to grow the economy over the medium and long term and lowering costs for working families in key areas, including health

care and housing. Importantly in delivering this growth, the investments in the President's budget are fully paid for, and the budget would reduce deficits by approximately \$3 trillion through a combination of smart savings and tax proposals that ensure wealthy individuals and large corporations pay their fair share.

Question. Final regulations for the corporate alternative minimum tax adopted in 2022 have yet to be approved, but the rate of this tax is increased in the administration's budget.

How does the administration believe this to be an effective revenue raiser when Treasury cannot figure out how to operate the original provision?

Answer. The CAMT works to reduce the significant disparity between the income reported by large corporations on their Federal income tax returns and the profits reported to shareholders in financial statements by requiring them to pay a minimum amount of tax based on their reported financial statement income. The proposal in the FY 2025 Greenbook strengthens the CAMT by increasing the CAMT rate roughly in line with the proposed increase in the regular corporate tax rate and aligns the CAMT rate with the proposed effective GILTI rate. The proposal is a targeted approach to ensure that the most aggressive corporate tax avoiders bear meaningful Federal income tax liabilities.

Question. The administration, through their budget and in your testimony, have explicitly stated their intention to shut down the American fossil fuel sector while handing out subsidies in other sectors.

Can you explain the administration's rationale to shut down American producers while handing out money to foreign adversaries, such as China and Iran?

Answer. With the Inflation Reduction Act, the Biden-Harris administration has taken historic action to spur domestic manufacturing of critical minerals and battery components to establish a reliable, sustainable supply chain and alleviate our dependence on China.

The law is already working as intended to drive private investment in clean energy generation and manufacturing, and it is creating jobs and economic opportunity in the process.

IRA investments are delivering more clean investment to left-behind places—communities at the forefront of fossil fuel energy production, and those that have benefited least from the economic growth of the past few decades. Moreover, these investments are lowering everyday energy and transportation costs for consumers.

Question. The New Markets Tax Credit expands investment in Montana, creates good-paying jobs, and drives growth in our local economies. Unfortunately, the tax credit is set to expire on December 31, 2025 if Congress fails to extend it. With billions of already allocated dollars still remaining, what is Treasury's plan to ensure these credits are awarded before the program's expiration?

Answer. On November 19, 2024, the Community Development Financial Institutions Fund (CDFI Fund) announced that it was making available a total of \$10 billion in New Markets Tax Credit (NMTC) allocation authority. This round of the NMTC program combines allocations authorized for Calendar Years 2024 and 2025. The final year of allocation authorized under the Taxpayer Certainty and Disaster Tax Relief Act of 2020 is CY 2025. Applications for this round of the NMTC program are due to the CDFI fund by January 29, 2025. The CDFI Fund anticipates announcing NMTC program allocation awards in the fall of CY 2025.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. In the recently published "The Budget and Economic Outlook: 2024 to 2034," the Congressional Budget Office increases projections for the cumulative deficit from 2024–2033 by \$428 billion solely due to reestimations of amounts claimed for clean vehicle and energy-related tax credits.

In their report, CBO states that "[t]he budgetary effects of energy-related tax provisions remain highly uncertain" suggesting the cost of the IRA energy provisions will be even more expensive than now projected.

Do you agree or disagree with CBO that the costs of the IRA energy credits have increased? Has Treasury performed its own analysis of what the cost of these IRA energy tax provisions will be over the next 10 years? Please provide any such analysis.

Answer. Treasury's FY 2026 tax expenditure estimates, which include estimates for the green credits created or modified by the IRA, are available on the Treasury website.

Question. The President's budget increases the corporate alternative minimum tax on "book income" from 15 percent to 21 percent. Since this tax is based on a different base than "taxable income," it has proven difficult for the IRS to administer and collect. For the 2023 tax year, the IRS provided waivers for corporations failing to pay any estimated AMT tax liability. The IRS said this relief was "in the interest of sound tax administration" due to difficulties in determining whether the tax applied and in calculating the amount of additional tax owed.

Given the challenges Treasury and IRS are having implementing this extremely complex tax, how confident is Treasury that increasing the rate would raise \$137 billion? Do you expect regulations fully implementing this tax that have yet to be published will materially affect the revenue estimate of this proposal?

Answer. As you state, Treasury estimates that the CAMT proposal in the FY 2025 budget would raise \$137 billion over 10 years. There is uncertainty in this estimate as there is with any revenue estimate. Information from corporate tax filings will be incorporated into the estimate as it becomes available. Regulations interpreting and implementing the corporate alternative minimum tax would be consistent with the text and purpose of the statute and are not expected to materially affect the revenue estimate.

Question. Last year, the White House issued a press release celebrating the 1-year anniversary of the so-called Inflation Reduction Act and touting the 15-percent corporate alternative minimum tax as "making the wealthy and big corporations pay their fair share." Of course, the President's budget now calls for raising this tax to 21 percent.

Do you expect the definition of a corporation's "fair share" to continue to evolve over time to meet the spending demands of this administration?

Answer. The President's FY 2025 budget proposes increasing the corporate tax rate to 28 percent and increasing the rate on multinationals' foreign earnings to 21 percent. Increasing the corporate alternative minimum tax rate in line with these other two rate increases ensures the CAMT serves as an effective floor on corporate taxes.

Question. While the administration pays lip service to generational businesses such as family farms, the actual fine print of the President's budget proposal shows this administration is hostile to family-owned businesses.

In addition to allowing the increase in the estate and gift tax exemptions enacted in 2017 to expire, the President proposes to eliminate the benefit of step-up basis rules on transfers of most assets at death or by gift. This proposal would essentially create a second "death tax" by taxing paper gains in property immediately upon transfer at death. While Treasury description claims a special rule will protect family operations by allowing them to defer payment of the tax over 15 years, this tax would still be highly disruptive and could affect the businesses ability to secure business loans. This is particularly true in light of the fact that the IRS would be "authorized to require security at any time when the IRS perceives a *reasonable* need for security to continue this deferral."

Under this rule, isn't it likely that the IRS would routinely seek "security" from family farmers that tend to be land rich and cash poor?

Answer. The proposal to treat transfers of appreciated property by gift or on death as realization events includes several provisions to protect family-owned and -operated businesses. Taxpayers could elect not to recognize unrealized appreciation of certain family-owned and -operated businesses until the interest in the business is sold or the business ceases to be family-owned and -operated. Furthermore, the proposal would allow a 15-year fixed-rate payment plan for the tax on appreciated assets transferred at death, other than liquid assets such as publicly traded financial assets and other than businesses for which the deferral election is made. As you note, the IRS could require security when the IRS perceives a reasonable need for security to continue this deferral. The IRS would use this authority when appropriate in the circumstances.

Question. According to the Fiscal Year 2023 Strategic Operating Plan for the Internal Revenue Service, the IRS intends to "develop and implement a plan and to

improve the IRS Whistleblower Program.” However, little detail has been provided on what will be included in this plan.

When can Congress expect to see a formal plan? How much, if any, of the mandatory funding the IRS received in the so-called Inflation Reduction Act has been dedicated to making these planned improvements to the IRS Whistleblower program?

Answer. I defer to the IRS Commissioner of the content and timing of this plan. Meanwhile, you can find additional information on the IRS Whistleblower Office on their website, including the annual report to Congress.

Question. The President’s budget again proposes to make significant reforms to international tax rules in order to implement the OECD’s Pillar 2 initiative for a global minimum tax. Since these reforms were initially proposed, Treasury’s revenue estimate for them has dropped by hundreds of billions of dollars. I understand this is the result of other nation’s adopting Pillar 2 siphoning off revenue from the U.S. tax base. Treasury’s budget estimate was produced in November.

Isn’t it true that if Treasury performed a revenue analysis of these provisions today, its revenue estimates would be significantly lower? Will you commit to providing Congress regular updates as to the revenue implications of the U.S. implementing Pillar 2 in light of further adoption by other nations?

Answer. Assumptions regarding the number of jurisdictions that will adopt Pillar 2 can, as your question suggests, impact revenue estimates regarding U.S. implementation of Pillar 2. However, these estimates can also vary considerably by a number of other factors, including data and model updates, profit shifting behavior by multinational enterprises and the design features of the Pillar 2 implementing legislation. Treasury provides revenue estimates for all proposals in the President’s budget twice each year, first as part of the release of the budget and then again in the midsession review.

Question. In the aftermath of the pandemic, you dismissed concerns about the national debt claiming the interest burden on our national debt was “very manageable.” Since that time interest rates have spiked. As a result, annual interest on the national debt has nearly doubled, jumping from \$350 billion in 2021 to \$659 billion last year. This year, interest on the debt is projected to cost \$870 billion, exceeding even what we spend on national defense.

Do you still view the interest burden on the national debt to be “very manageable?”

Answer. The most important measure of debt sustainability is the level of debt service cost as a percentage of GDP adjusted for inflation. This “real net interest” measure depends on Federal revenue, spending, and interest rates.

Under the President’s Budget, this measure would remain in line with historical norms over the next decade. Specifically, the budget keeps real net interest payments as a share of the economy close to the average for the last several decades and well below the 2-percent level of the 1990s. But to achieve this manageable level of debt service, legislation such as that proposed in the President’s budget must be enacted.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. In the President’s State of the Union address, he mentioned the threat of Iran once and only briefly. The same regime that has lethally targeted American service members nearly 200 times over the last few months, through their proxies.

Do you believe Iran is a threat to U.S. national security?

Answer. Yes. The Iranian regime’s malign activities such as its support to terrorism, and proliferation of drones and missiles, continue to be a threat to our national security.

Question. In the 2024 Annual Threat Assessment, it states “Iran probably will consider installing more advanced centrifuges, further increasing its enriched uranium stockpile, or enriching uranium up to 90 percent in response to additional sanctions, attacks, or censure against its nuclear program.” It’s my understanding Iran continues to pursue nuclear capabilities, and it is also my understanding Iran is evading current sanctions placed against them due to their nuclear program development.

Does the administration have a good estimate on Iran's illicit oil sales?

Answer. As of November 2024, Iran exported about 1.6 million barrels per day on average of crude oil and condensate, according to open sources.

To restrict these sources of revenue, Treasury has designated numerous Iranian and third-country operatives, front companies, and ships involved in Iran's oil smuggling networks.

Question. In the months following the 2023 Annual Threat Assessment, the Biden administration extended a sanctions waiver for Iran allowing access of \$10 billion in electricity revenue. In turn, Iranian proxies have wreaked havoc on our allies and U.S. forces in the Middle East, as well as commercial shipping in the Red Sea.

Is it still your assessment that administering sanctions relief will create a trustworthy negotiating partner in Iran?

What is Treasury doing to collect and increase information sharing for enforcement purposes?

What nations are contributing to aiding Iran in evading these sanctions?

Answer. The Iraq Electricity Waiver issued by the State Department is not a form of sanctions relief. It permits Iraq to receive vital electricity resources from Iran and to pay into restricted Iranian accounts in Iraq. Funds in these restricted accounts may only be used by Iran to purchase humanitarian goods and for other non-sanctionable purposes, in keeping with statutory exceptions and longstanding U.S. policy across administrations.

Treasury has robust relationships with partners in law enforcement and throughout the intelligence community, and often coordinates actions with like-minded nations with the desire to detect, deter, and disrupt Iran's malign activities. FinCEN also works closely with our allies, exchanging information and analysis with financial intelligence units and law enforcement worldwide. Treasury regularly shares information on Iran sanctions evasion networks with our foreign partners and in instances where we observe abuse of their banking sectors, work closely with these countries to make improvements to their existing AML/CFT laws and regulations.

We have seen partnerships to evade sanctions between the Iranian regime and governments in Russia, Syria, and Venezuela, all of whom are subject to significant sanctions. China, particularly its privately-owned teapot refineries, remain major importers of Iranian oil and petrochemicals. We have taken several actions against persons in China, Russia, Syria, and Venezuela for their involvement in Iran-related trades and procurement activities. We have also observed and targeted individuals and companies based in Hong Kong, UAE, India, Turkey, Singapore, Malaysia, Iraq, Oman, and Pakistan have engaged in assisting Iranian sanctions evasion.

Question. At the beginning of March, two crew members were killed and at least six others were injured by a ballistic missile launched by the Houthis, marking the first fatalities since the Houthis began attacking commercial shipping in the Red Sea and Gulf of Aden in November. The Houthis have said the attacks are in response to the Hamas attack on Israel, but we know the Houthis have been stockpiling weapons long before the Hamas attack.

What is the administration doing to enforce sanctions on the Houthis and ensure they are not able to continue to stockpile weapons used against U.S. assets?

Answer. Since December 2023, OFAC has implemented 14 rounds of sanctions targeting the network of Iran-based Houthi financier Sa'id al-Jamal, whose network generates revenue for the Houthis through the sale of Iranian commodities to foreign purchasers. We have designated close associates of al-Jamal involved in brokering these shipments, shipping firms and vessels involved in transporting Iranian commodities, and financial facilitators and exchange houses in multiple jurisdictions involved in repatriating the proceeds of these sales back to the Houthis. We continue to emphasize disrupting the revenue streams that contribute to the Houthis' military capabilities.

QUESTIONS SUBMITTED BY HON. TIM SCOTT

Question. President Biden has repeatedly promised that he would not raise taxes on individuals earning less than \$400,000 and you yourself instructed the IRS by letter to not increase audit rates for "households making under \$400,000 annually." However, since the President took office inflation has eroded the value of the Presi-

dent's tax pledge. According to BLS data, a household today would have to earn nearly \$75,000 more to have the same purchasing power as a household earning \$400,000 when the President was sworn into office.

Will you commit here today that the President's pledge to taxpayers will account for this inflation?

How many fewer households are covered by the President's \$400,000 pledge due to inflation compared to when President Biden took office?

Answer. The President's pledge guarantees that people making under \$400,000 will not have to pay a single dollar more in new taxes, while ensuring the wealthy and big corporations pay their fair share. This was true in 2021 and continues to be true today.

Question. Can you explain how providing Iran with easier access to restricted funds, at a time when the regime is using its money to facilitate the targeting and killing of U.S. service members and our allies, including Hamas's brutal and unprovoked attack on October 7th resulting in 1,200 innocents dead and American citizens taken hostage, is in the national security interest of the United States?

Do you believe it is in the national security interest of the United States to stop China from purchasing sanctioned Iranian oil, and thus funding Iran's terrorist activities?

Answer. Access to restricted funds strictly for humanitarian trade is aligned with U.S. law and longstanding U.S. Government policy across administrations. These authorizations do not permit the release of funds to the Iranian Government, nor do they permit these funds' unrestricted use. These funds are only available for humanitarian trade transactions that benefit the Iranian people and for other non-sanctionable purposes. Treasury works closely with our foreign partners to oversee these funds and ensure they are not abused. As our actions demonstrate we consistently take measures to disrupt the flow of Iranian oil to China in order to decrease the Iranian regime's oil revenue that it uses to fund its wide range of malign activities. While the State Department has the lead in Iran oil and petroleum sanctions enforcement, Treasury continues to leverage multiple Iran, counterterrorism, and counterproliferation authorities to target Iran's export of oil and other energy sector commodities.

Over the past 4 years, we've sanctioned 730 persons and vessels connected to Iran's terrorist activity, its human rights abuses, and its financing of terrorist groups, including Hamas, the Houthis, Hizballah, and Iraqi militia groups.

Under this administration, Treasury has sanctioned more than 200 entities and individuals involved in the production, sale, and transfer of Iranian petroleum and petrochemical products abroad. Treasury has sanctioned dozens of Iranian petroleum brokers and over 40 ghost fleet tankers involved in shipping of Iranian oil.

Since December 2023, OFAC has issued 14 rounds of sanctions targeting the network of IRGC-QF and Houthi financial facilitator Sa'id al-Jamal, to include a range of shipping facilitators and vessels in multiple jurisdictions helping the network illicitly ship Iranian commodities to the People's Republic of China (PRC).

Question. Do you believe that the Islamic Republic of Iran should benefit financially from U.S. actions while the proxies that it arms and bankrolls kill American service members and target our ally, Israel?

I have several concerns regarding the administration's waiver that allowed approximately \$10 billion in Iranian funds to be transferred from Iraqi banks to Omani banks. The administration previously told this committee that at least two transactions have occurred, and I have several questions.

What is the exact amount that has been transferred from Iraq to Oman under the waiver?

In what currencies have the funds been transferred?

Can you please confirm the number of transactions and the nature of the transactions that have taken place?

Please describe to this committee which entities were involved and what the funds were used to purchase.

What specific oversight mechanisms are in place to prevent diversion or abuse?

Answer. Under Secretary Nelson testified to the House Financial Services Committee on February 14, 2024 that about €500 million have been transferred from restricted accounts in Iraq to restricted accounts in Oman under the Iraq electricity waiver. As discussed previously, two transactions have occurred involving the restricted accounts in Oman. These transactions were for the purchase of agricultural commodities. We can further describe these transactions in a classified setting.

The humanitarian channel in Oman provides a mechanism for the limited use of restricted Iranian funds to pay third-country exporters for the sale of humanitarian goods to Iran, consistent with U.S. statutory exemptions and longstanding support for humanitarian trade mandated by Congress and implemented across administrations of both parties. Similar to humanitarian channels established under previous administrations, the channel is designed to support the Iranian people's access to agricultural commodities (including food), medicine, and medical devices while requiring participating foreign financial institutions to implement stringent due diligence measures to specifically address the risk of funds transfers to Iran, as well as the risks of other misuse or evasion of U.S. sanctions.

The terms of the channel require participating financial institutions to implement certain due diligence measures, on top of the bank's existing due diligence measures, in connection with any authorized use of the channel. These include:

- Establishing qualifications for non-Iranian companies to participate in the export of humanitarian items to Iran and creating a "white list" of approved entities, to be shared with Treasury and subject to its approval;
- Vetting relevant documentation and information to ensure that items for export to Iran qualify as humanitarian items; and
- Conducting sanctions screening and additional due diligence of Iranian persons involved in the export of humanitarian items to ensure that no listed Iran-related persons would be involved.

If, in the course of the financial institutions' due diligence, exporters or Iranian customers were found to have attempted, or were suspected of, misuse of the channel, Treasury would expect the financial institutions to restrict such suspicious transactions and provide relevant information to Treasury, as such transactions would not be covered by Treasury's assurance letter. OFAC or the State Department would require additional information from the participating financial institutions, as appropriate, and would proactively raise issues independently identified by the U.S. Government through all sources available.

The Treasury Department is in regular communication with the financial institutions participating in the channel.

The channel does not lift any U.S. sanctions on Iran, and the U.S. Government continues to impose sanctions in connection with Iran's malign activity, including in response to Iran's weapons proliferation and its support for international terrorism. Should the channel ultimately be used in the future, and if Treasury Department or any other U.S. Government bodies become aware of illicit activity in the channel, the Treasury Department would work with the financial institutions and the Omani Government to take appropriate action.

Question. Is Iran in compliance with the Nuclear Nonproliferation Treaty? If yes, how is Iran in compliance when it has not answered the IAEA's questions on undeclared nuclear material and activities?

Will this administration commit, will you commit, to no sanctions relief for Iran until they comply with the IAEA's requests to resolve the outstanding issues on undeclared nuclear material and activities?

Answer. Treasury does not lead the monitoring of Iran's compliance with the Nuclear Nonproliferation Treaty. However, Treasury is committed to using its authorities to enforce any violations of U.S. laws and regulations.

Question. The Work Opportunity Tax Credit (WOTC) program is vital for the hiring and retention of certain categories of job applicants that otherwise could be disadvantaged in the pursuit of employment. However, to ensure the WOTC program fulfills this important purpose, Treasury must act to reinforce the congressional intent of the WOTC program to incentivize hiring of WOTC eligible job applicants by unequivocally clarifying that the WOTC screening must logically occur before the employer makes *any* offer of employment.

It is my understanding that a lack of Treasury guidance concerning WOTC and/or instructions to the IRS to provide such guidance has opened the program to inappropriate use, potentially resulting in windfall payments to firms that are merely claiming tax credits for employees who happen to meet WOTC criteria, despite not determining their qualifications prior to extending a job offer. The WOTC program requires an employer to obtain the pre-screening information set forth in Form 8850 “on or before” the job offer date, which helps ensure that an applicant’s WOTC eligibility is available to positively influence an employee’s hiring decision. Despite this requirement, I understand that some service providers have set up screening practices that result in screening job applicants for WOTC eligibility after they have already been offered employment. Those providers incorrectly take the view that they are not violating the WOTC instructions because “offer of employment” is undefined for WOTC purposes, and thus that “conditional” or “contingent” offers do not trigger the screening requirement prior to becoming a “final” or unqualified offer. I am fully aware that this inquiry has been made in other settings to the IRS and the IRS has responded that they have reiterated the requirement to WOTC screen before an offer of employment, but for reasons completely unclear to me, and seemingly unwarranted, has been unwilling to define an offer of employment to include *any offer (including conditional or contingent)*. This unwillingness has only worsened the problem and seemingly empowered those abusing the system into falsely concluding their actions are permissible and not resulting in abuse of the program.

Employers who follow such practices are making hiring decisions without the ability to know whether an applicant is eligible, and yet still seek a tax credit under WOTC. We must protect the integrity and intended function of the WOTC program.

I recognize that the WOTC program is jointly administered by the Department of Labor (via the Employment and Training Administration) and Treasury (via the IRS). Even so, DOL does not have specific statutory authority to define “offer of employment.” However, the Department of the Treasury Orders and Directives number 107–03 state, “The General Counsel of the Department of the Treasury has the authority to approve all regulations pertaining to the internal revenue laws, including the authority to ratify and approve, where necessary, any such regulations previously issued.” It appears that the Department of the Treasury has the statutory power to issue clear guidance on this issue. It is essential that Treasury act and end this abuse or justify the basis for continued unwillingness to implement this easy fix and protect the program.

This guidance on screening is crucial to protect the integrity of the WOTC program and ensure that it is used to incentivize the hiring of qualified individuals facing barriers to employment.

In partnership with the Treasury Department, what is your timeline to provide clear and definitive guidance to employers on what constitutes an “offer of employment” triggering the screening requirement for the purpose of WOTC?

Answer. Treasury and the IRS share your objectives of protecting the integrity of the WOTC and properly administering and enforcing its provisions. Your question focuses specifically on the pre-screening requirement. IRS has provided guidance on this pre-screening requirement.

In an IRS news release,²³ dated September 19, 2022, and an updated WOTC page on *irs.gov*,²⁴ the IRS emphasizes the requirement that employers must pre-screen job applicants before making an offer of employment. The updated WOTC page highlights pre-screening as an essential component of the WOTC; employers are reminded that they must complete Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit, to comply with the pre-screening requirement. The page specifically states that the job applicant must provide information to the employer about being a targeted group member on or before the date the employer offers the applicant the job.

The Instructions to Form 8850 direct employers to obtain information about WOTC eligibility from job applicants on or before they make a job offer. Form 8850 requires that both the job applicant and employer sign Form 8850, under penalties of perjury, and attest that the applicant provided the information on or before the day the job offer is made.

²³ <https://www.irs.gov/newsroom/irs-updates-information-on-tax-credit-helping-businesses-to-hire-certain-categories-of-workers>.

²⁴ <https://www.irs.gov/businesses/small-businesses-self-employed/work-opportunity-tax-credit>.

In addition, the Internal Revenue Manual (IRM), which provides guidance to IRS personnel in administering and enforcing the Internal Revenue Code, provides that to claim the WOTC, employers must pre-screen job applicants on or before the day the employer makes an offer of employment. The IRM and Form 8850 provide that, on or before the day the employer makes a job offer, a job applicant must provide information to the employer about whether the job applicant may be a member of a targeted group for purposes of WOTC and the employer must complete Form 8850.

Question. The OECD set a deadline to conclude Pillar 1 negotiations by the end of March. What is the status?

Answer. See response to question below.

Question. Based on feedback to Treasury's consultation, the language prohibiting DSTs in the OECD's draft Pillar 1 framework is not strong enough and has too many exceptions.

What are you doing to ensure the definition is strengthened to stop discriminatory taxes against U.S. companies?

Answer. While we had hoped to finalize the text of a Pillar 1 multilateral convention (MLC) earlier this year, we have been able to narrow the outstanding issues significantly and countries have chosen to remain at the table. We are focused on bridging the remaining gaps as soon as possible.

We appreciate the taxpayer comments we received on the Pillar 1 MLC during the public consultation that you mention. We have used the comments, as well as feedback from our consultations with bipartisan Senate Finance Committee tax staff, to negotiate further clarifications to help address the concerns raised by taxpayers. Any final agreement must aim to achieve Pillar 1's underlying goals of tax stability and certainty.

Question. A lot of us have been caught off guard by the announcements coming out of USTR on digital trade, including the withdrawal of digital rules from the WTO and Indo-Pacific Economic Framework, the removal of digital trade barriers from USTR's upcoming National Trade Estimate report, and Ambassador Tai's recent statements that U.S. technology companies "are not really American companies" for tax purposes.

Are you concerned that USTR is sending the message to other countries that it's okay to discriminate against U.S. companies and to seize tax revenue that would otherwise be going to the U.S. tax base?

Answer. I defer to USTR on the details of Ambassador Tai's position. I understand that she has addressed this issue numerous times including during her testimony with both this committee and the House Ways and Means Committee. That being said, we engage in extensive interagency coordination regarding the administration's position on Pillar 1 and on our opposition to discriminatory digital services taxes, and those positions remain unchanged.

Question. A study by the consulting firm EY for the Small Business Entrepreneurship Council was released earlier this week. It highlighted the broad and positive impact of business partnerships in the "core living expenses sector," as defined by President Biden's Council of Economic Advisors. It showed that business partnerships in this sector account for 10.6 million jobs, \$779 billion in wages and a positive contribution of \$1.3 trillion to U.S. GDP. Yet, the administration continues to imply that business partnerships exist only to avoid paying taxes or are not paying "their fair share."

What evidence do you have that business partnerships, a longstanding structure that has fueled countless businesses and employers big and small for well over a hundred years, are a source tax reporting malfeasance and should be targeted? Furthermore, do you believe stepped up enforcement will be more of a deterrence of tax fraud or a more of a disincentive for viable individuals and businesses to avoid beneficial partnerships altogether?

Answer. Recently announced IRS efforts are focused on the largest partnerships, including launching audits on 76 partnerships with average assets over \$10 billion. These structures can be complex and opaque. One study estimated that 20 percent of partnership income goes to taxpayers who cannot be classified by type and 15 percent of partnership income is earned in circularly owned partnerships, meaning that it cannot be uniquely linked to an originating partnership. The complexity of these structures combined with more than a decade of underfunding caused audit rates for large partnerships to plummet: from 3.8 percent in 2010 to 0.1 percent in

2019. Funding provided by the IRA is allowing the IRS to rebuild its capacity in this area and ensure that taxpayers, including complex partnerships, pay what they owe.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. The Tax Cuts and Jobs Act reduced rates across every income bracket, nearly doubled the standard deduction, and simplified the tax code so American families would get to keep more of their hard-earned money.

It also lowered rates for small and medium-sized businesses and lowered our Nation's corporate tax rate, which was the highest combined corporate rate in the developed world.

It also made our international tax system more competitive with our foreign counterparts. And keep in mind that in addition to tax reform growing our economy, increasing wages, and reducing our unemployment rate, it also grew tax receipts.

As Congress looks to either extend or make permanent the rates enacted under TCJA, can you please explain why extending the expiring rates was not explicitly accounted for in the President's budget request?

Answer. The President's Budget sets forth principles to guide the administration's work with Congress to address the 2025 expirations. Specifically, the President:

- Opposes increasing taxes on people earning less than \$400,000 and supports cutting taxes for working people and families with children to give them more breathing room;
- Opposes tax cuts for the wealthy—either extending tax cuts for the top 2 percent of Americans earning over \$400,000 or bringing back deductions and other tax breaks for these households; and
- Supports paying for extending tax cuts for people earning less than \$400,000 with additional reforms to ensure that wealthy people and big corporations pay their fair share.

Question. The Tax Cuts and Jobs Act doubled the estate tax exemption level, and I am hopeful that my colleagues understand the importance of either retaining the TCJA exemption level or repealing the estate tax in its entirety next year.

Last year, I led 40 of my Senate Republican colleagues in reintroducing the Death Tax Repeal Act, which would put an end to this punitive tax that not only burdens and punishes family-owned and -operated businesses when a death in the family occurs, but also through costly estate planning, both of which have adverse effects on ongoing operations and the longevity of the business itself.

Does the administration truly believe that letting the death tax snap back to pre-TCJA levels and repealing many of the benefits of the step-up in basis would not have detrimental impacts on farm and ranch operations and other family businesses across the Nation?

Answer. Under current law, because a person who inherits an appreciated asset receives a basis in that asset equal to the asset's fair market value at the time of the decedent's death, appreciation that had accrued during the decedent's life is never subjected to income tax. In contrast, less-wealthy individuals who must spend down their assets during retirement pay income tax on their realized capital gains. This dynamic increases the inequity of the tax treatment of capital gains. In addition, the preferential treatment for assets held until death produces an incentive for taxpayers to inefficiently lock in portfolios of assets and hold them primarily for the purpose of avoiding capital gains tax on the appreciation, rather than reinvesting the capital in more economically productive investments.

The proposal to treat transfers of appreciated property by gift or on death as realization events includes several provisions to protect family-owned and -operated businesses. Taxpayers could elect not to recognize unrealized appreciation of certain family-owned and -operated businesses until the interest in the business is sold or the business ceases to be family-owned and -operated. Furthermore, the proposal would allow a 15-year fixed-rate payment plan for the tax on appreciated assets transferred at death, other than liquid assets such as publicly traded financial assets and other than businesses for which the deferral election is made.

Question. Americans continue to grapple with the negative consequences of the \$1.9-trillion American Rescue Plan and the unnecessary spending that helped fuel a 3-year inflation crisis. And as we all know, inflation is caused by too many dollars chasing too few goods. However, the President’s budget request seems to ignore that fact by proposing more than \$7 trillion in spending in FY25 and nearly \$3 trillion in new spending over the next 10 years.

Can you please outline how the levels of spending embedded in this proposal are in any way appropriate given that they would undoubtedly continue fueling inflation and prolonging the pain that American families continue to feel?

Answer. Inflation rose in 2021 and 2022 due to both supply-side and demand-side factors. Supply, especially, was hampered by pandemic-related disruptions to supply chains that reduced the amount of available goods. As supply chains untangled, inflation started to recede. Indeed, inflation has eased significantly since mid-2022. Headline inflation is down almost two-thirds from its peak, and core inflation has also trended down.

Much of the spending in President Biden’s agenda is associated with long-term investments in infrastructure and manufacturing. These investments will lead to an expansion of supply in our economy, which will serve to bring inflation down. Furthermore, the new spending in the budget is accompanied by revenue increases that will serve to offset any increases in aggregate demand. This is a fiscally responsible approach to the Federal budget and to ensuring that inflation is brought sustainably down.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. In my brief review of the budget, I have been unable to find an entry in the budget tables regarding the continuation of tax relief for any taxpayer earning under \$400,000. I see allusions to tax increases offsetting the revenue loss from extending the roughly \$2 trillion of tax relief for taxpayers earning under \$400,000, but that revenue is then used to offset the trillions in new spending in this budget. You can’t have \$1 dollar of revenue raised offsetting \$1 of new spending and \$1 dollar of revenue loss and claim both are offset. It appears as though there is a \$2-trillion hole in the budget.

Can you please highlight where, if at all, the Biden administration’s FY 2025 budget proposal addresses the impact the expiration of tax relief under the Tax Cuts and Jobs Act (TCJA) will have, particularly on individuals earning less than \$400,000?

Answer. The President’s budget sets forth principles to guide the administration’s work with Congress to address the 2025 expirations. Specifically, the President:

- Opposes increasing taxes on people earning less than \$400,000 and supports cutting taxes for working people and families with children to give them more breathing room;
- Opposes tax cuts for the wealthy—either extending tax cuts for the top 2 percent of Americans earning over \$400,000 or bringing back deductions and other tax breaks for these households; and
- Supports paying for extending tax cuts for people earning less than \$400,000 with additional reforms to ensure that wealthy people and big corporations pay their fair share.

Question. A *Washington Post* fact-checker article²⁵ noted this same issue and called it the Fiscal Year 2025 budget plan’s “magic asterisk.” How do you respond to that article’s observation that “the budget is silent on how Biden would keep his promise not to raise taxes on people making less than \$400,000 in a revenue-neutral way”?

Answer. The President has put forward or supported trillions in deficit reduction and revenue measures that could be used to pay for extending tax cuts below \$400,000. That includes openness to working with Congress on policies not included in the budget. For example, he has expressed openness to looking at additional ideas to limit tax breaks for millionaires and supported Build Back Better surcharges on

²⁵ Kessler, Glenn, “President Biden’s \$400,000 tax pledge has a ‘magic asterisk.’” *The Washington Post*, March 18, 2024, available at: <https://www.washingtonpost.com/politics/2024/03/18/biden-tax-pledge-fact-checked/>.

wealthy people that are not included in the budget, and he knows there is more to do beyond his budget proposals to crack down on business tax shelters.

Question. Congressional scorekeepers estimate that roughly \$2 trillion of the \$2.8-trillion in tax relief from TCJA goes to taxpayers earning under \$400,000—more than 70 percent. That figure is consistent with Joint Committee on Taxation distribution tables showing that the Tax Cuts and Jobs Act moved tax burden upward and not downward.

Would you agree, looking simply at the distribution of tax burden upward and 70 percent of the tax relief provided to those the administration claims it wants to hold harmless from a tax increase, that TCJA policies are an improvement over pre-TCJA law, “yes” or “no”? Please explain your answer.

Answer. No. The Tax Cuts and Jobs Act was a costly, regressive tax cut that not only didn’t pay for itself but included delayed raisers, phase-outs, and sunsets that concealed the true cost. It disproportionately benefited the wealthy and large corporations. The centerpiece was a corporate rate cut that enriched corporate shareholders at the expense of common-sense investments benefiting middle-class families.

Question. I noticed the Fiscal Year 2025 Green Book neglected to discuss or address implementation of Pillar 1 of the OECD global tax deal. As you know, Pillar 1 could not go into effect until two-thirds of the Senate ratifies it. Furthermore, to ensure double tax relief under Pillar 1 Amount A, it would likely also be necessary for Congress to amend domestic law to ensure the intended relief.

What was the administration’s reasoning for failing to discuss the impacts of Pillar 1 implementation in this year’s Green Book?

Answer. Pillar 1 negotiations are ongoing, including on issues that Treasury views as critical to the tax certainty and stability goals that are core to Pillar 1. Because negotiations on those key items were not yet concluded (and, to some extent, still remain open), we did not include a proposal to adopt Pillar 1 in the FY 2025 Greenbook. Those key items include the clarification of the definition of digital services taxes and relevant similar measures and a mandatory and robust Amount B, both of which we understand are important to Congress.

Question. I understand that the administration is deciding by the end of March 2024 whether to sign the Pillar 1 agreement, in preparation for a formal signing ceremony in June 2024. I also understand that Treasury officials were recently in Paris for a final round of Pillar 1 negotiations.

Can you provide an update on the status of those negotiations, including an estimated timeline?

Answer. While we had hoped to finalize the text of a Pillar 1 multilateral convention earlier this year, we have been able to narrow the outstanding issues significantly and are focused on bridging remaining gaps as soon as possible. Any final agreement must aim to achieve Pillar 1’s underlying goals of tax stability and certainty.

Question. A battery separator is a critical component of a battery, as recognized by guidance released by the Treasury Department. However, I have heard from relevant stakeholders that there is a perceived ambiguity in what constitutes manufacturing a separator. It is my understanding that some battery separators are coated and some are not. This brings us to a broader discussion on whether coating a separator in North America should be considered a *manufactured* component, which would qualify for U.S. tax credits. This perspective contrasts with a separate view that separators are complex components, rather than “raw materials” that require coating to be considered separators.

How is the Treasury Department actively engaging with stakeholders to clear up regulatory ambiguities like the one described above?

Answer. The Treasury Department and the IRS actively engage with stakeholders on tax guidance, including through meetings and through the notice-and-comment rulemaking process. We carefully consider public feedback on proposed regulations before issuing final rules.

For purposes of section 30D, the final regulations define a battery component to include a coated separator. In general, the base film and coating of a separator are battery materials, not battery components, because they are processed rather than

manufactured or assembled. For purposes of section 45X, the final regulations define electrochemically active materials to include separators.

Question. Do you believe that ambiguities like the one described above can be addressed in the Treasury Department's formal published guidance or will they have to be addressed through a case-by-case enforcement process?

Answer. As described above, the section 30D final regulations address the treatment of separators as battery materials. In addition, the section 30D final regulations adopt a robust up-front review process, conducted by the IRS in consultation with the Department of Energy, to ensure compliance with the FEOC restrictions.

Question. Many of the community foundations in my State have expressed concern with the impact the proposed regulations on donor-advised funds (DAFs), issued in draft form in November, could have on community foundations in Indiana and around the country.

One issue Indiana's community foundations have raised is how the regulations could force many charitable funds that are not currently DAFs to be reclassified as DAFs, and the cascading impact this can have on charities in my State.

Has the Treasury Department explored the potential impact these specific regulations may have on community foundations? Can you please share what these impacts to community foundations would be?

Answer. The proposed regulations would implement amendments made by the Pension Protection Act of 2006 that, among other things, impose an excise tax on taxable distributions made by sponsoring organizations from a DAF. The statute applies equally to community foundation sponsoring organizations and to other public charity sponsoring organizations. In addition, because the statute's definition of donor advised fund is broad, it may include a variety of fund types.

The proposed regulations defined a donor advised fund and included several exceptions to the definition of DAF, including exceptions for certain funds advised by committees that include donors or donor advisors, for certain scholarship funds, and for certain disaster relief funds, among other things. The proposed regulations requested comments on additional circumstances in which a fund should either not meet the definition of a DAF or, even though it does meet the definition of a DAF, should qualify for an exception to the definition of DAF.

We received over 140 written comments, including from community foundations, in response to the proposed regulations. We also held 2 days of public hearings on May 6th and 7, 2024, at which 44 commenters, including community foundations, spoke. Community foundations discussed the definition of DAF, among other issues, and suggested several alternative definitions. We will consider all of those comments in finalizing the regulations.

Question. The Fiscal Year 2025 Green Book's description of the administration's proposal to repeal percentage depletion for hard mineral fossil fuels specifically refers to "coal mines and other hard-mineral fossil-fuel properties."

Could you please clarify which hard minerals, beyond coal, are considered fossil fuels and would thus be affected by this proposal?

Answer. In addition to coal, the administration's proposal would also include but is not limited to oil shale and lignite, with are listed separately from coal under the section 613 of the IRS Code for percentage depletion.

Question. As I mentioned during the hearing, one of your deputies had recently mentioned a "plan B" legislative option to protect our country's R&D tax credit from the Pillar 2 framework.

To reiterate my request during the hearing, please provide a detailed description of the legislation the administration believes is necessary to address this important issue.

You noted during the hearing that you are still hoping to address the R&D tax credit through Pillar 2 negotiations. Why has it taken so long to negotiate on this point? What do you believe is the likelihood of success through negotiations versus requiring Congress to implement your "plan B" option?

Answer. We have indicated to our Inclusive Framework negotiating partners that addressing issues related to the treatment of the U.S. R&D tax credit is a priority for Congress and the Treasury Department. We are currently focused on resolving this issue multilaterally, which requires developing a path forward that can be

adopted by consensus among all Inclusive Framework countries. We have briefed Senate Finance Committee offices on a bipartisan basis on our negotiations thus far, and would be happy to follow up with you and your staff as that work continues.

COMMUNICATIONS

AMERICA'S CREDIT UNIONS

99 M Street, SE, Suite 300
Washington, DC 20003
202-508-6745

<https://www.americascreditunions.org/>

March 21, 2024

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Re: "Hearing on the President's Fiscal Year 2025 Budget"

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of America's Credit Unions, I am writing regarding the Committee's hearing entitled, "Hearing on the President's Fiscal Year 2025 Budget." America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their nearly 140 million members nationwide.

As the Committee discusses important financial services and tax policies today, we urge you to focus on several key areas of the President's Fiscal Year 2025 (FY25) budget that protect credit unions' ability to serve communities in need.

Benefits of the Credit Union Tax Status

America's Credit Unions writes in strong support of the preservation of the credit union tax exemption, which represents one of the best investments that the government makes in its citizens. We urge Congress to retain and reaffirm this tax status so that credit unions can continue to advance communities, improve the financial future for all people, and keep local economies strong.

The importance of having not-for-profit credit unions as vibrant and viable alternatives in the financial services marketplace is as significant today as it has ever been. Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital across all individuals, families, communities, and small businesses. Credit unions infuse financial market competition with multiple and differentiated competitive business models. They help keep financial services accessible—and affordable—for all consumers, whether they are members of a credit union or not. This non-profit status is an integral part of credit unions' structure that allows them to focus on their mission of "people helping people."

Credit unions provide significant financial benefits to both their members as well as nonmembers. According to America's Credit Unions' analysis of NCUA and DataTrac data, credit unions provide \$21.5 billion in total financial benefits annually to consumers and communities across the country through higher returns on savings and returns, lower loan rates, and fewer fees.

In the aftermath of the financial crisis and the COVID-19 pandemic, more Americans are choosing credit unions as their best financial partner. Some may have joined because their bank failed, and others may have joined because they grew frustrated with the policies and fees of the for-profit sector. What is important is that when they needed an alternative, a healthy credit union system with the capacity to grow was ready to serve them, and as credit union members, they benefit from conducting their financial services with an institution that they own. The credit

union tax status is crucial to encourage and support the continued existence of this alternative, cooperative component of the financial system.

Congress should preserve the credit union tax status because:

- the tax treatment for credit unions continues to serve the purpose for which it was conveyed;
- credit unions are different because of their structure as not-for-profit member-owned financial cooperatives;
- the tax status represents good public policy because it causes the creation of substantial benefits to the public, far in excess of its cost; and,
- taxing credit unions would represent a tax increase on 140 million Americans—taxpayers who pay a total of \$1.5 trillion in taxes annually. In addition, credit unions pay nearly \$20 billion in local, state, and federal taxes annually.

Simply put, the credit union tax exemption helps grow the greater economy and create jobs, which is what a corporate tax exemption should be doing. Both credit union members and non-members benefit from credit unions' role in the marketplace, as they serve as a check on the rates and practices banks would otherwise implement to maximize profit.

Community Development Financial Institutions Fund

The President's budget proposes \$325 million in new budget authority for FY25 for the Community Development Financial Institutions (CDFI) Fund. America's Credit Unions, in consultation with our partners in the credit union movement, recommends that the Fund receive an appropriation of \$500 million in Fiscal Year 2025. We also support the budget's proposed \$500 million for the CDFI Bond Guarantee Program (BGP), which provides CDFIs with greater access to low-cost, long-term, fixed-rate capital. Specifically, the BGP fully guarantees long-term bonds with maturities of up to 30 years. Since its creation in 2010, this program has guaranteed \$2.5 billion in bonds to 27 CDFI-certified institutions.

The CDFI Fund was established in 1994 by the Riegle Community Development and Regulatory Improvement Act and is administered by the Treasury Department. With 1,456 CDFI-certified institutions nationwide, 515 of which are credit unions, the Fund makes capital grants, equity investments, and awards for technical assistance to community development financial institutions. Examples of CDFIs include community development banks, community development credit unions, community development loan and venture capital funds, and microenterprise loan funds. CDFIs are required to provide a 1:1 match for most of the awarded funds, which are offered on a competitive basis. CDFIs finance community development initiatives such as small businesses, community facilities, and low-income housing.

CDFIs such as Community Development Credit Unions (CDCUs) are charged with supplying low-income, distressed communities with traditional financial services such as savings accounts, personal loans, and the tools needed to become self-sufficient stakeholders in their own future. The Fund uses small amounts of federal dollars to leverage significant amounts of private and non-federal dollars. This has added a tremendous boost to the CDFI industry, which relies heavily upon private sector funds from corporations, individuals, religious institutions, and private foundations.

Community Development Revolving Loan Fund

The President's budget proposes \$4 million in budget authority in FY25 for the Community Development Revolving Loan Fund (CDRLF). We respectfully request that funding for this account be increased to \$6 million. This fund provides revolving loan and technical assistance grant programs to low-income credit unions. Last year, it had \$2.75 million in loans on its balance sheet. In addition, \$3.5 million in technical assistance grants were awarded to 147 low-income credit unions.

Created in 1979 and transferred to the National Credit Union Administration (NCUA) in 1986, the CDRLF assists credit unions serving low-income communities to: 1) provide financial services to their communities; 2) stimulate economic activities in their communities, resulting in increased income and employment; and 3) operate more efficiently. No Congressionally appropriated funds are used to fund the CDRLF's administrative or overhead costs. These costs are paid by credit unions insured by the NCUA. Therefore, every dollar appropriated by Congress to the CDRLF is passed on directly to underserved communities and the credit unions that serve them.

Some of these CDRLF technical assistance grants have been used to help credit unions expand their digital services, such as mobile or home banking or electronic

bill payment. Other grants have been used to help small credit unions fight fraud and embed EMV chips in their credit and debit cards. In addition, some grants have been used to open new branches in underserved areas or move from home-based locations to non-residential spaces. Also, some grants allow credit unions to offer services like free income tax preparation and financial literacy classes.

Finally, these grants enable small credit unions to offer a new product or service, such a new ATM or an asset liability management model. In an age of rapid consolidation in the credit union and small bank sector, it is vital to allow these small credit unions to compete and not have to close shop or merge with a larger financial institution that may not know the needs of the members of these small credit unions.

Financial Crimes Enforcement Network

The President has proposed a \$325 million budget in FY25 for the Financial Crimes Enforcement Network (FinCEN) within the U.S. Department of the Treasury. America's Credit Unions supports this request.

FinCEN is our nation's "Financial Intelligence Unit." FinCEN plays a critical role in combating money laundering and other illicit uses of the financial system that fuel international terrorism, cybercrime, corruption, human rights abuses, and the illegal trafficking of persons, drugs, weapons, wildlife, and more. Crucially, FinCEN is also a key player in detecting any attempts to evade sanctions or US-imposed import restrictions related to the Russian Federation.

In conclusion, we believe these three funding requests are good investments and are fiscally prudent. Credit unions are often the exact types of community lenders that are perfectly suited to help someone make that mortgage payment or receive that small loan to pay their one or two employees. Credit unions, not predatory lenders, should be where these Americans turn for financial assistance. On behalf of America's Credit Unions and 140 million members nationwide, I urge you to fully fund these three important programs. Thank you for your consideration.

On behalf of America's Credit Unions and the 140 million credit union members, thank you for holding this important hearing and considering our views on the subject.

Sincerely,

Jim Nussle, CUDE
President & CEO

cc: Members of the Committee on Finance

CENTER FOR FISCAL EQUITY
14448 Parkvale Road, Suite 6
Rockville, MD 20853
fiscalequitycenter@yahoo.com

Statement of Michael Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to address Secretary Yellen's testimony.

General Approach

For obvious reasons, this year will be more hectic than the last. The budget and appropriations process need to be simple. To do this, pass a consensus caretaker budget with two draft partisan supplemental bills, one of which to be enacted during the Lame Duck Session or at the beginning of the next Congress for the President-elect to sign upon taking office, depending on who wins.

If such a budget is enacted, use it as the basis for spending caps for a new Budget Control Act. Make the targets realistic and self-enforcing for purposes of Appropriations Committee allocations. Please see an attachment with suggested changes to appropriations committee jurisdictions that will make certain activities, like space exploration, easier to fund adequately.

Contingencies

In the event the majority in the House shifts due to early retirements or insurrection indictments, the Senate majority and the House minority should have legislation ready to enact a Public Option, including reconciliation instructions for the FY24 budget year. Please see the second attachment for details.

Any change in control will only last through the special election cycle, this should be the second priority. The first must be amending the Electoral Count Act and the jurisdiction of the Ethics Committees to provide for the enforcement of the Fourteenth and Twentieth Amendments, including provisions for removing and related disability for members and the President-elect.

THE PRESIDENT'S BUDGET

The President's budget priorities have not changed to a great extent. We will address these proposals in the order presented by OMB.

Lowens Costs for the American People

The title was more a preamble than a set of proposals. Regardless, please see these comments from last year, which have been repeated several times in the interim, on what drives inflation and how to stop it.

Households making under the 90th percentile have been losing ground for almost half a century, while incomes above that amount have increased on a regular basis.

The source of inequality, aside from abandoning the 91% top marginal tax rate, is granting raises at an equal percentage rather than by an equal amount. When the 91% rate was repealed, incomes were fairly equal, so it was not an issue.

The federal government plays an outsized role in how salaries are determined through percentage-based cost of living adjustments to government workers, beneficiaries, government contractors. The government can change this with the stroke of a pen. The private sector will follow suit with a higher minimum wage, adequate child tax credits (as described below) and paying individuals in training from ESL to community college the minimum wage to pursue their studies.

From here on in, adjust for cost of living on a per dollar an hour rather than on a percentage basis (or dollars per month or week for federal beneficiaries). Calculate the dollar amount based on inflation at the median income level. No one gets more dollars an hour raise, no one gets less dollars per hour in increases. Increase the minimum wage as above and consider decreasing high end salaries paid to government employees and contractors. Even without decreases, simply equalizing raises will soon reduce inequality. Why is this necessary?

Prices chase the median dollar. The median dollar of income is actually at the 90th percentile, rather than the 77th percentile (which is about where the median is). This strategy will reduce inflation in both the long and short terms as prices adjust to decreases in higher salaried income. **Let me repeat this—prices chase income dollars, not income earners.**

Increasing stock market values in the speculative sector are 100% inflationary, according to how inflation is defined in economics: higher prices for the same goods. When such speculation is extreme, bad things can happen. Adopting an ASSET VALUE-ADDED TAX (see the attachment) will control such nonsense.

In the case of labor pull inflation, lower tax rates on executives were effective in 1982. These cuts, and their setting in stone in the 1986 tax reform, were an over-correction. The 2013 tax bill by President Obama showed that increasing taxes on the wealthy is the most effective way to correct any economic slowdown. Then Vice President Biden should have let taxes increase in 2010, as doing so lengthened the slowdown caused by the Great Recession.

The idea that tax increases should be limited to income over \$400,000 is not supported by economics. The system should have everyone pay more, especially for broad based programs like healthcare.

Cuts Taxes for Families with Children and American Workers

Increase Child Tax Credit

We agree with increasing the CTC to at least American Rescue Plan Act levels and adding refundability. Further, we applaud the House for passing compromise legislation addressing this issue.

This is still not enough, but is a start. We would make it at least \$800 per month and phase it out from the median income to the 90th percentile.

The opposition from a retiring Senator in the last Congress, as well as among a current Senate Committee Ranking Member comes from those who consider direct subsidies from the IRS to have the "stink of welfare." The proposal to distribute refundable payments on a monthly basis has not changed. **If the minimum wage were increased, no one would use receipt of the child credit to avoid work. To**

better distribute the credit (at full value rather than as an advance) distribute it with wages or other benefits, such as Unemployment Insurance and Survivors Insurance.

UI and disability insurance should match increased minimum wage levels on a full-time basis (but assuming a 26 hour work week), while payments to dependent children for survivors and the disabled should be abolished and replaced with an enhanced CTC at the \$1,000 per month level

For middle-income taxpayers whose increased credits are less than their annual tax obligation, a simple change in withholding tables is adequate. Procedures are already in place to deliver refundable credits to larger families.

Employers can work with their bankers to increase funds for payroll throughout the year while requiring less money for their quarterly tax payments (or estimated taxes) to the IRS. The main issue is working out those situations where employers owe less than they pay out. This is especially true for labor-intensive industries and even more so for low wage employers. A higher minimum wage would make negative quarterly tax bills less likely. Again, no one should have to subsist mainly on their child tax payments.

This approach is superior to the prebate mechanism proposed for the Fair Tax and for the same reason. The government should not be the national paymaster for every family.

Strengthen the Earned Income Tax Credit for low-paid workers who aren't raising a child in their home

There should be no such thing as low-paid work. Raising the minimum wage (and mandating that franchise agreements provide for higher returns to franchisees when—not if—this increase occurs) and making this increase automatic will assure that all workers can make ends meet.

Lowers Child Care Costs for Hardworking Families, Universal Pre-K and Head Start

Child care arrangements should be the responsibility of the employer. Tax incentives should thus be an offset to an employer-paid tax, preferably one on total value added (both labor and capital), with either neighborhood care or care at or near the workplace financed by the employer *rather than through creating new federal program, such as \$8.5 billion for the Child Care and Development Block Grant (CCDBG)*. See our attached Tax Reform proposal details on the elements of this tax.

Increases Affordable Housing Supply to Reduce Housing Costs

We disagree with the President's proposed subsidies. The best cure for housing affordability is higher income. The President's budget is on the right track regarding the Child Tax Credit. I would treble down on his amounts and distribute these funds through Old-Age, Survivors, Disability and Unemployment Insurance payouts or with wages.

Urban renewal, which relocates poor and largely non-white people, leads to redevelopment that chases the 90th percentile. The tax incentives in the President's budget are exactly the wrong approach. Instead, reform the entire tax system so that most families do not have to file income taxes. By most, I mean 99%.

Reduces the Cost of College

The President's Budget includes funding the first two years of education at community college. The same level of funding should be provided to students in technical training after grade ten and should be available to students at both public and accredited private schools, including religious schools. In *Espinoza v. Montana*, prohibitions on funding private schools (Blaine Amendments) were found to be unconstitutional. New (and existing) funding should reflect that fact.

A main problem with current training regimes is that potential students have opportunity costs that are not covered by training. TANF is simply too narrowly tailored and directs too many people to low wage work, especially in the dirtiest jobs in the medical field. The woke among us do not have to look hard for the intrinsic sexism and racism in this scheme.

Payments for tuition, stipends and family support would be funded by employer-paid subtraction value-added taxes. Ideally, both state and federal subtraction VAT will be enacted. A federal VAT would be levied to assure that a minimum amount of funding is available should states underfund their programs, which some will.

Lifts the Burden of Student Debt

The President is feeling guilty for using student debt revenue as an offset to baseline for passage of the *Affordable Care Act*. New and prior borrowers should not bear this burden. The best way to do this is to forgive all capitalized interest and eliminate this provision. Any forbearance or deferral should stop further interest from accumulating.

Lowers Health Care Costs, making permanent the expanded premium tax credits that the Inflation Reduction Act extended, providing Medicaid-like coverage to individuals in States that have not adopted Medicaid expansion, paired with financial incentives to ensure States maintain their existing expansions.

The President is forgetting his promise to create a Public Option. It is time to at least study how this would work. Our analysis is provided in our comments on the HHS Budget.

Protects and Strengthens Medicare, extending the solvency of the Medicare Hospital Insurance (HI) trust fund indefinitely by modestly increasing the Medicare tax rate on incomes above \$400,000, closing loopholes in existing Medicare taxes, and directing revenue from the Net Investment Income Tax into the HI trust fund as was originally intended.

We disagree. All health care should be funded through broad based tax reform, as specified in our attached proposals. HI and the public option (which replaces Medicaid for the poor and those with pre-existing conditions) should be funded by a credit invoice VAT, premium reforms funded by the employer-paid subtraction VAT. Again, see the HHS budget proposal.

Protects the Social Security Benefits: strengthens Social Security in a way that ensures no benefit cuts; extends solvency by asking the highest-income Americans to pay their fair share; and improves financial security for seniors and people with disabilities. Please see our comments to the testimony of Director O'Malley.

Requires Billionaires to Pay at Least 25 Percent of Income in Taxes

Our tax reform plan specifies a high-income surtax for income wage, dividend and interest income above \$400,000 per year (while incorporating taxes for this income at lower levels, ranging from 6.5% to 26% into a subtraction VAT surtax), which could be remitted through a tax prepayment bond program and the enactment of a 26% ASSET VALUE-ADDED TAX to replace capital gains, inheritance and gift taxes.

Raises Tax Rates for Large Corporations

Eliminate Corporate Profits taxes and taxation of business income on Form 1040 with a Subtraction VAT (with offsets for employee and retiree health care) and a credit invoice tax on both labor and profit. The combined rates of these taxes will burden both profits and labor costs, raising much more money.

This tax will be levied for all income earned in the country of production (for subtraction VAT) and of sale (Credit Invoice VAT). A new agreement on rate uniformity for our proposed Asset VAT will prevent rate shopping for stock trading.

Provides National, Comprehensive Paid Family and Medical Leave and Calls for Paid Sick Days. Both programs should be offsets to the proposed subtraction VAT, with SVAT rates set accordingly. Sick leave should be ten days.

Empowers, Protects, and Invests in Workers. Workers power America's economic prosperity. Absolutely. This should be funded by the national credit invoice VAT.

Confronts the Climate Crisis While Spurring Clean Energy Innovation, Increasing Resilience, and Protecting Natural Resources

Enforcement of pollution, as well as research into new energy sources (such as small nuclear reactors), development of tethered electric vehicles in urban areas and stepped up enforcement of all point-source pollution—both past and present, should be funded by a Carbon-Added tax, as well as fines.

Rural areas should receive Rural Electrification Administration style subsidies for investing in renewable energy, however for areas outside of urban and suburban areas, use of gasoline and biodiesel are practical where tethered electric vehicles are not.

Supports a Strong Nutrition Safety Net

The best safety net for families is paying adequate minimum wages, child tax credits and possibly converting disability programs into Long Term Unemployment Insurance for those for whom additional education is not practical.

Protects Americans at Home and Abroad

Active denial systems, such as the microwave radiation system developed by Raytheon, are superior to any border wall, but installing such a system should only happen if existing immigrants are granted amnesty, with eligibility the program most applicable (permanent residency, student visa, H-1B) without residency restrictions.

Tackles Crime, Reduces Gun Violence, and Makes America's Communities Safer

The DFAR (Defense Federal Acquisition Regulations) and FAR should specify that any firm that sells ammunition to the public cannot provide services to defense or police agencies, nor can any of their licensees.

Salva Ukraini and hold any members who refuse to do so out of support for Insurrectionist Trump be held accountable by the Ethics Committee if they also participated in organizing the actions of January 6, 2021.**Feed Gaza, regardless of funding or permission from Israel.****Treasury Funding**

See the second attachment regarding sunseting funding for the IRS.

Thank you for this opportunity to share these ideas with the committee. As always, we are available to meet with members and staff or to provide direct testimony on any topic you wish.

Attachment—Tax Reform, Center for Fiscal Equity, March 24, 2023

Synergy: The President's Budget for 2024 proposes a 25% minimum tax on high incomes. Because most high-income households make their money on capital gains, rather than salaries, an asset value-added tax replacing capital gains taxes (both long- and short-term) would be set to that rate. The top rate for a subtraction VAT surtax on high incomes (wages, dividends and interest paid) would be set to 25%, as would the top rate for income surtaxes paid by very high-income earners. Surtaxes collected by businesses would begin for any individual payee receiving \$75,000 from any source at a 6.25% rate and top out at 25% at all such income over \$375,000. At \$450,000, individuals would pay an additional 6.25% on the next \$75,000 with brackets increasing until a top rate of 25% on income over \$750,000. This structure assures that no one games the system by changing how income is earned to lower their tax burden.

Individual payroll taxes. A floor of \$20,000 would be instituted for paying these taxes, with a ceiling of \$75,000. This lower ceiling reduces the amount of benefits received in retirement for higher-income individuals. The logic of the \$20,000 floor reflects full time work at a \$10 per hour minimum wage offered by the Republican caucus in response to proposals for a \$15 wage. The majority needs to take the deal. Doing so in relation to a floor on contributions makes adopting the minimum wage germane in the Senate for purposes of Reconciliation. The rate would be set at 6.25%.

Employer payroll taxes. Unless taxes are diverted to a personal retirement account holding voting and preferred stock in the employer, the employer levy would be replaced by a goods and receipts tax of 6.25%. Every worker who meets a minimum hour threshold would be credited for having paid into the system, regardless of wage level. All employees would be credited on an equal dollar basis, rather than as a match to their individual payroll tax. The tax rate would be adjusted to assure adequacy of benefits for all program beneficiaries.

High-income Surtaxes. As above, taxes would be collected on all individual income taxes from salaries, income and dividends, which exclude business taxes filed separately, starting at \$400,00 per year. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Asset Value-Added Tax (A-VAT). A replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets

and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as high income and subtraction VAT surtaxes. There will be no requirement to hold assets for a year to use this rate. This also implies that this tax will be levied on all eligible transactions.

The 3.8% ACA-SM tax will be repealed as a separate tax, with health care funding coming through a subtraction value-added tax levied on all employment and other gross profit. The 25% rate is meant to be a permanent compromise, as above. Any changes to this rate would be used to adjust subtraction VAT surtax and high-income surtax rates accordingly. This rate would be negotiated on a world-wide basis to prevent venue seeking for stock trading.

Subtraction Value-Added Tax (S-VAT). Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long-term care.
- Employer-paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence-level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state-administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

As above, S-VAT surtaxes are collected on all income distributed over \$75,000, with a beginning rate of 6.25%. replace income tax levies collected on the first surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Credit Invoice Value-Added Tax (CI-VAT). Border-adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability.

CI-VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and CI-VAT, however net income will be increased by the same percentage as the CI-VAT. Inherited assets will be taxed under A-VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the I-VAT when sold or the A-VAT if invested.

CI-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional CI-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

Carbon Added Tax (C-AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative

fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Attachment—Tax Administration, Treasury Budget, February 12, 2020

Shifting to a single system for all business taxation, particularly enacting invoice value-added taxes to collect revenue and employer-based subtraction value-added taxes to distribute benefits to workers will end the need for filing for most, if not all, households. Any remaining high-salary surtax would be free of any deductions and credits and could as easily be collected by enacting higher tiers to a subtraction VAT.

Subtraction VAT collection will closely duplicate the collection of payroll and income taxes—as well as employment taxes—but without households having to file an annual reconciliation except to verify the number of dependents receiving benefits.

Tax reform will simplify tax administration on all levels. Firms will submit electronic receipts for CI-VAT and C-VAT credit, leaving a compliance trail. S-VAT payments to providers, wages and child credits to verify that what is paid and what is claimed match and that children are not double credited from separate employers.

A-VAT transactions are recorded by brokers, employers for option exercise and closing agents for real property. With ADP, reporting burdens are equal to those in any VAT system for I-VAT and A-VAT and current payroll and income tax reporting by employers.

Employees with children will annually verify information provided by employers and IRS, responding by a postcard if reports do not match, triggering collection actions. The cliché will thus be made real.

High-salary employees who use corporations to reduce salary surtax and pay I-VAT & S-VAT for personal staff. Distributions from such corporations to owners are considered salary, not dividends.

Transaction-based A-VAT payments end the complexity and tax avoidance experienced with income tax collection. Tax units with income under \$84,000 or only one employer need not file high-salary surtax returns. Separate gift and inheritance tax returns will no longer be required.

State governments will collect federal and state CI-VAT, C-VAT, S-VAT payments, audit collection systems, real property A-VAT and conduct enforcement actions. IRS collects individual payroll and salary surtax payments, performs electronic data matching and receive payments and ADP data from states. SEC collects A-VAT receipts.

CI-VAT gives all citizens the responsibility to fund the government. C-VAT invoices encourage lower carbon consumption, mass transit, research and infrastructure development. A-VAT taxation will slow market volatility and encourage employee ownership, while preserving family businesses and farms. Very little IRS Administration will be required once reform is fully implemented. All IRS employees could fit in a bathtub with room for Grover Norquist.

