

# NOMINATION OF DANIEL I. WERFEL

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## HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

DANIEL I. WERFEL, TO BE COMMISSIONER,  
INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

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FEBRUARY 15, 2023

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**NOMINATION OF DANIEL I. WERFEL,  
TO BE COMMISSIONER,  
INTERNAL REVENUE SERVICE,  
DEPARTMENT OF THE TREASURY**

**WEDNESDAY, FEBRUARY 15, 2023**

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

The hearing was convened, pursuant to notice, at 10:30 a.m., in Room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

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

Also present: Democratic staff: Robert Andres, Chief Tax Counsel; Eric LoPresti, Detailee; Ian Nicholson, Investigator and Nominations Advisor; Joshua Sheinkman, Staff Director; and Tiffany Smith, Deputy Staff Director and Chief Counsel. Republican staff: Michael Gould, Detailee; Mike Quickel, Policy Director; Gregg Richard, Staff Director; and Don Snyder, Tax Counsel.

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

The CHAIRMAN. With permission from the ranking minority member, Senator Crapo, we're going to get started. And also, before I begin my remarks, I want to welcome formally our new members, Senator Johnson, Senator Tillis, Senator Blackburn. We said "hello" when you came to the organizational meeting. It's your first hearing, and I think a very appropriate one.

The committee meets to discuss Danny Werfel's nomination for IRS Commissioner. We want to welcome him back to the Finance Committee. We know him well. I expect that a significant portion of the hearing will focus on IRS funding that was included in the Inflation Reduction Act. That's where I'll begin.

And, colleagues, I'm going to focus on three points. First, for some time I've talked about the two tax systems that exist in America. One is for firefighters and nurses and teachers, and their taxes come straight out of every paycheck. And then there's another tax system for the billionaires and the high-flyers who, to a great extent, can pay what they want when they want to.

So today, we're going to focus on ending the two-tiered system of enforcing America's tax laws. That's what is needed. It's a big part

of what Democrats sought to address in the Inflation Reduction Act, because audit rates today are far higher for those of modest means than the very wealthy.

Second point: the Inflation Reduction Act makes sure that the IRS gets the resources to go after tax cheating by the big guys: the ultra-wealthy, the multinational corporations.

Now, there are members who oppose that effort, and I get that they want to deflect and distract. That's why people have heard these fantasies about 87,000 agents armed with rifles busting down people's doors. If you don't want to engage on the real issue, which is tax cheating by the ultra-wealthy and multinational corporations, you change the channel. You try to talk about something else.

Third, contrary to a lot of baseless attacks you hear today, improving technology and staffing up customer service is a big win for law-abiding families and small businesses. In my view, they're going to be less likely to face an audit thanks to the Inflation Reduction Act.

I want to briefly touch on each of these three points. Working people and the middle class today have a 99-percent rate of compliance with the tax code, yet working families who claim the Earned Income Tax Credit get audited far more than do the wealthy folks. Things didn't get that way by accident. A decade of Republican budget cuts gutted the IRS's ability to do the kind of in-depth enforcement work that's needed to make sure that the multinational corporations and the very wealthy pay what they owe.

From 2012 to 2020, our economy got a whole lot bigger, yet the total dollar amount of unreported taxes uncovered by corporate audits fell by nearly 60 percent. Over the last decade, audit rates of wealthy taxpayers making more than \$5 million a year fell by 90 percent. On the other hand, the audit rate for working people didn't budge, even though the IRS was working with fewer resources. That means working Americans bore a much heavier burden.

That's where my second point comes in. When Democrats wrote the Inflation Reduction Act, we decided it was long past time to say to the multinational corporations and the tax cheats at the top, "Nobody is above the law, and that includes you." That's why the bill included new resources for enforcement. Democrats have made clear that the funding is not going to go to auditing Americans who earn less than \$400,000.

In fact, during the debate on the legislation, Republicans actually struck legislative language from the bill that would have constructed even stronger guard rails on this issue. For Democrats, this is about going after cheating at the top and doing a better job of collecting what the very wealthy and the big corporations already owe.

The official tax gap says that \$540 billion in taxes go unpaid each year. We asked the IRS Commissioner, Charles Rettig, about this, because we thought it was higher. He said it could be as high as a trillion dollars. So, the Inflation Reduction Act funding is going to help us get at that issue.

Finally, better technology and better customer service personnel are going to allow us to go a long way toward relieving headaches

for typical taxpayers and small businesses. More customer service personnel are going to make a big difference because, in the past, it's been a struggle to get anybody on the phone when you call the IRS with a question.

In the spring of 2021, to show some progress, 11 percent of the phone calls got through. Pretty darn low. Last year, it was 13 percent. In the early stages of this filing season, colleagues, it's up to 90 percent, a huge improvement. These tech upgrades and more personnel ought to reduce the odds that a law-abiding family or a small business faces an audit.

These days taxpayer information goes into a lot of outdated systems that struggle to communicate with each other. Fixing that is going to help the IRS better use the information it already has. If the IRS can answer its own questions and resolve issues proactively, it's less likely that a busy parent or let's say, colleagues, the owner of a small local restaurant opens the mailbox one day to find a scary letter from the tax man.

With that, we want to thank Mr. Werfel for his willingness to return to public service and the IRS. We had a good conversation when he came by. I believe the President made an excellent choice with his nomination. There's a lot of history of working with the Finance Committee, and it's been positive. I know the late Senator Hatch was very fond of Mr. Werfel, and we look forward to our discussion.

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 very much, Mr. Chairman. And, Mr. Werfel, thank you for your willingness to serve and to answer our questions today.

The IRS exists solely to serve taxpayers and fairly administer tax law. The Internal Revenue Code requires the IRS Commissioner and all IRS employees to act in accord with codified taxpayer rights, including the right to be informed, the right to quality service, the right to challenge the position of the IRS and to be heard, the right to privacy, and the right to confidentiality.

Over the last several years, Americans have time and again seen the IRS fail to meet these obligations, and they are rightly concerned about the vitality of their taxpayer rights. The statute requires the IRS Commissioner to ensure the IRS respects these rights, and the next Commissioner needs to show that he will faithfully stand up for the American taxpayer. The next IRS Commissioner must also demonstrate that he can be fair, consistent, and impartial as an umpire for taxpayers rather than reflexively pro-IRS.

While I did not always agree with former Commissioner Rettig, he was consistent and called the balls and strikes the same for everyone. Recently, the IRS simply overlooked statutory deadlines for implementing new laws, including third-party network reporting and EV tax credits. These delays seemed conspicuous, given that other recent and complex tax changes, including the amortization

of R&D expenses, corporate book minimum tax, and stock buyback excise taxes all took effect without necessary guidance.

The need for an objective, consistent, and level-headed IRS Commissioner who is laser-focused on taxpayer rights is even more imperative, given the staggering \$80 billion in additional funding that the misnamed Inflation Reduction Act just gave the agency. For reference, \$80 billion is more than 6½ times the IRS's typical annual budget.

These additional funds come despite the fact that, over the past 2 decades, Congress has appropriated the IRS hundreds of billions of dollars in annual funding and tens of billions of dollars in more supplemental funding with little improvement to show for it. The IRS continues to utilize outdated methods and processes that even the Taxpayer Advocate called "crazy."

A recent report by the Treasury Inspector General for Tax Administration shows that these antiquated processes cost hundreds of times more than an updated approach that would better serve taxpayers and the IRS. This is just one example of how funding has become a scapegoat for mismanagement.

It is no surprise to hardworking Americans that the IRS currently ranks dead last in a recent gallop poll rating Federal agencies. Sending the IRS on an unchecked spending binge has no intrinsic value. Unless there are outsized results to match the gargantuan investment, the IRS's supplemental billions will simply become another example of government waste. Because the funding lacks any accountability measures or guard rails, the next IRS Commissioner shoulders the primary responsibility for outcomes, as well as planning, tracking spending, and transparently monitoring outcomes.

Americans and their elected representatives are watching. Will the IRS be honest and fully and deeply transparent? Will the IRS use best practices, rely on unbiased data, and set common-sense goals? Given how the funding was conceived, designed, and adopted, I'm skeptical, but I will look to you, Mr. Werfel, to fill the gap, if you are confirmed.

The fact that nearly 60 percent of the funding will go toward hiring enforcement personnel, more than 14 times the funding set aside for serving taxpayers, is a particular concern. Unease about supersized IRS enforcement hiring has nothing to do with supporting evasion by wealthy tax cheats but comes from a fear that the IRS will waste untold taxpayer dollars chasing speculative or marginal revenue recoveries, while hardworking Americans and small businesses end up in a dragnet.

When I offered my amendment to statutorily protect taxpayers making less than \$400,000 from increased audits, all of my Republican colleagues stepped up and voted "yes." No one on the other side voted "yes." And now we have a statement from the Secretary of the Treasury that, in fact, we won't see this 60-plus percent of the \$80 billion spent on auditing those making less than \$400,000.

My colleague, the chairman, has indicated that that is the intent of this money, but it is not what the law says, because my amendment was not allowed to be adopted. Unenforceable edicts are so easily broken.



In sum, the new IRS Commissioner will shoulder immense responsibility. If confirmed, Mr. Werfel, you must be the change agent we have long been promised.

Thank you. And I look forward to your testimony and your detailed responses to our questions.

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

The CHAIRMAN. I thank my colleague. We're going to get going.

The important point is, Democrats have made it very clear that we have an ironclad commitment to protect people who are making under \$400,000. And regrettably, the Republican approach would have been to give a free pass to billionaires, for example, who have figured out a way, as we've noted, to pay little or no taxes for years on end because they go to their accountants and they say, "Make sure I'm not getting any income." So, we're going to talk through those issues right now.

Senator Carper is going to introduce our guest.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,  
A U.S. SENATOR FROM DELAWARE**

Senator CARPER. Before I do that, Mr. Chairman, thanks so much for giving me this opportunity. Let me just follow up on your comments. I've been a member of this committee for about 15 years. For as long as I can remember, we've had IRS Commissioners, Democrat, Republican, come before us and plead for the resources they need—human, technology, and so forth—to be able to do their job. Every new Congress, the head of GAO comes in and says to us, "Here's a high-risk list of ways we're wasting money, and one of the ways we're wasting money is not collecting the taxes that are owed." The high-risk list every year says, "For God's sake, fund the IRS," and we've done that.

Today the question is, what kind of leadership are we going to provide for the IRS? And leadership is the most important element in the ingredients of any organization that I've ever been a part of. And I want to, again, thank our chairman and ranking member for giving me the privilege of introducing Danny Werfel at this confirmation hearing to serve as the next IRS Commissioner.

History repeats itself today. Some 13 years ago, I had the privilege to offer similar remarks before the Senate Homeland Security and Governmental Affairs Committee when I introduced Danny as a nominee for Comptroller at the Office of Management and Budget, OMB.

At that hearing, Danny was joined by his wife Beth, by their daughter Molly, and a son, Sean, who were just young kids at the time. I see they're not young kids anymore. Today, Molly and Sean both join us as college students, with Molly following in her mother's footsteps by studying psychology and Sean following in his dad's footsteps by studying public finance.

Also in attendance again are Danny's parents, Barbara and Fred. Nice to see both of you; happy to see all of you again. And I want to thank you for sharing your husband, your father, and your son with the people of this country. I especially want to thank Beth for sharing her husband with all of us.

I'd be hard-pressed to think of anyone more qualified than Danny Werfel to lead the IRS during this critical time of rebuilding. Throughout his distinguished career in public service, under both Democratic and Republican administrations, we have seen Danny work tirelessly to make sure that taxpayer dollars are spent wisely.

He's been a lifelong champion for good government and has become known as the expert that people turn to for help in navigating the many challenges we face in government and in this country of ours. And that's why both President George W. Bush and President Barack Obama chose Danny Werfel to lead their Chief Financial Officers Council. That's a group of CFOs, Chief Financial Officers, for the largest Federal agencies, who work to improve financial management in our Federal Government.

That's why President Obama chose Danny to serve as OMB Comptroller, where he oversaw Federal spending and tirelessly worked to reduce waste, fraud, and abuse in our government. And that's why, in 2013, President Obama appointed Danny to be the Acting IRS Commissioner—a job Danny performed so well that he earned bipartisan praise from both Senate Finance Committee Chair Max Baucus and the ranking member at the time, Orrin Hatch, for his many contributions and performance.

The American people deserve an IRS that meets their expectations. That includes getting their phone calls answered, their problems solved online, and their refunds delivered in a timely way. And after decades of underfunding, thanks to the Inflation Reduction Act, this agency finally has the necessary resources to make significant improvements in the service that we provide to every-day taxpayers.

We need a leader at the IRS who's been confirmed by the U.S. Senate. A Senate-confirmed Commissioner is critical to achieving the policy objectives of the Inflation Reduction Act, including providing best-in-class customer service to the American taxpayers, delivering on historic clean energy tax credits to meet our climate objectives, and ensuring that the wealthy individuals and corporations in our country pay their fair share of taxes too.

In closing, Danny Werfel has proved time and again that he has the management expertise and experience, and the background necessary to tackle this very difficult and challenging mission head-on and to succeed. In fact, he's done this job before, so he can hit the ground running on Day One.

In closing, I would urge our colleagues to confirm Danny and do so soon, very soon. And once again, I thank our chair and ranking member for the privilege—really—of introducing him to all of us. Thank you so much.

The CHAIRMAN. Thank you, Senator Carper.

Mr. Werfel, you are lucky to have Senator Carper in your corner.

Normally, what we do is, we go to your opening statement, but would you like to introduce your family? I understand they're here.

Mr. WERFEL. Yes, absolutely. And actually, my statement goes through and introduces them, so I'll start that, and then we'll introduce the family as part of my statement, if that's okay, Mr. Chairman.

The CHAIRMAN. That'll be fine. Why don't you go into your opening statement?

Senator CARPER. Mr. Chairman, could I just say one last thing? I'm chairing a hearing in the Environment and Public Works Committee at the same time that this is going on. I'm leaving, but I'll be back, okay? Thanks so much.

The CHAIRMAN. Let the record show, okay?

**STATEMENT OF HON. DANIEL I. WERFEL, NOMINATED TO BE COMMISSIONER, INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. WERFEL. Chairman Wyden, Ranking Member Crapo, and members of the committee, I'm honored and humbled to come before you today as President Biden's nominee for Commissioner of the Internal Revenue Service. I want to thank Senator Carper for his generous introduction, and I want to express my gratitude to the committee for considering my nomination. I also want to thank President Biden and his administration for placing their confidence in me.

I'm grateful to have my family with me today, this morning, supporting me today as they have through every step my life: my wife Beth, my children Sean and Molly, and my parents Fred and Barbara.

From a young age, I saw the honor in serving others. I saw that honor in my grandfather—a World War II veteran and postal worker—and mother, a social worker who helped place people with disabilities into gainful employment. I see that honor in my amazing wife, who has spent more than 25 years working as a psychologist in the public school system. Their examples inspired me to pursue a career in public service.

I felt a great sense of pride when I showed up at the Office of Management and Budget for my first day of work as a GS-9 in the late 1990s—and even more pride 13 years later when I last sat in a Senate confirmation hearing as the nominee for the OMB Comptroller.

While at OMB, I served under nine different Directors of both political parties. This experience reinforced the importance of having a true north for how to best serve the American people. At OMB, I learned that the essential foundation of government is public trust. Public trust requires transparency, collaboration with oversight entities such as Congress, adherence to the rule of law, responsible stewardship for taxpayer dollars, equity, and fairness.

In 2013, with these lessons now a part of my professional DNA, I was selected to serve as Acting Commissioner of the IRS. While serving, I witnessed the dedication and talent of the IRS civil servants. Since leaving the IRS, I watched from afar how these employees provided economic lifelines to hundreds of millions of families and small businesses during the COVID-19 pandemic. Their true north is their deep belief that the American people need an IRS that provides all taxpayers with world-class customer service and implements the tax code in a way that is just, fair, and equitable.

I share in this belief. As an IRS alum, but more importantly as a taxpayer, I've been concerned about gaps in capacity that have impeded the IRS's ability to meet its critical mission. The result is that hardworking, honest taxpayers who need assistance in meeting their tax obligations are not getting the services they need.

The IRS has also been ill-equipped to unpack complex and intricate returns of high-income taxpayers. Following the passage of the Inflation Reduction Act, Americans rightly expect a more modern and high-performing IRS. Last year, Secretary Yellen issued a directive that the IRS will not increase audit rates for small businesses and households making under \$400,000, which I am committed to meeting.

Therefore, if I'm fortunate enough to be confirmed, the audit and compliance priorities will be focused on enhancing IRS's capabilities to ensure that America's highest earners comply with applicable tax laws. Also, front and center will be efforts to modernize and dramatically improve taxpayer services. If confirmed, I will lead these efforts in close collaboration with this committee and will be unyielding in following my true north to increase public trust.

While unheralded, effective implementation of our tax system is necessary to fund critical government services. For 8 months in 2013, I had the privilege to walk into the IRS and draw inspiration from the workforce and the solemn duty of this mission.

As I reflect on the public service legacy of my family, I think about the example I will set for my children by rededicating myself to a career in public service. To be given this opportunity again would be the greatest honor of my life.

Thank you for considering my nomination. I look forward to answering your questions.

[The prepared statement of Mr. Werfel appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Werfel.

Before we begin, there are some obligatory questions that we have to pose to you. First, is there anything that you're aware of in your background that might present a conflict of interest to the duties of the office to which you've been nominated?

Mr. WERFEL. No.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you've been nominated?

Mr. WERFEL. No.

The CHAIRMAN. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Mr. WERFEL. Yes.

The CHAIRMAN. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of the committee?

Mr. WERFEL. Yes.

The CHAIRMAN. All right. I'll start with questions, then we'll go with Senator Crapo.

The first is, I want to address this fact that the wealthy get audited far less than do working families. And we've obtained information that low-income taxpayers who claimed the Earned Income Tax Credit were over eight times more likely to be audited than large partnerships. If confirmed, what would you do, specifically, to make sure the IRS ends what I call this two-tiered enforcement system and starts auditing partnerships, for example, favored by

billionaires at a higher rate than low-income taxpayers who claim the Earned Income Tax Credit?

Mr. WERFEL. Senator, I thank you for the question, and I think it's a very important one. I start with thinking through what are the ingredients of effective tax implementation, and certainly equity is one of them. And to achieve equity, I think we should be able to look at the audit footprint and see balance. I don't think, based on what I know now, that there is balance today.

I'm not at the IRS, but if there is an imbalance, that is concerning, especially if there's a disparate impact on poor people. If poor people are more likely to be audited than the wealthy, that is something that I think potentially degrades public trust and needs to be addressed within the tax system.

I head into this job with a directive from Secretary Yellen, and that is to balance this audit footprint. And I'm excited and eager to work with the IRS on a strategy—that I'll make very transparent—on how to do that.

The CHAIRMAN. All right.

There have been troubling recent reports that Black Americans are at least three times as likely to be audited as other taxpayers, even though the IRS doesn't collect information on race. This raises serious questions about discrimination with respect to audit selection. This is something the IRS has to address. If you're confirmed, what will you do to uncover the reasons for the racial disparity in audit selection, and what will you do to correct it?

Mr. WERFEL. I agree, Senator. This is very concerning. I go back to the point in the first question: fairness is an essential element of tax administration, and we have to have an understanding of whether our approaches, our activities, are having disparate impacts on any population. It's particularly alarming if it's having a disparate impact on racial minorities. Right now, not being at the IRS, I don't yet have a good sense of what the issue is.

The CHAIRMAN. Let's do this. Will you commit, within 60 days of being confirmed, that you will get back to us and give us the underlying reasons, in your view, why there is this discrimination and what you'll do to correct it within 60 days?

Mr. WERFEL. I will absolutely, as soon as I get to the IRS, talk to those individuals who are working this issue and report back to you on what we're finding.

The CHAIRMAN. Sixty days.

Mr. WERFEL. Understood, Senator.

The CHAIRMAN. All right.

With respect to the tax gap, which is attributable to the wealthy, the Treasury Department estimated last year that the tax gap was about \$600 billion, with the top 1 percent counting for the largest share. But the IRS's latest tax gap projections don't even show how much high-income taxpayers cheat. They completely omit non-compliance from multinational corporations, flow-through entities, foreign activity, and digital assets.

Commissioner Rettig said, when the committee asked, the tax gap could be as high as a trillion dollars, if you included those areas I mentioned that have been omitted. If you're confirmed, what would you do to ensure that the IRS measures the tax gap

in these areas, and that you actually have a strategy for reducing it?

Mr. WERFEL. Absolutely, Mr. Chairman. When I think about the objective to improve the capacity the IRS has to unpack complex and intricate returns, I think we have to do a number of things. I'm not sure that training the current workforce will be sufficient. I think we want to hire and bring in experts, maybe some of the same individuals who, earlier in their careers, prepared these very intricate returns and are ready to come back and potentially serve their country and, maybe years later, help us unpack them. And when they're doing that, I think, Mr. Chairman, we will be able to not only unpack and help collect more revenue from high-income taxpayers and large corporations, but also understand how to better measure that so that, going forward, the tax gap assessment has a more clear picture of what this gap is.

The CHAIRMAN. I'm going to wrap this way. I know Senator Carper has got a hectic morning, and I know a lot of my colleagues do. I'd like you to tell us what you're going to do, if confirmed, to reduce the audits of family-owned small businesses that follow the rules.

You heard me in my opening statement say it seems to me, with better technology and highly trained staff, you're going to be in a position to focus on these big players, these multinational corporations, the ultra-wealthy, you haven't been able to focus on in the past, because those have been more expensive cases. And this can redound to the advantage of small businesses who are complying with the law and complying with the rules.

So tell us, as I wrap up my time, because this is something that we all feel strongly about—and you've seen the back and forth with respect to small businesses. What specifically are you willing to do to reduce the audits of family-owned small businesses that follow the rules?

Mr. WERFEL. I think, first of all, with the directive from Secretary Yellen to focus IRS resources on high-income taxpayers, certainly there'll be a rebalancing of the audit footprint. I want to take a look with the IRS team at other audits and figure out if there's a way to determine where, essentially, we'd be wasting our time to go and audit, because there's such a high percentage and a high probability that the balance is already being paid. And by doing that, we can go after more issues where there might be something underlying that's nefarious, something that relates to advertent cheating or evasion.

I think there are opportunities, and I will come back to you, Mr. Chairman, with a more specific set of plans on how to rebalance the audit footprint in a way that's fair, equitable, and is as transparent as the law will allow me to be.

The CHAIRMAN. Okay. Thank you.

Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

My first question, Mr. Werfel, is on this plan that Senator Wyden has been talking to you about getting some details on. There's growing uncertainty about when or even if the IRS plan for spending the \$80 billion will be publicly released. I understand that you have not been involved in that because you are not the IRS Com-

missioner yet, but you probably will be if your nomination proceeds, as it looks like it will. It's a widely shared view that the IRS must release this plan in real time and allow stakeholders to provide feedback.

If you are confirmed as the IRS Commissioner, would you agree that the plan to spend the \$80 billion will be publicly released and that you will allow public feedback from stakeholders and others on it?

Mr. WERFEL. Senator, I appreciate the question. I agree that the plan that is put together should allow both you, this committee, and the public to connect the dollars from the Inflation Reduction Act to the various activities and investments. And I really want to earn this committee's trust. I think as a former budgeter, I will earn your trust by putting together a very clear plan that articulates where the money is going. And as a former OMB Comptroller, I hope to earn your trust in terms of making sure that those funds are spent wisely.

So, I think you and I are sharing the same values, Senator. Let's be public about the plans, and let's make sure that we're building trust in the way forward.

Senator CRAPO. Well, thank you. And I'll take that as a commitment that you will publicly release the plan.

As you know and has already been discussed here at the hearing, I'm very concerned about the use of the funds for the enforcement part of the plan. We have never had an argument in this committee about whether we need to give the IRS the necessary resources to bring itself technologically into the 21st century and to get the adequate response to the taxpayers that they now don't get so that the IRS can even answer the telephones, so to speak, when taxpayers are trying to communicate with them.

The battle has been over this completely uncontrolled and undefined commitment of 60 percent of the \$80 billion to enforcement. And there's been a lot of talk about, well, we want to enforce this against those who are rich, super-rich tax cheats. But yet, when I brought that amendment I referenced earlier, no one would support it and put that right into the law.

So, I want to get into that. From the IRS's own data, the two largest single components of the tax gap—that's the difference between taxes owed and paid—are small businesses, small business income, and individual non-business income. In response to my questions, the nonpartisan Joint Committee on Taxation told us that these shortfalls are overwhelming. They are upwards of 90 percent, and these shortfalls fall on hardworking Americans with modest income far under \$400,000.

Now, Secretary Yellen reportedly has said she's directed the IRS not to use this—somewhere in the neighborhood of \$50 billion—to enforce against people with incomes less than \$400,000. My colleague, the chair, has said that is not to be done. What I want to know is, how strong will you make that commitment? The language we've gotten from the Secretary was in this term of, well, we want to get balance. I want to know whether you are going to commit today that the plan will not allow this super-sized enforcement money to be utilized against people who make less than \$400,000 per year. Will you make that commitment?

Mr. WERFEL. Senator, yes, and I made my commitment in my official statement. For the record, I am committed to Secretary Yellen's directive on how the audits should move forward under the Inflation Reduction Act, and I look forward to working with you and you holding me accountable for that.

Senator CRAPO. Well, thank you. Secretary Yellen's statement leaves a lot of wiggle room. I want to be sure you know that I don't expect to see wiggle room in this commitment.

Last question: there's been a lot of debate in the last Congress that was stopped finally—but some of us are concerned that it's not—about whether the IRS should have the authority to get into people's bank accounts if they make over \$600 a year or spend over \$600 a year. And then some said, "Well, we'll make that \$10,000 a year as the target point, or \$10,000 a year spending or depositing."

There's a lot of concern about the intent at the IRS to move forward with some plan. We've stopped it here legislatively in the battles in Congress last year. I want to know whether there are any intentions at the IRS or any intention on your part to regulatorily seek to expand the ability of the IRS to literally invade and look into the bank accounts of Americans simply because they have deposited more than \$600—or \$10,000, or whatever number—into their account?

Mr. WERFEL. Senator, I'll go back to my background. I'm a rule follower, and I would only take actions that are consistent with what the IRS authorities are under the law. But I'll also say this: I think about effective tax administration as requiring a bunch of different factors, reducing paperwork burden on the public, but also avoiding unnecessary intrusion.

So, if we're going to take a step, I'm going to want to make sure this committee is comfortable that: (a) we've taken that step consistent with what our parameters are in the law; and (b) that we've made the right decision that this is the right step to do in the interest of the taxpayer and balances the importance of not invoking unnecessary intrusion. And my commitment is to hold to these factors and work with you collaboratively to make sure we balance them effectively.

Senator CRAPO. Well, I would hope that you wouldn't seek any plan like I just described, which I think is a violation of the privacy of our American citizens, unless Congress directed it.

The CHAIRMAN. I'll just say to my colleague I think I'm about as big a privacy hawk as there is around here. I'm certainly going to make sure people's privacy is protected as well.

Okay; our next two Senators will be Senator Cardin and Senator Grassley.

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Werfel, first of all, thank you. Thank you for your willingness to serve our country in this critically important position. There's an easier way to make a living, so thank you for being willing to take on this challenge.

I also want to acknowledge that I believe your strongest assets in the IRS are your workforce. I know many of the individuals who are very talented. They've gone through struggles with lack of resources, and I just urge you to invest in good people, continue to



invest in good people, and do everything you can to increase the morale within the workforce. The work that they're doing is critically important to our country.

I agree with you on your commitment to be a rule follower. We're the ones who pass the laws. Then they're interpreted. And yes, there's confusion in the way that people comply with our tax code. And historically, we've had high compliance because it's been voluntary compliance. Everyone should believe they're being treated fairly under our system, but that's no longer the case.

And yes, when you look at following the rules, if you're a higher-income taxpayer or more complicated taxpayer, you have a lot of professional help for you to interpret the rules as favorably as they can be to your advantage. And when you don't have audits and you don't have an aggressive way to have a uniform interpretation of those rules, you run into the tax gap that we have today.

And so, I agree with my colleagues that we want everyone to comply with the rules. There's not an income limit here on complying with the rules. We know that those of higher incomes have found ways to bend those rules, and that has to end. And that's one of the reasons why, in passing the Inflation Reduction Act, the resources were made available so we could close that gap and have a better confidence among the American taxpayers that they're being treated fairly. I just wanted to underscore that point.

I know I had a chance to talk to you about that, and I'm convinced you understand that. Everyone needs to comply with the rules, but we have to make sure that everyone understands the rules through the audit process. So, I just encourage you to do that.

I want to raise an issue that's been raised by several of my colleagues, and that's small businesses. I chaired the Small Business Committee. It's one of the major areas of concern that is raised by small businesses around this country: the challenges within our tax system. I think we, in Congress, have to take responsibility for that, because we're the ones who developed the rules. But we need your help in how we can develop the rules and apply the rules to help small business owners who don't have the same capacity to deal with the tax code that larger companies have.

So, I'd just like to know your vision on how we can work together to make the tax code more understandable and fairer for small businesses, which are the growth engines of our economy.

Mr. WERFEL. Absolutely, Senator Cardin. And it was interesting—in Senator Crapo's opening remarks, he made reference to the Taxpayer Bill of Rights. And I got some very good advice prepping for this process to go and print out and read the Taxpayer Bill of Rights, and I've made a habit now of reading it every day. And if confirmed, I will read it every day.

And one of the ones that jumps out at me is the right to understand, have clarity on what is expected of them. And I think there's more that the IRS can be doing to reach out, especially to taxpayers who don't have the means to hire accountants or law firms to navigate their taxes. I mean, it's a very complicated code. It can be daunting. And so, I think there has to be an objective to meet taxpayers where they are. If they can't afford the resources to help them navigate, how can the IRS do more to answer their questions—whether it's people in taxpayer assistance centers, whether

it's better solutions online, whether it's working with intermediaries, tax preparer associations, local chambers of commerce, whatever it is—to hold sessions that might be helpful? I'm ready to roll up sleeves and do what we can to help working families, small businesses, meet their tax obligations in a much easier way than it has been to date.

Senator CARDIN. And I would point out that the Taxpayer First Act and the Bill of Rights have all been areas that we've weighed in on to do exactly that: to be a consumer-friendly agency. Phones have to be answered, advice has to be given that's accurate, so people can respond in a timely way. And your response to my first question gives me great confidence that we can work together to achieve those objectives.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cardin.

Senator Grassley?

Senator GRASSLEY. Congratulations on your appointment, and I'm sure your family and everybody who knows you is proud of the responsibilities you assume.

I'm going to follow up on the first question that Senator Carper asked you. It's about spending the \$80 billion, and it deals with a bill that Senator Thune and I introduced, the IRS Funding Accountability Act. And you said that you would make public the report that you're going to put out when you get done with it.

So, this bill emphasizes doing that annually so we can compare one year with the previous year. So, if confirmed, would you direct IRS to update the spending plan annually for Congress to review, regardless of whether this bill passes or not?

Mr. WERFEL. Senator, thank you for the questions. And I've worked a long time in government and seen a lot of the initiatives that you've undertaken to increase transparency and increase the integrity of the Federal process. It's so essential that we build trust, and I think that by sharing whatever we can share within the law with the public about our go-forward plan is going to help build the trust.

I will work with this committee to figure out what is the best manner in which to make this public and the frequency of it. And so, anyway, I'm very much looking forward to working with you on that.

Senator GRASSLEY. I want to go to the ProPublica release that they put out. It's clear that IRS needs to do a better job safeguarding taxpayer information. Government Accountability Office and Treasury Inspector General for Tax Administration reports identify many vulnerabilities in the IRS information system, particularly as it relates to use of cloud systems.

Just last month, GAO released another report on IRS's implementation of cloud computing that made an additional nine recommendations. So, if confirmed, will you work to protect taxpayers' information by addressing the serious vulnerabilities identified by TIGTA and GAO?

Mr. WERFEL. Senator, I'm glad you asked that question. When I sat down to think through what the most important factors of effective tax implementation are, the very first thing I wrote down was

data security and making sure that we protect taxpayer information from unauthorized disclosures.

And then your point about the Taxpayer Inspector General and the Government Accountability Office—these are incredibly important voices that frequently provide recommendations to organizations like the IRS. I will absolutely take all of those recommendations seriously. I always have, and I will work with them to make sure that we're implementing those recommendations in a way that advances more data security so taxpayers can build confidence that we're holding their data sacred.

Senator GRASSLEY. According to the National Taxpayer Advocate, in 2021 that agency saw IRS telephone assistance reach an all-time low, with only minimal improvement in 2022. Moreover, IRS still has nearly 2 million unprocessed paper tax returns from last filing season.

Addressing poor taxpayer service needs to be a high priority for you. However, of the nearly \$80 billion in additional funding IRS has received, only \$3 billion is dedicated to taxpayer service. Prior to supersizing enforcement, IRS should focus on using the \$3 billion for improved customer service.

If confirmed, will you prioritize deploying \$3 billion more than that before expanding audits and other enforcement?

Mr. WERFEL. Senator, I appreciate the question. I think if anything is going to keep me up at night—if I'm fortunate enough to be confirmed—it's going to be what are the right efforts we can undertake to increase taxpayer service. Phone calls should be answered, questions should be resolved, and I think what's really important is that the IRS Commissioner implements the law that's been passed to the maximum impact that serves taxpayers' interests. So, if there's \$3 billion in increased funding for taxpayer service, and that's what Congress in its wisdom enacted, we will make sure, and I will work to make sure that those \$3 billion are spent wisely and with maximum impact in improving the taxpayer experience.

Senator GRASSLEY. And my last question deals with a bill that passed in 2005, the IRS whistleblower program. So far, it's an underutilized IRS enforcement tool, encouraging those with knowledge of tax fraud to step forward. It helps IRS direct its limited resources, and since 2006, this legislation has brought in \$6.4 billion that would have otherwise been uncollected.

In recent years, awards to whistleblowers have fallen, while processing times have increased. The average time for processing whistleblower's claims is now 11 years, and I think that's unacceptable. If confirmed, what steps would you take to ensure well-functioning whistleblower programs so we can bring in a lot more than \$6.4 billion?

Mr. WERFEL. Senator, I appreciate the question. And as I mentioned earlier, I know this is an issue that you spent your career working towards. I think there are certain levers that are in place at government organizations—and I'll speak to the IRS specifically—that help make sure that it is following the right set of rules and procedures and conducting itself in a way that builds trust.

I think the Inspector General, I think GAO, and I think effective whistleblower functions are critical to that. I want to learn from

the IRS. You mentioned some statistics that are concerning about the potential functionality of that process. I will look into it and figure out what corrective actions may be necessary to strengthen it.

The CHAIRMAN. Senator Grassley's time is up, but I just want, for the record, for people to know how important this work is that you're talking about. And you and I have been working on these whistleblower issues for a long time together, and that will continue here. Thank you for bringing it up.

Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. I appreciate it. Mr. Werfel, thank you for your willingness to serve and your family's willingness to let you serve. Very much appreciated.

Two weeks ago, the IRS notified taxpayers in Colorado in the middle of filing season that they could face a tax on their tax refund, which in my State we call TABOR refunds, Taxpayer Bill of Rights refunds. Coloradans receive TABOR refunds when the State collects more in taxes than we allow in State law. It's a tax refund, not income. And in 30 years, the IRS has never taxed these refunds for the vast majority of Coloradans. And Congress hasn't passed any laws to change that.

So the IRS's announcement threw our entire filing season into chaos. It would've hit my State with about \$400 million in additional taxes at a time when working families are already struggling with rising prices in this economy, and that's why I called the Treasury Department and the IRS and demanded that they fix this. And over the weekend, the IRS clarified that it won't tax last year's TABOR refunds, but I should never have had to make that case, and people in Colorado should not have had to make that case, especially when they're in the middle of filing their taxes.

Mr. Werfel, I know you weren't involved in this; otherwise, I would've called you. But I want to put the issue on your list, because I am intensely interested in making sure we don't repeat this again next year. So my question for you is, first, will you commit to working with my office and the State of Colorado ahead of the next filing season, so we aren't inflicting needless chaos and confusion on my State?

Mr. WERFEL. Yes, I will, Senator. Absolutely. I think it goes back to the Taxpayer Bill of Rights—clarity on what is expected. I think clearly, it's better to have that clarity in advance of the filing season with reasonable notice.

Senator BENNET. Even if you thought it was a good idea, which, for the record, I don't think it's a good idea, and 30 years of experience with the IRS tells us it's not a good idea. But even if you did, the last time you should do it is when people are already filing. In fact, the guidance that we got, incredibly, from the IRS was "don't file your tax returns until we sort this out." And again, I share Ben Cardin's view that there are many hardworking public servants there, but that's an example of the kind of self-inflicted wound that I think is just—well, it makes people believe there's just a fundamental nonsense of government. So, I look forward to working with you on that.

Mr. Werfel, as you know, I've been in the Senate now for more than a decade, and the most significant issue that I've worked on is the expansion of the Child Tax Credit in 2021, along with my

colleagues on this committee, Chairman Wyden and Senator Brown. That one policy cut childhood poverty in half in America. It cut family hunger by a quarter in this country, a country that has the highest childhood poverty rate in the industrialized world, notwithstanding the fact that we're a wealthy country.

The Child Tax Credit benefited over 90 percent of the kids in my State and all across the United States. At the time, many people doubted that the IRS could deliver the CTC on a monthly basis, but to its credit, it did. It wasn't perfect, but about 90 percent of eligible children received the payments.

My biggest disappointment is, obviously, that Congress let the expanded CTC expire. And I still believe that we will eventually pass an expanded CTC. I'm glad there are members of the Republican caucus who have their own proposals. If you become Commissioner, you will play a vital role in making this a success. What lessons did you learn from the roll-out of the expanded CTC and the American Rescue Plan that we could carry forward, and what steps would you take to make sure that we deliver the CTC to every eligible family?

Mr. WERFEL. Senator, I understand how hard you've worked on this issue, and it's such an important one. And as I mentioned in my opening statement, I wasn't at the IRS, but I admired from my status as a civilian and a citizen the way in which, during a pandemic, the IRS was able to implement both the Child Tax Credit and several rounds of Economic Impact Payments.

I think the lesson I take from that is, it can be done, and I'm hopeful that if there is a law that comes out that requires that solution to be redeployed, the fact that it's been done once will enable it to be done again. But again, I would love to get to the IRS, if I'm fortunate to be confirmed, and learn more about what that took, what that process took and how repeatable it is, and then position the IRS even more effectively through the right investments in technology, process improvement, and the necessary human capacity, so that when these things come up, we can hit them out of the park.

Senator BENNET. Thank you. Mr. Werfel.

I'm out of time, Mr. Chairman, I realize that. Had I a moment to ask another question, it would be about how to get more families signed up on EITC, so I'll send that for the record.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you for making sure we get that information.

The next two, unless Senator Thune comes in, will be Senator Warner and Senator Lankford.

Senator WARNER. Thank you, Mr. Chairman. Mr. Werfel, great to see you again. And again, we had the chance to meet individually. I appreciate your willingness to take on what's got to be one of the more thankless tasks in the government, but obviously something that's extraordinarily important.

I may differ from some of my Republican friends on this because, frankly, I think the reinvestment in the IRS is extraordinarily important. I want to touch on a couple of issues. I know people have already raised concerns about just plain responding to constituents on call-in numbers. We did not do a very good job during COVID.

We picked up a little bit recently. We've got the corresponding challenge around tax returns that still have not been finished.

How are you going to balance that, even with the infusion of additional capital into that customer service component of responding to inquiries, but at the same time make sure you don't get further backlogged as we approach the tax season?

Mr. WERFEL. Senator, I appreciate the question. I think often, from my experience and my brief tenure at the IRS, you are juggling a lot of different priorities. The way I think about your question is really to understand better what the portfolio is of what's incoming. Certain things that are incoming may be able to be handled quicker, may be able to be handled in an automated way. I think one of the big opportunities that exists is putting more technology into the customer service solution, whether that's tech solutions in the call center, whether that's improved digital solutions on the web, or applications on smartphones.

Understanding and mapping, essentially—and this is something that I think I learned in the private sector over the last 9 years—understanding how the best private-sector entities in the world manage their incoming and prioritize it in a way that's more efficient; I'd love to benchmark that and then see if the IRS can beat those benchmarks. And we have, I think, a once-in-a-generation opportunity to put in some of these solutions that will benefit all taxpayers.

Senator WARNER. We want to look at how you're going to be able to balance those two and get it right.

I want to raise one of the things that, again, I hope even critics of the IRS would acknowledge is one of the areas where we desperately need to make more investment, and that is tech modernization. It feels like every time we try to upgrade the IT systems at the IRS, it has been a failed effort. The close to \$5 billion that have been allocated is terribly important.

My friend, Senator Tillis, and I are cochair of the Cybersecurity Caucus, and one of the things is—and I see this a lot from my position as chair on Intel. We get better at cybersecurity, but the bad guys get better at an equal rate, and too often cybersecurity ends up being bolted onto legacy systems rather than built in from the inception.

And my hope with this kind of close to \$5 billion capitalization is, we can really think about potentially getting rid of some of the legacy systems and almost starting over. Talk about that, and talk about how, again, you're going to make sure that cyber-protections—because we're talking about the most critical personal and financial information of Americans and businesses—are going to be built into that strategy?

Mr. WERFEL. Senator, earlier I made the comment that when I sat down to think about what are the most important elements of tax administration that I could think of, data security was the first thing I wrote down. It'll be one of the first questions I ask, if I'm fortunate enough to be confirmed. What is our baseline right now in terms of our cyber-resiliency and our cyber-performance? Where are the risks? As we update the technology, the technology backbone, what changes do we need to make? As you say, not so that it's bolted on and therefore potentially less robust, but deep in the

roots of the systems itself, so from A to Z we feel extremely confident that there is no material cyber-risk that we face. I don't have a good feel right now for what the risk profile is, but it is a top priority to understand it, because it's mission-critical.

Senator WARNER. I know Senator Tillis and I want to follow up on that. And again, I hope we can, when we think about IT, not simply add on to legacy, but in some cases build on it.

I'm going to follow Senator Bennet and not ask for a response on this, but I would love—Senator Cardin has already raised the challenges of small business. I think some of the problem has been lack of coordination, for example between the SBA and the IRS. So this coordination of IRS with other Federal agencies, I think, will lead to a better customer experience and a better overall experience. And again, I hope you'll be able to get back to me with that.

Thank you for extra 17 seconds.

The CHAIRMAN. No, thank you, Senator Warner.

And Mr. Werfel, you should know that a number of the members of this committee are also on the Intelligence Committee chaired by Senator Warner, so you're going to find an intersection there on cybersecurity and other issues.

Next in line is Senator Lankford.

Senator LANKFORD. Mr. Chairman, thank you. Mr. Werfel, good to see you again. We got to meet each other when you first dove into the IRS, deep into the pool, right after the whole Lois Lerner experience that happened, where the IRS was using the power of the IRS to be able to slow down or silence conservative voices.

Obviously, there was a transition of leadership at that time, and you walked into the middle of all that to be able to clean that up. So, you're walking into another set of challenges as well. Obviously, the IRS has a record amount of dollars that are being thrown at it at a very rapid time period. We're waiting to get a plan where not only we can see how it's going to be done, but the American people can also see how that money is going to be spent.

There were some very specific statements that were made earlier on, on how the money would be spent, that it wouldn't affect anyone with \$400,000 or less, but that actually wasn't put in the statutes to require that. And so there will be a lot of questions on how that money will actually be spent and what that looks like.

ProPublica, a year and a half ago, released taxpayer returns, put them out publicly, which, by the way, is a violation of Federal law—to publish someone's tax returns. Apparently, no one has been prosecuted for printing them and releasing them, and no one has been prosecuted for actually leaking them, and we haven't been able to get information on how they actually got leaked, so that's out there.

And then there's also you've got a record number of people eligible for retirement. So, you thought you were in the fire the last time you walked into the IRS. You've got a lot that's on your plate this time. The 1099 that Ranking Member Crapo has already brought up as well, this particular one is interesting to me.

Let me ask you a couple quick questions. Part of the American Rescue Plan and part of "rescuing America"—apparently to my Democratic colleagues—was getting information about my Venmo transactions with my daughter to the IRS. So my daughter—she's

a great lady. Occasionally, she'll run to the store and will buy something and will bring it home, and I will tell her, "Will you grab that at the store, and I will Venmo you to pay for that."

I'm quite confident that will exceed \$600 over the course of a year of random things like that with our family. Those records are now going to go to the IRS because of the American Rescue Plan; part of rescuing America is getting that. The IRS was supposed to start collecting those last year and requiring third-party organizations to do it. They delayed it out and said now it'll be this year. What's your best guess on how the IRS is going to have to manage what is actually taxable in that and what is just tracking the information of me paying my daughter back for groceries in our household?

Mr. WERFEL. Thank you for the question. I'm familiar with the issue in terms of how it's been reported publicly. I think, when I reflect on these issues that emerged during the filing season and the IRS then pulls back and says, "We have to study this," I would imagine it's because they're getting a lot of feedback, that whatever is going on right now is unsustainable, so we need to take a moment and reset.

As I mentioned earlier, one of my objectives would be to prevent that from ever happening so that we're prepared going into each filing season and we mitigate the risk of that happening. But you raise a really important question about how does the IRS balance all these factors? Is it the right approach to be asking for information? I go back to the Taxpayer Bill of Rights, paperwork burden, intrusion, what is the right balance?

And I'll start with the law. What does the law expect us to do? And then, to the extent there's discretion in the law to make sure that we're taking all the right reasonable steps, I want to move there. And then I want to be transparent with the committee: "This is what we think, this is the tension that we're seeing, and we want that feedback."

And if it comes to be that we see that there's opportunities for certain personal transactions to not be included, let's talk about doing that as well. So I'm open to a lot of different options. The bottom line is, as always, what will build trust with the taxpayers?

Senator LANKFORD. Well, I think a lot of taxpayers are going to be shocked that part of the American Rescue Plan was, over the course of a year if you do \$600 in Venmo transactions, you're now going to have to report that to the IRS. I think that's going to be pretty shocking to a lot of folks in the days ahead, and there'll be a lot of technicalities and issues.

This customer service issue has also come up. I've seen some recent press releases and, quite frankly, some crowing from the IRS about how our customer service percentage numbers are so much better on answered calls and such, and so I actually went and pulled the facts on the percentage of calls answered, and I have to tell you, I was a little surprised on it, because the way the percentage works on it is, last year there were 9.2 million people who attempted to call, and only 3.7 million actually got an answer.

So, then the crowing was about how the percentage is so much better this year. There were 5.6 million attempts to call and 3.5 million calls answered. We actually answered fewer calls last year



than the year before; we just had fewer people try to call. So the announcement was about, gosh, we're doing so much better, the percentage is better. It's just because people didn't call any more; you were actually returning fewer calls.

So this issue, we're going to have a lot of dialogue about, about how to improve customer service and what that's going to look like. You don't have time to be able to go into all the details now, but just know we're going to have a lot of dialogue about this in the days ahead. So, thank you, Mr. Werfel.

The CHAIRMAN. Senator Barrasso?

Senator BARRASSO. Thank you, Mr. Chairman.

Congratulations. Thanks for coming to visit with me and having a chance to talk about a number of the things, including the things that Senator Lankford was just talking about.

This is a critically important position in the government. Very few agencies in Washington are as present in the lives of working families as the IRS, for better or for worse. Many people feel like it's for worse, and that's what I hear in Wyoming. They're afraid of the IRS. They are honest people who want to pay their taxes, want to pay what is owed, don't want to have someone come after them if they think they've done right, if they think they have called and they have called and finally get an answer, may have been told something after waiting hours and hours to try to comply—and we talked about this.

Restoring the credibility of the agency, I think, is going to be a steep mountain to climb, and it's something that when we visited, I said, "This is critical." This is part of your job. The policies that have been enacted by President Biden's reckless tax and spending bill really are not going to be helpful in trying to regain the credibility of the American people for the agency.

The American people have seen examples of political targeting at the IRS, weaponization of the tax code. People feel we have an administration that is woke and weaponized against them. We know about the poor customer service. Less than 10 percent of the taxpayer calls are getting answered. In the private sector, that level of performance would put someone out of business, but in the Federal Government, you get more money. The answer is, pay more money, increase the spending. Massive backlogs have left desperate families and small businesses waiting on much-needed returns. They fight skyrocketing inflation. Some of these returns that I hear about—we get calls in the State of Wyoming from people waiting for over a year for returns, for their money.

The IRS has been plagued by leaks of highly confidential taxpayer information to news outlets, like the one that Senator Lankford just referred to. These are just a number of examples. I think from our discussion you know that there is plenty of cleaning up to do, and the focus needs to be on improving customer service for hardworking taxpayers. Regrettably, that wasn't the mandate of this ill-conceived tax and spending package—\$80 billion in additional funds for the IRS—and as I read it, only \$3 billion went to improve taxpayer services.

More than \$45 billion went to support an army of IRS agents. We saw the ads of what people are looking for in terms of ability to carry weapons. This is a shakedown of small business operators

and middle-class families to pay for expensive, partisan policies, and it just gets very, very bothersome. When you read this new report out, the IRS has proposed a revenue procedure this week to crack down on the service industries reporting of tips. People are going to have until May to provide feedback.

So we're looking at 87,000 new IRS agents. The promise was that they're not going to come after anybody who makes less \$400,000, but what's just come out is a new program aimed at how to better report tips. So we're not doing what the chairman had said, talking about, well, this is going after millionaires and billionaires. This is going after waiters and waitresses. That's how I read this. So I mean, this is the big difference from what I hear from the chairman of the committee and what I see happening and hearing from people in Wyoming.

So, Ranking Member Crapo has introduced legislation to protect taxpayers making less than \$400,000 from increased audits. The Department has said it. You are on record today saying you would not increase audits on Americans making less than \$400,000. So, would you be supportive of legislation codifying your promise, just adding additional guard rails for taxpayers?

Mr. WERFEL. Senator, I appreciate the question. I will share with you that I believe that the role of the IRS Commissioner is not to opine on whether to support a piece of legislation, only to tell you whether we think, at the IRS, it's administrable or not. And so, my partnership with this committee will not be oriented around what the tax code looks like—more like, how do we get the tools we need to do whatever you in your wisdom and this committee in its wisdom enact? How do we implement it effectively?

Senator BARRASSO. When we visited and I mentioned the difference of how much money is spent for others, and you said, "in the wisdom of Congress," I said, "Well, it wasn't really the wisdom of all of Congress." It was a bill that was passed on party-line vote, without a single Republican in the House or Senate voting for it, to do the sort of service-type things that you and I agree need to be done for the American people and American taxpayers.

Is the \$3 billion enough? Is this a misappropriation in terms of how the money is divided, in terms of what you might need if you came to us and said, to really hit the taxpayers' needs so people can answer the phones and give people correct information—has the money been allocated in a way that you would've done it if you could say, "Let me divide the money differently"?

Mr. WERFEL. Yes. I want to be able to come back to you, Senator. As I said earlier, we've been given a mandate by Congress with several billions of dollars to improve taxpayer service. My commitment is to make sure that that money is spent wisely, that we get the most out of that money so that it benefits taxpayers, all taxpayers. And I will commit my time to making sure that there's transparency, as I mentioned, into what we can and can't do with the funds that are provided.

Senator BARRASSO. Thank you, Mr. Chairman. My time has expired.

The CHAIRMAN. Senator Johnson?

Senator JOHNSON. Thank you, Mr. Chairman.

Mr. Werfel, thank you for spending time with me yesterday and for your willingness to take on this task. I think, based on the discussion today, you have a pretty good sense of what you're getting yourself into. From my standpoint, I think the job of the IRS should be pretty straightforward. It's to administer the tax laws and collect the revenue the government requires.

Unfortunately, Congress, in creating these tax laws, created this complex mess which is almost impossible to comply with. You've seen the studies where you have 10 different tax CPAs that complete a return, and none of them get the same answer. That's a very sad reality.

I want to focus my question, though, on what I think is going to be part of the public debate here, which is going to be that tax gap. Because as Commissioner, it will be up to you to really determine how you're going to employ the resources to try and close that tax gap. And again, we all want to see people comply with the tax code. We don't want to see people be tax cheats, but I'm hearing all kinds of different things.

I mean, I have a report here where the Joint Committee on Taxation said that 78 to 90 percent of that tax gap really is with taxpayers under \$200,000, lost reported revenue. The chairman was talking about how it's all with the top 1 percent, although the top 1 percent pay more than 40 percent of the income tax. So I want to get your sense. Where is that tax gap really occurring? I mean, what types of taxpayers? How much is due to just the complexity of the tax code?

Mr. WERFEL. Well, Senator, I appreciate the question. I think you can start with some basic facts, and I think about the fact that most Americans, working families, pay their taxes through their payroll, and therefore the IRS has 99 percent of the information it needs to assess a balance due. And then, just based on research and studies and what's been publicly reported, very intricate, complex returns or filings from high-income taxpayers, that's very different; that is not paid through the payroll.

There's a whole host of different issues that come up, and I've seen estimates that say as much as 20 percent of that income is opaque and shielded from IRS view.

Senator JOHNSON. Let me just quickly interrupt.

Mr. WERFEL. Please.

Senator JOHNSON. There's always a big deal made of these big companies that pay nothing. Big companies oftentimes have IRS agents in their offices, right? Correct?

Mr. WERFEL. I'm not sure I follow, Senator.

Senator JOHNSON. Well, I mean large companies have massive tax departments. Oftentimes IRS agents are basically embedded to make sure that they comply. The big companies that pay zero are just complying with a very complex tax code, correct? And yet, you generally have IRS agents there making sure that they're complying as best they can with the complex tax code, correct?

Mr. WERFEL. Senator, I'm not sure, just because I'm not as familiar with—what I understand right now, and I need to learn more if I'm fortunate enough to be confirmed, is that IRS agents or revenue agents, they don't feel they have the capacity or the understanding to unpack the complexity of some of these activities.

Senator JOHNSON. So, if up to 90 percent of the tax gap is in misreported income of people making less than \$200,000, I mean—are we just going to misspend all kinds of money trying to go after the wrong group of people, particularly, if we’re saying we’re not going to touch anybody making under \$400,000? How much of the tax gap is with illegal activity, things like drug trafficking? I’m trying to get a sense of where you really do think the dollars are. And if the dollars aren’t—again, there certainly are dollars at the top, but if there’s not enough, I mean, are we going to spend more money trying to get money out of taxpayers who don’t represent the huge amount of the tax gap?

Mr. WERFEL. Senator, I think I always start with this guiding principle: how do we build trust? So, to answer your questions, I would say for high-income taxpayers, I think we can build trust across all taxpayers by saying we’re going to do a better job understanding their balance due than we do today. Because, if you’re an honest, hardworking American and just doing your taxes effectively, you should expect large corporations and high-income taxpayers to do the same.

For the rest of the tax gap that you’re describing, my going-in hypothesis is, the way to build trust is to understand what are the highest-priority areas to go after. Are there unscrupulous tax preparers that we need to assess? Are there individuals or organizations that are looking to evade taxes, and is there a way we can focus on that versus others that are honest taxpayers? So, I don’t know yet, because I’m not there. But the commitment here is to better unpack the tax gap for you and for the American people so there’s clarity on exactly how this all shapes up on a go-forward basis.

Senator JOHNSON. Okay. We need to look at the actual data and go based on the reality of the situation rather than just rhetoric.

Mr. WERFEL. I agree. Evidence-based is critical.

The CHAIRMAN. Thank you, Senator Johnson.

Senator Blackburn is next, her first questions on the committee.

Senator BLACKBURN. Thank you. Thank you, Mr. Chairman. Yes, indeed it is.

Mr. Werfel, welcome. We’re delighted you’re here, and I’m so pleased your country music-loving wife is with you today. Being a Tennessean, we discussed this yesterday, and I have to get you to Nashville.

I want to go back to the question that Senator Barrasso was asking you about on the service industry tax compliance, and I’ve heard a lot about this in Tennessee. People in the service industry—hairdressers, wait staff, delivery personnel, gig-economy workers—they are incensed by this. Many of them are women, and they’re sole providers for their family. And you have said to Chairman Wyden and to Senator Crapo that you’re not going after people under \$400,000. So let me ask you this and put it to you this way. How many waiters, waitresses, hairdressers, barbers, gig-economy workers do you know who are making more than \$400,000 a year, and why would they be targeted by this administration?

Mr. WERFEL. Senator, thank you for the question. I think if the IRS is successful going forward—

Senator BLACKBURN. How many do you know?

Mr. WERFEL. Well, if the IRS is successful going forward, then the individuals in the occupations that you mentioned will see only impacts in service improvements—and particularly with the Inflation Reduction Act funds—versus an increase in any audit rates. That's the goal.

Senator BLACKBURN. See, this is the contradiction. You can say you're not going to go after anybody who is making less than \$400,000. I don't know anyone in this category that would be affected by the service industry tip compliance program who is making more than \$400,000 per year. So what you have done is to segment them out and say, "We're carving you out so we can tax you more," and this is why there is such a contradiction in what this administration says and what it actually does.

Let me return to a couple of questions that we discussed yesterday. Commissioner Rettig said—this was at a Finance Committee hearing last year—53 percent of the IRS employees are in a full-time telework capacity. But as we discussed yesterday, this is concerning, considering that the IRS only picks up the phone about 20 percent of the time. And getting people back to work is going to be an imperative, getting them back to full-time work. So, do you commit to exhausting funding for customer service staff before hiring new agents to go out and pick on people in the service industry?

Mr. WERFEL. Senator, I appreciate the question. I can't commit until I'm at the IRS and understand exactly where they are with their plans.

Senator BLACKBURN. That's fair.

Okay. Let's talk about protecting data, because this is something where the IRS has had kind of a checkered past, when it comes to protecting consumer data. In 2015, over 700,000 Social Security numbers may have been stolen. In 2017, the IRS notified Congress of over 100,000 Federal student loan accounts that were accessed in a data breach (ProPublica). In 2023, I think it's safe to say that there is a data security issue at the IRS. And so, what I would like for you to do, if you are confirmed, is give us a plan, and a timeline for implementing that plan, for keeping citizens' data, taxpayer data safe. Would you do that for us?

Mr. WERFEL. Yes, Senator. In fact, when I think about the data security issue and I think about the discussion that we're having on the Inflation Reduction Act today—the increased resources that the IRS is receiving under the Inflation Reduction Act—there's part of those funds that can be used to shore up data security, whether that's through technology, training, et cetera.

So, when the plans come together for the Inflation Reduction Act, they should reflect the very question you're asking, which is: what are the steps we're taking to be on a continuous improvement journey to improve data security?

Senator BLACKBURN. That is helpful. And we would hope that part of that plan is more customer service agents and less field agents who are going to go audit people who do make under \$400,000 a year.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. And let me just say to her, I know that this is an important issue. My understanding is—and we will be talking to the agency and both the Secretary and Mr.

Werfel, when confirmed, and I believe he will be—this is a voluntary program. Let me emphasize that—a voluntary program, no mandates. So my understanding is, if a restaurant believes that this voluntary program will make it possible for them to more easily comply with existing tax law, they would have a chance to do it.

But I want my colleague to know that I'll look forward to staying in touch with her and working on this.

Senator BLACKBURN. Thank you, Mr. Chairman. Because voluntary programs end up becoming mandates—

The CHAIRMAN. No—

Senator BLACKBURN [continuing]. And people in the service industry are so concerned about this tip compliance.

The CHAIRMAN. On my watch, I assure my colleague this is not going to be a mandatory program. We are being told the concept is voluntary. If a restaurant chooses to do it—so there is no requirement, whatever—and they decide that for them, it would make it easier to comply with existing tax law, they could do it. So, my colleague asked a question about mandates. Not on my watch for these restaurants. I thank my colleague.

Our next Senator will be Senator Cassidy.

Senator CASSIDY. Mr. Werfel, congratulations for being nominated. Thank you for accepting, and I thank even more your wife for allowing. So, I thank you for all that.

I'd like to continue the conversation that Senator Blackburn initiated, but it would be a continuation of the conversation we had yesterday. And for context, I'll submit for the record a publication by ATR, speaking about the problems that the IRS has had for the last 40 years to upgrade its information system.

[The publication appears in the appendix beginning on pg. 51.]

Senator CASSIDY. For 40 years there are headlines such as "1.5 Million Tax Returns Delayed in Processing" from 1985. In 1982, "grossly short of the capacity in modern, state-of-the-art efficiency essential for an effective IRS system" by the then-Director. In 1986, "IRS Ends Computer Contract." The list of uglies just continues all the way up until now.

My staff has looked to see that we're currently spending about—or the IRS is—\$200 million a year for information services, which we presume is to upgrade your systems and to have them go. And the IRA gave the agency another \$4.75 billion over 10 years. Frankly, this looks like good money after bad. You had mentioned yesterday the antiquated systems you have, and one of these things I have says that something that was supposed to be completed in 2014, the GAO says will not be completed until 2030.

So what I'm asking now is not to revisit all that—not your fault—but it's just a mess, and we've just wasted dollars for the last 40 years on stuff we never accomplished. What are your thoughts about doing what the Department of Defense has done, which is to move this into the cloud to allow a cloud-based service which, as in its work for DoD, has established that it can do things for the Federal Government with greater security, not the data leaks that were previously referenced, and the ability to handle highly classified material as opposed to, again, one more time

thinking that we're going to redo something when we never do? Thoughts?

Mr. WERFEL. Thank you, Senator. I think that this question about information technology and how to make sure that, going forward, IRS investments are performing better for taxpayers is front and center in my priorities, if I'm confirmed.

To your question, I just want to make a quick point. I spent a large part of my time at OMB, starting in the Bush administration, extending into the Obama administration, assessing the progress of information technology investments across government, and I learned a lot about why these projects tend to fail.

One of the reasons, I think, is that we don't always have the right set of alternatives——

Senator CASSIDY. Let me stop you, though.

Mr. WERFEL. Yes.

Senator CASSIDY. Because what you're really talking about is the current systems we have and why they are never upgraded. It looks like DoD just said, "No, we're going to a different paradigm." And because, if history is prologue, these systems are not going to get fixed. We're going to be talking about a system running on Fortran and COBOL in 10 years. So I'm asking about an openness to moving it to the cloud, allowing an entity, such as it does for DoD, to manage these systems.

Mr. WERFEL. And the point I was going to make, Senator, is that that should absolutely be one of the alternatives that is investigated. I think there's been a theme during this discussion of "will you make decisions with an evidence base?" And I will, if confirmed. And I can only make a decision on IT if it is evidence-based; if I look at that type of alternative and understand if that is the best——

Senator CASSIDY. So, let me stop you. I only have 5 minutes that's why, not being rude. I apologize.

Mr. WERFEL. Yes, sir.

Senator CASSIDY. But you were at OMB. The thing that so impressed me, under a Republican and a Democratic administration, you were like up to here at looking at information systems. You may have even weighed in on the deliberation for DoD to move over into the cloud. So, knowing that this isn't something that you'll have to learn from scratch, but rather bring a great deal of experience to, as you weigh it, knowing that you may find something different, how does it weigh now?

Mr. WERFEL. Yes, I would give this serious consideration. I think we want to move systems into the 21st century. And it goes without saying that technology that's enabled in a cloud, as you point out, can be secure. It can be more efficient. It often can be more cost-efficient, and so, absolutely, it has to be an alternative.

It's premature for me to give you a firm answer. I want to do the right thing and understand the process and go through the process, understand the right analytics, but absolutely it should be up for consideration.

Senator CASSIDY. Thank you very much. And again, thank you for considering this job.

The CHAIRMAN. Thank you, Senator Cassidy.

Our next three will be Senator Brown, Senator Tillis, and Senator Cornyn.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. Mr. Werfel, thank you for your willingness to serve and willingness to do today what you're doing.

My colleagues on the other side today have raised concerns about error rates with the Child Tax Credit and the Earned Income Tax Credit, two tax cuts for working families that are so, so, so important for so many.

I want to get your thoughts on two bipartisan proposals to get the error rates down. Presidents of both parties, your predecessor appointed by President Trump—and I would add your predecessor did a good job beginning the Child Tax Credit. I wish that he could've kept going with it. They've asked Congress to give IRS the authority to establish minimum competency standards for paid tax preparers. I recognize you're not in this job yet, but give us your best estimate. If paid tax preparers had to demonstrate a bare minimum expertise in tax preparation, do you think we would see fewer errors in the EITC and the CTC?

Mr. WERFEL. Yes, I think that's intuitive, Senator. I would absolutely think that strengthening the overall performance and skills of tax preparers would go a long way.

Senator BROWN. And I assume you're saying Congress should give IRS this authority. Yes?

Mr. WERFEL. Well, I don't want to opine on something that's more the domain of the Office of Tax Policy. I've mentioned earlier, Senator, that I think the role of the Commissioner is to answer whether it would be administrable, so I'll answer it in this way. Problems with tax preparers degrade the integrity of the tax system. So, should we look for solutions to improve it? Yes.

Senator BROWN. Okay.

Mr. Werfel, the Volunteer Income Tax Assistance, the VITA program, which the IRS supports, has a 94-percent accuracy rate. I worked with Senator Heller when he was here from Nevada some years ago to authorize the VITA grant program, recognizing this was a way to ensure accurate EITC and CTC returns. If you're confirmed, will you work with me and help colleagues on the committee to strengthen the VITA program?

Mr. WERFEL. Yes, I would.

Senator BROWN. Thank you.

Turning to an issue I know Senator Crapo and Senator Lankford asked about—the 1099-K reporting threshold—I want the IRS to do a better job holding corporations accountable when they cheat on their taxes, but I don't think what the IRS should be spending its limited resources doing is burdening Ohioans making simple transactions on third-party platforms. I was pleased the IRS delayed the new \$600 1099-K threshold. That's simply too low. It ought to be higher, and I think there's general agreement on this committee about that.

I know you're not on the job yet; for that reason, you don't have firsthand familiarity with their operations. But does it stand to reason that if 1099-K thresholds were higher, the IRS would have



fewer forms to process and, for that reason, would be able to focus its resources more efficiently?

Mr. WERFEL. Senator, if I understand your question, yes, a simpler framework would be easier to implement. That's the type of feedback that I think an IRS Commissioner can provide to this committee.

Senator BROWN. Okay. And we will make those requests once you're confirmed.

In the last 3 seconds I want to join Chairman Wyden and my other colleagues in raising our concern that Black tax filers are three times more likely to be audited than White tax filers. I know this is of great concern to my colleague on this committee and ranking member of the Banking Committee, which Senator Tillis and I serve on. This is of great concern to Senator Scott. I know you committed to Senator Wyden to report back within 60 days of starting the job, and we look forward to working with you on that, so thank you.

Mr. WERFEL. Thank you.

Senator BROWN. Thank you, Chairman Wyden.

The CHAIRMAN. Thank you, Senator Brown. We'll work very closely with you on those issues.

All right. Let's see. Next is Senator Tillis and then Senator Cornyn.

Senator TILLIS. Thank you, Mr. Chairman. And thank you, Mr. Werfel, for being here. I appreciated the time that you and Ron spent in my office yesterday covering a lot of questions. And I also want to welcome Beth, Molly, and Sean. I heard what Senator Blackburn said about coming to visit in Tennessee. Great State, lived there, but I know where your roots are planted. And thank you for being willing to take on this role.

I don't think there is anybody who is in this position who doesn't know that the IRS needs to modernize, change, be more customer-focused, and I've gathered some of that from your discussion. You were at BCG as a managing partner, director for, what was it, about 8 years, 7 or 8 years?

Mr. WERFEL. About 9, coming up on 9 years. Yes, sir.

Senator TILLIS. And what was the nature of the practice there? Did you work on enterprise transformation? And that was in the public sector, right?

Mr. WERFEL. Yes. So, I worked with Federal agencies, mostly with the Defense Department, but also with the Commerce Department and other agencies. And the mission or the objective was, how do we bring private-sector solutions successfully to government?

Senator TILLIS. And how did you do on any particular project?

Mr. WERFEL. We were very successful. I mean, an example that I would provide—and I'll try to be brief—is we worked closely with the commissary system at the Defense Department. I brought experts from BCG in managing supermarkets to help there. We introduced a private-label brand for the first time, and we saved hundreds of millions of dollars on how they acquire goods.

Senator TILLIS. I think that it's important to know that somebody with some enterprise transformation experience, particularly in the public sector, is desperately needed at the IRS. And speak-

ing of an enterprise transformation, I see that as what I hoped the Inflation Reduction Act, particularly in the IRS base, would've achieved.

I'm curious—this would be after you're confirmed—but I don't see the distribution of money. I see less than half of it going to anything that's more customer-focused. The other one half, rightfully through a cynical eye, looks like it's more on enforcement and audits. So it's going to be very helpful. Will you commit to me, when you're confirmed, that we can get a report back from the IRS on how these buckets fit into improving the customer experience versus becoming an additional burden and threat to the taxpayer?

Mr. WERFEL. Senator, yes. I mentioned to Senator Crapo earlier that as a former budgeteer, I think I'll be able to earn your trust with a very clearly articulated spend plan for how the money is—

Senator TILLIS. Good. I'll tell you that my predisposition is really just looking at the buckets—taxpayer services, enforcement operations support, business systems, modernization. And a cynic could say that two-thirds of the bill has less to do with improving the customer service, the customer experience, and enterprise transformation, and more to do with actually making you less liked by the taxpayers. So I'd really be interested in seeing the flexibilities in the IRA that are going to let you put money to the best and highest use, and a lot of that has to be—you're never going to be one of the top 10 most-admired Federal agencies because you take money from people, and that's your job. But improving the experience, I think, is going to be very important.

When we were doing the bipartisan infrastructure deal, I was supporting good governance policies at the IRS, improving a consolidated audit trail, and enacting higher penalties for IRS agents or IRS employees who leak taxpayer information. Do you agree or disagree that we have to work on something like a consolidated audit trail for the IRS?

Mr. WERFEL. Senator, I want to look at all the different levers that can be taken to improve data security. I want to sit down with the team at the IRS, with our staff, and others and look at these various levers and say, "What can we strengthen, what can we change, what can we shift, all with the benefit of improving data security?" So, I'm certainly open to exploring these suggestions that you have.

Senator TILLIS. Just a final comment. You don't have to respond. I intend to support your confirmation, incidentally. The \$400,000 cap isn't very consoling to me, and we mentioned this in the office. On the one hand, in combined income, my wife and I fall below the cap. So, as an individual, I should probably feel better about it. But the small businessman that I spoke to just a couple weeks ago has a business with three service trucks, a wife who's the CEO, the CFO, and basically mandates the schedule of the husband—that's it. That's all they've got, and they have a million dollars in income that they are going to have to report. So I think it's a cop-out to say that the \$400,000 limit means that the little guy shouldn't mind.

You and I talked about, instead of a simplistic number cut-off—there could be a lot of people under \$400,000 who potentially are evading taxes. But there are a lot of people, based on the activities

of the business—it just doesn’t look like it’d be the best and highest use of our resources to go into that small businessman’s presence without any strong, indicative information and subject them to an audit.

So I hope, as we go further into the discussion, we can figure out how we can get people who are paying what the law requires—stipulating to Senator Johnson, some of it shouldn’t even be on the books, in my opinion, and it should be simplified. But I think that’s the way I want the IRS to look at it. Thank you very much.

Mr. WERFEL. Thank you, Senator.

The CHAIRMAN. My colleague, Senator Cornyn.

Senator CORNYN. Mr. Werfel, when the misnamed Inflation Reduction Act appropriated roughly \$80 billion for the IRS through 2031, were you aware of any plan that was in place that instructed that appropriation, or was this money appropriated to the IRS in this multiyear fashion without any concrete plan in place on how it would be spent?

Mr. WERFEL. I’m not aware of a plan that’s been published. I am aware that Secretary Yellen has asked my potential predecessor, if I’m confirmed, for such a plan that you described.

Senator CORNYN. Yes; well, that bothers me a lot. This is sort of typical of Washington, DC. We appropriate the money and ask for the plan later, rather than ask for the plan and say, “How much money do you need to actually implement the plan?” I too am a little troubled by some of the political rhetoric around the IRS, given particularly the checkered history of the IRS in targeting certain taxpayers that you’re all too familiar with, as a result of your coming in after the Lois Lerner affair and the targeting of certain taxpayers.

But the President said we’re not going to collect taxes from people making under \$400,000 a year. Actually, he didn’t say that exactly. He said we’re not going to have increased audits of people making less than \$400,000 a year. Will you commit to collecting all lawful taxes that taxpayers owe, regardless of whether they are the top 1 percent or whether they earn less than \$400,000 a year?

Mr. WERFEL. Yes, Senator. And I think it’s an important clarification that the directive from Secretary Yellen was to make sure that Inflation Reduction Act funds do not increase audit rates for those earning less than \$400,000, but those individuals still have a responsibility and a balance due. But as described earlier in this hearing, I think a vast majority of them are honest taxpayers who are ready and willing to do their civic duty and meet their obligations. And for them, my focus should be, I think, on improving service.

Senator CORNYN. Well, let me ask you about the Treasury Inspector General on Tax Administration’s report for Fiscal Year 2021, because I think the record of the IRS with regard to implementing some of the tax credit provisions, which I assume have come up here before today, leave a lot to be concerned about.

For example, 28 percent of total Earned Income Tax Credits were improperly made—28 percent; 13 percent of additional Child Tax Credits were improperly paid. And 26 percent of American Opportunity Tax Credits were improperly paid. This has been a long-standing issue for the IRS. Please tell me that you’re going to look

into that and try to make sure that people who are receiving money from the Federal Government, other taxpayers in effect, through improper payments—tell me that you’re going to look into that and try to reduce those numbers dramatically.

Mr. WERFEL. Senator, absolutely. I mean, I know I’ve talked about my background a lot today. For a while in government, actually for many years, I was known around town as the improper payments guy. That was my job for both President Bush and President Obama. I thought a lot about this issue and certainly will focus on it when I’m there, if I get confirmed.

Senator CORNYN. Well, I’m a little concerned when I hear one of my colleagues suggest this is a problem with unlicensed tax preparers only. It strikes me that no matter who is preparing the tax return, that it’s the responsibility of the U.S. Government, and the IRS in particular, to make sure that improper payments are not being made. Would you agree that both of those are important?

Mr. WERFEL. Yes, both. I mean, look, we should—it’s all about building trust and improving program integrity—and we should be addressing improper payments for sure.

Senator CORNYN. Well, ultimately, I think there are three simple questions that we need to ask about whether the IRS is meeting its stated mission. One, do taxpayers find filing their tax return easier in the current year than they did in the previous years? Secondly, were taxpayers’ questions and problems handled as smoothly as account inquiries for their bank, credit card company, or utility? And third, did IRS personnel treat taxpayers respectfully and professionally? Obviously, we know the IRS has had a long history of struggling to meet those goals, but I hope it’s your commitment to us here today that that would be your intention.

Mr. WERFEL. Yes, sir.

Senator CORNYN. Thank you.

The CHAIRMAN. Thank you, Senator Cornyn.

I think Senator Whitehouse is next.

Senator WHITEHOUSE. Thanks very much, Mr. Chairman. Good to be with you.

Mr. Werfel, best wishes to you in your pursuit of one of the more challenging and least popular jobs in town.

A couple of things. First, some of us here, particularly Senator Crapo, but many of us have worked together on trying to make the United States a less-attractive haven for foreign criminals and kleptocrats to hide their ill-gotten gains. One of the means for doing that is something called reciprocal FATCA so that we trade information with other countries. Are you familiar with that?

Mr. WERFEL. I am, Senator.

Senator WHITEHOUSE. Are you generally in favor of that?

Mr. WERFEL. Yes. FATCA was on the books during my brief stint at the IRS in 2013. I gained an understanding of the importance of working internationally to eliminate safe havens. I think the idea of a Swiss bank account is more and more in the rearview mirror because of FATCA, and I think, obviously, more work could be done.

Senator WHITEHOUSE. The code of trust is more impenetrable. So, if you don’t mind, when, as, and if you’re confirmed, I’m going to ask for your advice, because we are drafting a reciprocal FATCA

statute. We want to make sure we can get the details right with you. Are you okay with that?

Mr. WERFEL. Yes.

Senator WHITEHOUSE. Second, the plan for IRS reform. I'd love for you to share it with us as soon as you can so we have an idea of whether you're complying with what I think our three goals are, which are better customer service, more rapid refunds, and real diligence in going after the returns of complex, high-income filers who appear to have been getting away with a lot of mischief at the high end of the income spectrum.

So, if those are your three goals, I'm for it. I hope your plan will bear that out.

Mr. WERFEL. Yes, I'm aligned with those goals and values.

Senator WHITEHOUSE. And last is the problem of 501(c)s, particularly 501(c)(4)s, but the problem is spreading a little bit. The first thing is that we've seen political money flow through 501(c)(4)s in explosive, unexpected numbers. Nobody ever thought it was going to be like this years ago, but here we are, with literally billions of dollars pouring through, hiding who's spending the billions.

I'm interested in finding out what the IRS is doing just to track those numbers, how much is flowing through? Now, that's problem one: the scale. Problem two is what happens when 501(c)(4)sglom together into a pod and the donation goes into one, 50 percent on politics, the other 50 percent to another; 50 percent on politics, now it's 75. Fifty percent, the remainder to another; 50 percent on politics. Now you're up to 87. And if you have four or five of these things that are just donation cycling like that, you can blow through the nominal IRS 50-percent limit with very little schemery, and we should try to penetrate that schemery and figure out if that's happening.

It seems to me that that was not the intention of the 50-percent rule: that you could pod together a bunch of 501(c)(4)s and end up having essentially all the money go into politics in a coordinated effort. So that's the second thing.

And the third is, the standard political operation right now is a 501(c)(3) and a 501(c)(4) that are essentially twins. They have the same staff. They have the same location. They have the same donors. They probably have the same email systems and everything else.

That boundary between a 501(c)(3) and a 501(c)(4) is something that I think is worth protecting, because there are differences between the two, and I don't believe the IRS has ever looked at whether the corporate veil between a 501(c)(3) and a 501(c)(4) is real or whether you could penetrate that corporate veil with a banana, for Pete's sake.

So, those are things that I'm going to ask you to look at, and I hope that you will keep an open mind with respect to that. There's enormous pressure and noise on this issue, but I think doing the right thing will see you through. Any comment?

Mr. WERFEL. I appreciate your leadership on this issue. You know and have articulated that it's a complicated area, but yes, I am open to working with you and the others on this committee to see where the IRS is today and where it needs to go going forward, absolutely.

Senator WHITEHOUSE. Thanks.

Thanks, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

I've got several additional questions, Mr. Werfel. I want to let my colleagues—we always try to have parity here—ask a couple of questions. But if there is any colleague who hasn't had a chance to ask questions, whether they be a Democrat or Republican, we'll break from what we're talking about for them. Okay?

Mr. WERFEL. Understood.

The CHAIRMAN. My first question deals with the backlog of 2.6 million original returns awaiting processing. These are essentially these individual paper returns that are constituting the backlog. Now, I think it's important that progress has been made, but that's still a very substantial backlog of original returns that await processing.

And one of the things that troubles me greatly is that the IRS is still transcribing so many returns manually instead of following common-sense recommendations to scan them like most of the States. Secretary Yellen has said that the IRS would scan millions, including this filing season. But as far as I can tell—maybe you can give us an update—the IRS is still testing this technology. What's going to be done to ensure that the IRS really has a serious program with respect to scanning like basically almost everybody else has?

Mr. WERFEL. Senator, thank you for the question. I think one of the things that motivates me about wanting to be the IRS Commissioner is a picture that I think was in *The Washington Post* months ago. I think it was a cafeteria in Austin with a table full of paper returns. And I thought of myself when I saw that picture. There are technologies emerging that can potentially rapidly scan them and do so in a way that converts them into machine-readable context that would allow that backlog to be reduced quicker.

Since I'm not there, Mr. Chairman, I'm not sure where the IRS is on that, but I think it's a huge priority to enhance scanning so that we can move out of paper.

The CHAIRMAN. I just hope that you all will move more quickly on this, because I've been hearing the scanning is coming, and it always sounds like the marquee at the old movie house where people say, "Oh, it's coming soon." The picture is coming, but it doesn't get there, and I think we've got to get going.

So, we're going to let Senator Carper and Senator Young ask the next questions. And at that point, depending on whether additional colleagues will come, then it would be Senator Johnson's turn since I asked an additional question.

Senator Carper?

Senator CARPER. Senator Wyden, thanks so much for this opportunity. Senator Johnson, nice to be with you. Congratulations on being named ranking member also. [Laughter.]

Mr. Werfel, how is it going so far?

Mr. WERFEL. I think it's going well, Senator.

Senator CARPER. Good. Thank you. I look to his family behind him, and thumbs up. What do you guys think? You look mighty proud, and you should.

One of my proudest responsibilities as a U.S. Senator serving the people of Delaware is supporting my constituents. We have exactly a million people living in Delaware now who come to Chris Koons and Lisa Blunt Rochester and myself who want help with various Federal agencies. But one of the agencies that leads the hit parade in terms of, we need to provide more help, better help, is the IRS.

I receive regular reports from my constituent services team in our State, and the IRS frequently ranks at or near the top of issues that we're hearing the most about from Delawareans, and it's not always complimentary. I was very heartened to see that, since the Inflation Reduction Act was enacted last fall, the IRS has already begun putting the funds that Congress provided to good use.

Some of my colleagues have already mentioned this, but I think it bears repeating. Since hiring 5,000 workers to staff the phones using Inflation Reduction Act funding, the IRS is now answering 90 percent of taxpayer phone calls this 2023 tax season. That's up from—get this—13 percent of calls answered during last year's tax season. So, from a lowly 13 percent to 90 percent as a result of the ability to hire that additional 5,000 workers says volumes.

I just want to say, when I was privileged to be Governor of Delaware, we had something called J.D. Power quality awards, and they would go to a company in our State or a nonprofit in our State. The last year I was Governor, it went to the Division of Revenue, which is like the State version of the IRS. They won the quality award for service that they provided to the people of Delaware, and I want to see the IRS get that kind of recognition for quality.

But what additional measures would you take as Commissioner to ensure that the IRS is responsive to taxpayers who need assistance, and how will you improve transparency in communications between the IRS and taxpayers across the board?

Mr. WERFEL. Senator, thank you for the question. And I too am learning of this information of improvements, significant improvements it sounds like, in terms of call rates answered. But beyond that, I think we also want to put people in Taxpayer Assistance Centers. I had also heard reports that Taxpayer Assistance Centers aren't staffed the way they need to be, so there are long lines there or people can't get in. I think there's an opportunity beyond just putting people in the call centers, which is critical—digital solutions, enhancing the functionality of applications on iPhone, on the website, so that people find their experience in an electronic format to be extraordinarily helpful.

One of the things, Senator, that I think could be very important to do is to benchmark what are other world-class customer service organizations doing that the IRS is not? How are they measuring their customer experience in a way that the IRS is not? My objective would be—because of how important I think it is to Americans—that we should not only be benchmarking what these organizations are doing, we should be able to beat them. We should be better, and that would be my objective.

Senator CARPER. That reminds me of finding what works, and doing more of that. Find out what doesn't work, do less of that.

How have your experiences in both the public and private sectors prepared you for this role to lead the IRS workforce? How would

you, as Commissioner, work to fill the gaps in the workforce, improve training practices, and otherwise uplift the agency's almost 80,000 full-time employees to make sure that they can perform to the best of their ability for American taxpayers?

Mr. WERFEL. Well, I would go back to the—I think about my bio and the fact that I joined as a GS-9 and early in my career really developed an understanding of what the perspective is of the civil servants; developed expertise in subject matter on really the nuts and bolts of government. I'm kind of a government geek, Senator Carper. I tell people, if you want to get a cup of coffee and talk about the latest changes to OMB Circular A-11, I'm your guy. And I think I bring that foundation, but on top of that I've had, and been blessed to have, these experiences of leading in both crisis—whether it was the work I did with the CFO Council after the Deepwater Horizon oil spill to organize our approach in how Federal funds would flow to deal with that crisis, to helping implement the Recovery Act in 2009—and then obviously my time at the IRS in 2013.

And then there were 9 years in the private sector where I really kind of got my eyes opened in terms of what are some of the innovative and cutting-edge solutions that are out there that I really think the government could benefit from. So all these layers, Senator—if I can effectively bring those layers to the IRS, empower and position the workforce to be successful, I think we can achieve a lot of these objectives and answer a lot of the questions that have been presented today.

Senator CARPER. Thanks for that response. Thanks for your willingness to do this.

Mr. Chairman, I'm going to ask for a unanimous consent request to ask a question with respect to the Free File program.

The CHAIRMAN. I was going to ask about that, and I'm glad you are.

Senator CARPER. Good. Thank you.

The CHAIRMAN. Thank you.

All right. We're going to have to backtrack a little bit. We've got Senator Thune, and then it would be Senator Young and Senator Cortez Masto.

Senator Thune?

Senator THUNE. Thank you, Mr. Chair.

I know this ground has been covered a little bit already with Senator Grassley, but I am very interested in the IRS's plan, annual plan, on how they're going to deploy the \$80 billion in mandatory funding that you all received. He and I have a bill we've introduced, the IRS Funding Accountability Act. Among other things, it would require the IRS to submit to Congress a detailed spending plan annually. And it seems to me at least, keeping Congress informed of IRS progress, any changes in that plan, makes sense regardless of the status of our bill.

I know you've been asked this, but I would like to press on it a little bit, if I might. And that is, if confirmed, will you direct the IRS to update its spending plan annually for Congress to review? Eighty billion dollars is six times your annual budget. We're talking about 87,000 new employees. So would you commit to—will you direct the IRS to update a spending plan annually?



Mr. WERFEL. Senator, I would say it's so important that the plan we have is transparent, it's updated, it's clear to you and the American people. Just sitting here, I think an annual update is reasonable. I do want to talk with the IRS employees and the Treasury Department once I become a Federal employee, if I'm fortunate enough to be confirmed, to confirm my understanding. But the general principle of updated plans annually resonates with me.

Senator THUNE. So, thank you, and I hope that you will be able to make a more definitive commitment after consultation.

So, in this new funding, \$46 billion of it goes toward enforcement, and only 4 percent toward helping with the filing claims of ordinary tax filers. And to me it seems with the record, at least the current record, recent record of the IRS, which includes 10 million unprocessed tax returns and a 13-percent phone call pickup rate in 2022, that improving taxpayer's services ought to be the number one priority.

Now obviously, the allocation of funding doesn't suggest that, when you have 46 percent allocated to enforcement and audits and going after people and only 4 percent or \$3.2 billion for taxpayer services. So again, in terms of priorities, as you look at this issue, what will be the higher priority for you when it comes to administering the IRS funding allocation, better customer service to taxpayers or increasing the number of audits on Americans?

Mr. WERFEL. It'll be a dual priority Senator, equally focused on improving taxpayer service, in particular for working families and small businesses, and side-by-side with that will be a commitment to improve the IRS's capacity to unpack complex returns, which is something I understand today, they lack the capacity to do.

Senator THUNE. Well, I hope that you will—that the agency will double down when it comes to just dealing with prioritizing taxpayer services. I mean that data, those numbers are just indefensible, inexcusable, and it needs to be fixed.

Let me just ask—and maybe this has been asked already as well—but the data breach going back to 2021, the ProPublica data breach; there still hasn't been any accountability on the leak or the breach of private taxpayer information. And I know you're going to punt that to the Justice Department, but do you think it's acceptable that, here we are 2 years later, and there still isn't any information about what happened there, who the leaker was? And if confirmed, would you take steps to ensure that that kind of confidential taxpayer information (1) that the breaches, there's accountability there, and (2) that it doesn't happen again?

Mr. WERFEL. Senator, as I think about the nuts and bolts of tax administration, data security is a top priority. I don't know how to build trust with the public when there's a sense that there's material risk of unauthorized disclosures. What gives me some degree of comfort—you mentioned the Justice Department—but what gives me some degree of comfort is the Treasury Inspector General plays an extraordinarily important role whenever there's a potential breach to understand the root cause.

So one of the things that I will absolutely do is work with the Inspector General to understand what they see as the risks and, for any specific action or activity that's taken place, have they in-

vestigated it; what are the root causes; are there corrective actions, because if there are, we will take them.

Senator THUNE. Okay. And I, just again, would reiterate that it would help enormously if there would be accountability for those that have already happened. We don't have that yet for the one that happened in 2021.

Thank you, Mr. Chairman.

Senator CARPER [presiding]. Good.

Senator Young, you're up next, followed by Senator Cortez Masto.

Senator YOUNG. Thank you, Mr. Chairman.

Welcome, Mr. Werfel. Good to have you before the committee, and congratulations on your nomination.

I've been overseeing the IRS for a number of years, and it's really unfortunate—between targeting particular taxpayers for their political beliefs and the backlog in returns—that there's been a significant downward trend in terms of public trust for the IRS institutionally. And I think also, in terms of service delivery, I've been seeing all kinds of problems.

So, I'm hoping you're the guy who can help turn all of this around. The IRS is receiving a substantial amount of money, \$80 billion, and that's on top of their \$12 billion a year typical budget, so we need to make sure that is used effectively and efficiently.

So, as it relates to funding, the IRS has had serious transparency issues over the years, and the "garbage in, garbage out" principal has applied to their dashboard of statistics at times.

Some recent headlines trumpet the vast improvements of the IRS's phone service, based upon the IRS's so-called level of service statistic. The National Taxpayer Advocate has indicated that this level of service statistic really cooks the books. It's not an accurate reflection of the genuine level of service. It omits the fact that the IRS call volumes are actually down significantly to date as compared to last year, nearly 41 percent overall. And all else being equal, if you have a lower number of phone calls, that will increase the level of service statistic. But what we've actually seen is, the IRS has actually answered 200,000 fewer calls to date this year as compared to last year. So I'm hopeful that you can take a look at that statistic in isolation, but also attend to the other metrics to review performance.

Mr. Werfel, I know measuring performance is important to you, because we have discussed this. Do you agree that the IRS or any other Federal agency should not be relying on this sort of flawed data to make decisions?

Mr. WERFEL. Senator, yes. I don't know that this data is flawed. I do know that it's really important that decisions that are made in tax administration or any government agency should be analytically robust, that there's an evidence base that guides it, that there's integrity in the information that's being reported publicly or being used behind closed doors to drive decision-making. So, if there are questions about the integrity of a particular metric, I will roll up sleeves and get to the bottom of it.

Senator YOUNG. Great. Just make sure that you're embracing what I would regard as the right principle of administration. You don't have to speak to any particular statistic, but do you commit

to me here that you will make sure that the IRS is only providing, disseminating, using unbiased and informative data, yes or no?

Mr. WERFEL. Yes, absolutely. We have to be unbiased in what we do.

Senator YOUNG. Okay. Thank you.

TIGTA—you mentioned how important this Inspector General is to provision of services. They recently reported that, in Fiscal Year 2016, the IRS's digital interactions with taxpayers, on average, cost only 20 cents per interaction, whereas other types of interactions cost the IRS hundreds of times more: \$42 per interaction through phones, \$57 per interaction through correspondence, and \$68 per interaction at a Taxpayer Assistance Center. I think that's somewhat intuitive, right?

Not all interactions the IRS has with taxpayers can or even should be digitally based. I certainly acknowledge that, but there's a massive backlog of processing of returns that needs to occur, and that, to me, sort of showcases in very stark terms that the current systems aren't sufficient to process those returns.

Of additional concern is that this labor-intensive process that I think is disproportionately relied upon is 285 times more expensive than a digital one, according to TIGTA. So this is a double loss, where taxpayers are paying a lot more for services that aren't meeting their needs. I'm going to ask you—because my time is coming to an end—if confirmed, will you commit to promptly providing me an answer, which I don't expect you to have right now, to the following question? Assuming the IRS had a working, fully digital platform for taxpayer inquiries and correspondence, how much less would the IRS have spent in Fiscal Year 2020, Fiscal Year 2021, or Fiscal Year 2022 to perform that function?

Mr. WERFEL. I will work with the team to figure what the best potential way is to answer that question and come up with the most robust estimate.

Senator YOUNG. Okay. Thank you, sir.

Senator CARPER. All done? All right. Thanks.

Next, Catherine Cortez Masto, and then she'll be followed by Senator Warren. I believe you're next. Yes. Saving the best until last.

Senator CORTEZ MASTO. Thank you, Mr. Chair. Mr. Werfel, it's good to see you again.

Let me start with a question that I had for you when you were gracious to meet with me and to talk with me in my office. The IRS has programs that streamline tax compliance for tipped workers, like the tens of thousands that we have in Nevada who work in our hospitality industry.

These programs use an average negotiated tip rate for employees of certain industries. In 2020, the IRS applied a series of rate reductions to employees participating in these programs because of the pandemic. Absolutely reasonable. Now, the IRS has raised those rates up, and I am hearing in many cases our workers in Nevada are seeing rates higher than in 2019—that's pre-pandemic.

So my question to you, and we've had this conversation, is simply this. Will you commit to working with our workers and employers in Nevada to ensure that there is a fair resolution to this issue? And at a minimum, we would like to see at least a phase-in ap-

proach, a phase-in that reflects the reality of the pandemic impact in Las Vegas, which was so hard hit during the pandemic.

Mr. WERFEL. Yes, Senator, I will absolutely work with you on this issue. You did raise this issue when we met. I've been thinking about the importance to this community of having clarity on what is expected of them, understanding the timelines, having an opportunity to respond to what the plan is. Those are all, I think, the right principles of tax administration, and I will work with you on that.

Senator CORTEZ MASTO. Thank you. I appreciate that.

Second question—and it's come up quite often in the conversations, and rightly so—is customer service. The number one issue I hear in my State are the concerns over customer service. The National Taxpayer Advocate provides an annual report to Congress, and in the 2022 report, there's a discussion around the problems encountered by taxpayers, including processing delays, complexity of the tax code, IRS hiring and training, telephone and in-person service, and online access for taxpayers and tax professionals.

In the report, however, the Taxpayer Advocate says that for the first time since the start of the pandemic, the IRS will begin 2023 in a better position than prior years to improve its performance for three reasons: (1) the IRS has largely worked through its backlog of unprocessed returns; (2) Congress has provided the IRS with significant additional funding to increase its customer service staffing; and (3) with the benefit of direct hire authority, the IRS recently hired 4,000 new customer service representatives. It's seeking to hire 700 additional more.

Could you please talk about the customer service component, which is key to all of this? And if you would, there's been a lot of talk about, of course, the additional funding that we provided that was essential for the IRS, to include not just an enforcement piece of it, but also the customer service piece around technology, around phone use, around all of the above. How do you envision improving that customer service?

Mr. WERFEL. Thank you for the question. I think there are so many different levers that can be pulled to improve the experience that taxpayers have when they interact with the IRS. We've talked about, obviously, that adding more people to the call center so that more calls get answered is important, but there are others.

There are technologies that can be leveraged to make the call center more efficient. There are technologies that can be embedded in the IRS website or applications for smartphones. I think one of the things that is important is that the IRS determine more information from the taxpayers on what they want and what they expect when they come—so, whether it's focus groups or surveys to understand that journey that the taxpayer is on when they interact with the IRS, where are they frustrated versus where are they pleased. I mean, no one's ever pleased to pay their taxes, but they're pleased at least to get a clear answer in a timely way so that we can start investing in solutions that are responsive to what we're hearing from taxpayers.

Senator CORTEZ MASTO. I only have so much time, but can you address this issue? Is the technology that the IRS uses now outdated?

Mr. WERFEL. Yes.

Senator CORTEZ MASTO. That's what I wanted to hear, because it is. That's part of the problem here, and that's why we put this funding in there to help.

Now, one other final thing that I constantly hear is this idea that there's going to be 87,000 agents that are hired to audit, and sometimes I hear that they would be armed. Can you address that? Are you intending to hire 87,000 agents to audit Americans based on this funding?

Mr. WERFEL. I am not. I think it's patently incorrect. In fact, I enter the job with a directive from Secretary Yellen to not use IRA funds to increase audits on anyone earning less than \$400,000, whether that be a small business or a working family. Instead, my understanding is the focus is to hire people with understanding and capacity and talent to unpack very complicated, intricate returns, which is a capacity gap that exists today.

So I think the notion of armed agents is incorrect. I certainly would have no intention of making that part of any plan going forward.

Senator CORTEZ MASTO. Thank you.

The CHAIRMAN. I thank my colleague. Very important questions. Senator Warren?

Senator WARREN. Thank you, Mr. Chairman. Mr. Werfel, welcome.

So, for decades Republicans in Washington have pursued a three-step plan to rig our tax system and run up the deficit. Number 1, shovel tax cuts to the wealthy and the giant corporations whenever they are in charge. Number 2, slash funding at the IRS so that they can't take on rich tax cheats. And number 3, pretend to care about fiscal responsibility when there's a Democrat in the White House so that the Republicans can hold our economy hostage.

And let's face it, this scam has worked. The audit rate for millionaires has plummeted, and for years corporations have contributed a declining share to national revenue to make this country run. And that's why the Inflation Reduction Act that Democrats passed last year imposes a new 15-percent minimum tax on billionaire corporations and provides the IRS with new funding to track down wealthy tax cheats.

But the very first thing that the House Republicans did when they took power this year was to repeal the new IRS funding. So, Mr. Werfel, let me just ask. If that funding went away, would it make it harder or easier for billionaires to get away with cheating on their taxes?

Mr. WERFEL. Senator, I think it would make it easier. The goal is to increase the IRS capacity today to unpack these very returns you're referring to. So, if the funding is repealed, we wouldn't have that lever to increase our ability to unpack those returns.

Senator WARREN. Okay. So, in other words, if Republicans succeeded in repealing IRS funding, we would have more billionaire tax cheats, and that sounds like it's going to cost us money. So, let me ask the rest of that question.

Mr. Werfel, would the Republican bill to defund the IRS increase or decrease the deficit?

Mr. WERFEL. It would increase the deficit. I typically look to CBO in terms of how they score legislation. They scored the Inflation Reduction Act as a saver, so repealing it—

Senator WARREN. Meaning reducing the deficit.

Mr. WERFEL. Reducing the deficit. So, if they repealed it, it would increase the deficit. I don't know the exact figure, but if I recall, they said it would increase the deficit by more than \$100 billion.

Senator WARREN. Yes. And actually, the Treasury has estimated it will cost even more if we don't do this, about \$400 billion. And then there's the latest Republican scam, this so-called fair tax. House Republicans plan to vote on this to slap a 30-percent national sales tax on everything that Americans buy, from gas to groceries to housing to health care. And at the same time, it would scrap all the taxes designed around people paying according to how much money they have.

So, Mr. Werfel, how do sales taxes generally impact lower-income folks versus how they impact the wealthy?

Mr. WERFEL. Sales taxes are regressive—

Senator WARREN. Meaning?

Mr. WERFEL. Meaning that they impact the low-income in a more substantial way. They pay more—it's kind of a share of wallet. It's kind of, the more tax you have on a common good or service, a low-income person is going to feel that in their wallet more than a high-income taxpayer.

Senator WARREN. In fact, one analysis of the Republican tax plan found that the average tax bill for the bottom 80 percent of Americans under this Republican plan would increase by 50 percent, while the top 1 percent would save hundreds of thousands of dollars on their taxes.

And then just a last little piece, the cherry on top, the Republican tax plan would completely abolish the IRS, make the States do the dirty work of increasing the price of everything by 30 percent.

But I want to go back to the question about billionaires cheating. So, if this Republican plan were in place and billionaires buy and sell their mega-mansions, their mega-yachts, their private art collections, Mr. Werfel, would they have more opportunities to cheat on their taxes if the IRS were abolished and we had nothing but the Republican so-called Fair Tax Law?

Mr. WERFEL. Senator, I think you're raising a good point. In this world that this act envisions, where it's all sales tax rather than income tax, yes, you would have very large, complicated transactions, whether it's a boat or a business. And if there's no IRS to make sure that we're assessing what the right sales tax is to pay, you would have significant risk of evasion, I think.

Senator WARREN. Okay. So, a tax plan that basically will cut taxes for billionaires and for billionaire cheats—I don't think there's anything "fair" about that. So I get it; the Republicans are going to make a lot of noise about the debt ceiling, but this is theater. The debt ceiling crisis is entirely made up. If the Republicans hadn't pushed through the massive Trump tax cuts and slashed the audit rate for billionaires, our country wouldn't even hit the debt ceiling in the first Biden term.

Americans should not buy the Republican debt ceiling scam, and responsible lawmakers should flat-out refuse to cut a single dollar of support for hardworking Americans while House Republicans refuse to help unrig the tax system. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

Senator Cantwell then Senator Menendez.

Senator CANTWELL. Thank you, Mr. Chairman. Thank you for this hearing. Mr. Werfel, congratulations on your nomination.

Several of my colleagues have asked about the backlog, and I too want to ask about that. The National Taxpayer Advocate agrees this is one of the biggest problems the IRS faces, and I've been able to ask previous acting administrators to focus on online tools, not the one-way communication where, if you are calling them to make sure that tax was collected, you communicate, but then when they have questions, you don't communicate. So, I want to figure out what are the ways that you believe that we can reduce the backlog, and what can you do on online communications to improve the system?

Mr. WERFEL. Thank you for the question, Senator. Absolutely, backlogs create a lot of challenges with respect to tax administration. I think, first of all, my understanding is that a lot of the backlogs are paper, and so there's an opportunity to move more of those into an electronic format. By doing that, they'll be more searchable. You'll be able to segment them into activities which can be done relatively quickly and get taxpayers an answer in a timely way, versus segmenting those that might take more time.

When you know that they take more time, then you can start shifting people and resources to them, rather than have them sitting there without the right staffing. So, there's an analytics component to this once we have a better understanding of what the backlog is, and I would be very eager to understand what the IRS is doing today around these types of strategies versus how they can improve them over time.

Senator CANTWELL. Do you commit to transparency on this issue: here are the numbers on the backlog; here's what we think we can do with them—that kind of information?

Mr. WERFEL. I do.

Senator CANTWELL. Okay.

Only 12 percent of those who called the IRS during the 2022 filing season were able to reach a customer service representative. This means that taxpayers were left in the dark. Now, I'm kind of pushing on the airlines that it's unacceptable to have 4 days go by in a major outage with the Southwest system and not be able to communicate with people. So, what are you going to do to promise that there will be an improved communication? Two hundred thirty constituents of mine reached out to my office for assistance with the IRS, and so I want to make sure that we are continuing to push for tools that will go a long way in answering these questions and helping to get information into taxpayer's hands.

Mr. WERFEL. Yes. I think, Senator, a kind of a next-generation IRS should be able to communicate much more timely and effectively with taxpayers to understand what they're looking for and expecting, in terms of how they interact with the IRS: what do they

want the digital solutions to look like; how to make them easy. I think a lot of private-sector companies do this type of outreach.

Also, to your point, what do you do when you have a challenge, and you can't get through? What would you do if you can't get through to the Taxpayer Advocate, you can't get through to anyone in the government to help solve your problem, and you can't afford an accountant? These are the types of questions that I think we need to move forward on aggressively to understand how to open up those lines of communications. I think we can work with people in communities to figure out solutions to understand how to prioritize which taxpayers have urgent needs. It's kind of like your airline example. I'm about to miss my flight versus, I have 3 hours, right? Can we figure out—

Senator CANTWELL. Well, in this case it was like, we're not flying for 4 days, and you can't get a flight, and I'm going to be stuck, or am I going to be stuck? So I think your ranking of the issues is a good idea. Like you were trying to say, we're going to get this information from people who still have lingering problems. You're not suggesting that you have to have an accountant to get that information, right?

Mr. WERFEL. Not at all.

Senator CANTWELL. But you're pledging to me that you're going to look at some innovative ways to try to get two-way communications into regular taxpayer discussions who really have complicated cases that really do need an answer?

Mr. WERFEL. Yes. And I think partnering with the Taxpayer Advocate is critical to that effort, and I'm committed to doing that.

Senator CANTWELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Werfel, over the past year I've written over eight letters, many of them with a fair number of my colleagues, to the IRS about a range of customer service issues impacting taxpayers. I'm pleased that the IRS has implemented some of the measures that I've called for, like the expansion of overtime opportunities for IRS employees in creating surge teams, which have been critical in reducing pandemic-related tax return and correspondence backlogs. But as the new filing season begins, the IRS simply needs to do better.

In 2022, a taxpayer who called the IRS had a one-in-10 chance of speaking to a representative. Tax professionals have said that reaching the practitioner priority service is "virtually impossible." So, what do you consider an acceptable level of telephone service?

Mr. WERFEL. That's a great question. First of all, I'm going to lose sleep if I hear about one taxpayer who called the IRS and didn't get through. So in some way, Senator, I feel—and maybe this is unrealistic—but in my heart, I want it to be 100 percent. But I mentioned earlier—I think in response to a question from Senator Carper—the strategy, I think, should be to benchmark. What is the best-in-class, world-class customer service agency achieving in terms of call rates? I want to understand how they measure it, and I want to beat those metrics, if I'm confirmed.



Senator MENENDEZ. Well, the National Taxpayer Advocate recommends an 85-percent level of telephone services as a minimum. Right now, as of February 10th, the IRS is answering 90 percent of calls. That's good.

Mr. WERFEL. That is.

Senator MENENDEZ. But I want us to see a maintenance of that and, hopefully, a progression; is that something you're committed to?

Mr. WERFEL. Yes.

Senator MENENDEZ. And how do you intend to go about ensuring that the IRS is able to consistently provide this level of service?

Mr. WERFEL. Well, I look at the Inflation Reduction Act certainly as an opportunity to strengthen the overall resources that we have, increase customer service with technology that is strategically placed within the customer service solutions, that is efficient, that certain questions that taxpayers have can be answered by technology, and we should be putting those in place and testing those. So I think sustaining it is coming up with a strategy and implementing that strategy for a higher-performing service apparatus, which involves improved process, hiring more people, training those people, and improving technology. I think all of these things will be part of a plan that I hope to work on with this committee for improving service, and as you raised, sustain it.

Senator MENENDEZ. Well, this is one of the efforts I've led here to try to have the resources—the chairman as well—for the IRS to do its job because, in my view, the IRS is in the customer service business, and it needs to get back to basics. That means answering the phones, processing tax returns, processing timely refunds, which is almost along the lines of what people would expect of their elected representative: answer the phone, give me a responsive answer to mail that I send you, and do it in a timely fashion.

I want to echo—understand that I was chairing a Foreign Relations hearing—but I want to echo the question of the topic of equity in tax administration. I think others may have referred to it, but that joint report from Stanford and the Department of the Treasury found that Black taxpayers are at least three times as likely to be audited by the IRS.

Now, the agency doesn't collect data on race or ethnicity, but the disparity is attributed to the IRS computer algorithms that select the returns for audit. So at the same time, the IRS is known for low audit rates of high-income taxpayers and large businesses, which has led to an estimated gap in tax collections of nearly \$500 billion. So, do you plan on addressing these disparities at the IRS, if confirmed?

Mr. WERFEL. Absolutely. I mentioned earlier, Senator, these are very concerning. Equity is a critical part of effective tax administration. We should be constantly understanding where activities are having a disparate impact on any particular group, particularly concerning if it's having a disparate impact on racial minorities. I will, if confirmed, work with the IRS to understand why this is happening, get to the root cause, and figure out solutions so that it doesn't happen in the future.

Senator MENENDEZ. Good.

Finally, taxpayers have a right to receive prompt refunds, regardless of whether they file online or by paper. It's unacceptable that 13 million taxpayers who filed via paper waited an average of 6 months or longer to receive their refunds. As you can imagine, these delays caused taxpayers to feel confusion, frustration, and experience financial hardship, all of which are preventable.

In March, the National Taxpayer Advocate issued a directive requesting that the IRS implement scanning technology to ensure that taxpayers receive timely refunds, while also saving the agency time, money, and resources. Scanning has been used by 17 State tax agencies for over 20 years. The benefits are clear. I'm pleased that Secretary Yellen has promised to move forward with plans to automate the scanning of individual paper returns. Do you commit the IRS to implement scanning technology for all individual paper returns by the 2024 tax filing season?

Mr. WERFEL. Senator, moving from paper to digital environments is an absolute priority. I know that they have started scanning and looked at scanning solutions. I want to, if confirmed, understand exactly where they are, but the commitment that I would have is that we should absolutely be pushing more paper to electronics, and I think scanning is the way to go.

Senator MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Menendez.

Senator Johnson, I think, is going to make a couple of points. He has one question, and I have one question, and I'm going to wrap up with a short statement. So, Mr. Werfel, you are about to be liberated. I know it's hard to imagine, because you probably thought you were going to be here eating your cornflakes. And I am stunned, as the father of five children, that your kids have been so patient through this whole thing. They have been trying not to smile, which I'm sure would not be the case with respect to my children.

So, Senator Johnson.

Senator JOHNSON. That's called good parenting.

The CHAIRMAN. I guess. Yes.

Senator JOHNSON. Let me start, Mr. Chairman. I want to thank you for how welcoming you've been to this committee. This is my first hearing as a member of the Finance Committee. I gave up a position and all my seniority on the Senate Foreign Relations Committee and on the Commerce Committee to be here for this issue. It's an incredibly important issue: how do you raise the revenue the Federal Government needs to govern this country? And it needs to be done in a very fair manner. I was fortunate that Senator Crapo asked me to sit in for him as ranking member. I was happy to do it because I wanted to sit through this full hearing. I wanted to hear what the committee was like. I wanted to hear the points made by the members.

And what I did hear was an awful lot of areas of agreement. Now, there's no doubt about it, there are differences here, okay, but coming from the private sector, I found out that the only way you really accomplish things in the private sector—and Mr. Werfel, you probably discovered this too—is you search for and exploit areas of agreement. There are plenty of things that divide us, but concentrate on the areas of agreement.

So again, I want to work with you, Mr. Chairman, to try and find those areas of agreement and do the work of the American public. I think when it comes to tax policy, I've never really liked the term "tax reform." I would much rather concentrate on tax simplification and tax rationalization. I think if we would do that, I think it would remove an awful lot of the headaches that you're going to be experiencing as Commissioner.

I know you did, in answer to—I think it was Senator Cornyn's question, maybe somebody else. You said your position or job as Commissioner is not to be proposing or even really commenting on legislation or taking a position on it. But I do hope as Commissioner, you inform this committee what laws, what legislation are giving you headaches, are making it very difficult to administer the tax law in a fair and impartial and efficient manner. I mean, it's extremely important.

So my question for you, and sorry if you did cover this, but I did go for votes a couple times. One of your challenges is going to be replacement of the baby boomers, as well as whatever hires now Congress has enabled you to do with their funding. In Wisconsin, probably the biggest challenge for any employer is finding people to hire. So my question is, have you considered that? Do you have a strategy for dealing with the replacement of many people in the current workforce and then hiring qualified and hopefully impartial staff for the IRS to administer our tax code?

Mr. WERFEL. Thank you for the question, Senator. Absolutely! The statistics that you raise on the retirement of the baby boom generation—I think that's going to hit a lot of industries and a lot of government agencies. Looking at the statistics that I've seen, it's going to hit the IRS very hard, with tens of thousands of employees set to retire over the next 5 to 6 years.

How do we backfill those? I start first with partnering with the Office of Personnel Management in terms of the broader government recruiting that they do. I also believe that there could be outreach to communities, to retirees who may want to come back and work and serve their country in this way, if they have expertise. I think about veterans. I think about schools and graduate programs. Maybe not everybody, but there are individuals who I think would be excited about the opportunity to serve their country in this particular way because they're interested in tax administration. They're fascinated by the world in which we operate. As Oliver Wendell Holmes said, taxes are essential to a civilized society, and I think some people get the itch to want to be involved in that.

So I'm excited in particular about how to get people outside the IRS today, who we are going to need in the future, excited about the mission, and on board. And if we do it right, they'll come on-board with all the right mindsets of fairness, equity, impartiality so that we can, with every step we do, build trust.

Senator JOHNSON. Again, I appreciate that. I appreciate your willingness to take on this task. It's an enormous task.

And my final point, Mr. Chairman, is there is a difference between tax avoidance and tax evasion. I don't think there's anybody on this side of the aisle who is going to support tax evasion. We all want to clamp down on tax cheats. There's no doubt about that.

I would like to simplify the tax system and rationalize it so that tax avoidance, which is a legal thing—but if we simplify our tax code, that won't be as big an issue either. So again, thank you, Mr. Werfel.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Johnson.

And, Mr. Werfel, we send you off, and I'm going to pick up on a point that Senator Johnson made. And you probably know this because of your involvement with Chairman Hatch. It wasn't exactly an atomic secret, you know—he treated me like a son. We did big things in this room. We did child welfare and health care, a host of issues, and we did it—and I think this really touches on where we are, and I don't want to put words in his mouth, but where I think Senator Johnson wanted to go. We have a big difference of opinion in this room, no question about that. But we also have a history in the Senate Finance Committee of being able to find common ground.

I will tell you, I am particularly proud of the fact that this committee helped to break the gridlock on the gun safety legislation in the last Congress, because there were people who said, "Oh, it's mental health with people instead of guns." I'm of the view that there are issues on both sides. We ought to keep guns out of the hands of people who shouldn't have them, but mental health is a big challenge, and this committee came to play right away, and we put into black letter law the text that Senator Murphy and Senator Cornyn were able to use on the mental health provisions. I can tick them off for you: help through Medicaid in schools, suicide hotlines, we made it possible to get additional help, preventions, Senator Stabenow's historic help with respect to behavioral health.

So you'll find here that if you get us the facts about where the Department wants to go—you've said to several Senators that you expect us to hold you accountable. I'll start by saying 60 days on the racial discrimination issue. I think you heard from colleagues—we started off probably 3 hours ago—members of this committee think this is very, very serious, this kind of discrimination, in effect where nobody's even looking for it. God only knows what you would find if you were looking for it.

This is serious business, so I'm expecting that. I want to know what you think the reasons are for it and what we're going to do to correct it. So I'm just going to ask one additional question and then we will call it a day, and you won't have to stay here until breakfast time tomorrow.

You could hear members talking about their interests, to the greatest extent possible, in voluntary programs. Senator Blackburn and I were talking about some of the issues with restaurants and the hairdressers and the like. I said there's not going to be any mandates here. The fact is, for most Americans the government has the relevant information that they need to complete a tax return.

These are the firefighters and the nurses and the teachers, and my wife always says, "I hear this so many times. I wake up in the middle of the night, and my husband's talking about firefighters, teachers, and nurses and two tax codes." The government has the information, and what's wrong with the idea if someone in Oregon

or any of our States says I would like the government—and this would be purely voluntary. Let me underline it—purely voluntary.

And if all the big tax prep firms try to say it would be a mandate, I want them to hear “purely voluntary.” But if a person says, “I’d like the government to take the information it has and give me a draft return; I’ll make any changes and send it back,” what is wrong with having a voluntary approach like that? Your thoughts?

Mr. WERFEL. I would go back to the question of what are the authorities the IRS has; is this something that would have to be implemented in law or can it be administered without a law? If it needs to be implemented by law, then my opinion on this as a potential Commissioner, Mr. Chairman, would be, can we do it? What are the gaps that we have with our technology?

The CHAIRMAN. What do you make of the fact that so much of the rest of the world does it? We’re all wandering around, “Oh my goodness, it’s so complicated.” Much of the rest of the world looks at us and says, “Hey folks, how can it be that you can’t figure this out?” And I’m not talking about the administration of it. You’re making very valid points, but having heard how Senators feel about the nature of a voluntary program, I assume you don’t have problems with a voluntary program in this area?

Mr. WERFEL. I don’t. First of all, you mentioned—whether it’s States or nations, I’m a big fan of benchmarking. I want to understand what other tax administrators are doing, where they’re having success with customer service and their experiences, and I think that’s going to be part of a go-forward plan. Your point around, is this a solution that could really unlock a lot of benefits for taxpayer service, we should be looking at it.

I just put it to tax policy and this committee to decide the wisdom of that, and whether it requires a legal change. And my seat at the table—

The CHAIRMAN. As you know, we already put language into the legislation I and several colleagues have been interested in, so you’re going to do it. I just want somebody to have their heart in it.

Mr. WERFEL. Yes.

The CHAIRMAN. That’s why I’m asking you.

Mr. WERFEL. Yes. I’m very interested in it. Yes.

The CHAIRMAN. I’m constantly stunned when I have town meetings. I made this commitment to have town meetings, every county every year, 1,030. When I bring this up, people look at me and say, “Yes, what’s holding it up?” And it’s hard to explain it. So you have a lot on your plate, but right at the core of the mission is, we want everybody in America to have a chance to get ahead. I want people to be successful.

You know I’ve authored the first billionaire income tax, and I made it clear I want people to be successful, but I think we all ought to be paying our fair share, and that’s right at the heart of this. And what Senators were telling you is that, when you have audit rates that are so much higher for the person of modest means than they are for wealthy, that does not pass the smell test in terms of fairness.

You’ve got a big job to do. And I was for you before you showed up today, and I think you have today accounted for yourself very

well on these key kinds of questions with respect to fairness and professionalism. I look forward to supporting you. I hope we will be able to move your nomination soon, and I hope we will be able to get support from both sides of the aisle.

With that, Mr. Werfel, the Finance Committee is adjourned.

Mr. WERFEL. Thank you, Mr. Chairman.

The CHAIRMAN. Colleagues, one more little bit of business. I jumped the gun. We thank you, Mr. Werfel, for your testimony. Members of the committee will have until the close of business on Friday, February 17th to submit questions for the record.

The Finance Committee is adjourned.

[Whereupon, at 1:14 p.m., the hearing was concluded.]

# A P P E N D I X

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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SUBMITTED BY HON. BILL CASSIDY,  
A U.S. SENATOR FROM LOUISIANA

*From Americans for Tax Reform*

### **40 Years of Failure: IRS Unable to Fix Computer System**

*By Michael Mirsky*

March 5, 2022

For 40 years the IRS has tried and failed to update its main computer system. Regardless of funding level and regardless of who controls the White House and Congress, the bureaucracy is simply unable to pull it off. The IRS and progressive Democrats continue to plead poverty and pretend the failure is due to insufficient funding rather than incompetence.

Below is a compilation of key news articles documenting the IRS failure, starting in 1982:

**April 4, 1982: Lament of the Reagan I.R.S.; by David Shribman, *The New York Times*,** <https://www.nytimes.com/1982/04/04/business/lament-of-the-reagan-irs.html>.

“Meanwhile, the I.R.S. is struggling with a data processing system that is, by its own admission, grossly short of the capacity and modern state-of-the-art efficiency that is essential for an effective tax system in the 1980s.”

Its computer data facilities, parts of which are as many as 17 years old, must be replaced. The agency plans to put into effect a modernization program by 1985, replacing computers in its local service centers, buying a computerized microfilm research system and replacing outmoded hardware at the service’s National Computer Center.

“Without this,” Mr. Egger said, “we face the prospect of breakdowns which will make the service unresponsive to taxpayers and our own internal needs.”

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**April 22, 1985: Taxes: Moving in Slo-Mo at the IRS; *Time Magazine*,** <http://content.time.com/time/subscriber/article/0,33009,966856,00.html>.

“IRS Commissioner Roscoe Egger acknowledged last week that his agency is taking as long as 12 weeks to send out refunds, 2 weeks longer than last year. The sluggishness of the IRS, said Egger, is the result of glitches in setting up a new \$103 million Sperry Univac 1100/84 computer system.”

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Some anonymous IRS employees told journalists that the tax backlog had got so bad that agency workers had deliberately shredded thousands of returns.

**April 29, 1985: IRS Problems Worse Than Previously Thought; by Anne Swardson, *The Washington Post*,** <https://www.washingtonpost.com/archive/politics/1985/04/29/irs-problems-worse-than-previously-thought/70aa69a9-af25-4600-8c43-6582f2abd6cc/>.

“Internal Revenue Service computer and operational problems are more widespread than previously thought, and more than 150,000 taxpayers may have received erroneous dunning notices from the troubled Philadelphia Service Center alone, according to two new government reports.

“Some area taxpayers who filed early in the tax season are experiencing unusually long delays in getting their refunds and, in a twist, taxpayers who waited longer to file are likely to get their refunds first.

“The delays were caused by the failure of the \$103 million computer system to record many returns the first time they were put through the system.”

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“Rep. Doug Barnard Jr. (D-GA) has accused the IRS of ‘grossly inadequate planning’ for installation of its new computer, including underestimating the time it would take to train employees to use the system and choosing a computer language inappropriate to the type of computer.”

**May 25, 1985: 1.5 Million Tax Returns Delayed in Processing; by David E. Sanger, *The New York Times*, <https://www.nytimes.com/1985/05/25/business/1.5-million-tax-returns-delayed-in-processing.html?searchResultPosition=35>.**

“The Internal Revenue Service, still suffering the effects of computer problems that plagued it earlier this year, said today that some taxpayers might have to file duplicate returns to get their refunds.

“The I.R.S. said the processing of 1.5 million individual returns had been delayed because of problems registering them with its master computer file in Martinsburg, WV.

“As a result, a large number of taxpayers—possibly several hundred thousand—may not receive their refunds until after the June 1st deadline that the Government is racing to meet. From that date, taxpayers who filed their returns on time are entitled to 13 percent annual interest on their refunds, at a potential cost to the Government of millions of dollars.

“I.R.S. officials denied reports that large numbers of returns had been lost. But where the computer-encoded copy of a return has been accidentally erased, officials said, the revenue service may ask taxpayers to submit duplicates of their tax forms to get a refund. A revenue service spokesman said taxpayers whose refunds were long overdue should not send in duplicate returns until they had asked an I.R.S. employee to check their account.”

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“The record backlog of troublesome returns comes just as the I.R.S. was emerging from the most turbulent tax-processing season in its history. The problems arose from the installation of a new \$100 million Sperry Corporation computer system that was plagued with both programming errors and faulty tape drives, which record individual tax data on magnetic tape.”

**January 28, 1986: I.R.S. Ends Computer Contract; by David E. Sanger, *The New York Times*, <https://www.nytimes.com/1986/01/28/business/irs-ends-computer-contract.html?searchResultPosition=27>.**

“The Internal Revenue Service today canceled a multimillion-dollar contract to install the second phase of its troubled new computer system, in a move that seemed likely to delay further any reduction of the growing backlog of tax disputes.

“The cancellation came just days after a panel of three administrative law judges ruled that software used in the system selected by the agency last year did not meet the Government’s performance standards. In an opinion that was sharply critical of both I.R.S. management and several of the companies that bid on the system, the panel ordered the service to end the contract it awarded to Computer Systems and Resources Inc.

“An I.R.S. spokesman, Roderick P. Young, said that the agency, which is still reeling from computer problems that snarled and delayed the processing of millions of tax returns last year, is now ‘examining our options.’ While the new equipment canceled today was not scheduled for installation until after the current tax season is over, it now appears unlikely that it will be in place by the 1987 tax season.”

**February 10, 1986: Taxes: Downtime at the IRS; *Time Magazine*, <http://content.time.com/time/subscriber/article/0,33009,960594,00.html>.**



“On the front of this year’s federal income tax forms, the Internal Revenue Service printed a letter to taxpayers apologizing for foul-ups that delayed millions of refunds in 1985. About 16,000 taxpayers still have not received their checks.

“The IRS is trying to fix the problem by upgrading its computer system, but that effort suffered a setback last week. IRS officials canceled a contract for \$73 million worth of new computers and software to be supplied by Virginia-based Computer Systems and Resources, after a Government review panel found that the equipment had serious deficiencies. For one thing, the system’s mastery of COBOL, a computer language widely used in the Government, did not meet federal standards. The panel also concluded that the system would probably cost \$101 million, instead of the \$73 million estimated by the Virginia company.

“IRS officials say that their current computers are adequate for the time being and that the processing of returns will be faster this year than in 1985. Many critics are skeptical. Says one professional tax preparer: “My advice to anybody expecting a refund is to get your return in early.”

**April 8, 1990: The I.R.S.’s Bumbling Efforts to Update Its Computers; by David Burnham, *The New York Times*, <https://www.nytimes.com/1990/04/08/business/the-irss-bumbling-efforts-to-update-its-computers.html?searchResultPosition=9>.**

“With the nation’s taxpayers struggling to complete their income-tax returns by next week’s deadline, the Internal Revenue Service is approaching the crossroads of an extraordinarily challenging effort to design and acquire a new network of computer equipment and software to process returns during the next decade.

“But according to investigations by the I.R.S. itself, the \$10.7 billion program is being undermined by a lack of technical expertise, an inability to keep track of project costs and a failure to develop a unified plan describing how the agency’s thousands of computers—mainframe, desktop and portable—would work together under the new structure. Planning for the Tax System Modernization Project began in 1987; the program is supposed to be fully in place by 1998.

“The management problems are so severe, the investigators said, that the I.R.S. should consider cutting back on the acquisition of some new computer systems until the master operating plan is formulated.”

**January 31, 1997: IRS admits its \$4 billion modernizing is a failure; official says computers don’t work; agency wants to contract out tax returns; *The Baltimore Sun*, <https://www.baltimoresun.com/news/bs-xpm-1997-01-31-1997031030-story.html>.**

“The Internal Revenue Service conceded today that it had spent \$4 billion developing modern computer systems that a top official said ‘do not work in the real world’ and proposed contracting out the processing of paper tax returns filed by individuals. That would allow non-Government workers to see confidential information about the incomes of individual Americans.

“Arthur Gross, an assistant commissioner of internal revenue who was appointed 10 months ago to rescue the agency’s efforts, said customer service representatives must use as many as nine different computer terminals, each of which connects to several different data bases, to resolve problems.

“‘Dysfunctional as some of these systems may be today,’ Mr. Gross said, the I.R.S. ‘is wholly dependent on them’ to bring in the \$1.4 trillion in taxes that finance the Government. He expressed doubt that the agency was capable of developing modern computer systems, saying it lacked the ‘intellectual capital’ for the job.”

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“The failure of the modernization effort will mean years of frustration for taxpayers who get into a dispute with the I.R.S., especially one that involves records kept on two or more of its computer systems.

“Mr. Gross said that for the foreseeable future the I.R.S. must continue to work with dozens of antiquated computer systems—some dating to the 1960’s—that cannot trade information with one another.”

**September 23, 1997: No Call to Bash the IRS; by Mortimer M. Caplin, *The Washington Post*, <https://www.washingtonpost.com/archive/opinions/1997/09/23/no-call-to-bash-the-irs/71b97943-fc69-430e-b268-6e26dcc96034/>.**

“Like many other government agencies, it has had its share of management errors and poor judgment. And major changes are long overdue: improving education and services for taxpayers, better training for IRS employees, modernizing computers and greater efforts to simplify and streamline the entire tax process.”

**November 4, 1997: Man in the News: Charles Ossola Rossotti; Hope for I.R.S. in 2000;** by David Stout, *The New York Times*, <https://www.nytimes.com/1997/11/04/us/man-in-the-news-charles-ossola-rossotti-hope-for-irs-in-2000.html>.

“When President Clinton nominated Charles O. Rossotti to head the Internal Revenue Service, the candidate’s expertise in computers seemed ideal for an agency whose technology was outmoded and overwhelmed. When Mr. Rossotti was confirmed by the Senate today, he took on an even bigger mission: regaining the trust of the American people.

“The I.R.S.’s computer problems, including machines that do not talk to each other very well and poor planning to accommodate the computer-baffling date change to the year 2000, were known when the President chose him on July 31st.”

**April 12, 1998: Moving a Mountain of Paper Taxes the IRS;** by Albert B. Crenshaw, *The Washington Post*, <https://www.washingtonpost.com/wp-srv/business/longterm/tax/irs12.htm>.

“The agency had hoped by now to be operating entirely with the latest in computer technology. But repeated efforts to design and install it have failed, enraging Congress.

“The failures finally prompted the Clinton administration, with Congress’s enthusiastic backing, to appoint an IRS chief who is not a tax expert but knows computers. He is Charles O. Rossotti, the founder of American Management Systems Inc., a Northern Virginia technology company. Rossotti has said he is appalled by the state of the agency’s systems and is working to modernize them, but that has been delayed by the need to fix software bugs in the old computer systems so they can recognize dates after 1999.”

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“The agency tried to automate this process with electronic equipment a few years ago. But the equipment didn’t work well in some ways and was removed, so back came the rubber stamps, presumably to stay until a more successful technology is installed in the pending computer overhaul for the IRS as a whole.”

**March 2, 1999: Sloppy Books Cost IRS Millions;** by Deborah Orin, *The New York Post*, <https://nypost.com/1999/03/02/sloppy-books-cost-irs-millions/>.

“And it says IRS computer security is so weak that unauthorized people could get hold of sensitive taxpayer information such as financial data that ‘may be used to commit identity fraud.’”

**March 1, 2000: IRS’s Woes Costing Billions, GAO Says; Watchdog Agency Urges More Changes;** by Albert B. Crenshaw, *The Washington Post*, <http://www.washingtonpost.com/>.

“Poor internal management at the Internal Revenue Service is costing the federal government billions of dollars in uncollected taxes and improperly paid refunds, at the same time that the agency places unnecessary burdens on some honest taxpayers, the General Accounting Office said yesterday.

“The analysis, detailed in the congressional watchdog’s annual audit of the IRS’s books and accompanying testimony before a House subcommittee, concluded that while the agency has been improving in the wake of new laws and new management, it still needs to make major changes.”

**October 16, 2000: The Fix Isn’t In: IRS is still struggling to modernize its ancient software;** by Jim McTague, *Barron’s*, <https://www.barrons.com/articles/SB971480724627850076>.

“The rosier budget forecasts, as well as the most pessimistic, take a fully-functioning tax-collection system for granted. Imagine, then, the fiscal chaos (and perhaps bliss for individuals) that might ensue if the Internal Revenue Service’s 35-year-old computer software suddenly crashed. Tax collectors, who take in almost \$2 trillion a year, might lose track of returns and be unable to determine for months, if not years, exactly who had paid their taxes. Hundreds of billions in revenues might remain uncollected, even after the IRS was up and running again. The gov-

ernment might have to borrow to make good on the spending promises being made by presidential contenders Gore and Bush.

“This scenario isn’t a mere stretch of the imagination. Although the tax agency is modernizing its core software, the changeover is occurring at a bureaucratic jog, not a free-market sprint. New software won’t be delivered until next year, and programmers won’t begin installation until 2002. The core computer system of the IRS, which contains all taxpayer records, is so fragile, the old software will have to be replaced in stages over several years. It’s akin to replacing the foundation of a building, brick by brick.

“In the meantime, the IRS will have to rely heavily on the old programming language, which over four decades has become so complex, disjointed and jury-rigged that large parts of it could crash at any moment.”

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“Like old plumbing, the current software is prone to leaks. In July, the IRS discovered that a computer glitch had caused it to short-change taxpayers of \$25 million in refunds over several years. Some leaks are very costly to repair, especially when you consider that the IRS plans to trash the old system by the end of the decade. Ridding the existing core software of the Y2K bug alone cost \$1.4 billion.”

**August 23, 2001: Technology; PeopleSoft Gets Contract With I.R.S. for Software;** by **Chris Gaither**, *The New York Times*, <https://www.nytimes.com/2001/08/23/business/technology-peoplesoft-gets-contract-with-irs-for-software.html>.

“The I.R.S. has found that task impossible, with a 35-year-old computer system and 125 million individual tax returns filed each year. The agency’s current central database, which is being replaced by next year, offers no way for I.R.S. service representatives to note their interactions.”

**December 11, 2003: At I.R.S., a Systems Update Gone Awry;** by **David Cay Johnston**, *The New York Times*, <https://www.nytimes.com/2003/12/11/business/at-irs-a-systems-update-gone-awry.html?searchResultPosition=7>.

“After 5 years, a project to replace the Internal Revenue Service’s aging file-keeping computer system with modern technology is so far behind schedule that the I.R.S. has told the prime contractor that unless it improves its performance by the end of the month, the government may have no choice but to fire it.

“The project, which was expected to cost \$8 billion when completed, has spent less than \$1 billion so far, but it is already 40 percent over budget for what it has done, according to the I.R.S. Oversight Board, an independent watchdog body that Congress created in 1998.

“Most taxpayers are younger than the computer system that the I.R.S. relies on to maintain its master files on individuals and businesses—all the records of who they are, where they are, their income, taxes paid, and the amounts they still owe or are owed as refunds.”

**February 13, 2004: IRS commissioner bars CSC from upcoming projects;** by **Juan Carlos Perez**, *IDG News Service*, <https://www.computerworld.com/article/2575133/irs-commissioner-bars-csc-from-upcoming-projects.html>.

“In December, the IRS Oversight Board blasted both the IRS and CSC for problems with the IT modernization effort, including poor planning, poor execution and blown deadlines (see story). CSC is the primary contractor for the Business Systems Modernization (BSM) project, a multiyear and wide-ranging effort to significantly revamp the tax agency’s infrastructure and allow the IRS to operate more efficiently and provide better service.”

**April 1, 2004: No Easy IT Fix for the IRS;** by **Elana Varon**, *CIO.com*, <http://web.archive.org/web/20200614101929/https://www.cio.com/article/2439729/no-easy-it-fix-for-the-irs.html>.

“The internal revenue service’s Master File is an accident waiting to happen. A legacy of the Kennedy administration, this database stores the taxpaying histories of 227 million individuals and corporations, including every transaction between taxpayers and the IRS for the past 40 years. The Master File is used to determine if you’ve paid what you owe, and without it the government would have no way to flag returns for audits, pursue tax evaders or even know how much money is or should be flowing into its coffers.

“Yet the system still runs code from 1962, written in an archaic programming language almost no one alive understands. Every year, programmers, some who have worked at the IRS for decades, add new code to the Master File to reflect new rules passed by Congress. As a result, the system has become a high-tech Rube Goldberg machine. Those familiar with the Master File say it is poised for a fatal crash that would shut the government down.

“Congress and the IRS had hoped that by this tax season, this fragile system would be partially replaced by a centralized database that could provide both IRS agents and individual taxpayers with daily updates of taxpayer accounts, just as credit card companies and banks do, enabling speedier refunds and more timely customer service. This new Customer Account Data Engine, or CADE, is part of a massive \$8 billion modernization program launched by the IRS in 1999 to upgrade its IT infrastructure and more than 100 business applications.

“But the program, called Business Systems Modernization, has stumbled badly, running into serious delays and substantial cost overruns. The first of multiple software releases planned for the new database (which would enable faster processing of returns and faster refunds for 6 million out of the 21.5 million people who file the 1040EZ form) is nearly three years late and \$36.8 million over budget. Eight other major projects have missed deployment deadlines by at least three months, and costs have ballooned by more than \$200 million, according to the U.S. General Accounting Office and the congressionally chartered IRS Oversight Board, an independent panel of tax industry and technology experts who advise the IRS and Congress.

“Those familiar with the program say the fault lies largely with the IRS’s entrenched bureaucracy. The agency did not follow its own procedures for developing the new systems and failed to give consistent direction and oversight to Computer Sciences Corp. (CSC), the vendor it hired to do the work. Longtime managers resistant to change undercut CSC and the private-sector IT executives who were hired to oversee the program, according to Mark Forman, who, as associate director for IT and e-government at the Office of Management and Budget, oversaw the government’s major IT initiatives from June 2001 until last summer. Three CIOs have come and gone in the seven years since planning began for Business Systems Modernization.”

**May 5, 2008: IRS trudges on with aging computers; by Anne Broache, CNET,** <https://www.cnet.com/news/irs-trudges-on-with-aging-computers/>.

“The Internal Revenue Service has been trying for years to upgrade its antiquated mainframe computers, which process Americans’ tax returns by churning through millions of lines of assembly code written by hand in the early 1960s.

“But after more than 20 years and over \$5 billion, there’s still no end in sight. Not all computer systems can talk to each other, information isn’t available in real time, and tax returns filed on paper are often manually entered by typists.”

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“The IRS’s long-term goal is to run its operations with the efficiency Americans expect of banks and credit card companies, but it has consistently fallen short. Right now, for instance, a taxpayer who submits a tax return on a Monday will likely find that it will not be processed until at least the following weekend, thanks to limitations in the antiquated core of the agency’s tax-processing apparatus. Over \$3 billion was wasted in an earlier upgrade attempt in the 1990s. Last year, computer problems caused the IRS to erroneously hand out an estimated \$318 million in fraudulent refunds.

“Government audits show that the many years of planned upgrades have been dogged by the same missteps that plague so many massive government computer upgrades: inadequate management, ill-defined goals, repeated cost overruns, and failure to meet deadlines and expectations.”

**September 4, 2008: IRS finds unauthorized Web servers connected to its networks; by Jill Aitoro, Nextgov,** <https://www.nextgov.com/technology-news/2008/09/irs-finds-unauthorized-web-servers-connected-to-its-networks/42369/>.

The Internal Revenue Service found more than 1,000 unauthorized Web servers connected to its networks, leaving the agency’s systems open to hackers, according to a report released on Thursday by the IRS inspector general.

In September 2007, the IRS Computer Security Incident Response Center scanned the agency's Web servers and identified 2,093 that had at least one security vulnerability. When the center matched those servers to the IRS database of registered Web sites and servers, an inventory of systems that the agency uses to perform security maintenance and apply patches, it found 1,811, or 87 percent, were not listed in the database.

Of the unregistered servers, the IRS identified 661 that were used for legitimate agency business, leaving 1,150 servers being used for potentially unauthorized activity, according to the report.

"Unauthorized servers pose a greater risk [than authorized servers] because the IRS has no way to ensure that they will be continually configured in accordance with security standards and patched when new vulnerabilities are identified," the IG wrote in the audit report. "Malicious hackers or employees could exploit the vulnerabilities on these Web servers to manipulate data or to use the servers as launch points to attack other computers connected to the network."

**November 20, 2009: IT turkeys: 7 government projects worthy of a roast; by Kevin McCaney, *Federal Computer Week*, <http://web.archive.org/web/20091123155701/https://fcw.com/articles/2009/11/20/it-turkeys-7-government-projects-gone-wrong.aspx>.**

#### IRS Modernization

More than 20 years ago, the IRS launched its Business System Modernization program to replace its Master File system, parts of which dated to the Kennedy administration. By 1995, after 8 years and \$2 billion, the agency told Congress it had made only marginal improvements. In 1999, an IRS assistant commissioner speaking at the FOSE trade show called the modernization program a \$3.3 billion failure, and said most of its technology did not work. At that point, the agency was already starting over with a \$5 billion contract to CSC, awarded the previous December. The project has continued with a mix of progress and setbacks. The Customer Account Data Engine, for example—described by an official as "the centerpiece of our modernization efforts"—began processing more than 25 percent of taxpayer returns in 2008. But by June 2009, IRS had halted CADE's development. The saga continues.

**November 25, 2013: Why Your Tax Returns Aren't Safe With the IRS; by Brianna Ehley, *The Fiscal Times*, <https://www.thefiscaltimes.com/Articles/2013/11/25/Why-Your-Tax>Returns-Arent-Safe-IRS>.**

Serious security weaknesses in the Internal Revenue Service's data system have left millions of taxpayers' sensitive financial information vulnerable to hackers.

The agency claims it has fixed the problem, but its auditors beg to differ.

A new report released by the Treasury Inspector General for Tax Administration (TIGTA) found that although the IRS claimed it had implemented 19 fixes to secure the system recommended by the auditor in previous years, at least eight (or 42 percent) of them "had not been fully implemented," and should not have been checked off as completed.

The auditors said the IRS never tracked its progress on the repairs, and in many cases, it closed cases without submitting documentation to prove the fix was complete. The auditors blamed it on "weakened management controls."

The report also found that the agency didn't properly scan servers—which contain taxpayer information—for "major vulnerabilities," or properly lock user accounts, and it did not update software on databases.

"When the right degree of security diligence is not applied to systems, disgruntled insiders or malicious outsiders can exploit security weaknesses and may gain unauthorized access," Treasury Inspector General J. Russell George said.

**June 2, 2015: Investigator says IRS failed to upgrade security ahead of cyberattack; by Stephen Ohlemacher, *Lubbock Avalanche-Journal*, <https://www.lubbockonline.com/story/news/nation-world/2015/06/03/investigator-says-irs-failed-upgrade-security-ahead-cyberattack/14974000007/>.**

George suggested that the IRS should strengthen its management controls, as well as provide additional training to employees involving uploading data to implement fixes.

The IRS responded to the auditor, saying it has already issued a new manual to staff to help improve monitoring practices.

The auditor's warning comes 4½ months after the IRS inadvertently posted thousands of Social Security numbers on a government website. Additionally, a security breach in November 2012 revealed that 74.7 GB of data was stolen from South Carolina's Department of Revenue, exposing Social Security numbers of 3.8 million taxpayers along with credit card numbers and bank account data.

**November 25, 2013: The IRS's Unusual IT "Success Story" Is Failing;** by Biranna Ehley, *The Fiscal Times*, <https://www.thefiscaltimes.com/Articles/2013/11/26/IRS-s-One-IT-Success-Story-Failing>.

A major technology initiative at the Internal Revenue Service that was previously dubbed a "rare federal IT success story" has missed its deadline and is tens of millions of dollars over budget.

The latest attempt by the IRS to shift the data of 140 million taxpayers from an old master file on 1960s-era software to a modernized database is now estimated to cost \$83 million—or 74 percent more than the agency anticipated, according to a new report from the Treasury Inspector General for Tax Administration (TIGTA).

The project, known as the Customer Account Data Engine 2 (CADE 2), missed its June deadline and won't be ready until at least January of 2014. The new system, which will house all taxpayer data filed electronically, still lacks a functional security system, the audit said.

CADE 2, which the Government Accountability Office called a "successful major IT acquisition" in 2011, now seems to be following in the footsteps of its predecessor, CADE 1—which was the IRS's first attempt to modernize its taxpayer database.

CADE 1 eventually fell 2 years behind schedule and went \$37 million over budget due to inadequate definitions of system requirements and inaccurate cost and time-frame estimates, according to the GAO.

It was ultimately scrapped. In 2008 then-IRS commissioner Doug Shulman brought in an IT expert from Boeing, Terry Mulholland, to try again. Critics say transitioning the data from the old file to a new modern system was easily doable decades ago, and question why it has taken the IRS so long.

CADE 2 is eventually supposed to replace the current Individual Master File (IMF) with a relational database. The new system will allow the IRS to update taxpayer accounts and process tax returns quickly and easily every day, compared to the current system, which can only be updated weekly. The IRS says CADE 2 will be a "key component of the IRS's data-centric technology strategy."

That's if it doesn't meet the fate of CADE 1.

"I am troubled by these delays and the escalating costs associated with implementing this significant component of the IRS's modernization efforts," said J. Russell George of TIGTA. "The IRS needs to be aggressive in its efforts to resolve these problems."

**April 11, 2014: Update: IRS misses XP deadline, will spend \$30M to upgrade remaining PCs;** by Gregg Keizer, *Computerworld*, <https://www.computerworld.com/article/2488189/update-irs-misses-xp-deadline--will-spend--30m-to-upgrade-remaining-pcs.html>.

The U.S. Internal Revenue Service (IRS) acknowledged last week that it missed the April 8 cut-off for Windows XP support and will be paying Microsoft for an extra year of security patches.

But the tax agency disputed an earlier estimate by Computerworld that put the cost of those patches in the millions, saying that it was paying Microsoft "less than \$500,000" for the after-retirement support.

Microsoft terminated Windows XP support on Tuesday when it shipped the final public patches for the nearly-13-year-old operating system. Without patches for vulnerabilities discovered in the future, XP systems will be at risk from cyber criminals who hijack the machines and plant malware on them.

During an IRS budget hearing on April 7 before the House Financial Services and General Government subcommittee, the chairman, Rep. Ander Crenshaw (R-FL) wondered why the agency had not wrapped up its Windows XP-to-Windows 7 move.

"Now we find out that you've been struggling to come up with \$30 million to finish migrating to Windows 7, even though Microsoft announced in 2008 that it would stop supporting Windows XP past 2014," Crenshaw said at the hearing. "I know you probably wish you'd already done that."

According to the IRS, it has approximately 110,000 Windows-powered desktops and notebooks. Of those, 52,000, or about 47%, have been upgraded to Windows 7. The remainder continue to run the now retired XP.

**September 8, 2014: IRS finds more key hard-drive crashes, claims no evidence of tampering; by Josh Hicks, *The Washington Post*, <https://www.washingtonpost.com/news/federal-eye/wp/2014/09/08/irs-finds-more-key-hard-drive-crashes-claims-no-evidence-tampering/>.**

In a report to four congressional committees on Friday, the IRS said hard-drive crashes are to blame for the lost communications and that the computer malfunctions “appear to be the same sorts of issues routinely experienced within the IRS, in other government agencies and in the private sector.”

The report also noted that the crashes occurred before the start of investigations into how the agency identified nonprofit advocacy groups for extra scrutiny. The IRS’s inspector general released an audit last year that said the agency inappropriately targeted certain organizations based on their names and policy positions.

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IRS chief John Koskinen testified at a hearing in June that the agency lost many of Lerner’s e-mail records after her hard-drive crashed in 2011. He said the agency tried unsuccessfully to recover the data and then sent the broken device away for destruction.

The IRS said in its report on Friday that the agency now knows of five more employees who are missing e-mails because of hard-drive crashes. The staff members include: Judy Kindell, who was Lerner’s former senior adviser; IRS tax-law specialist Justin Lowe, who worked with Kindell; IRS manager Ron Shoemaker, who helped oversee the cases in question; and two Cincinnati-based IRS employees who had worked on some of the cases.

The agency said all of the employees contacted IT staff and attempted to recover their data after their computers malfunctioned.

The IRS failed to implement dozens of security upgrades to its computer systems, some of which could have made it more difficult for hackers to use an IRS website to steal tax information from 104,000 taxpayers, a government investigator told Congress on Tuesday.

The agency’s inspector general couldn’t say whether the upgrades would have prevented the breach. But, he added, “I can say it would have been much more difficult had they implemented all of the recommendations that we made.”

Each year, the Treasury inspector general for tax administration audits the IRS’s security systems and recommends improvements. As of March, 44 of those upgrades had not been completed, said the inspector general, J. Russell George.

Ten of the recommendations were made more than 3 years ago.

In addition, the Government Accountability Office issued a report in March that identified more than 50 weaknesses in the IRS’s computer security that had not been resolved. Until those weaknesses are fixed, “financial and taxpayer data will remain unnecessarily vulnerable to inappropriate and undetected use, modification or disclosure,” the GAO said.

**February 12, 2016: IRS outage caused by back-to-back failures, not cyberattack; by Kevin McCoy, *USA Today*, <https://www.usatoday.com/story/money/2016/02/12/irs-computer-outage-caused-back-back-failures/80303306/>.**

An electrical voltage regulator on the computer server that handles tax returns for millions of Americans started to fail on February 3rd, Terence Milholland, the IRS’s chief technology officer, testified at a Thursday hearing of the House Committee on Oversight and Government Reform.

As a technician worked to address the problem, a backup voltage regulator also failed, he said. Approximately 30 hours elapsed before the IRS was able to fix the regulators, which Milholland said come under “high-stress conditions” when the computer is operating, and resume normal service.

Seeking to allay any fears that something more sinister might have been to blame, Milholland said, “This was, with absolute certainty, not a cyberattack. It was a failure of mechanical devices.”

The episode marked the latest in a series of computer problems that have embarrassed the IRS, and, in some cases, raised the risk that taxpayers' personal information could be accessed, used to steal taxpayers' identities, file fraudulent tax returns and collect refunds.

The tax agency this week disclosed that it detected unauthorized efforts to gain access to e-file personal identification numbers for more than 450,000 Social Security numbers in late January. Approximately 101,000 of those efforts succeeded in accessing an e-file ID number, the IRS said.

No personal taxpayer information on the computer system was compromised, and hackers generally would need data beyond just a PIN number to file a phony return, the tax agency said. IRS personnel are now mailing affected taxpayers alerts about the problem.

In the agency's most serious computer-related failure in recent memory, cyber-thieves accessed as many as 334,000 taxpayer accounts. The hackers got into the computer system by using an IRS application called Get Transcript, which allows users to retrieve their tax account transactions, tax return information or wages and income reported to the IRS.

**April 19, 2018: IRS's 60-Year-Old IT System Failed on Tax Day Due to New Hardware;** by Aaron Boyd and Frank R. Konkel, *Nextgov*, <https://www.nextgov.com/it-modernization/2018/04/irs-60-year-old-it-system-failed-tax-day-due-new-hardware/147598/>.

The Internal Revenue Service attributed the agency's Tax Day crash to a piece of hardware supporting an IT system that is almost 60 years old.

Called the Individual Master File, components of the system—including 20 million lines of computer code—date back to 1960, when John F. Kennedy was President.

IRS told Nextgov 18-month-old hardware supporting the Individual Master File experienced a caching issue causing the system to fail. The failure disrupted almost all other services and systems IRS provides because those systems ingest data from the Individual Master File. When those systems—such as Direct Pay and the structured payments portal—called to the Individual Master File mainframe and got no response, they too failed.

Despite repeated warnings from the Government Accountability Office and Congress, IRS's plans to modernize the system are at least six years behind schedule and several hundred million dollars over budget.

"This was our biggest fear about one of these mission-critical systems crashing," Dave Powner, GAO's director of IT management issues, told *Nextgov* Thursday. "Fortunately, it wasn't down for a long period of time, so in that way, we dodged a bullet."

Still, the crash forced the IRS to extend the tax filing deadline one day, delaying some 14 million submissions. It could be several years before the Individual Master File is fully modernized and rid of 1960s-era technology.

**February 9, 2021: IRS Computer Glitch Causes 10s of Thousands to Mistakenly Be Told They Won't Receive Stimulus Check;** by Brian New, CBS, <https://www.cbsnews.com/texas/news/irs-computer-glitch-mistake-stimulus-check/>.

The IRS mistakenly told tens of thousands of Americans they won't be getting a stimulus check.

Notices to 109,000 taxpayers were sent out that said, "We applied a credit to your 2007 tax account due to new legislation. We used all or part of your economic stimulus payment to pay your federal tax as the law allows. . . . As a result, you don't owe us any money, nor are you due a refund."

However, none of this is true.

An apparent IRS computer glitch resulted in the wrong message being sent out to thousands of taxpayers who are awaiting their \$600 stimulus payment.

Texas A&M Law School tax expert Bob Probasco said it appears a computer code from 14 years ago, the last time the federal government issued direct stimulus payments, got mixed up in the current program.

The notice that taxpayers were supposed to get was to inform them they haven't received their stimulus payment because their 2019 tax return had not been proc-



essed. Instead, the IRS's computer system sent them a "CP21C" notice with a very different message.

"Everything is done by computers and the IRS's systems would have possibly been state-of-the-art 50 years ago, but they are hopelessly antiquated today," Probasco said. "This creates problems every time you have to make changes, especially on short notice like with the stimulus payments."

**October 21, 2021: A 60-year-old IRS IT system won't finish modernizing until 2030; by Natalie Alms, FCW, <https://fcw.com/digital-government/2021/10/a-60-year-old-irs-it-system-wont-finish-modernizing-until-2030/259253/>.**

The IRS completed most of its planned IT modernization activities for the last two fiscal years on schedule and within cost, but one of its efforts, intended as a replacement for a 60-year-old system, is now on track to replace core functions only—and it may not be complete until 2030.

That's according to a Government Accountability Office report, which reviewed five IRS IT investments and found that they met most performance goals for FY 2019 and 2020.

The 60-year-old system slated for replacement is called the Individual Master File. It's the key source for individual tax data, and a modernized system would provide the infrastructure needed for real time digital taxpayer interactions, rapid access to data and agile response to legislative changes, according to the GAO report.

The program intended to modernize it, called Customer Account Data Engine 2, has seen many delays and cost changes since the IRS first started developing it in 2009, according to the GAO. A key milestone for replacing selected functions, for example, has been pushed back by nine years, from 2014 to 2023.

The CADE 2 program actually had lower reported costs than anticipated for 2020 and met most performance goals for the last two years, but GAO called its long-term performance and outlook "troubling."

The modernized system isn't scheduled to be finished until 2030. Development costs are now about four times higher than originally planned, and CADE 2 is also now expected to replace only core components of the old program, as opposed to the entire system.

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

Mr. Werfel, thank you for your willingness to serve and answer our questions.

The IRS exists solely to serve taxpayers and fairly administer tax laws. The Internal Revenue Code requires the IRS Commissioner, and all IRS employees, to "act in accord" with codified taxpayer rights, including: the right to be informed; the right to quality service; the right to challenge the position of the IRS and be heard; the right to privacy; and the right to confidentiality.

Over the last several years, Americans have time and again seen the IRS fail to meet these obligations, and they are rightly concerned about the vitality of their taxpayer rights. Statute requires the IRS Commissioner to ensure the IRS respects these rights, and the next Commissioner needs to show that he will faithfully stand up for the American taxpayer.

The next IRS Commissioner must also demonstrate that he can be a fair, consistent, and impartial umpire for taxpayers, rather than reflexively pro-IRS. While I did not always agree with former Commissioner Rettig, he was consistent and called balls and strikes the same for everyone.

Recently, the IRS simply overlooked statutory deadlines for implementing new laws, including third-party network reporting and EV tax credits. These delays seem conspicuous given that other recent and complex tax changes, including the amortization of R&D expenses, corporate book minimum tax, and stock buyback excise tax all took effect without necessary guidance.

The need for an objective, consistent, and level-headed IRS Commissioner, who is laser-focused on taxpayer rights, is even more imperative given the staggering \$80 billion in additional funding that the misnamed "Inflation Reduction Act" just gave the agency.

For reference, \$80 billion is more than 6½ times the IRS's typical annual budget. These additional funds come despite the fact that over the past 2-plus decades, Congress has appropriated the IRS hundreds of billions of dollars in annual funding, and tens of billions of dollars more in supplemental funding, with little improvement to show for it. The IRS continues to utilize outdated methods and processes that even the Taxpayer Advocate called "crazy."

A recent report by the Treasury Inspector General for Tax Administration shows that these antiquated processes cost hundreds of times more than an updated approach that would better serve taxpayers and the IRS. This is just one example of how funding has become a scapegoat for mismanagement.

It is no surprise to hardworking Americans that the IRS currently ranks dead last in a recent Gallup poll rating Federal agencies. Sending the IRS on an unchecked spending binge has no intrinsic value.

Unless there are outsized results to match the gargantuan investment, the IRS's supplemental billions will simply become another example of government waste. Because the funding lacks any accountability measures or guard rails, the next IRS Commissioner shoulders the primary responsibility for outcomes, as well as planning, tracking spending, and transparently monitoring outcomes.

Americans—and their elected representatives—are watching. Will the IRS be honest and fully and deeply transparent? Will the IRS use best practices, rely on unbiased data, and set common-sense goals? Given how the funding was conceived, designed, and adopted, I am skeptical, but I will look to you, Mr. Werfel, to fill the gap, if you are confirmed.

The fact that nearly 60 percent of the funding will go toward hiring enforcement personnel—more than 14 times the funding set aside for serving taxpayers—is a particular concern. Unease about super-sized IRS enforcement hiring has nothing to do with supporting evasion by "wealthy tax cheats," but comes from a fear that the IRS will waste untold taxpayer dollars chasing speculative or marginal revenue recoveries, while hardworking Americans and small businesses end up in a dragnet.

When I offered an amendment to statutorily protect taxpayers making less than \$400,000 from increased audits, only my Republican colleagues stood up in support. No one on the other side voted "yes." We have a statement from the Secretary of the Treasury that we won't see this 60-plus percent of the \$80 billion be spent on auditing those making less than \$400,000, and the chairman has indicated that is the intent of this money, but it is not what the law says, because my amendment was not allowed to be adopted. Unenforceable edicts are easily broken.

In sum, the new IRS Commissioner will shoulder immense responsibility. If confirmed, Mr. Werfel, you must be the change agent we have long been promised.

Thank you, and I look forward to your testimony and detailed responses to our questions.

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PREPARED STATEMENT OF HON. DANIEL I. WERFEL,  
NOMINATED TO BE COMMISSIONER, INTERNAL REVENUE SERVICE

Chairman Wyden, Ranking Member Crapo, and members of the committee, I am honored and humbled to come before you today as President Biden's nominee for Commissioner of the Internal Revenue Service (IRS).

I want to thank Senator Carper for his generous introduction, and I want to express my gratitude to the committee for considering my nomination. I also want to thank President Biden and his administration for placing their confidence in me.

I am grateful to have my family with me this morning, supporting me today as they have through every step of my life: my wife Beth, my two children Sean and Molly, and my parents Fred and Barbara.

From a young age, I saw the honor in serving others. I saw that honor in my grandfather, a World War II veteran and postal worker; and my mother, a social worker who helped place people with disabilities into gainful employment. I see that honor in my amazing wife, who has spent more than 25 years working as a psychologist in the public school system.

Their examples inspired me to pursue a career in public service. I felt a great sense of pride when I showed up at the Office of Management and Budget (OMB) for my first day of work as a GS-9 in the late 1990s—and even more pride 13 years

later when I last sat in a Senate confirmation hearing as the nominee to be OMB Controller. While at OMB, I served under nine different Directors of both political parties. This experience reinforced the importance of having a “true north” for how to best serve the American people.

At OMB, I learned that the essential foundation of government is public trust. Public trust requires transparency, collaboration with oversight entities such as Congress, adherence to the rule of law, and responsible stewardship of taxpayer dollars. Public trust also requires that the government carry out its mission fairly and equitably.

In 2013, with these lessons now a part of my professional DNA, I was selected to serve as Acting Commissioner of the IRS. I witnessed how dedicated and talented IRS civil servants are in fulfilling the critical mission of administering the Nation’s tax system. Since leaving the IRS, I watched from afar how these employees navigated the challenges of historical underfunding and understaffing while providing economic lifelines to hundreds of millions of families and small businesses during the COVID-19 pandemic. Their “true north” is their deep belief that the American people need an IRS that provides all taxpayers with world-class customer service and implements the tax code in a way that is just, fair, equitable, and protects the U.S. Government’s resources.

I share in this belief. As an IRS alum, but more importantly as a taxpayer, I have been concerned about gaps in capacity that have impeded the IRS’s ability to meet its critical mission. The result is that hardworking, honest taxpayers who need assistance in meeting their tax obligations are not getting the service they need. The IRS has also been ill-equipped to unpack complex and intricate returns of high-income taxpayers and large corporations and thus has been unable to close the gap between what these taxpayers owe versus what they pay. Following the passage of the Inflation Reduction Act, Americans rightfully expect a more modern and high-performing IRS.

Last year, Secretary Yellen issued a directive that the IRS will not increase audit rates, relative to historic levels, for small businesses and households making under \$400,000, which I am committed to meeting. Therefore, if I am fortunate enough to be confirmed, the audit and compliance priorities will be focused on enhancing IRS capabilities to ensure America’s highest earners comply with applicable tax laws. Also front and center will be efforts to modernize and dramatically improve taxpayer service and ensure that individuals and businesses eligible for tax benefits receive them. Meeting these priorities will require both significant technology upgrades and additional human resource capacity in areas such as customer service and expertise in complex tax matters. It will also require close attention to other elements of successful tax administration, including data security, reducing paperwork burdens, and impartiality and fairness in all matters. If confirmed, I will lead these efforts in close collaboration with this committee and will be unyielding in following my true north to increase public trust.

While unheralded, effective implementation of our tax system is necessary to fund critical government services. For 8 months in 2013, I had the privilege to walk into the IRS and draw inspiration from the workforce and the solemn duty of this mission. As I reflect on the public service legacy of my family, I think about the example I will set for my children by rededicating myself to a career in public service. To be given this opportunity again would be the greatest honor of my life.

Thank you for considering my nomination. I look forward to answering your questions.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name: Daniel Ivan Werfel.
2. Position to which nominated: Commissioner of Internal Revenue.
3. Date of nomination: November 14, 2022.

4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: April 24, 1971; Plainview, NY.
6. Marital status:
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):
  - Duke University.  
Durham, NC.  
Terry Sanford Institute of Public Policy.  
Dates attended: August 1993–May 1994; January 1997–May 1997.  
Master of public policy, May 1997.
  - University of North Carolina at Chapel Hill.  
Chapel Hill, NC.  
School of Law.  
Dates attended: August 1994–May 1997.  
Juris doctor, May 1997.
  - Cornell University.  
Ithaca, NY.  
College of Industrial and Labor Relations.  
Dates attended: August 1990–May 1993.  
Bachelor of science in industrial and labor relations, May 1993.
  - New York Institute of Technology—Long Island Campus.  
Old Westbury, NY.  
Dates attended: September 1989–May 1990.
  - John F. Kennedy High School.  
Plainview, NY.  
Dates attended: September 1985–June 1989.  
High school degree.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job):
  - Boston Consulting Group.  
Managing director and partner.  
Bethesda, MD.  
March 2014–present.
  - U.S. Department of the Treasury, Internal Revenue Service (IRS).  
Acting Commissioner.  
Washington, DC.  
May 2013–December 2013.
  - U.S. Office of Management and Budget (OMB).  
Federal Controller.  
Washington, DC.  
October 2009–May 2013.
  - Deputy Controller.  
Washington, DC.  
March 2006–October 2009.
  - Chief, Financial Integrity and Analysis Branch.  
February 2004–March 2006.
  - Policy Analyst, Education Branch.  
Washington, DC.  
April 2002–February 2004.
  - Policy Analyst, Office of Information and Regulatory Affairs.  
Washington, DC.  
August 1997–June 2000.
  - U.S. Department of Justice.  
Trial Attorney, Civil Rights Division.  
Washington, DC.  
June 2000–April 2002.

Hedrick, Eatman, Gardner, and Kincheloe.

Intern.

Charlotte, NC.

May 1996–August 1996.

New Hanover County District Attorney's Office.

Intern.

Wilmington, NC.

May 1995–August 1995.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

Member, Government Accountability and Transparency Board.

2011–2013.

Member, Federal Accounting Standards Advisory Board.

2006–2010.

Member, Defense Business Board.

2014–2016.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.*, limited partner, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Boston Consulting Group.

Managing director and partner.

2017–present.

Director.

2014–2017.

Centre for Public Impact Board.

Member.

2022–Present.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

National Capital Region Red Cross Board.

Member.

2021–present.

Terry Sanford School of Public Policy Alumni Board.

Member.

2017–present.

National Academy of Public Administration.

Fellow.

2011–present.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate dating back to the age of 18.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

None.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years prior to the date of your nomination.

Recipient	Date	Amount
Biden for President *	6/27/2020	\$2,800.00
Hillary for America *	11/02/2016	\$100.00
Hillary for America	10/19/2016	\$300.00
Hillary for America	9/30/2016	\$250.00
Hillary for America	9/28/2016	\$200.00
Hillary for America	9/18/2016	\$250.00
Hillary for America *	9/11/2016	\$500.00
John King Junior for Governor	5/14/2021	\$500.00

\*The public database maintained by the Federal Election Commission includes two separate, identical contributions completed on 6/27/2020, 11/02/2016, and 9/11/2016. To the best of my knowledge only one such contribution was made on each of these dates.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Recipient, Government Computer News “Executive of the Year” Award, 2013.

Recipient, Federal 100 Award, 2013.

Recipient, National Grants Management Association Lifetime Achievement Award, 2011.

Recipient, Association of Government Accountants (AGA) Distinguished Federal Leadership Award, 2010.

Recipient, President’s Meritorious Rank Award, 2008.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

This is a complete list of materials based on a comprehensive, good faith, and exhaustive search of public and private digital and paper files that I have access to.

#### Book Chapter

“Chapter 5.4: Through the Storm: Navigating the IRS through Crisis to Recovery” in Building a 21st Century SES: Ensuring Leadership Excellence in Our Federal Government, National Academy of Public Administration, 2017, <https://s3.us-west-2.amazonaws.com/napa-2021/studies/building-a-21st-century-senior-executive-service/Building-a-21st-Century-SES-3.17.2017.pdf>.

#### Articles and Blog Posts

“The High ROI of Workforce Skills Investment,” *Federal Times*, January 19, 2016, <https://www.federaltimes.com/opinions/2016/01/19/the-high-roi-of-workforce-skills-investment/>.

“How Governments Can Get Technology Transformations Right” (co-authored with Joost de Kock, Andrew Arcuri, and Florian Fey), Boston Consulting Group, June 10, 2016, <https://www.bcg.com/publications/2016/public-sector-transformation-how-governments-can-get-digital-transformations-right>.

“Building Up the Backbone of Government Operations,” *Federal Times*, July 21, 2016, <https://www.federaltimes.com/opinions/2016/07/21/building-up-the-backbone-of-government-operations/>.

“Life in the Foxhole: The New Rules of the Communications Game,” Centre for Public Impact, February 27, 2017, <https://www.centreforpublicimpact.org/insights/the-communications-game>.

“A New Way to Spur Government Innovation,” Centre for Public Impact, July 13, 2017, <https://www.centreforpublicimpact.org/insights/new-way-spur-government-innovation>.

“Why Startups Don’t Bid on Government Contracts” (co-authored with Geoff Orazem, Greg Mallory, and Matthew Schlueter), Boston Consulting Group, August 22, 2017, <https://www.bcg.com/publications/2017/public-sector-agency-transformation-why-startups-dont-bid-government-contracts>.

“Innovation in Defense: New Horizons on the Defense Agenda” (co-authored with Heinrich Rentmeister, Florian Frey, Patrick Roche, and Mart Watters), Boston Consulting Group, September 2017, [https://web-assets.bcg.com/img-src/BCG%20Report-Innovation%20in%20Defense-New%20Horizons%20on%20the%20Defense%20Agenda\\_tcm9-175650.pdf](https://web-assets.bcg.com/img-src/BCG%20Report-Innovation%20in%20Defense-New%20Horizons%20on%20the%20Defense%20Agenda_tcm9-175650.pdf).

“Four Steps to High-Impact Strategic Planning in Government” (co-authored with Matt Boland and Troy Thomas), Boston Consulting Group, May 17, 2018, <https://www.bcg.com/publications/2018/four-steps-to-high-impact-strategic-planning-in-government>.

“What Managers Should Do With 2018 Employee Viewpoint Survey Data,” *Government Executive*, September 24, 2018, <https://www.govexec.com/management/2018/09/what-managers-should-do-2018-employee-viewpoint-survey-data/151516/>.

“A Prescription for Better Performance: Engaging Employees at VA Medical Centers” (co-authored with Brooke Bollyky and Troy Thomas), Boston Consulting Group, March 1, 2019, <https://www.bcg.com/a-prescription-for-better-performance-engaging-employees-at-va-medical-centers>.

“Beyond the Beltway: How Federal Leaders Can Engage Employees Working Across the Nation” (co-authored with Brooke Bollyky and Troy Thomas), Boston Consulting Group, June 1, 2019, <https://www.bcg.com/beyond-the-beltway-how-federal-leaders-can-engage-employees-working-across-the-nation>.

“Stimulus Offers a Rare Chance for Defense Agencies to Buy Better” (co-authored with Matthew Schlueter, Troy Thomas, Greg Mallory, Robert Tevelson, Harish Hemmings, and Daniel Yoon), Boston Consulting Group, April 29, 2020, <https://www.bcg.com/publications/2020/defense-agencies-procurement-patterns-to-change-due-to-covid-19-stimulus-funding>.

“Start Reimagining Government Now” (co-authored with Miguel Carrasco, Priya Chandran, Vincent Chin, Patrick Hayden, Leila Hoteit, and Suresh Subudhi), Boston Consulting Group, May 27, 2020, <https://www.bcg.com/publications/2020/start-reimagining-government-now>.

“Gearing Up for Day One of the New Term” (co-authored with Sharon Marcil, Meldon Wolfgang, and Troy Thomas), Boston Consulting Group, October 16, 2020, <https://www.bcg.com/publications/2020/preparing-for-day-one-of-the-new-presidential-term>.

“Getting Smart as a New US Agency Leader” (co-authored with Sharon Marcil, Meldon Wolfgang, Brooke Bollyky, Troy Thomas, and Catherine Manfre), Boston Consulting Group, December 16, 2020, <https://www.bcg.com/publications/2020/how-to-effectively-transition-into-a-new-agency-leadership-role-in-the-united-states>.

“How Agency Heads Can Make the First 100 Days Count” (co-authored with Sharon Marcil, Meldon Wolfgang, Brooke Bollyky, Troy Thomas, and Catherine Manfre), Boston Consulting Group, January 15, 2021, <https://www.bcg.com/publications/2021/strategies-for-agency-heads-to-make-the-first-100-days-count>.

“Envisioning the Government Workforce of the Future” (co-authored with Brooke Bollyky, Troy Thomas, Liz Lyle, Qahir Dhanani, Kelly O’Connor, and Michael Snelgrove), Boston Consulting Group, 2021, <https://web-assets.bcg.com/7e/a7/3e6583f948dfa6012f2ff90e94f0/envisioning-the-government-workforce-of-the-future-4-pages-updated.pdf>.

“How Purpose Can Empower Those in Public Service” (co-authored with Sharon Marcil, Meldon Wolfgang, Brooke Bollyky, Ashey Grice, Troy Thomas, and Catherine Manfre), Boston Consulting Group, February 4, 2022, <https://www.bcg.com/publications/2021/the-power-of-purpose-during-leadership-transitions>.

“Shared Services Can Ignite Transformation in Government” (co-authored with Andrew Toma, Brooke Bollyky, Rashi Agarwal, and Maggie Larkin), Boston Consulting Group, February 24, 2022, <https://www.bcg.com/publications/2022/transformation-in-government>.

“Fighting Fraud in the CARES Act—Rebuild the ‘ROC,’” *The Hill*, April 22, 2022, <https://thehill.com/opinion/technology/493877-fighting-fraud-in-the-cares-act-rebuild-the-roc/>.

“A Quiet Legacy: The Bush Management Agenda Continues to Impact Government” (co-authored with Robert Shea), *Government Executive*, October 7, 2019, <https://www.govexec.com/management/2019/10/quiet-legacy-bush-management-agenda-continues-impact-government/160417/>.

“Insight: Reimagining the Taxpayer Journey—How Tax Administrators Can Lead the Way for Digital Government Services,” *Bloomberg Tax*, April 26, 2019, <https://news.bloombergtax.com/daily-tax-report/insight-reimagining-the-taxpayer-journey-how-tax-administrators-can-lead-the-way-for-digital-government-services-14-15-16>.

#### Testimony before Congress

S. Hrg. 110–456: Single Audits: Are They Helping to Safeguard Federal Funds?, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, 110th Congress, October 25, 2007, <https://www.govinfo.gov/content/pkg/CHRG-110shrg38984/pdf/CHRG-110shrg38984.pdf>.

S. Hrg. 110–501: Eliminating Agency Payment Errors, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 110th Congress, January 31, 2008, <https://www.govinfo.gov/content/pkg/CHRG-110shrg41449/pdf/CHRG-110shrg41449.pdf>.

H. Hrg. 110–103: H.R. 5712, Close the Contractor Fraud Loophole Act, and H.R. 5787, Federal Real Property Disposal Enhancement Act, hearing before the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives, 110th Congress, April 15, 2008, <https://www.govinfo.gov/content/pkg/CHRG-110hrg45945/pdf/CHRG-110hrg45945.pdf>.

H. Hrg. 110–96: Federal Financial Statements for Fiscal Year 2007: Fiscal Outlook, Management Weaknesses, and Consequences, hearing before the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives, 110th Congress, June 5, 2008, <https://www.govinfo.gov/content/pkg/CHRG-110hrg45612/pdf/CHRG-110hrg45612.pdf>.

S. Hrg. 110–724: In the Red: Addressing the Nation’s Financial Challenges, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 110th Congress, June 26, 2008, <https://www.govinfo.gov/content/pkg/CHRG-110shrg44120/pdf/CHRG-110shrg44120.pdf>.

S. Hrg. 111–575: Nomination of Daniel I. Werfel, hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, 111th Congress, September 16, 2009, <https://www.govinfo.gov/content/pkg/CHRG-111shrg53838/pdf/CHRG-111shrg53838.pdf>.

H. Hrg. 111–146: Oversight of Federal Financial Management, hearing before the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives, 111th Congress, April 14, 2010, <https://www.govinfo.gov/content/pkg/CHRG-111hrg65550/pdf/CHRG-111hrg65550.pdf>.

S. Hrg. 111–1058: Transforming Government Through Innovative Tools and Technologies, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 111th Congress, August 4, 2010, <https://www.govinfo.gov/content/pkg/CHRG-111shrg63827/pdf/CHRG-111shrg63827.pdf>.

H. Hrg. 112–7: A Look at the Fiscal Year 2010 Consolidated Financial Report of the U.S. Government, hearing before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, March 9, 2011,



<https://www.govinfo.gov/content/pkg/CHRG-112hhrg67257/pdf/CHRG-112hhrg67257.pdf>.

H. Hrg. 112–17: Transparency Through Technology: Evaluating Federal Open-Government Efforts, hearing before the Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, March 11, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg67567/pdf/CHRG-112hhrg67567.pdf>.

H. Hrg. 112–22: Can a Civilian BRAC Commission Consolidate Federal Office Space and Save Taxpayers Billions?, hearing before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives, 112th Congress, April 6, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg65644/pdf/CHRG-112hhrg65644.pdf>.

H. Hrg. 112–26: Improper Payments: Finding Solutions, hearing before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, April 15, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg68043/pdf/CHRG-112hhrg68043.pdf>.

H. Hrg. 112–31: How to Stop Sitting on Our Assets: A Review of the Civilian Property Realignment Act, hearing before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives, 112th Congress, May 12, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg66309/pdf/CHRG-112hhrg66309.pdf>.

S. Hrg. 112–300: Assessing Efforts to Eliminate Improper Payments, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee, Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, May 25, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112shrg67640/pdf/CHRG-112shrg67640.pdf>.

S. Hrg. 112–251: Federal Asset Management: Eliminating Waste by Disposing of Unneeded Federal Real Property, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee, Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, June 9, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112shrg68008/pdf/CHRG-112shrg68008.pdf>.

H. Hrg. 112–70: Improving Oversight and Accountability in Federal Grant Programs, hearing before the Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, June 23, 2011, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg71296/pdf/CHRG-112hhrg71296.pdf>.

H. Hrg. 112–130: Solutions Needed: Improper Payments Total \$115 Billion in Federal Misspending, hearing before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, February 7, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg74028/pdf/CHRG-112hhrg74028.pdf>.

H. Hrg. 112–145: The Status of Government Financial Management: A Look at the Fiscal Year 2011 Consolidated Financial Statements, hearing before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives, 112th Congress, March 1, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg74457/pdf/CHRG-112hhrg74457.pdf>.

S. Hrg. 112–531: Retooling Government for the 21st Century: The President's Reorganization Plan and Reducing Duplication, hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, March 21, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg73680/pdf/CHRG-112shrg73680.pdf>.

S. Hrg. 112–557: Assessing Efforts to Combat Waste and Fraud in Federal Programs, hearing before the Federal Financial Management, Government Infor-

mation, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, March 28, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg73679/pdf/CHRG-112shrg73679.pdf>.

H. Hrg. 112–25: Replacing the Sequester, hearing before the Committee on the Budget, House of Representatives, 112th Congress, April 25, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg73858/pdf/CHRG-112hhrg73858.pdf>.

H. Hrg. 112–144: Where Are All the Watchdogs? Addressing Inspector General Vacancies, hearing before the Committee on Oversight and Government Reform, House of Representatives, 112th Congress, May 10, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg74454/pdf/CHRG-112hhrg74454.pdf>.

S. Hrg. 112–681: Security Clearance Reform: Sustaining Progress for the Future, hearing before the Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, June 21, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg75219/pdf/CHRG-112shrg75219.pdf>.

S. Hrg. 112–583: Show Me the Money: Improving the Transparency of Federal Spending, hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, June 18, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg76062/pdf/CHRG-112shrg76062.pdf>.

S. Hrg. 112–670: Assessing Grants Management Practices at Federal Agencies, hearing before the Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, United States Senate, 112th Congress, July 25, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg76065/pdf/CHRG-112shrg76065.pdf>.

S. Hrg. 113–186: The Impacts of Sequestration, hearing before the Committee on Appropriations, United States Senate, 113th Congress, February 14, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113shrg79588/pdf/CHRG-113shrg79588.pdf>.

H. Hrg. 113–14: The Road Less Traveled: Reducing Federal Travel and Conference Spending, hearing before the Subcommittee on Federal Workforce, U.S. Postal Service, and the Census, Committee on Oversight and Government Reform, House of Representatives, 113th Congress, February 27, 2013, <https://www.govinfo.gov/content/pkg/CHRG-112hhrg80898/pdf/CHRG-112hhrg80898.pdf>.

S. Hrg. 113–114: Curbing Federal Agency Waste and Fraud: New Steps to Strengthen the Integrity of Federal Payments, hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, 113th Congress, May 6, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113shrg81293/pdf/CHRG-113shrg81293.pdf>.

H. Hrg. 113–79: Collected and Wasted: The IRS Spending Culture and Conference Abuses, hearing before the Committee on Oversight and Government Reform, House of Representatives, 113th Congress, June 6, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg86795/pdf/CHRG-113hhrg86795.pdf>.

H. Hrg. 113–FC10: The Status of Internal Revenue Service’s Review of Taxpayer Targeting Practices, hearing before the Committee on Ways and Means, U.S. House of Representatives, 113th Congress, June 27, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg21121/pdf/CHRG-113hhrg21121.pdf>.

H. Hrg. 113–66/113–25: Evaluating Privacy, Security, and Fraud Concerns with Obamacare’s Information Sharing Apparatus, joint hearing before the Subcommittee on Energy Policy, Health Care, and Entitlements of the Committee on Oversight and Government Reform, and the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies of the Committee on Homeland Security, House of Representatives, 113th Congress, June 17, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg86193/pdf/CHRG-113hhrg86193.pdf>.

H. Hrg. 113-030: The Internal Revenue Service and Small Businesses: Ensuring Fair Treatment, hearing before the Committee on Small Business, United States House of Representatives, 113th Congress, July 17, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg81937/pdf/CHRG-113hhrg81937.pdf>.

H. Hrg. 113-FC12: The Status of the Affordable Care Act Implementation, hearing before the Committee on Ways and Means, U.S. House of Representatives, 113th Congress, August 1, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg21120/pdf/CHRG-113hhrg21120.pdf>.

H. Hrg. 113-71: Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS, hearing before the Subcommittee on Government Operations of the Committee on Oversight and Government Reform, House of Representatives, 113th Congress, August 2, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg86438/pdf/CHRG-113hhrg86438.pdf>.

16. Speeches (list all formal speeches and presentations (e.g., PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

This is a complete list of materials based on a comprehensive, good faith, and exhaustive search of public and private digital and paper files that I have access to.

#### **Lecture**

"From Crisis to Strategy—Lessons Learned in Public Sector Management." Harvard Kennedy School. September 22, 2022.

#### **Government Matters TV Program (contributor)**

COVID-19 spending, Federal real estate top priorities for next Office of Management and Budget controller, Government Matters (govmatters.tv) (November 4, 2021).

United States Postal Service hiring effort reflects country's labor shortage, Government Matters (govmatters.tv) (August 30, 2021).

Engaged workforce starts with connection to mission, says former agency leader, Government Matters (govmatters.tv) (June 29, 2021).

Proposal for dramatic increase in Internal Revenue Service budget raises questions, Government Matters (govmatters.tv) (May 3, 2021).

Stimulus payment distribution could place burden on IRS during tax season, Government Matters (govmatters.tv) (March 1, 2021).

Filling Senior Executive Service roles, Government Matters (govmatters.tv) (January 4, 2021).

Open letter from bipartisan former officials calls for end to Schedule F, Government Matters (govmatters.tv) (December 13, 2020).

Customer Experience Officers at agencies, Government Matters (govmatters.tv) (November 2, 2020).

New IG memo finds GSA lacks a standard cleaning inspection process, Government Matters (govmatters.tv) (September 10, 2020).

Audit finds Internal Revenue Service has reduced fraud and identity theft, Government Matters (govmatters.tv) (August 26, 2020).

Utilizing Data to Improve Decision Making, Government Matters (govmatters.tv) (August 12, 2020).

Lessons from the oversight of past stimulus bills, Government Matters (govmatters.tv) (August 11, 2020).

Scaling back telework programs across government, Government Matters (govmatters.tv) (August 11, 2020).

Staffing the IRS to process tax returns during the coronavirus, Government Matters (govmatters.tv) (August 9, 2020).

The best places to work in government in 2019, Government Matters (govmatters.tv) (August 3, 2020).

The Internal Revenue Service and customer experience, Government Matters (govmatters.tv) (January 7, 2020).

The lasting impact of the President's Management Agenda, Government Matters (govmatters.tv) (November 4, 2019).

Debating the White House budget in Congress, Government Matters (govmatters.tv) (September 5, 2019).

Money saving properties of government cloud investments, Government Matters (govmatters.tv) (July 1, 2019).

Key management elements of the FY 2020 budget request, Government Matters (govmatters.tv) (May 29, 2019).

Impact of partial government shutdown on IRS operations, Government Matters (govmatters.tv) (May 29, 2019).

Agency success stories in reducing improper payments, Government Matters (govmatters.tv) (May 29, 2019).

Practical implications in merging of Education, Labor Departments, Government Matters (govmatters.tv) (May 29, 2019).

Government efforts to curb and reduce improper payments, Government Matters (govmatters.tv) (May 29, 2019).

White House releases President's Management Agenda, Government Matters (govmatters.tv) (May 29, 2019).

The need and impact of Federal employee recognition, Government Matters (govmatters.tv) (May 13, 2019).

Government Matters (Full Show)—January 16, 2018, Government Matters (govmatters.tv) (January 16, 2018).

How government agencies are preparing for possible shutdown, Government Matters (govmatters.tv) (January 16, 2018).

Foundations for Evidence-Based Policymaking Act passes in house, Government Matters (govmatters.tv) (November 20, 2017).

#### **Gov Actually Podcast on FedScoop.com (co-host)**

- Episode 1: Introducing Gov Actually, <https://soundcloud.com/user-813771492/episode-1-introducing-gov-actually>.
- Episode 2: The Transition Pep Talk, <https://soundcloud.com/user-813771492/episode-2-the-transition-pep-talk>.
- Episode 3: Trimming the fat of the federal government, <https://www.fedscoop.com/gov-actually-episode-3-trimming-the-fat-of-the-federal-government/>.
- Episode 4: OPM's Beth Cobert and "the call," <https://www.fedscoop.com/gov-actually-episode-4-opms-beth-cobert-and-the-call/>.
- Episode 5: Federal leadership 101, <https://www.fedscoop.com/gov-actually-episode-5-federal-leadership-101/>, page 18 of 42.
- Episode 6: The political communication cycle, featuring Eric Schultz, <https://www.fedscoop.com/gov-actually-communication-cycle-eric-schultz-white-house/>.
- Episode 7: The dissent channel, <https://www.fedscoop.com/gov-actually-episode-7-the-dissent-channel-state-department/>.
- Episode 8: Trump's OMB, <https://www.fedscoop.com/gov-actually-episode-8-trumps-omb/>.
- Episode 9: Can Innovation Survive Federal Downsizing?, <https://soundcloud.com/user-813771492/episode9>.
- Episode 10: What We've Learned So Far, <https://soundcloud.com/user-813771492/episode-10>.
- Episode 11: How Regulation Works, <https://soundcloud.com/user-813771492/episode-11-how-regulation-works>.
- Episode 12: Martin O'Malley on leading and managing the government of the future, <https://soundcloud.com/user-813771492/episode-12-martin-omalley-government-leadership>.

- Episode 13: How Infrastructure Works, <https://soundcloud.com/user-813771492/episode-13-how-infrastructure-works>.
- Episode 14: Everything You Need to Know About CBO, <https://soundcloud.com/user-813771492/everything-you-need-to-know-about-cbo>.
- Episode 15: Summer of Gov, <https://www.fedscoop.com/gov-actually-episode-15-summer-gov/>.
- Episode 16: The Oscars of Government Service—Meet the Sammys Finalists, part 1, <https://www.fedscoop.com/gov-actually-episode-16-oscars-government-service-meet-2017-sammies-finalists-pt-1/>.
- Episode 17: Meet the 2017 Sammys Finalists, part 2, <https://www.fedscoop.com/gov-actually-episode-17-meet-2017-sammies-finalists-pt-2/>.
- Episode 18: Meet the 2017 Sammys Finalists, part 3, <https://www.fedscoop.com/gov-actually-episode-18-meet-2017-sammies-finalists-pt-3/>.
- Episode 19: Inside government disaster response, <https://www.fedscoop.com/gov-actually-episode-19-inside-government-disaster-response/>.
- Episode 20: The other side of Trump’s tax reform, <https://www.fedscoop.com/gov-actually-episode-20-side-trumps-tax-reform/>.
- Episode 21: Inside the CFPB Leadership Standoff, <https://www.fedscoop.com/gov-actually-episode-21-inside-cfpb-leadership-standoff/>.
- Episode 22: Government Shutdown 2018—What you need to know, from firsthand experience, <https://www.fedscoop.com/gov-actually-episode-22-government-shutdown-2018-need-know-firsthand-experience/>.
- Episode 23: We Wish You a Merry President’s Management Agenda, <https://soundcloud.com/user-813771492/episode-23-we-wish-you-a-merry-budget-season>.
- Episode 24: Mistrust in the U.S. Government, <https://www.fedscoop.com/gov-actually-episode-24-mistrust-u-s-government/>.
- Episode 25: Dan and Danny are OPM “co-directors for a day,” <https://www.fedscoop.com/gov-actually-episode-25-dan-danny-opm-co-directors-day/>.
- Episode 26: How the government buys things (and why it does it the way it does), <https://www.fedscoop.com/gov-actually-episode-26-government-buys-things-way/>.
- Episode 27: Inside the Senate confirmation process, <https://www.fedscoop.com/gov-actually-episode-27-inside-senate-confirmation-process/>.
- Episode 28: Get Ready for Oversight, <https://www.fedscoop.com/gov-actually-episode-28-get-ready-oversight/>.
- Episode 29: An Idea to Prevent Future Government Shutdowns, <https://www.fedscoop.com/gov-actually-episode-29-idea-prevent-future-government-shutdowns/>.
- Episode 30: The “Dave” episode, <https://www.fedscoop.com/gov-actually-episode-30-dave-episode/>.
- Episode 31: Press and the government, with James Rosen, <https://www.fedscoop.com/radio/gov-actually-episode-31-press-government-james-rosen/>.
- Episode 32: USDA’s relocation, and a conversation on government modernization, <https://www.fedscoop.com/radio/gov-actually-episode-32-usdas-relocation-conversation-private-vs-public-sector/>.
- Episode 33: The federal government’s role in gun control, <https://www.fedscoop.com/radio/gov-actually-episode-33-federal-governments-role-gun-control/>.
- Episode 34: The history and importance of whistleblowers, <https://www.fedscoop.com/radio/gov-actually-episode-34-history-importance-whistleblowers/>.
- Episode 35: Wrapping up 2019 and the decade, <https://www.fedscoop.com/radio/gov-actually-episode-35-wrapping-2019-decade/>.

- Episode 36: The biggest challenges facing America's governments, <https://www.fedscoop.com/radio/gov-actually-episode-36-biggest-challenges-facing-americas-governments/>.
- Episode 37: The Federal Government response to the coronavirus, <https://www.fedscoop.com/radio/gov-actually-episode-37-the-federal-government-respond-to-the-coronavirus-covid-19/>.
- Episode 38: Reflecting on the coronavirus and reopening the U.S., <https://www.fedscoop.com/radio/gov-actually-episode-38-reflecting-coronavirus-re-opening-u-s/>.
- Episode 39: The cost-benefit analysis of saving an American life, featuring Cass Sunstein, <https://www.fedscoop.com/radio/gov-actually-episode-39-governments-cost-benefit-analysis-saving-american-life-w-cass-sunstein/>.
- Episode 40: A Discussion on Race Through the Lens of Government, <https://www.fedscoop.com/radio/gov-actually-episode-40-discussion-race-lens-government/>.
- Episode 41: Inspiring Americans to Serve, featuring Congressman Joe Heck, <https://www.fedscoop.com/radio/gov-actually-episode-41-inspiring-americans-serve-ft-congressman-joe-heck/>.
- Episode 42: Talking presidential history with a “moonlighting” presidential historian, <https://www.fedscoop.com/radio/gov-actually-episode-42-talking-presidential-history-moonlighting-presidential-historian-hamilton-washington-jefferson/>.
- Episode 43: Celebrating Federal Super Heroes with the 2020 Sammies, <https://soundcloud.com/user-813771492/episode-43-celebrating-federal-super-heroes-with-the-2020-sammies>.
- Bonus Episode: Live from the 2020 Sammies Gov Actually Watch Party, <https://soundcloud.com/user-813771492/bonus-episode-live-from-the-2020-sammies-gov-actually-watch-party>.
- Episode 44: On the Transition, Hot Cocoa and Blankets, <https://soundcloud.com/user-813771492/episode-44-on-the-transition-hot-cocoa-and-blankets>.
- Episode 45: Inside the Vital Railroad Industry, <https://soundcloud.com/user-813771492/episode-45-inside-regulation-of-the-vital-railroad-industry>.
- Episode 46: OMB in transition, <https://www.fedscoop.com/radio/gov-actually-episode-46-behind-scenes-biden-transition/>.
- Episode 47: Code for America CEO Amanda Renteria talks modernizing government, <https://www.fedscoop.com/radio/gov-actually-episode-47-code-america-ceo-amanda-renteria-talks-modernizing-government/>.
- Episode 48: “We the Possibility” featuring Mitchell Weiss, <https://www.fedscoop.com/radio/gov-actually-episode-48-we-the-possibility-ft-mitchell-weiss/>.
- Episode 49: Inside the response to the Colonial Pipeline hack, <https://www.fedscoop.com/radio/gov-actually-episode-49-inside-the-response-to-the-colonial-pipeline-hack/>.
- Episode 50: Do Deficits Matter? featuring Steve McMillin, <https://soundcloud.com/user-813771492/episode-50-dp-deficits-matter>.
- Bonus Episode: Here's to 50 and a Look Ahead, <https://soundcloud.com/user-813771492/heres-to-50-and-a-look-ahead>.
- Episode 51: Talking Government Innovation with Beth Simone Noveck, <https://www.fedscoop.com/radio/gov-actually-episode-51-talking-government-innovation-with-beth-simone-noveck/>.
- Episode 52: Talking infrastructure, <https://www.fedscoop.com/radio/gov-actually-ep-52/>.
- Episode 53: Year in Review—The Pandemic Reveals Gaps in Citizen Trust, <https://soundcloud.com/user-813771492/episode-53-year-in-review-the-pandemic-reveals-gaps-in-citizen-trust>.
- Episode 54: Touching on public trust again, <https://www.fedscoop.com/radio/gov-actually-ep-54-touching-on-public-trust-again/>.

- Episode 55: Inside the Russia-Ukraine War, with National Security Expert Troy Thomas, <https://soundcloud.com/user-813771492/episode-55-inside-the-russia-ukraine-war>.
- Episode 56: The Future of Cities, with Maura Brophy, <https://soundcloud.com/user-813771492/episode-56-the-future-of-cities-w-maura-brophy>.
- Episode 57: The Supreme Court's Impact on Federal Regulations, with Stuart Shapiro, <https://soundcloud.com/user-813771492/episode-57-the-supreme-courts-impact-on-federal-regulations-w-stuart-shapiro>.

**Boston Consulting Group Podcast Series “American Metamorphosis.”** Season 1, Episode 1: “The Collider,” <https://www.theatlantic.com/sponsored/bcg-2021/bcg-american-metamorphosis/3565/#seasonone>.

**Fed Heads Podcast.** Episode 53: FedHeads vs. Gov Actually, <https://podcasts.apple.com/us/podcast/episode-53-battle-of-the-podcasts-fedheads-vs-gov-actually/id1345676550?i=1000434960628>.

**Appearances as a witness before the Public Buildings Reform Board.**

- Public Buildings Reform Board public meeting, June 17, 2019, <https://www.pbrb.gov/pbrb/files/2021/01/Public-Meeting-Transcript-June-17-2019-1.pdf>.
- Public Buildings Reform Board public meeting, July 16, 2019, <https://www.pbrb.gov/pbrb/files/2021/01/PBRB-Public-Meeting-July-16-Agenda.pdf>.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

Across a career spanning more than 25 years, I have been committed to learning what it takes to achieve a higher-performing government. Playing roles ranging from junior government staffer to agency principal, on initiatives ranging from routine government operations to the high-stakes crises, my professional journey has provided me with:

**A deep foundation of expertise on government processes**—At the Office of Management and Budget (OMB) and Department of Justice (DOJ) in the early stages of my career, I developed an understanding of the nuts and bolts of government processes—budget, financial management, personnel, acquisition, regulations, enforcement, reporting, technology, and communications. Notably, I led government-wide efforts during both the Bush and Obama administrations to track, report, and mitigate improper payments and fraud. Also, during the 2008/2009 financial crisis, I advised OMB and Treasury Department leadership on the appropriate financial management steps to take in the conservatorship of Fannie Mae and Freddie Mac as well as the successful stand-up of the Troubled Assets Relief Program (TARP) office (leading to a clean audit opinion in the first year of TARP office existence).

**Expertise in public sector management and operations, including managing large, complex efforts**—As my career progressed and I began to take on leadership roles in government, I gained direct experience managing and leading at scale. When the American Recovery and Reinvestment Act of 2009 was enacted, I led the government-wide implementation of the transparency and program integrity requirements of the \$787 billion stimulus program. This work included standing up a nationwide data reporting system in a few short months and establishing the internal control requirements and oversight mechanisms that led to record low error and fraud in the program. During the various Federal budget crises between 2011 and 2013, I served as the administration's point person in preparing all Federal agencies for successful implementation of government shutdown and budget sequestration processes.

**Direct experience with the IRS on a broad range of tax administration topics**—Having earned a reputation across government as a non-partisan government management expert, I was selected to serve in 2013 as Acting Commissioner of the Internal Revenue Service (IRS). In this role, I simultaneously led the IRS's day-to-day work of administering the Nation's tax system while responding to an organizational crisis involving multiple congressional investigations. Despite the complexities of the assignment, I successfully oversaw the launch of the Affordable Care Act (ACA) technologies that IRS was responsible for and navigated the IRS through a multiweek government shutdown.

**Extensive experience working with Congress and other oversight bodies**—As noted in response to question 15 above, I have testified before Congress more than 30 times across my career. As OMB Controller and OMB's Acting Deputy Director for Management, I worked closely with the Council of the Inspectors General on Integrity and Efficiency (CIGIE) on a range of issues to ensure effective oversight of Federal agencies was in place. Also, I worked closely with the Government Accountability Office on a range of issues, including their audit of the annual Financial Report of the United States, a report for which I served as the OMB lead author. At the IRS, I worked closely with the Treasury Inspector General for Tax Administration (TIGTA) to meet and exceed all of their recommendations for addressing implementation issues they identified with the tax-exempt review process.

**Experience and understanding of how private-sector entities advance higher performance**—Over the past 9 years, I have worked in the private sector and gained experience on how leading private-sector companies innovate and change to capture opportunities and meet emerging risks. In my role, I worked with public-sector organizations to consider and determine the best approach for applying similar learnings in a government context.

Of note, I had the privilege of working with and learning from an array of leaders across administrations and agencies. I would be honored to continue my professional journey and serve at the IRS as the Commissioner of Internal Revenue.

## B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.  
Yes.

## C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Designated Agency Ethics Official at the Department of the Treasury to identify any potential conflict of interest. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Treasury Department's Designated Agency Ethics Official and that will be provided to this committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Treasury Department's ethics counsel and take the measures necessary to resolve the conflict.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), whether for yourself, on behalf of a client, or acting as agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.



In connection with the nomination process, I have consulted with the Office of Government Ethics and the Designated Agency Ethics Official at the Department of the Treasury to identify any potential conflict of interest. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Treasury Department's Designated Agency Ethics Official and that will be provided to this committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Treasury Department's ethics counsel and take the measures necessary to resolve the conflict.

3. Describe any activity during the past 10 years (prior to the date of your nomination) in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal Government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that are disclosed by your responses to the above items. (Provide the committee with two copies of any trust or other agreements.)

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Designated Agency Ethics Official at the Department of the Treasury to identify any potential conflict of interest. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Treasury Department's Designated Agency Ethics Official and that will be provided to this committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Treasury Department's ethics counsel and take the measures necessary to resolve the conflict.

5. Two copies of written opinions should be provided directly to the committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Provided to the committee.

#### D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (e.g., an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

None.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

None.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

During my time as Acting Commissioner of the IRS, I was named in numerous legal proceedings in my official capacity. The below list of identified cases is based on a comprehensive and exhaustive search. I will supplement for the committee if additional cases are discovered.

Case Name	Court	Date
<i>Freedom From Religion Foundation, et al. v. Daniel Werfel</i>	United States District Court, Wisconsin Western	December 26, 2012

Case Name	Court	Date
<i>Blakley et al. v. Lew et al.</i>	United States District Court, New York Southern	April 1, 2013
<i>Citizens for Responsibility and Ethics in Washington v. U.S. Department of the Treasury, Internal Revenue Service et al.</i>	United States District Court, District of Columbia	May 21, 2013
<i>True the Vote, Inc. v. Internal Revenue Service et al.</i>	United States District Court, District of Columbia	May 21, 2013
<i>Linchpins of Liberty et al. v. United States of America et al.</i>	United States District Court, District of Columbia	May 29, 2013
<i>Schussel v. Werfel</i>	U.S. Court of Appeals for the First Circuit	June 3, 2013
<i>SMA, LLC et al. v. Sebelius et al.</i>	U.S. District Court for the District of Minnesota	June 6, 2013
<i>Latos v. Werfel</i>	U.S. Court of Appeals for the First Circuit	June 11, 2013
<i>Latos v. Werfel</i>	U.S. Court of Appeals for the First Circuit	June 11, 2013
<i>Known Doe Plaintiffs 1–4 et al. v. Bedard et al.</i>	U.S. District Court for the Eastern District of California	June 24, 2013
<i>Daniel Medford et al. v. Kathleen Sebelius et al.</i>	U.S. District Court for the District of Minnesota	July 2, 2013
<i>Perez v. Werfel</i>	United States Court of Appeals, Second Circuit	July 16, 2013
<i>Watts v. Werfel</i>	United States District Court, Colorado	July 17, 2013.
<i>Sickles v. Internal Revenue Service et al.</i>	U.S. Bankruptcy Court for the District of Oregon	July 30, 2013
<i>Matthew v. United States of America et al.</i>	United States District Court, Texas Northern	August 6, 2013
<i>Hughes v. United States of America et al.</i>	U.S. District Court for the Western District of Washington	August 15, 2013
<i>Haag v. United States of America et al.</i>	United States District Court, South Dakota	August 16, 2013
<i>Estate of S. Jayne Esgar v. USA et al.</i>	United States District Court, Colorado	August 21, 2013
<i>Charlton et al. v. Werfel</i>	United States District Court, New Jersey	August 30, 2013
<i>John E. Rott v. Oklahoma Tax Commission et al.</i>	Oklahoma District Court, Garfield County	September 3, 2013
<i>Caldwell v. Obama et al.</i>	United States District Court, District of Columbia	September 12, 2013
<i>Dehko et al. v. Holder et al.</i>	U.S. District Court for the Eastern District of Michigan	September 25, 2013

Case Name	Court	Date
<i>Dehko et al. v. Holder et al.</i>	United States District Court, Michigan Eastern	September 25, 2013
<i>Feltl and Company, Inc. et al. v. Sebelius et al.</i>	U.S. District Court for the District of Minnesota	September 25, 2013
<i>Rott v. Oklahoma Tax Commission et al.</i>	United States District Court, Oklahoma Western	September 30, 2013
<i>Garner v. United States of America et al.</i>	U.S. District Court for the District of Columbia	October 1, 2013
<i>Kawa Orthodontics, LLP v. Lew et al.</i>	United States District Court, Florida Southern	October 1, 2013
<i>Green v. Werfel</i>	United States District Court, Florida Middle	October 7, 2013
<i>Indiana et al v. Internal Revenue Service et al.</i>	U.S. District Court for the Southern District of Indiana	October 8, 2013
<i>Johnson et al. v. Werfel et al.</i>	U.S. District Court for the Eastern District of Virginia	October 10, 2013
<i>Association of American Physicians and Surgeons Inc. et al. v. Koskinen</i>	United States District Court, Wisconsin Eastern	October 30, 2013
<i>Doboszinski and Sons, Inc. et al. v. Sebelius et al.</i>	U.S. District Court for the District of Minnesota	November 14, 2013
<i>Titus v. United States of America et al.</i>	United States District Court, New York Western	December 4, 2013
<i>Guancione v. Werfel et al.</i>	U.S. Bankruptcy Court for the Northern District of California	December 5, 2013
<i>Polsky et al. v. Werfel</i>	U.S. District Court for the Eastern District of Pennsylvania	January 27, 2014
<i>Keith Caldwell, Sr. v. Barack Obama et al.</i>	U.S. Court of Appeals for the D.C. Circuit	April 17, 2014
<i>Clark v. Dunn et al.</i>	U.S. District Court for the District of New Jersey	April 21, 2014
<i>Blakley v. Lew</i>	U.S. Court of Appeals for the Second Circuit	April 22, 2014
<i>Rosalie Aubree Guancione v. Daniel I. Werfel et al.</i>	United States District Court, California Northern	June 6, 2014
<i>Tinnon v. Department of Treasury et al.</i>	United States District Court, Michigan Eastern	June 16, 2014
<i>Rott v. Oklahoma Tax Commission et al.</i>	U.S. Court of Appeals for the Tenth Circuit	July 18, 2014
<i>Melot v. Werfel</i>	United States District Court, New Mexico	November 19, 2014
<i>Rosalie Guancione et al. v. Daniel Werfel et al.</i>	U.S. Court of Appeals for the Ninth Circuit	April 2, 2015

Case Name	Court	Date
<i>Rosalie Aubree Guancione v. Daniel I. Werfel et al.</i>	United States District Court, California Northern	May 13, 2015
<i>Green v. Werfel</i>	U.S. District Court for the Middle District of Florida	July 1, 2016
<i>Bufkin v. Scottrade, Incorporated et al.</i>	United States District Court, Florida Middle	May 22, 2017
<i>Wells et al. v. Unknown Named IRS Employee et al.</i>	United States District Court, Texas Southern	April 17, 2019
<i>Michael Bufkin v. Scottrade, Inc. et al.</i>	U.S. Court of Appeals for the Eleventh Circuit	May 22, 2019

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.  
None.
5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.  
None.

#### E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?  
Yes.
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?  
Yes.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO HON. DANIEL I. WERFEL

##### QUESTIONS SUBMITTED BY HON. RON WYDEN

###### PRESIDENTIAL AUDIT PROGRAM

*Question.* We have heard reports that the IRS didn't begin auditing Trump's tax returns until 2 years after he became President—and only assigned *one auditor* despite the complexity of the returns. This suggests that the program is broken.

What is your plan to get the presidential audit program functioning properly and restore public confidence?

*Answer.* In order for the tax system to work, taxpayers must have confidence that all taxpayers, regardless of who they are, pay what they owe and are treated fairly and impartially. I cannot speak to how the presidential audit program is currently working. If confirmed, I would put my time and attention into ensuring this program works as intended.

###### USING EXISTING IRS INFO TO CATCH TAX CHEATS

*Question.* The IRS receives a lot of third-party information reporting that it hasn't been able to use because of a lack of funding. This includes information about pass-through income, capital gains, credit card receipts and foreign assets. The Inflation Reduction Act provided the IRS with more funding.

What will you do to ensure the IRS starts using more of this data to catch wealthy tax cheats?

*Answer.* It is essential that our tax system operates fairly, and right now, there is significant evidence that high earners are paying significantly less than what they owe in taxes. For example, an assessment from the National Bureau of Eco-

nomic Research indicates that working people pay 99 percent of the taxes they owe, while 20 percent of the income from wealthy individuals and large corporations is shielded from IRS view. This outcome degrades public trust in our tax system because honest taxpayers should know that when they file an accurate return with the IRS that all other taxpayers, including the wealthiest Americans, are doing the same. Funding in the IRA will help address this disparity and allow the IRS to focus on the highest-income earners. As you know, I have a long career working in government and in the private sector focused on data-driven solutions, and, if confirmed, I will work to strengthen the manner in which relevant data is utilized to inform the best approach for deploying the IRA funds to improve tax compliance by the wealthy and large corporations, in addition to providing customer service and improving IT.

#### IRS WHISTLEBLOWER PROGRAM

*Question.* Whistleblowers have delivered a huge return on investment for the agency and can serve as effective partners to help the IRS to unpack sophisticated schemes used by wealthy taxpayers and large corporations. They have helped the IRS collect over \$6 billion directly from wealthy individuals and businesses caught cheating on their taxes. That's why I am cosponsoring The IRS Whistleblower Program Improvement Act with Senator Grassley.

Will you ensure the IRS whistleblower program gets the support it needs?

What steps will you take to ensure claims are considered in a timelier manner and will you commit to reporting to me on the effectiveness of these measures?

*Answer.* I thank you and Senator Grassley for your bipartisan work over the years on this important issue. It is critical that the IRS's whistleblower program be a top priority. To ensure the effectiveness of the current program I will seek to understand the following: (i) what metrics are in place to assess the health of the program (e.g., employee awareness, IRS responsiveness to claims, timing for resolution, etc.); (ii) what is the current performance versus historical; (iii) how does performance stack up against other similar Federal programs; (iv) what are the current improvement goals; and (v) who is accountable within the IRS for the program. If confirmed, I commit to getting up to speed on these matters and reporting back to you on my assessment and plans going forward.

#### HIGH INCOME NON-FILERS

*Question.* My staff received information from the IRS indicating that 195 wealthy tax cheats who hadn't even filed a tax return going back to 2015 owed a whopping \$692 million. These high filers owed \$1.77 million per person. The IRS said it didn't have the resources to collect these taxes. The IRS now has IRA funding to get a better handle on the matter.

What will you do to ensure my staff gets updates on this important issue, including the enforcement measures that have been taken with respect to the top 300 high-income non-filers for tax years 2015, 2016 and 2017? Will you fully cooperate with information requests on this topic from the committee?

*Answer.* It is critical that we demonstrate to the American people how Inflation Reduction Act dollars positively impact our tax system. In addition to improving technology and customer service, the IRS must also build public trust by showing that compliance is not focused only on those who have easier returns to examine. Public trust, transparency, accountability, and stewardship of taxpayer dollars are important guiding principles for me. If confirmed, I commit to working with the committee, within the appropriate laws and regulations, to keep you appropriately informed.

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#### QUESTIONS SUBMITTED BY HON. MIKE CRAPO

*Question.* I'd like to drill down on a question asked by several of my colleagues with respect to the IRS's recent "level of service" statistics for phone service in the 2023 filing season, to date.

The National Taxpayer Advocate (NTA) has written and testified to Congress that the level of service statistic is problematic and does not adequately measure whether "the agency is doing a good job communicating with taxpayers over the phone."

As additional evidence, the IRS's stated overall level of service statistic provided to the "eight corners" congressional staff for this filing season reads at over 89 percent as of February 3, 2023, notwithstanding that an IRS employee has only answered 2.8 million of the 7.1 million calls the IRS has received to date during open hours, *i.e.*, 39.4 percent of calls.

Based upon your experience managing and advising Federal agencies, do you agree (or disagree) that the NTA's concerns are valid? If not, why not?

If so, and if confirmed as Commissioner, do you agree to identify a phone service metric that more adequately measures whether the IRS is providing taxpayers the phone service the Taxpayer Bill of Rights demands, and report back to me by Tax Day 2023 as to what this metric is and why it is an improvement over the level of service measure?

Assuming you are confirmed, and once stakeholders have had an opportunity to comment on the metric, do you agree that the IRS will begin reporting this statistic in place of the level of service statistic? If not, why not?

Answer. The National Taxpayer Advocate (NTA) is a critical, independent voice at the IRS, ensuring that every taxpayer is treated fairly and recommending changes to help taxpayers solve problems. Further, taxpayers deserve better customer service from the IRS, and I share your desire to improve IRS service, whether that's online, over the phone, or in person, based on the principle of the right to quality service. I believe the IRS must use data-driven performance metrics and have an evidence base for making decisions that will help improve customer service. If I understand your question correctly, the NTA has raised a question on whether the current methodology properly assesses the responsiveness and quality of IRS phone service. While I would want to better understand the IRS measurement approach and the NTA concerns before offering a more complete response to you, I appreciate you raising the issue given the importance of ensuring that measurement methodologies are robust, objective, and statistically sound. If confirmed, I look forward to studying NTA's concerns, working with them closely to understand every way we can improve and report on customer service, and working with the committee on the best way for the IRS to measure and report on its progress on level of service.

*Question.* Based upon your comments at the hearing, I understand you profess a strong belief that government must act in a way to bolster the public's trust—in both process and results—as well as use "best practices" in planning for and implementing changes, particularly ones with complexity, cost, and significant risks.

Do you believe it is necessary that all IRS planning, analysis, and study be conducted using best practices, including the selection of experts and identification and preparation of data?

Does the use of unqualified or biased experts (including any individual or organization that may stand to benefit from the action) and/or flawed data reduce the prescriptive value of a study?

If confirmed as Commissioner, will you commit to only using best practices in planning, analysis, and studies conducted by the IRS?

Answer. Yes, I believe that following best practices is critical to ensuring the success at any organization. Over my career, I have strived to bring a rigorous, analytical approach to decision-making and believe we must ensure the data used to make decisions are of the highest quality. As noted in your question, for evidence to have fidelity, it must be compiled objectively. Based on my experience, you can help ensure objectivity through a variety of steps, including for example, transparency on the methodology and being open to feedback on the methodology through peer review. If confirmed, I intend to bring these principles to my work at the IRS and will be keen to understand where this committee believes there is a risk of bias or subjectivity in the evidence base we create to guide decision-making.

*Question.* We understand that you have been wholly uninvolved in the IRS's planning with respect to spending the \$80 billion in additional funding. From a process management standpoint, this is far from ideal because the plan is likely to be complete before you ever have a chance to provide input on it.

Do you believe it will be necessary for the IRS to provide regular updates to its plan in order to not only capture your insights—now and in the future—but also be transparent and accountable about what is working and what is not? If so, and if confirmed, do you commit to providing these?

Answer. Yes, I believe there should be regular updates and that transparency and accountability will be critical to success. Since I am not currently at the IRS, I do not know the exact cadence that would work best. However, if confirmed, I will work with IRS and Treasury to ensure the committee and the American people are updated with appropriate frequency. I look forward to sharing more specifics if I am confirmed.

*Question.* Many small and medium-sized businesses may not file for the R&D tax credit on their original return, but instead file an amended return to claim the credit. The IRS has recently instituted a new policy that requires companies applying for the R&D tax credit on an amended return to provide a detailed discussion of why their company qualifies for the R&D tax credit.

My understanding is that in practice this new policy has placed significant burdens on small and medium-sized businesses due to the fact that the IRS has not provided adequate, detailed guidance and examples of the information the IRS is looking for the taxpayer to provide.

In addition, taxpayers are waiting months and months for an IRS reply to questions regarding the information the IRS is seeking from the taxpayer—because there has not been adequate staffing of this new initiative by the IRS.

The policy—and particularly the IRS administration of this new policy—has undermined the goal of Congress in enacting the R&D tax credit of incentivizing and supporting innovative small and medium sized companies.

Based upon your experience, do you believe that requiring ill-defined information relating to a credit will negatively impact either the utilization of the credit and/or tax administration?

If confirmed, will you provide me a more detailed response to the issue of how the IRS's requirement is impacting R&D credit claimants and the IRS in writing within 90 days of your being sworn in as Commissioner?

Answer. I believe it's important for the IRS to provide as much clarity as possible when administering the tax code. Where possible, tax administration should be improved to reduce complexity, within legal and regulatory bounds. If confirmed, I would look forward to studying this issue and working to ensure the committee is best informed about this specific issue of tax administration. I recognize how critical the R&D tax credit has been to members on both sides. It will be a priority to respond to these and other R&D tax credit questions after consulting with those at IRS responsible for these matters, if confirmed.

*Question.* A number of my colleagues and I are concerned about the IRS's processing of employee retention tax credit (ERTC) claims, and hear from both constituents, stakeholders, and even the local taxpayer advocate that IRS delays in processing these vital payments are harming taxpayers (and tax administration). I also have heard that there have been numerous fraudulent ERTC claims, which are clogging the IRS and leading to significant delays for legitimate claimants. If confirmed, will you provide me within 90 days of being sworn in a detailed response regarding the current backlog of ERTC claims, including a concrete description of what you plan to do to resolve these and address issues of fraudulent claims?

Answer. Through this nomination process, I have heard from many Senators about the employee retention tax credit and the impact of delays on small businesses and nonprofits. I understand the importance of ensuring taxpayers receive the tax benefits they are owed and the frustration that delays can cause. If confirmed, I commit to prioritizing this issue and briefing the committee on what I learn.

*Question.* I am concerned, as is the NTA, that the IRS will prioritize achieving certain service metrics at the expense of delivering on others, such as prioritizing answering phones but de-prioritizing processing paper returns. If confirmed, do you commit to directing the IRS to use its resources systemically and address all taxpayer service areas with equal importance as opposed to arbitrarily singling out one or the other?

Answer. In any organization, it is imperative to seek success for all core goals. Customer service is one of these goals at the IRS. If confirmed, I commit to studying the IRS's current and future resource allocation and looking for any way to improve customer service whether it be over the phone, in-person, online, or by mail. I am particularly interested in benchmarks from world class customer service organizations from both the private and public sectors. From these benchmarks, we can

identify best practices in terms of measurement and performance. I think the American people deserve an IRS that can meet and exceed these benchmarks and, if confirmed, will work tirelessly toward that end.

*Question.* Who do you believe should ultimately be responsible for the IRS's planning for and implementation of its IRA funding (*e.g.*, the IRS Commissioner, the head of the IRS's IRA Implementation Office, Director of IRA Implementation at the Treasury Department, the Treasury Secretary, etc.) and do you believe the IRS must clearly inform the public about where the responsibility lies?

*Answer.* I do not currently know all the legal and regulatory requirements involved in the Inflation Reduction Act's implementation, but, if confirmed, I would look forward to working within all applicable requirements to ensure all are met. If confirmed, I would work with Congress to ensure all actions taken are transparent, to build trust with Congress and the public. All this being said, if confirmed as IRS Commissioner, I will embrace accountability, transparency, and stewardship of taxpayer dollars for all activities that occur on my watch.

*Question.* If confirmed as Commissioner, how will you act when you are required to make decisions that have policy implications?

*Answer.* The role of the IRS is principally in administering the tax code, not tax policymaking. As such, if confirmed, if there are matters that involve policy implications, I would work with Congress and Treasury to inform and consult on the ability of the IRS to effectively implement policies, balancing such factors as data security, administrative burden on taxpayers, resource needs, and more. It will be important to me, if confirmed, to have policymakers informed about IRS implementation actions.

*Question.* Taxpayers and those who work with or around the IRS desperately want a functional and modern IRS.

When you consider what the IRS should fund with the relatively meager \$4.7 billion in additional funding for IT modernization that the IRA gave it, what are the characteristics of those systems and technology it should prioritize?

Recently, the Government Accountability Office noted that the IRS's modernization efforts have been hampered by competing priorities which are delaying the modernization of critical infrastructure systems and impede the IRS's ability to effectively serve taxpayers. In our conversations, you have mentioned observing similar dynamics at other Federal agencies. If confirmed as Commissioner, what areas of technology modernization are you most focused on for improving the way the IRS serves taxpayers?

*Answer.* Throughout my career, I have worked with many Federal agencies to ensure any funding provided by Congress is fully utilized in the most effective way possible. If confirmed, I would look forward to learning more about the IRS's current technology needs and focusing current resources on both areas where core infrastructure can be improved and where technological improvements can result in better customer service.

While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current thinking is that the top modernization priorities fall into three buckets: ensuring the Individual Master File and Business Master File are updated to a modern platform to optimize data security and cyber resiliency, given the sensitivity of data maintained in those systems; embedding innovative technology into IRS's service work—whether on the phones or online—to help significantly increase responsiveness to taxpayers trying to make contact with the IRS; and digitizing paper forms into machine-readable output upon receipt to manage and get healthy on inventory and help increase overall efficiency of return processing.

*Question.* You testified repeatedly about upholding the public trust in the IRS, and repudiated things that degrade that trust. Based on your experience and belief, do you believe that the fact that taxpayer information illegally obtained by ProPublica remains in the possession of ProPublica and continues to be used by ProPublica degrades the public's trust in the IRS and the security of information provided to the IRS?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and the IRS. My understanding is that this matter was immediately referred to the appropriate authorities, including the Treasury Inspector General for Tax Administration (TIGTA), the Department of Justice, and Treasury's Office of Inspector



General, each of which conduct their work independently of the IRS. I cannot speculate about that work, any potential findings, or the timeline. I can commit to you that, if confirmed, I will ensure the IRS continues to prioritize protecting taxpayer information and will take any appropriate action to do so.

*Question.* A particular pain point for tax practitioners are systems whereby bulk filers, including third parties, interact with the agency.

Do you agree a modernized IRS must provide these services—and provide them well?

If confirmed, will you commit to reporting back to me with respect to your plan for implementing modern systems that allow for tax practitioners, businesses, and bulk filers to interact with the IRS more easily, *including* (without limitation) a portal for bulk filers to authenticate on a firm-wide basis, interact with the IRS electronically on routine issues such as requesting account holds, uploading correspondence, validating EINs, requesting transcripts, asking for payment frequency or filing frequency verification, and providing payment information to be located/properly applied to the account?

Answer. Yes, if confirmed, I would look forward to learning about this specific issue, where the IRS has current capabilities, and working with you and your staff to improve service, including for practitioners and other bulk filers.

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#### QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* According to the National Taxpayer Advocate, in fiscal year 2021 telephone assistance reached an all-time low of only 11 percent of calls answered by an IRS employee, and this rate only increased to 13 percent in fiscal year 2022. Additionally, millions of pieces of paper taxpayer correspondence including tax returns piled up while the IRS was shuttered in 2020 and the IRS still struggles with a backlog. As of February 4, 2022, the IRS was still processing 2 million 2022 or prior year tax returns and millions of other pieces of taxpayer correspondence.

While the partisan legislation enacted last year provides nearly \$80 billion in additional funding, the smallest share of around \$3 billion is reserved for taxpayer service. Super-sizing enforcement with the more than \$45 billion provided would be unfair to taxpayers who have struggled to contact the IRS or whose correspondence is buried in a pile with millions of other taxpayers.

If confirmed, do you pledge to utilize the more than \$3 billion provided for taxpayer service to resolve the IRS customer service and filing processing backlogs before bringing the enforcement hammer down on taxpayers who may already be trying to comply with their tax obligations?

Answer. Implementation of the laws passed by Congress is a critical responsibility of any Federal agency. If confirmed, I look forward to quickly learning what the IRS's plans and resource allocation are and ensuring customer service is a priority. As I discussed in the hearing, I would plan to prioritize improving service and getting back to healthy inventory levels and closing the tax gap where IRS has historically lacked the capacity to unpack complex returns of wealthy and corporate tax evaders.

Critical to this approach is making sure that working families and small businesses see no increase in audit rates relative to historic levels, consistent with Secretary Yellen's pledge. Instead, the entire focus for these taxpayers when it comes to new funds under the Inflation Reduction Act should be on customer service, return processing, and providing them upfront help to file accurate returns and access the credits and deductions for which they may be eligible.

*Question.* In your written testimony, you echo Secretary Yellen's directive asserting that the additional IRS funding "will not increase audit rates, relative to historic levels, for small businesses and households making under \$400,000. . . ." However, a number of open questions remain as to how the IRS will implement this directive, including what measure of income will be used (*i.e.*, AGI, MAGI, taxable income, etc.) and what metrics will be used to determine past and present audit rates.

Please provide a detailed explanation of how, if confirmed, you intend to implement Secretary's Yellen's directive, including identifying what measure of income and audit metrics will be used to comply with the directive.

Answer. Secretary Yellen and the IRS have committed that the IRA funding will not be used to increase audit rates, relative to historic levels, for households and small businesses making under \$400,000 a year. As I said at the hearing, I will work to meet Secretary Yellen's pledge and ensure that the IRA funding is not used to increase audit scrutiny on middle-income Americans or small businesses. As I have not been involved yet with the planning process for the IRA funding, I do not have specifics on how IRS will implement this directive.

This is an important question, and the committee and the American people will need to understand how the IRS is upholding Secretary Yellen's commitment. If confirmed, I look forward to ensuring that IRS be clear about implementation of this commitment.

*Question.* The IRS Funding Accountability Act authored by Senator Thune and I would require the IRS to regularly update Congress on audit rates and other enforcement actions by income group. If confirmed, will you direct the IRS to provide quarterly reports to Congress on audit rates and enforcement actions? Also please indicate if you would be willing to include the following in such reports:

- An analysis identifying historic and current audit rates by income group, including a group reflecting the IRS calculation of taxpayers earning less than \$400,000, beginning in 2018 through the current fiscal year.
- A detailed description of what constitutes an "audit" to the IRS, and whether and how that definition differs from how the National Taxpayer Advocate, the Comptroller General of the United States, or the Treasury Inspector General for Tax Administration defines an audit.
- A categorization of the number of audits for each income group which were, correspondence audits, office audits, field audits, audits under the Tax Compliance Measurement program, and any other audits.
- A description of all taxpayer compliance actions or initiatives expected to be undertaken using funding provided by the Inflation Reduction Act that do not rise to the level of an audit.

Answer. I believe it's important that the IRS's plans are transparent, updated, and clear to you and the American people. Since I am not currently at the IRS, I do not know the intervals or format that would work best. However, if confirmed, I will work with IRS and Treasury to ensure you and the American people are updated on the progress and would be committed to studying these four recommendations as part of that process.

*Question.* During your nomination hearing you were asked about providing initial and current annual reports on IRS plans to spend the \$80 billion in additional funding provided by the Inflation Reduction Act. In August of 2022, Secretary Yellen requested that IRS issue an "operational plan" for deploying the \$80 billion.

What is your understanding of the status of this plan? Will it be released this month in accordance with Secretary Yellen's directive?

Answer. I am not familiar with any aspect or timing of the plan beyond reading public news reports.

*Question.* According to the Treasury Inspector General for Tax Administration (TIGA), IRS is also developing a more detailed FY 2023 "IRA spend plan." As with the "operational plan," if confirmed, will you commit to publicly releasing this plan?

Answer. I am not familiar with any aspect of this plan. However, transparency will be a critical element of my approach as Commissioner, if confirmed. I look forward to keeping you the public informed on our plans.

*Question.* During your nomination hearing, Chairman Wyden asked you to commit to provide a prompt response in writing to any questions addressed to you by any Senator of the committee, and you agreed to that.

On Friday, February 10, 2023, Secretary Yellen finally responded to written questions sent to her after a June 7, 2022, hearing on the President's Fiscal Year 2023 budget request. Aside from not being prompt, the response included the disclaimer that "Secretary Yellen's responses to these Questions for the Record reflect information available as of the date of receipt of these questions, June 16, 2022."

Do you pledge to respond to all questions and letters promptly and with information that is as current as reasonably available?

Answer. Yes.

*Question.* Should you have any difficulty in fully responding to any of my requests or questions, will you work with my staff to reach an acceptable accommodation rather than providing a woefully outdated or incomplete response?

Answer. Yes.

*Question.* As I mentioned at the hearing, the IRS whistleblower program has helped raise more than \$6 billion, but has the potential to bring in billions more if used effectively. Please address the following questions.

Do you agree that the IRS whistleblower program is an important and underutilized tool in addressing the tax gap and will you work with myself, this committee, and Congress to improve the ability of the IRS whistleblower program to speedily process whistleblower claims?

Do you agree that for the IRS whistleblower program to be effective, the IRS as a whole needs to cultivate and maintain a culture of support for whistleblowers that recognizes and rewards their value? Will you ensure that all components of the IRS, including the Office of Chief Counsel are supporting the work and mission of the IRS Whistleblower Office?

If confirmed, will you commit to working with the Director of the IRS Whistleblower Office to develop a plan improving the function of the office such that more awards are paid out in less time? Furthermore, will you report back to me within 60 days of your confirmation on the plan's progress?

Answer. I thank you and Chairman Wyden for your bipartisan work over the years on this important issue. It is critical that the IRS's whistleblower program be treated with the highest priority. To ensure the effectiveness of the current program I will seek to understand the following: (i) what metrics are in place to assess the health of the program (*e.g.*, employee awareness, IRS responsiveness to claims, timing for resolution, etc.); (ii) what is the current performance versus historical; (iii) how does performance stack up against other similar Federal programs; (iv) what are the current improvement goals; and (v) who is accountable within the IRS for the program. If confirmed, I commit to getting up to speed on these matters and reporting back to you on my assessment and plans going forward.

*Question.* The IRS private debt collection program was established in 2015 on bipartisan basis. Its primary role is pursue tax debts that the IRS would otherwise ignore. The program initially got off to a slow start in part due to resistance from within the IRS. However, in recent years it has proven its ability to return significant sums to the Treasury. Since 2019, it has collected nearly \$3 billion in net revenue, including over \$1.3 billion in FY 2022 alone.

If confirmed, will you ensure this program continues to be used to its full extent under the law?

Answer. If confirmed, I will work with the IRS to make sure all taxes owed are collected in an efficient and effective manner. I am interested in understanding more about the current status of the private debt collection program and will work with you and your team on how this program can best support the IRS mission.

*Question.* You have worked at the Boston Consulting Group (BCG) since March 2014. Please address the following questions related to your employment at BCG.

Since joining BCG, has the firm entered into any contracts, or made an effort to enter into any contracts, with the IRS or Treasury Department?

Are there any existing engagements between the BCG and the IRS or Treasury Department?

If you have done any work relating to the IRS or Treasury Department for BCG, please describe the goals and results of any projects you worked on.

What foreign countries did you perform work on behalf of while with BCG?

Is there any provision in any contract between yourself and the BCG that makes any distinction between you leaving the firm for other private employment, versus you leaving the firm to work for the Federal Government in a high-level position?

Answer. As part of this confirmation process, I was eager to make all required disclosures concerning my current employment to ensure there are no conflicts of interest, perceived or otherwise. It is my understanding that I have fully complied with all required disclosures and remain committed to being available to respond to any questions to ensure the committee has appropriate transparency. Of note, all of my government clients during my time at BCG have been U.S. Federal agencies.

As I mentioned in my due diligence meeting with your staff, earlier in my BCG tenure (*i.e.*, more than 5 years ago), I was asked, on occasion, to provide operational advice to other firm clients, including government clients in the United Kingdom, Australia, Saudi Arabia, and UAE. I spent less than 1 percent of my time over 9 years on these types of calls. Neither the IRS nor Treasury have been a client of mine during my BCG tenure. In terms of my contractual departure requirements, I have a noncompete clause which would impact my ability to join a competitor consulting firm. However, taking on a government role does not trigger this clause.

*Question.* In 2013, you served as Acting Commissioner of the IRS just after it came to light that the agency had inappropriately singled out certain social welfare organizations for extra scrutiny. That episode highlighted how important it is for the IRS to avoid even the appearance of political bias if it is to do its job effectively. Unfortunately, that hasn't stopped certain members of Congress from writing the IRS to urge them to investigate certain non-profits that support causes or hold political views opposite their own.

If confirmed, how would you respond to such requests?

Do you agree IRS must not allow politically charged comments or letters from members of Congress to influence its enforcement decisions?

*Answer.* In order for our tax system to work, taxpayers must have confidence that all taxpayers, regardless of who they are, are being treated fairly and impartially. If confirmed, I will make sure that taxpayers—regardless of background and whether they are individuals, small businesses, or nonprofits—are being treated fairly and that the tax laws are being applied impartially and equally to all. Your question raises a particularly unique dimension of tax administration—how to address specific requests from Congress that are not broad in scope, but narrow and applicable to compliance or investigation in a given matter. If confirmed, this is an area where I will seek this committee's advice on the best approach to ensure that the IRS and Congress are working in a manner together that meets the objectives of equity, fairness, and building trust.

*Question.* At your hearing, I asked about IRS implementation of recommendations by the Treasury Inspector General (TIGTA) pertaining to cloud systems and protecting taxpayer data. One example of the recommendations to which I referred comes from a September 2022 TIGTA report. In that report, TIGTA recommends that the IRS “[e]xpeditious full implementation of the cloud security control infrastructure” and in a second recommendation requests the IRS “[d]evelop an implementation plan for selected cloud capability gaps.” Concerning the first recommendation, in their response to TIGTA, the IRS notes that through the Internal Revenue Manual (IRM) the “IRS has a robust and comprehensive security control infrastructure documented within IRM 10.8.1 and 10.8.24 for cloud implementations.” TIGTA responds by noting “[t]he IRS's corrective action does not address the intent of our recommendation.”

If confirmed will you agree to seriously and systematically address IRS information technology issues by not only addressing recommendations from evaluators such as GAO and TIGTA, but to ensure that IRS systems and taxpayer information are actually secure?

*Answer.* Data security and protecting taxpayer information is one of the most important responsibilities of the IRS. During my tenure at OMB, I observed cases where Federal agencies came short of meeting an IG or GAO recommendation and always sought to closely review and understand these circumstances. When I left OMB and went to the IRS in 2013, I was very focused on making sure the IRS fully implemented all TIGTA recommendations made during my tenure. If confirmed, I will seriously and systematically consider all TIGTA recommendations.

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#### QUESTIONS SUBMITTED BY HON. JOHN CORNYN

*Question.* During the COVID-19 pandemic, Congress created the Employee Retention Tax Credit (ERTC) to support employers who kept their employees working. Numerous Texas small businesses have yet to have their ERTC processed. Many of these businesses have been forced to take extraordinary measures to stay afloat, including layoffs and additional loans. For example, one constituent has been waiting for their ERTC since September 2021. This small business utilizes a third-party payer who submits this business's ERTC information to the IRS on quarterly payroll tax returns.

The return filed by the third-party payer shows the aggregate amount of ERTC being claimed by its small business clients, but also includes an attached “schedule” that itemizes the amount of ERTC claimed by each small business. It appears that the IRS may be focusing on the aggregate amount reported rather than using the itemized information to look through each individual ERTC claim to process them faster and get help to small businesses that have been waiting for years in some instances.

If confirmed, will you commit to making the necessary improvements, including using the itemized ERTC claim information, to deliver the credit that these small businesses are owed?

Answer. Through this nomination process, I have heard from many Senators about the Employee Retention Tax Credit and the impact of delays on small businesses and nonprofits. I understand the importance of ensuring taxpayers receive the tax benefits they are owed and the frustration that delays can cause. If confirmed, I commit to prioritizing this issue and briefing you and your staff on what I learn.

*Question.* A number of my constituents help support small businesses by facilitating small business payroll, benefits, human resources, tax administration, and many other tasks, which allows small businesses to focus on their core competency, grow, and create more jobs. Unfortunately, it has come to my attention that bureaucratic impediments have led to extended delays in processing the Employee Retention Tax Credit (ERTC) owed to these small businesses. In addition, I have been informed that the IRS has been asked repeatedly about ways they could help speed up the process for small businesses that utilize these third parties.

I have previously contacted the IRS on behalf of a number of small business constituents (who utilize a third party) about addressing these obstacles but the response from the IRS was unhelpful. If confirmed, will you commit to reviewing and implementing the necessary measures that will help expedite the processing of ERTC claims for small businesses that use third parties to assist with tax administration?

Answer. Please see the answer to the question above.

*Question.* In October 2022, the Internal Revenue Service released tax gap estimates for tax years 2014 through 2016. The gross tax gap is the difference between what the *IRS believes* is the “true” tax liability for a given period and the amount of tax paid on time by taxpayers. What percentage of the tax gap is not collectible? If you do not have this information, will you commit to providing it to me within 90 days of being sworn in as Commissioner should you be confirmed?

Answer. Closing the tax gap is essential both to protect the government’s bottom line and to ensure the government is funded to provide essential services. If confirmed, I commit to studying the IRS’s tax gap, understanding where there are gaps in both information and collection, and communicating the findings with you and this committee.

*Question.* Please provide a breakdown of the tax gap by income. Specifically, what percentage of the tax gap is attributable to households making less than \$50,000; \$100,000; \$250,000; \$400,000; \$1,000,000 and over \$1,000,000? Please also include a breakdown by income for the numbers of taxpayers/households contributing to the tax gap for each group and the dollars for each group. If you are unable to provide this information, will you commit to providing full and complete numbers to me within 90 days of being sworn in as Commissioner should you be confirmed?

Answer. Please see the answer to the question above.

*Question.* Please provide a breakdown of the tax gap attributable to sole proprietorships; pass-through entities; and C Corporations, both in terms of percentage, numbers, and dollars. Please provide these numbers as best as you can now. If you are unable to provide this information, will you commit to providing full and complete numbers to me within 90 days of being sworn in as Commissioner should you be confirmed?

Answer. Please see the answer to the question above.

*Question.* Please provide me the metrics for measuring your performance as Commissioner, should you be confirmed, in addressing the tax gap.

Answer. If confirmed, I hope that my performance would be measured by improved customer service at the IRS—including getting back to healthy levels on in-

ventory; better phone and in-person service for taxpayers; lawful administration of the tax code; progress in closing the tax gap created by wealthy and corporate evaders; successful deployment of technology that among other outcomes, strengthens data security, allows for more agility in meeting emerging requirements, and embeds innovative solutions in customer service; increased integrity of program and administrative expenditures—and by open and transparent communications with this committee and the public. In terms of more specifics on the tax gap, I am looking forward to engaging the team at the IRS to understand current priorities and determining whether updates to those priorities would be appropriate, in line with Secretary Yellen's commitment to not increase audit rates, relative to historical levels, for individuals earning less than \$400,000 and small businesses. As I mentioned during the hearing, I have an initial hypothesis that one area of priority should be building capacity within the IRS to unpack complex and intricate returns of wealthy taxpayers so we can better assess any balances due that are being uncollected today. Beyond this, I would also seek to prioritize parts of the gap that do the most damage to taxpayer trust, including for example intentional tax evasion among any and all taxpayer groups.

*Question.* During your confirmation hearing, you told the committee in response to a question: "I typically look to CBO in terms of how they score legislation."

Do you think the Congressional Budget Office (CBO) estimate of the revenue generated from the \$80 billion in mandatory spending provided to the IRS by Public Law 117–169 is accurate?

Yes or no, do you agree with CBO's projection that some of the increased revenues will be collected from taxpayers with income less than \$400,000?

*Answer.* I do consider CBO to be an important source for scoring the deficit impact of legislation; however, I am not intimately familiar with all the details of this specific CBO estimate. As I said in my testimony, last year, Secretary Yellen issued a directive that the IRS will not increase audit rates, relative to historic levels, for small businesses and households making under \$400,000 a year, which I am committed to meeting.

*Question.* For every dollar initially assessed against taxpayers, what percentage is collected by the IRS? If you do not know the answer, will you commit to providing this information to me within 90 days of being sworn in as Commissioner should you be confirmed?

*Answer.* If confirmed, I look forward to studying and understanding this issue, and keeping you and your staff informed.

*Question.* What is the current "no-change" audit rate? Please break it down by type of audit (*i.e.*, mail/correspondence, office, field, National Research Program). If you do not know the answer, will you commit to providing this information to me within 90 days of being sworn in as Commissioner should you be confirmed?

*Answer.* If confirmed, I look forward to studying and understanding this issue, and keeping you and your staff informed.

*Question.* The centralized partnership audit regime enacted by Pub. L. 114–74 is designed to streamline IRS enforcement for partnerships subject to its rules, including the largest and most complex partnerships, which may not opt out of the regime. The Treasury Inspector General for Tax Administration (TIGTA) issued a report in 2022 (Report Number 2022–30–020) on the implementation of the audit regime and found that almost 80 percent of these audits resulted in no change in the amount owed by the taxpayer. Furthermore, the no-change audit rate for the largest and most complex partnerships has increased year over year since the new regime has been in place.

TIGTA recommended that the IRS address these high no-change rates by establishing goals and processes to measure expected outcomes from the new regime against observed outcomes, which could help explain what the high no-change rate is telling us. The IRS disagreed with this recommendation.

Do you agree with TIGTA's recommendation?

Do you believe that the no-change audit rates are at an acceptable level?

If not, what strategy do you think should be in place to reduce them?

*Answer.* Working with TIGTA would be a key priority of mine, if confirmed. I am not intimately familiar with these recommendations, but, if confirmed, I will look forward to studying these recommendations and considering any recommendation to

improve customer service and taxpayer experience at the IRS. If confirmed, I will seriously and systematically consider all TIGTA recommendations.

*Question.* The IRS's mission is to "provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all." Unfortunately, the IRS has a long history of struggling to meet its mission.

Twenty-five years ago, in response to IRS wasting billions of dollars on its failed Tax Systems Modernization Program, Congress passed legislation reforming the IRS. It gave the Commissioner additional hiring-and-firing power, redesigned the agency to serve particular categories of taxpayers, created an oversight board, and laid the groundwork for a multiyear budgeting approach to IRS modernization efforts.

Unfortunately, not much has changed over time, and the problems seem to be growing in both scope and severity:

- Ten years ago, we heard about inappropriate IRS targeting of the Tea Party and other conservative organizations who found themselves on so-called "Be-On-the-Lookout" lists and treated them with heightened audit scrutiny.
- Taxpayers have had to suffer through recent filing seasons marred by poor telephone service and slow processing of paper-filed tax returns. In fact, the backlog of original and amended returns and correspondence is still millions of cases deep.
- Americans are also familiar with the massive leak of private taxpayer information to ProPublica, which remains an unsolved mystery to this day.
- We learned last year that confidential data of about 112,000 taxpayers released by the IRS last summer was republished in late November and remained online until early December.
- We know about the agency's failure to provide timely guidance with respect to the Federal tax treatment of special State tax refunds and the implementation of the new 1099-K \$600 reporting requirement imposed by the American Rescue Plan. In the words of the National Taxpayer Advocate, "the failure to address issues like these proactively is harmful to taxpayers, but also creates rework for the IRS that timely guidance would have avoided."
- Finally, there is the laundry list of reports released over the past 30-plus years by the Treasury Inspector General on Tax Administration and the Government Accountability Office on the IRS's inability to effectively modernize its computers and protect confidential taxpayer information.

Public Law 117-169 rewards the IRS with an additional \$80 billion in automatic funding.

Do you believe that the IRS is currently meeting its stated mission?

Do you believe the IRS has done enough to earn back the trust of the American People and receive a boost of \$80 billion dollars without even a plan in place?

Answer. The IRS needs to transform into a modern 21st-century tax administrator that provides the service taxpayers deserve. As I discussed in the hearing, I believe there are numerous performance gaps in current IRS operations that can be improved. I also believe that resources provided by the IRA present an opportunity to close such gaps. As your question suggests, earning public trust will require a transparent and clear plan and early results that demonstrate resources are, in fact, improving service levels.

*Question.* The IRS has recently instituted a new policy that requires taxpayers applying for the R&D tax credit on an amended return to provide a detailed discussion of why their company qualifies for the R&D tax credit. The policy provides that the IRS will review the taxpayer's submission, and if the taxpayer's submission is found to be inadequate, for an initial period, the taxpayer has a 45-day period to perfect their claim in response to the IRS's review.

My understanding is that, in practice, this new policy has placed significant burdens on small and medium-sized businesses because the IRS has not provided adequate, detailed guidance and examples of the information the agency is looking for the taxpayer to provide. Furthermore, when the IRS rejects a filing, they are not providing the taxpayer with detailed taxpayer-specific guidance on what information is needed to satisfy any outstanding concerns.

In many instances, taxpayers are also waiting months and months for a reply from the IRS. This delay can mean that the taxpayer can be barred from applying for the R&D tax credit because the statute of limitations on filing an amended return will have ended—forcing the taxpayer to file in District Court if they wish to preserve their rights to file an amended return.

What are your initial thoughts on this matter?

Is this an acceptable level of taxpayer service?

Should you be confirmed, will you commit to providing a more detailed response to me in writing within 90 days of being sworn in as Commissioner?

Answer. It's important for the IRS to provide clarity wherever possible in administering the tax code. This is a core component of providing the best customer service to working families and small businesses. Where there are areas of tax administration that can be improved to reduce complexity, I believe it should be studied and improved upon, if possible, within legal and regulatory bounds. If confirmed, I would look forward to studying this issue and working to ensure you and your staff are best informed about this specific issue of tax administration.

*Question.* In November 2016, the IRS issued Notice 2016-66 listing micro-captives as a “transaction of interest” to gather facts to determine which are abusive. Since then (over 6 years later), the IRS has not provided any guidance, but I have been told the IRS treats any micro-captive subject to the notice as “abusive.” I also have been told that a settlement offer is made to the taxpayer at the inception of an examination on the assumption that all micro-captives have the same fact pattern and that the appeals process is unavailable. It appears that there is no, if any, indication that any single taxpayer's unique facts are given consideration and that the IRS is taking a “one-size-fits-all” approach. This reportedly forces many taxpayers to settle due to the high cost of litigation and effectively eliminates the opportunity to have a hearing in the Independent Office of Appeals. I have also been made aware that in coordinated issue cases the IRS Commissioner seeks to have the same outcome for all taxpayers. I am getting complaints that such an approach has hampered the independence of the Office of Appeals, particularly in other factually intense cases such as valuation cases. And this lack of independence is causing a backlog in the Tax Court.

As you know, the Taxpayer First Act (Pub. L. 116-25) provides taxpayers with an appeals hearing on the merits of their case. I have also authored legislation called the Small Business Taxpayer Bill of Rights that, among other things, would improve the appeals process by: requiring taxpayer consent before allowing IRS Counsel or compliance personnel to participate in Appeals Conferences; prohibiting the Independent Office of Appeals from raising new issues or theories during a conference with taxpayers and the IRS; making *ex parte* discussions between the Independent Office of Appeals and other IRS employees a fireable offense; and establishing an alternative dispute resolution program that would allow taxpayers to request mediation by an independent, neutral party not employed by the IRS.

What do you think the role of the Independent Office of Appeals should be in resolving disputes between the IRS and taxpayers?

Do you think a “one-size-fits-all” approach that ignores specific facts and circumstances is an appropriate approach for effective tax administration and IRS examination of taxpayer returns?

Answer. The IRS Independent Office of Appeals is one aspect of the customer service and taxpayer experience at the IRS, with an aim to resolve disputes in a way that is fair. If confirmed, I look forward to engaging with all staff at the IRS to better understand how they work now and ways that the IRS can improve. Also, I would be very concerned about a “one-size-fits-all” approach in resolving tax issues. Specifically, I would look to the Taxpayer Bill of Rights where taxpayers have the right to be heard in challenging an IRS position and the right to an appeal. I believe a “one-size-fits-all” approach would not be aligned with these rights.

*Question.* During your confirmation hearing, you told the committee: “Sales taxes are regressive.”

The Tax Cuts and Jobs Act imposed a \$10,000 cap on the State and Local Tax (SALT) Deduction. Do you think eliminating the \$10,000 SALT cap is regressive and would disproportionately benefit high-income taxpayers?

Are you aware that the Joint Committee on Taxation (JCT) has told Congress that almost half of the benefit of eliminating the \$10,000 SALT cap goes to million-



aires and billionaires, almost 70 percent of the benefit goes to those making more than \$500,000, and taxpayers making less than \$50,000 will see no tax relief?

Are you aware that the Congressional Research Service (CRS) has written, “The SALT Cap predominantly affects taxpayers with higher incomes. . . . [T]he benefit of SALT deductions in terms of tax savings is also larger for taxpayers with higher incomes . . . [t]he SALT Cap increased the Federal tax burden of high-income taxpayers.” (The SALT Cap: Overview and Analysis, R46246, March 2020)?

Do you agree with JCT and CRS? If not, why not?

Answer. In my personal capacity, it’s my understanding that some versions of SALT can be regressive depending on the structure, just like many other taxes. When it comes to the sales tax, sales taxes are generally thought to be regressive because they increase tax burden as a percent on low-income taxpayers more than on high-income taxpayers. However, I am not intimately familiar with these analyses. The role of the Commissioner of Internal Revenue is to administer the tax code, which, if confirmed, I would look forward to discussing on matters involving implementation of the tax laws.

*Question.* During your confirmation hearing, you told the committee: “[I]’m a rule follower. And I would only take actions that are consistent with what the IRS’s authority are under the law.” On December 23, 2022, the IRS announced in Notice 2023–10 a delay in the reporting threshold for third-party settlement organizations that was set to take effect for the current tax filing season. Because of this delay, third-party settlement organizations will not be required to report the tax year 2022 transactions on a Form 1099–K to the IRS as enacted and required by Pub. L. 117–2. I opposed this intrusive and burdensome proposal and cosponsored the SNOOP Act of 2022, which eliminates this new reporting requirement.

Can you explain what the legal basis is for the delay announced in Notice 2023–10?

Do you think the IRS has the legal authority to make this decision without congressional action? If so, please explain.

Answer. The American Rescue Plan included a provision to require third-party settlement organizations to report certain transactions to the IRS. It was set to take effect this year. It’s my understanding the IRS recently announced a 1-year delay. I am not familiar with the specifics surrounding this decision and therefore, cannot speak to the legal or regulatory authorities that served as the basis for this delay. If confirmed, I look forward to learning about this issued delay and updating you and your staff.

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#### QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* What percentage of users attempting to access IRS services are able to successfully complete the ID.me enrollment process without encountering any issues?

What percentage of users attempting to access IRS services experience problems with ID.me and what are the main challenges they encounter in using it?

What percentage of Black, Hispanic, and Asian-American and Pacific Islander (AAPI) users attempting to access IRS services report having issues using ID.me? Please provide similar statistics by age groups.

Answer. It is essential that our tax system operates fairly and that taxpayer data is secure and protected. I do not have specifics on IRS’s decision-making around ID.me or other identity verification/authentication tools nor do I have access to statistics about the program. But I would like for you and the committee to know that protecting taxpayer data and privacy is of utmost importance to me—and to the employees at the IRS. I commit to learning more about this issue, if I am confirmed, and engaging with you and your staff.

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#### QUESTIONS SUBMITTED BY HON. JOHN THUNE

*Question.* Senator Grassley and I introduced the IRS Funding Accountability Act, which includes the support of every Republican on the Finance Committee. The bill has a common-sense aim: to increase oversight of the \$80 billion in additional IRS funding.

Timely and reliable information from executive branch agencies, such as the IRS, is vital in order for Congress to exercise its constitutional role of conducting oversight.

In addition to requiring annual spending plans for the \$80 billion in funding, our bill would require the IRS to provide quarterly reports to Congress on the actual expenditure of these funds.

Regardless of the time frame for enactment of our bill, will you commit to provide Congress quarterly reports on the expenditure of the \$80 billion?

Answer. I believe it's important that the IRS's plans are transparent, updated, and clear to you and the American people. Since I am not currently at the IRS, I do not know the exact cadence that would work best. However, if confirmed, I will work with IRS and Treasury to ensure you and the American people are updated with appropriate frequency. I look forward to sharing more specifics with you on this.

*Question.* The Treasury Inspector General released a report last week that stated, "With the ability to undertake enforcement hiring under the Inflation Reduction Act, the IRS needs a more strategic approach to the allocation of examination resources."

The report found that the IRS does not have a coordinated approach to develop an annual enterprise-wide examination work plan, and TIGTA recommended the IRS establish such an annual plan.

In addition, a separate TIGTA report found that the IRS's "Report to Congress" does not contain specific and measurable performance goals or expected outcomes to measure progress, which could lead to an inefficient use of resources.

In your personal opinion, would the IRS benefit from better developing, articulating, and tracking its performance goals to Congress?

In your personal opinion, would the IRS—and American taxpayers—benefit from knowing how the IRS is developing, articulating, and tracking performance goals related to its recent \$80 billion funding allocation?

Answer. During my tenure at OMB, I observed cases where Federal agencies came short of meeting an IG or GAO recommendation. When I left OMB and went to the IRS in 2013, I was very focused on making sure the IRS fully implemented all TIGTA recommendations made during my tenure. If confirmed, I will seriously and systematically consider all TIGTA recommendations. Of note, I agree with the premise of your questions that there would be benefit in both tracking performance goals in general and with respect to the IRA.

*Question.* In May of 2018, you contributed to an article published by the Boston Consulting Group that outlines four steps to high-impact strategic planning in government.

When explaining the fourth step of strategic planning, execution, the article reads that leaders "should hold regular evidence-based progress reviews with key managers, including officials who have direct oversight of programs that support each strategic objective."

The article continues, "The most effective government organizations understand that without accountability and the right incentives, even the best strategic plan will likely never become reality."

I was encouraged to see this, as the IRS Funding Accountability Act would require the IRS and Treasury Department to make quarterly reports to Congress on how the Inflation Reduction Act's funds to the IRS are spent, and provide annual reports on key performance goals.

Given your stated support of oversight to enable the most effective government organizations, do you personally believe it is good public policy for the IRS to provide Congress with, at minimum, an annual spending plan, including performance goals and results, of the IRA funds?

Answer. Please see the answer to your first question.

*Question.* On August 17, 2022, *The New York Times* reported that Secretary Yellen directed the IRS to draft within 6 months a plan for the IRS's allocation of \$80 billion in funding. The article stated that "The plan must have metrics for its various areas of improvement so that Congress can hold the agency accountable."

Given that Secretary Yellen made that directive 6 months ago, when do you expect the plan for the \$80 billion in IRS funding to be shared with Congress?

Have you personally seen the plan, in whole or in part? If so, when was that shared with you?

In order for Congress to hold the IRS accountable to its significant funding allocation, do you think it is reasonable for the IRS to share its plan for the funds to Congress in advance of spending the money (excluding for taxpayers services, which received only 3 percent of the overall funds)?

Are you aware of how much of the \$80 billion in funding has been spent as of February 17, 2023? If so, what is the amount?

Answer. I am not familiar with any aspect, timing, or status of the plan or funds spent, beyond reading public news reports. If confirmed, I look forward to working with you and your staff in a transparent way.

*Question.* Given that the aforementioned directive from the Treasury Secretary is nonbinding, it would appear the Treasury Department and the IRS can bypass important deadlines—and basic accountability—of the unprecedented \$80 billion funding allocation without recourse.

In order to build trust with taxpayers, do you believe it would be helpful for the IRS to share an annual spending plan, including performance goals and metrics, of how the agency intends to utilize funds allocated from the Inflation Reduction Act? Why or why not?

Answer. Please see the answer to your first question.

*Question.* While it is constructive to find bipartisan policies to narrow the tax gap, it is worth noting that the United States has a relatively high and stable voluntary tax compliance rate. According to recent IRS data, about 84 percent of taxes were paid voluntarily and on time. After enforcement efforts and late payments are taken into account, about 86 percent of taxes were paid. Tax compliance levels remain substantially unchanged since at least the 1980s.

In your opinion, do agree that the United States has a relatively high and stable voluntary tax compliance rate?

Do you agree that narrowing the tax gap requires a comprehensive strategy and effective execution from the IRS, appropriate safeguards and accountability to taxpayers, and effective oversight and accountability of the IRS? Why or why not?

Answer. Voluntary tax compliance is the bedrock of the U.S.'s tax collection system. Closing the tax gap is essential both to protect the government's bottom line and to ensure the government is funded to provide essential services. I believe it is essential to strive to improve tax compliance rates, focusing on wealthy and corporate tax evasion. I agree that narrowing the tax gap requires a comprehensive strategy that is presented in an open and transparent way.

As I discussed in the hearing, I believe there are numerous factors that are required to build trust in the effectiveness of our tax system, including for example, equity and fairness in compliance activities, access, data security, and clarity on what is expected. Many of these principles are outlined in the Taxpayer Bill of Rights. If confirmed, I commit to studying the IRS's tax gap, understanding where there are gaps in both information and collection, ensuring that any steps taken advance the principles of the Taxpayer Bill of Rights, and communicating with you and this committee about my findings.

*Question.* As discussed at the Senate Finance Committee hearing, it has been almost 2 years since the leak or hack of private taxpayer information that ended up in the hands of ProPublica, a left-leaning media outlet. The confidential taxpayer information from that data breach has been subsequently used to push a highly partisan political agenda. Despite public assurances from the Treasury Department and former IRS officials to keep Congress apprised of the breach, there has been no meaningful follow-up from the Biden administration.

In your personal opinion, how does the lack of accountability in regard to this breach of taxpayer data reflect on the IRS, and what type of impact do you think it has on the public's trust in the agency?

Notwithstanding potential proposals from TIGTA and other government agencies about the leak or hack of private taxpayer data, how would you seek to ensure that confidential taxpayer information from the IRS is not improperly shared again?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and the IRS. My understanding is that this matter was immediately referred to the appropriate authorities, including the Treasury Inspector General for Tax Administration (TIGTA), the Department of Justice, and Treasury's Office of Inspector General, each of which conduct their work independently of the IRS. I cannot speculate about that work, any potential findings, or the timeline. I can commit to you that, if confirmed, I will ensure the IRS continues to prioritize protecting taxpayer information and will take any appropriate action to do so and will seriously and systematically consider all TIGTA recommendations.

*Question.* Unless IRS technology modernization is defined and measured, it would seem that any modernization effort may prove elusive.

In your opinion, what constitutes IRS "technology modernization" and what areas of technology modernization are you most focused on to improve taxpayer services?

*Answer.* For too long, the IRS lacked the resources to adequately serve communities and small businesses and has some of the oldest IT systems in government. The IRS needs to modernize its technology and become a 21st-century tax administrator that provides better service for taxpayers.

While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current hypothesis is that the top modernization priorities fall into three buckets: ensuring the Individual Master File and Business Master File are updated to a modern platform to optimize data security and cyber resiliency, given the sensitivity of data maintained in those systems; embedding innovative technology in the call center to help significantly increase responsiveness to taxpayers trying to make contact with the IRS; and imaging paper forms into machine-readable output to manage and eliminate backlogs and help increase overall efficiency of return processing.

*Question.* How do you consider the role of third parties, such as tax preparers and tax software, in the taxpayer experience? What ways, if any, would you seek to improve the working relationship between the IRS and such third parties to enhance the taxpayer experience?

*Answer.* We can and must look for any strategies or methods to work to make the tax filing process simpler and less burdensome on taxpayers. One area of particular focus should be better understanding the taxpayer experience and how effective different channels are for tax preparation and filing. With information from taxpayers on their experience, and with input from broad array of stakeholders, including preparers themselves, I will be better positioned to answer your question on roles and ways of improving the working relationship. If confirmed, I look forward to looking at all opportunities to enhance the taxpayer experience at the IRS.

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#### QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

*Question.* I consistently hear from constituents who file paper tax returns about the lengthy and difficult experience they have with the processing of their returns. I have long advocated for the expansion of e-filing, especially through the Free File program that provides lower- and middle-income taxpayers an option to e-file their returns at no cost. However, the Free File program has been plagued by low usage rates, which is why I asked the Government Accountability Office (GAO) to study the Free File program's overall effectiveness. In its report released last April, the GAO called on the IRS to identify and develop additional options for taxpayers to e-file their tax returns for free. The Inflation Reduction Act also provided \$15 million to the IRS to study the cost and feasibility of creating a direct, e-file program. I look forward to reading the IRS's report to Congress in May 2023.

If confirmed, how will you prioritize and tackle the challenges with respect to the current state of the Free File program?

*Answer.* There's a recent IRS statistic that it can take an average of 13 hours to file an individual income tax return and hundreds of dollars. That's unacceptable, in particular for working families and small businesses. It is critical that IRS work on strategies and devote resources to make tax filing easier, simpler, and less burdensome for taxpayers. The IRA calls for the IRS to deliver a study of the feasibility of a direct file system and examination of taxpayer preferences. If confirmed, I look forward to engaging with IRS employees on the development and outcomes of the required study and any next steps it identifies.

*Question.* In the Consolidated Appropriations Act of 2021, which was signed into law December 27, 2020 by President Trump, Congress included a slightly amended version of the Carper-Collins Incentivizing Offshore Wind Power Act. This provision created a long-term investment tax credit for the offshore wind industry under section 48 of the tax code. This offshore wind investment tax credit is critical to ensure the clean energy of offshore wind—and the manufacturing and construction jobs that go along with the industry—are a reality in this country.

Prior to the passage of the Consolidated Appropriations Act of 2021, Senator Collins and I tried for over a decade to provide long-term tax certainty for the offshore wind industry through a stand-alone investment tax credit. So it is to our dismay there remains uncertainty around the implementation of the offshore wind investment tax credit because of delays by the Internal Revenue Service (IRS). In placing the offshore wind investment tax credit under section 48 of the tax code, it was our intent to allow all the necessary offshore wind assets to qualify for the credit. This includes assets like the subsea cables and voltage transformers that are critical to bringing the offshore wind electricity to the electric grid. The Bluebook released by the Joint Committee on Taxation, JCS-1-22, reaffirmed this congressional intent. However, to date, the IRS and Treasury have not released guidance clarifying that offshore wind developers can treat assets leading up to, and including, the onshore transformer and project substation as qualifying for purposes of claiming the investment tax credit.

In this country, there is an offshore wind project pipeline of more than 40GW, with projects in various stages of development. We are inching closer to finally having a constructed and operational offshore wind farm in Federal waters. Right now, any delays in guidance is punishing the early offshore wind developers, further threatening the momentum of the industry.

If confirmed, will you commit to moving quickly on the backlog of decisions the IRS needs to make to help deploy clean energy, such as decisions involving the investment tax credit for offshore wind?

*Answer.* The role of the IRS is to administer the tax code efficiently and lawfully. I understand the need for the IRS, in partnership with Treasury, to issue tax regulations in an efficient manner and note your concerns about the impact of delays. If confirmed, I look forward to working with Treasury and the IRS Chief Counsel to understand the regulatory agenda and the ongoing work to administer the tax code in an efficient and fair manner.

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#### QUESTIONS SUBMITTED BY HON. TIM SCOTT

*Question.* On December 15, 2022 *Bloomberg Law* reported the “confidential data of about 112,000 taxpayers inadvertently published by the IRS over the summer was mistakenly republished in late November and remained online until early December.” After the first disclosure, the Finance Committee was told, in writing, preventive measure would be taken so such a leak would not happen again. Yet it happened again a few months later. Ultimately, the Internal Revenue Service blamed a third-party contractor for the second disclosure. As Commissioner, how would you hold accountable those ensuring preventive measures were taken, but where not, and the contractor who leaked taxpayer information the second time? Do you think it would be reasonable to let those taxpayer whose information was disclosed?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and to the IRS. In order to fulfill its mission, the IRS must safeguard the information of millions of Americans, and, as we all would expect, we see the IRS do this successfully year after year. If confirmed, I would take any unauthorized disclosure of taxpayer data extremely seriously, as I know my predecessors did. And, as has been done in the past, I would ensure that the matter was referred to the appropriate investigative authorities and that any appropriate remedial action was taken upon conclusion of the investigation.

*Question.* It is my understanding that a lack of IRS guidance concerning WOTC could potentially result in windfall payments to firms that are merely claiming tax credits for employees who happen to meet WOTC criteria. 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 will positively influence an employer’s hiring decision. Contrary to this requirement, I understand that some service providers may have set up screening practices that result in screening job applicants for WOTC eligibility after they have

already been offered employment. Those providers could 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. What is your timeline to provide clarification and guidance to employers on what constitutes an “offer of employment,” triggering the screening requirement for the purpose of WOTC?

*Answer.* The role of the IRS is to administer the tax code efficiently and lawfully. I understand the need for the IRS, in partnership with Treasury, to issue tax regulations in an efficient manner. If confirmed, I look forward to working with Treasury and the IRS Chief Counsel to understand the regulatory agenda and to work to administer the tax code in an efficient and fair manner.

*Question.* IRS employee’s performance evaluation includes judging their adherence to diversity, equity, inclusion, and accessibility (DEIA) principles. As Commissioner, how will you implement DEIA performance evaluations so that IRS employees are clear as to the objective criteria used to evaluate their DEIA performance? As Commissioner, how will you respond if the developed DEIA criteria conflict with existing equal employment opportunity laws?

*Answer.* I agree that performance criteria should be clear and consistent with all relevant personnel laws. As I am not currently at the IRS, I am not familiar with the IRS’s current performance evaluation principles. However, if confirmed, I look forward to studying the IRS’s performance evaluation system and working to ensure the IRS workforce continues to improve.

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QUESTION SUBMITTED BY HON. BENJAMIN L. CARDIN

*Question.* The Employee Retention Credit (the ERC) was created by the CARES Act and was extended by subsequent pandemic relief legislation. The goal of this tax credit was to encourage businesses to keep employees on their payroll. As chairman of the Senate Small Business Committee, I know that the ERC was vital in helping small businesses across the country retain their workforce and keep their doors open during the pandemic. This credit has been and continues to be essential for the financial health of many. Unfortunately, I have received significant outreach from constituents that the IRS is taking several months to process these businesses’ returns claiming the ERC, resulting in businesses unable to receive their ERC in a timely manner.

What can the IRS do to help ease the backlog of ERC claims and ensure a timely delivery of this credit to businesses depending on the ERC?

*Answer.* Through this nomination process, I have heard from many Senators about the Employee Retention Credit and the impact of delays on small businesses and nonprofits. I understand the importance of ensuring taxpayers receive the tax benefits they are owed and the frustration that delays can cause. If confirmed, I commit to prioritizing this issue and briefing you and your staff on what I learn.

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QUESTIONS SUBMITTED BY HON. BILL CASSIDY

*Question.* Louisiana has many historic districts and buildings that benefit from historic preservation easements. This tool helps protect historic buildings, and transform many iconic structures in a manner that retains historic character. I am an advocate for protecting and expanding the use of historic preservation programs, and advocated for amendments in the last Congress to protect the integrity of the historic preservation easement program.

A nonprofit group in my State recently contacted my office asking for my assistance to direct the IRS to remove the haze of confusion that unnecessarily deters would-be donors of historic preservation easements. The conservation easement reforms passed in the 2022 omnibus bill require the IRS to issue safe harbors to taxpayers who are attempting to use this program as Congress intended. Safe harbors addressing matters such as extinguishment clauses and proceeds regulations should help to clear the decks of much of the controversy otherwise heading toward Tax Court.

If confirmed, can you ensure the IRS will meet the 120-day deadline for issuing the safe harbors required by the conservation easement provisions included in the omnibus?

Will you work to have a separate safe harbor issued for historic preservation easements, including provisions that clearly differentiate between historic buildings and green space easement transactions?

Will you work with me to ensure that this safe harbor works as intended, and to ensure that taxpayers utilizing historic preservation easements have the full opportunity to cure any alleged deficiencies in deeds or other paperwork to comply with the safe harbor?

Answer. Yes, I commit to doing what is necessary to meet congressional requirements associated with historic preservation easements. Further, and as I discussed in the hearing, I understand how important certainty and clarity can be for investment in these critical historic preservation programs. In fact, the very first right listed on the Taxpayer Bill of Rights is the right taxpayers have to know what they need to do to comply with the tax laws. A priority of mine, if confirmed, is to further improve clarity across the IRS's work.

If confirmed, I commit to working with Treasury and the IRS Chief Counsel to understand the regulatory agenda, to work to understand where the IRS can efficiently and fairly implement priority regulations, and keep you and your staff updated on this progress.

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#### QUESTIONS SUBMITTED BY HON. SHERROD BROWN

*Question.* Historic preservation tax incentives have been used successfully throughout Ohio to rehabilitate historic buildings, increase available housing, and revitalize urban neighborhoods.

If confirmed, will you work with stakeholders to promote the legitimate use of historic preservation easements and protect the integrity of this tax incentive?

Answer. If confirmed, I very much look forward to working with stakeholders to protect the integrity of the tax system and ensure tax programs, like the historic preservation easements, are administered in a fair and efficient manner.

*Question.* I have heard from small business owners across Ohio who filed for the Employee Retention Credit (ERC) and have yet to receive their refund. Some have been waiting for more than a year for the funds to which they're entitled. For many of these small businesses, these payments could mean the difference between remaining open and having to lay off employees, cut back hours, or even close their doors permanently.

If confirmed, what steps will you take to address this backlog?

Answer. Through this nomination process, I have heard from many Senators about the Employee Retention Credit and the impact of delays on small businesses and nonprofits. I understand the importance of ensuring taxpayers receive the tax benefits they are owed and the frustration that delays can cause. If confirmed, I commit to prioritizing this issue and briefing you and your staff on what I learn.

*Question.* Over the past several years, Ohioans have faced long call center wait times and long waits to get their tax returns. It's important that the IRS have the resources and staff to answer calls from Ohioans, ensure timely returns, and crack down on tax cheats. As you know, the Inflation Reduction Act is already helping to improve customer service and help get Ohioans their tax refunds faster. Resources from the IRA will also enable the IRS to replace retiring workers in a timely manner and support its work going after corporations and wealthy individuals that have cheated the system for years, and that too often pay less in taxes than middle-class families do.

If confirmed, will you commit to working in partnership with my office and others to ensure timely responses to Ohioans reaching out to the IRS for assistance?

Answer. Yes, improving customer service will be a key priority of mine, if confirmed. Your constituents and the American people have a right to quality service, which I hope to help further at the IRS, if confirmed.

*Question.* If confirmed, will you commit to supporting the IRS workforce in its mission to provide timely responses and refunds to Americans during and outside of tax season?

*Answer.* Yes, if confirmed, I am committed to working with the IRS workforce to provide timely responses to American taxpayers. As I mentioned in the hearing, the Taxpayer Bill of Rights is important to me, which includes the right to be informed, the right to quality service, and the right to finality. I hope to help further that work, if confirmed.

*Question.* Do you share Treasury Secretary Yellen's commitment to not increasing audits on Americans making less than \$400,000, but instead to focus additional resources on going after those individuals and businesses that are purposefully cheating the system?

*Answer.* As I said in my testimony, last year, Secretary Yellen issued a directive that the IRS will not increase audit rates, relative to historic levels, for small businesses and households making under \$400,000 a year, which I am committed to meeting. If I am fortunate enough to be confirmed, the audit and compliance priorities will be focused on enhancing IRS capabilities to ensure America's highest earners comply with applicable tax laws.

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QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

*Question.* Do you agree that it is not the role of the IRS or any other government agency to deny an otherwise available public benefit to an organization on account of its religious status?

*Answer.* In order for our tax system to work, taxpayers must have confidence that all taxpayers, regardless of who they are or what their affiliation is, are treated fairly and impartially. If confirmed, I will make sure that taxpayers—regardless of background and whether they are individuals, small businesses, or nonprofits—are being treated fairly and that the tax laws are being applied impartially and equally to all.

*Question.* If confirmed, you will oversee the processes and procedures to determine exemption of organizations from Federal income tax under IRC section 501(c)(3). Will you commit that no decisions are based on bias for or against a political or religious viewpoint?

*Answer.* If confirmed, it would be a top priority of mine to ensure the tax laws are administered fairly and impartially. Given the risk that bias has to the integrity of the tax system, if confirmed I will use my authority to ensure that the IRS meets this priority successfully.

*Question.* Will you commit to transparency to Congress on the on the process, procedures, reviews, communication, and training regarding determination of tax exempt status for applicant organizations?

*Answer.* Public trust requires transparency, collaboration with oversight entities such as Congress, adherence to the rule of law, and responsible stewardship of taxpayer dollars. Public trust also requires that the government carry out its mission fairly and equitably. If confirmed, these are the principles I will continue to carry forward into this role.

*Question.* Is there ever a basis for the IRS to write regulations, issue guidance, or implement in a way that contradicts statute? If applicable, how would you decide that the congressional intent is different than what was written?

*Answer.* It is the role of the IRS to administer the tax code efficiently, fairly, and fully consistent with law. While I understand that there can often be differing interpretations of the law, if confirmed, I will work with the tax-writing committees, Congress more broadly, and the Treasury Department to administer the tax code consistent with the statutes enacted into law.

*Question.* The unauthorized disclosure of returns or return information is a felony under 26 U.S.C. § 7213(a)(1),(2). It is also a felony under Federal law to publish returns or return information that were disclosed to the publisher by someone else under 26 U.S.C. § 7213(a)(3).

If confirmed, how will you enforce Federal law and coordinate with the appropriate authorities on those publishing protected, taxpayer information?



Answer. The safety and security of taxpayer data is of paramount importance to me and to the IRS. In order to fulfill its mission, the IRS must safeguard the information of millions of Americans, and, as we all would expect, we see the IRS do this successfully year after year. If confirmed, I would take any unauthorized disclosure of taxpayer data extremely seriously, as I know my predecessors did. And, as has been done in the past, I would ensure that the matter was referred to the appropriate investigative authorities and that any appropriate remedial action was taken upon conclusion of the investigation.

*Question.* A recent GAO report found that 33 percent of the applications, 23 percent of the software instances in use, and 8 percent of the hardware assets are legacy systems. The IRS spends about \$635 million on applications, \$324 million on software, and \$115 million on hardware in FY 2022 for operations and maintenance. The IRS doesn't specifically track the costs for its legacy systems because of OMB's directive to use the technology business management (TBM) approach to budgeting). A recent GAO report said the IRS documented 21 IT initiatives in its modernization portfolio.

Knowing what you know about the recent failures of IRS technology, what IT modernization initiatives will you prioritize?

Answer. For too long, the IRS lacked the resources to adequately serve communities and small businesses and has some of the oldest IT systems in government. The IRS needs to modernize its technology and become a 21st-century tax administrator that provides better service for taxpayers.

While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current thinking is that the top modernization priorities fall into three buckets: ensuring the Individual Master File and Business Master File are updated to a modern platform to optimize data security and cyber resiliency, given the sensitivity of data maintained in those systems; embedding innovative technology into IRS's service work—whether on the phones or online—to help significantly increase responsiveness to taxpayers trying to contact the IRS; and digitizing paper forms into machine-readable output upon receipt to manage and get healthy on inventory and help increase overall efficiency of return processing.

If confirmed, I look forward to getting up to speed on the current modernization efforts and future plans and engaging with you and your staff on IRS's progress.

*Question.* IMF is the IRS's primary storage hub for individual tax account data. The IRS had said the IMF would not be fully replaced until 2030. The IRS now does not have a completion date. GAO said IMF is "written in an archaic language requiring specialized skills that are increasingly hard to find."

How would you handle IMF in the short term and replace it in the long term?

Answer. As noted in my response to the previous question, I believe modernizing the core tax processing system—including IMF and BMF—should be a priority on IRS's agenda. By gradually decommissioning our legacy infrastructure, we will also be able to deprecate outdated programming languages, which are inefficient to use and understood by only a small subset of technologists. If confirmed, I will immediately seek to understand the current state of the IMF and BMF, any plans underway for modernization, any previous plans that were paused or suspended so we can learn from past experience, and working to develop a strategy that lays out a clear path forward. As a general rule, I believe we will need to strategically balance the activities required to decommission the legacy systems with the activities required to introduce modernized infrastructure such that we can maintain continuity in tax processing while also preparing IRS's technology infrastructure for the future.

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#### QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* The IRS administers the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC), which currently lift 12 million kids out of poverty. But about one-fifth of eligible Americans do not claim the EITC.

There are many reasons for this, including a lack of awareness about the credit, difficulty filing, or confusion over eligibility.

How can the IRS help more eligible families claim the EITC and CTC? Can you commit to setting clear goals for increasing uptake of the EITC and CTC?

**Answer.** It is essential that all taxpayers know about and receive the credits, deductions, and other tax incentives for which they are eligible—whether that’s certain individual credits like the CTC and EITC or small businesses who applied for the Employee Retention Credit. Over the last few years, the IRS sent millions of Advance CTC payments and Economic Impact Payments, demonstrating their success in reaching many taxpayers who would not otherwise file a tax return or did not know they were eligible for these new credits. However, I know there is more to do in this space as millions of taxpayers fail to claim tax credits and incentives for which they are eligible. If confirmed, I am committed to raising awareness about existing tax benefits and helping taxpayers learn about the tax benefits they are eligible for and understand how to claim them.

**Question.** The IRS estimates that Americans spend on average 13 hours and \$250 fulfilling their legal obligation to file a tax return every year. What will you do as Commissioner to make the filing process easier, and to reduce the cost and burden on Americans for simply complying with the law?

**Answer.** It is critical that IRS work on strategies and devote resources to make tax filing easier, simpler, and less burdensome for taxpayers. If confirmed, I look forward to engaging with IRS employees on the development and execution of strategies to improve tax administration in a way that improves customer service and helps honest taxpayers more simply comply with their tax obligations. While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current hypothesis is that a critical step should be embedding innovative technology in the call center to help significantly increase responsiveness to taxpayers trying to contact the IRS.

**Question.** Treasury and the IRS face an enormous new challenge of implementing the \$270 billion of clean energy tax credits in the Inflation Reduction Act (IRA). These credits are the driving force behind the reduction in greenhouse gas emissions in the new law. What can Congress do to ensure the IRS has the capacity to meet its new and urgent responsibilities?

**Answer.** I understand the significant responsibility the IRS has in implementation of the IRA, and my job as Commissioner would be to ensure that it is implemented in a fair and impartial manner. Households and businesses across the country are eligible for significant benefits pursuant to the IRA, including energy tax credits. As Commissioner, if confirmed, I would work to ensure that taxpayers can understand and access the tax benefits they are eligible for and ensure that the law is implemented and enforced impartially and would look forward to working in partnership with you and the committee on status and progress of these efforts.

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#### QUESTIONS SUBMITTED BY HON. STEVE DAINES

**Question.** My Putting First Responders First Act was signed into law as part of the retirement legislation that we considered in this committee last Congress. This law will make compensation received by disabled first responders tax exempt even after retirement, and importantly, would end improper audits of disabled first responders that stem from ambiguity around their retirement age. However, the version that was signed into law moved the effective date of the bill to 2026, which was different from the committee-passed version that had this provision taking effect immediately. The unfortunate consequence of this is that erroneous IRS audits of disabled first responders could continue for the next several years.

If confirmed, will you commit to ending improper audits of disabled first responders? If confirmed, and you believe you need to discuss this with relevant IRS staff, will you commit to getting back to me with an answer within 6 weeks once confirmed?

**Answer.** If confirmed, I commit to understanding this issue, looking for ways to ensure customer service, taxpayer experience, and fair administration of the tax code are prioritized. As I discussed in the hearing, I believe equity to be a critical factor in effective implementation of the tax system. In particular, if confirmed, I want to make sure that the IRS meets people where they are and complies with all elements of the Taxpayer Bill of Rights. This will absolutely include disabled first responders who deserve a responsive IRS that meets them where they are to ensure they have the support they need in meeting any tax obligations. Also, I have no knowledge of the status of audits of this group, but, if confirmed, I commit to

learning about this issue, benefiting from your insights, and working with you and your staff to keep you updated.

*Question.* In November, then-Ranking Member Brady, sent a letter to then-IRS Commissioner Rettig questioning why the agency sent letters to 9 million individuals right before the election alerting them to potential tax benefits.

Given your extensive management experience, do you think it made sense to send out these mailers to potentially ineligible individuals, and add additional work to the IRS's plate at a time when the agency had 9 million unprocessed 2021 returns and over 18 million tax returns awaiting IRS action?

*Answer.* It is critical that the IRS get healthy on its inventory so that taxpayers can resolve issues and get refunds more quickly. At this point, I am not familiar with any decision-making around this specific issue or work the IRS has done, but I know the IRS has been working diligently on the inventory and as a part of my commitment to improved customer service, getting healthy on inventory will be one of my priorities if I am confirmed.

*Question.* Given that the IRS is tasked with enforcing tax laws, and has a poor track record of keeping taxpayer information private, do you think it is appropriate that the agency be given even more information and power by virtue of having it prepopulate tax returns?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and to the IRS. If confirmed, I am committed to making data security a top implementation priority. This would involve:

- Establishing for the organization that data security is a top priority;
- Setting measurable goals with an objective to mitigate any risk of unauthorized disclosure;
- Assessing the current capabilities of the process, personnel, and technology to secure data effectively, identifying gaps, and establishing a robust action plan to timely to close;
- Establishing a program of continuous improvement so that the organization is routinely assessing its capabilities and risks and making improvements to keep ahead of the risks;
- Benchmarking other organizations and sectors for emerging data security solutions and ensuring that all approaches are up to date in terms of maximizing effectiveness; and
- Ensuring personnel are fully aware of their responsibilities and feel accountable to secure data.

I believe these steps would establish a critical evidence base useful in guiding any path forward that changes the manner in which tax returns are prepared.

*Question.* Given recent reports of delays and errors in processing tax returns and issuing refunds, particularly in light of staffing and technology issues, what steps do you plan to take to improve the IRS's ability to process returns and issue refunds in a timely and accurate manner, and how do you plan to address concerns about the agency's customer service and taxpayer support programs?

*Answer.* Similar to the approach outlined in response to the previous questions, if confirmed, I would intend to assess the baseline performance and establish an action plan to close gaps. Specifically:

- Establishing for the organization that processing returns to timely issue refunds is a top priority;
- Setting measurable goals with an objective to mitigate any risk of delays in refund issuance;
- Assessing the current capabilities of the process, personnel, and technology to process returns;
- Establishing a program of continuous improvement so that the organization is routinely assessing its capabilities and risks and making improvements to keep ahead of the risks; and
- Ensuring personnel are fully aware of their responsibilities and feel accountable to improve performance on timely issuance of refunds.

If confirmed, meeting these steps will likely require both significant technology upgrades and additional human resource capacity in areas such as customer service and processing. If confirmed, I will lead these efforts in close collaboration with this committee and further public trust with American taxpayers.

*Question.* The IRS has been criticized for its poor customer service, with long wait times and difficulty getting in touch with a representative. How do you plan to address these issues and ensure that taxpayers are able to get the assistance they need in a timely and efficient manner?

*Answer.* See the response to the question above, which outlined a planned approach of assessing a baseline and establishing a plan for improved performance. The efforts to improve processing and timely issue refunds are interconnected with improved performance of gaining access to IRS for help when needed. While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current hypothesis is that a critical step should be embedding innovative technology in the call center to help significantly increase responsiveness to taxpayers trying to contact the IRS.

*Question.* What specific steps do you plan to take to address concerns about the IRS's use of data analytics and technology, particularly in light of recent reports of potential privacy violations and other abuses of power by the agency?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and to the future of the IRS. In order to fulfill its mission, the IRS must safeguard the information of millions of Americans. In response to your third question, I outline a high-level set of steps to assess the current baseline on data security and privacy. This approach will help assess how and whether data analytics and technology impact privacy and data security issues. If confirmed, I would prioritize this across all workstreams that would come across my desk and work with this committee to ensure the IRS's activities are transparent.

*Question.* The IRS has been criticized for its handling of taxpayer information, particularly in light of recent data breaches. How do you plan to ensure that taxpayer data is secure and protected from unauthorized access?

*Answer.* Please see the response to your third question.

*Question.* The IRS has recently been using advanced algorithms and data analysis tools to monitor and track taxpayer activities. How do you plan to ensure that the IRS remains transparent in its use of these tools and does not infringe on the privacy rights of taxpayers?

*Answer.* Protecting taxpayer privacy rights is paramount to building and maintaining trust. Since I am not at the IRS, I am not aware of the IRS's current internal tools and processes. However, if confirmed, ensuring transparency and protecting taxpayer information would be a key priority of mine that I am committed to working with you and this committee on.

*Question.* The IRS has been working to implement a new system for processing tax returns, which has faced delays and technical challenges. How do you plan to ensure that this new system is implemented effectively and efficiently, and that taxpayers are not negatively impacted by any delays or issues?

*Answer.* If confirmed, I would plan to prioritize customer service and taxpayer initiatives, including doing all we can to tackle customer service issues head-on and ensuring that all taxpayers, including small businesses, receive the best-in-class service they deserve.

*Question.* Can you provide specific examples of how you have worked to reduce waste, fraud, and abuse in government programs in your past roles, and how do you plan to apply these principles to your leadership of the IRS, particularly with regard to tax enforcement and compliance?

*Answer.* First, during both the Bush and Obama administrations, I led government-wide efforts to measure and remediate improper payments as well as to reduce waste in Federal real estate holdings. During this time, the government made important advances in making improper payment rates public, launching new solutions to root out fraud, and freezing the footprint of Federal real estate.

Second, I was the OMB lead on coordinating and implementing the government-wide reporting and accountability requirements of the American Recovery and Reinvestment Act (ARRA). The launch of *Recovery.gov* created a new bar in the transparency of Federal spending and the \$787 billion stimulus bill was widely considered to be implemented with historically low levels of payment errors.

Critical to success in these endeavors was ensuring that all stakeholders understood the importance of program integrity and felt accountable for results. I will plan to bring these principles to the IRS, if confirmed.

*Question.* During your confirmation hearing before the Senate Finance Committee on February 16, 2023, you pledged not to expand tax audits on businesses and households making less than \$400,000 per year. What authorities will you rely on to ensure the IRS is held accountable to that commitment?

*Answer.* Secretary Yellen and the IRS have committed that the IRA funding will not be used to increase audit rates, relative to historic levels, for households and small businesses making under \$400,000 a year, which I am committed to upholding. As I have not been involved yet with the planning process, I do not have specifics on how IRS will implement this directive. But if confirmed, I look forward to ensuring that IRA implementation complies with this commitment and will keep this committee informed of these efforts.

*Question.* In a letter to the former Commissioner of the IRS on August 10, 2022, the U.S. Secretary of the Treasury said that audit rates for households earning less than \$400,000 would not rise “relative to recent years.” Can you specify to which years that refers?

*Answer.* As I said in my testimony, I am committed to meeting Secretary Yellen’s commitment and, if confirmed, look forward to ensuring this directive is followed through on. I do not know the specifics for how the IRS tracks or measures their metrics, but, if confirmed, I look forward to working with you and this committee in a transparent way.

*Question.* In your report titled, “Charting a Path Forward at the IRS: Initial Assessment and Plan of Action” (June 24, 2013), you wrote, “At this time, while fact gathering is still underway, we have not found evidence of intentional wrongdoing by IRS personnel, or involvement in these matters by anyone outside of the IRS.” Do you still believe there was no intentional wrongdoing by IRS personnel and what are the reasons for your position?

*Answer.* This report was published 30 days after I arrived at the IRS and the referenced conclusion was based on the available information at the time. Over the next 8 months, I continued to ensure that relevant investigative authorities, including Congress and TIGTA, were provided access to all the discovery requested to draw final conclusions about all matters related to this matter, including the behavior of involved IRS personnel. After my departure, it is my understanding that the Senate Permanent Subcommittee on Investigations and TIGTA, after review of more than 800,000 responsive documents and transcribed interviews of dozens of IRS employees with knowledge or involvement in the matter, both issued final reports. I believe the findings and conclusions of these exhaustive reports and investigations should be the definitive source on whether IRS personnel engaged in intentional wrongdoing in this matter.

*Question.* In March 2021, President Biden signed Executive Order 14019 calling for every Federal agency to “promote voter registration and voter participation” and to expand access to “accurate election information.” Should the Internal Revenue Service be involved in promoting voter registration and voter participation and expanding access to accurate election information? If yes, how would you as Commissioner execute this executive order and what would be an example of what you would do?

*Answer.* The IRS’s primary responsibility is to administer the tax code. I am not intimately familiar with the current rules and regulations regarding this specific matter, but, if confirmed, I look forward to administering the tax code in accordance with all applicable rules and regulations.

*Question.* There has been some discussion of having the IRS prepare returns on behalf of taxpayers by using the information (*e.g.*, wages, investment income) reported to the IRS.

What additional legislative authority would the IRS need to prepare tax returns in this manner? If you believe the IRS does not need additional authority, could you please cite the existing authority that would authorize the IRS to do this?

*Answer.* I am not intimately familiar with the IRS’s current rules, regulations, or authorities regarding this matter. If confirmed, I look forward to working with this committee to consult on the administrability considerations of any matter.

*Question.* Processing paper returns remains a weakness for the IRS, with a paper return backlog still in the millions. In response to this backlog, Erin Collins, the National Taxpayer Advocate, directed the IRS to implement existing scanning technology, including 2D barcoding, to expedite processing tax returns filed on paper. Despite this directive, the IRS failed to implement such technology for the 2023 filing season.

If you are confirmed, do you commit to ensuring the IRS implements 2D barcoding technology for the 2024 tax filing season?

*Answer.* The National Taxpayer Advocate's recommendations are extremely important to consider. If confirmed, I look forward to working with the National Taxpayer Advocate to improve customer service, taxpayer experience, and implementing policies that can help taxpayers, including the use of scanning technologies to increase IRS's speed and efficiency in processing paper returns and correspondence.

*Question.* An increasing number of constituents across Montana have contacted my office frustrated about their inability to get in-person help at IRS Taxpayer Assistance Centers (TAC) due to inadequate staffing.

If you are confirmed, what immediate steps will you take to ensure all five IRS TAC offices in Montana are fully staffed and operational? Under your leadership, will the IRS place as much emphasis on in-person IRS resources for taxpayers as online/phone resources?

*Answer.* Working to fully staff Taxpayer Assistance Centers is a priority of Secretary Yellen's and mine, if confirmed. In order for taxpayers get the best customer service possible, we must do all we can to improve service, be it in-person, online, or through the mail.

*Question.* After having spent the past several years at Boston Consulting Group, what three lessons, skills, or perspectives from your time in the private sector do you plan to implement at the IRS if you are confirmed?

*Answer.* First, my experience has led me to believe that strong and engaged leaders set and communicate clear priorities, proactively align resources to those priorities, and work to remove any barriers to success. Second, I have learned that there will always be stakeholders who stand to benefit from maintaining the status quo. Strong leaders understand the stakeholder map and have a robust strategy to actively engage and communicate across diverse stakeholders to help ensure momentum for change versus the inertia that will set in if you are passive. Third, I believe that innovation means developing, trying, and testing new approaches. Strong leaders set up an environment conducive to innovation by establishing conditions that allow for innovation with strong risk mitigation and accountability protocols in place.

*Question.* In 2013, as Acting Director of the IRS, you told members of Congress that taxpayers had lost faith in the agency and pledged that you were "committed to restoring that trust." A decade later, little has changed to positively impact the relationship between the IRS and taxpayers. While no one solution will repair the relationship, the IRS could begin in earnest by listening to taxpayers.

Will you commit to conducting surveys, focus groups, and other efforts to determine how taxpayers themselves would like the agency to improve customer service?

*Answer.* Directly engaging with taxpayers is essential and will be a priority of mine, if confirmed. From my time in the private sector, I understand there are innovative and robust ways to understand the "customer experience" by gaining insight into their perspective. If confirmed, I look forward to bringing these solutions to the IRS so that we better understand the "taxpayer experience" with the IRS and make changes to continuously improve that experience.

*Question.* The unprecedented influx of appropriations the IRS is receiving under the Inflation Reduction Act has placed heightened levels of congressional scrutiny on the agency.

How do you plan to engage with the Finance Committee, Ways and Means, and Congress to ensure the IRS maintains the highest level of transparency? Will you proactively and openly engage with TIGTA, GAO, and other IRS watchdogs?

*Answer.* I am committed to productive and consistent engagement with this committee, Ways and Means, Congress, TIGTA, GAO, and other IRS watchdogs. Public trust requires transparency, collaboration with oversight entities such as Congress, adherence to the rule of law, and responsible stewardship of taxpayer dollars. The

oversight work conducted by TIGTA and GAO is invaluable to the proper functioning of the IRS. It is vital that the IRS be responsive to their inquiries and maintain a cooperative relationship that encourages transparency and accountability. If confirmed, I would look forward to continued engagement with all oversight bodies.

*Question.* I was pleased to support the Taxpayer First Act, which became law in July 2019. As you know, section 2201 of the Act requires the IRS to update the system it currently operates that allows financial institutions to request tax transcript data when underwriting a loan. The law requires the IRS to implement an online process that provides transcripts in as near to real time as possible, making the loan process faster and more efficient for consumers and lenders. The process today (called the Income Verification Express Service, “IVES”) relies successfully on lenders to verify the identity of the borrower—something they are already required to do by law.

During the process of implementing the IVES, the IRS collected \$72 million from the lending industry to assist in funding the development of the IVES functionally. It is my understanding the user base of this system has communicated to the IRS that the proposed identity verification process will prevent them from using the system due to the increased friction for their customers. I am concerned the IRS has been resistant to partnering with the IVES user community to find a workable solution.

Are you aware of the IRS’s plans to spend \$72 million collected from the IVES user community on a system that has been called into question for workability?

Will you commit to encouraging the IRS to work with the IVES user community on a workable solution before the change in identification verification is made?

Has Treasury or the IRS conducted any impact analysis on the use of the IVES system if the new identify verification changes are instituted?

*Answer.* As I am not currently at the IRS, I am not familiar with the IRS’s plans or analyses regarding the IVES program. However, if confirmed, it would be important to me to look forward to engaging all stakeholders as to how the IRS can improve customer service and the taxpayer experience.

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#### QUESTIONS SUBMITTED BY HON. TODD YOUNG

*Question.* Following the Tea Party targeting scandal at the IRS in 2013, you were appointed to be the Acting IRS Commissioner by President Barack Obama. Now, 10 years later, you have been nominated to lead an organization that is once again struggling to maintain taxpayer trust. Between the severe backlog of return processing, millions of unanswered phone calls, and a continued lack of information regarding the unprecedented leak of taxpayer information by ProPublica, it is increasingly challenging for many taxpayers to put their trust in the IRS. This is deeply concerning, as the agency plays a vital role in maintaining important societal structures.

What lessons did you learn during your time as Acting Commissioner and, if confirmed, how do you plan to apply those lessons to the IRS today?

*Answer.* When I was Acting Commissioner, I relied on the lessons I learned as a career civil servant that the government is operating at its best when it is transparent, accountable, and builds trust with the public. For example, a strong public administrator looks for ways to make things transparent to the public. A strong public administrator understands the important role that oversight entities play. A strong public administrator empowers the workforce to be a part of the solution and help chart the path forward and when doing so, helps ensure people at all levels of the organization feel accountable to meet the mission effectively. If confirmed, I will bring those same guiding principles to my work at the IRS.

*Question.* Additionally, can you please highlight how you intend to rebuild taxpayer trust and restore the IRS to its goal of “providing America’s taxpayers top quality service” as highlighted in the IRS mission statement?

*Answer.* Public trust is essential in the operation of government. The IRS should be clear about which parts of the tax gap it seeks to close and then demonstrate results that are consistent with these priorities. If confirmed, I head into the IRS with a directive from Secretary Yellen to improve customer service and to ensure that new funds appropriated under the IRA do not increase audit rates on individuals and small businesses that earn less than \$400,000 per year. Also consistent

with my understanding of Secretary Yellen's directive, we should increase the IRS's capacity to address any tax evasion of high-income or corporate taxpayers. If we can make the IRS's plans clear in meeting this directive and then demonstrate results, I think the IRS will increase public trust.

*Question.* While you have committed to working to institute new technologies at the IRS that will decrease processing time and increase the IRS's ability to effectively serve taxpayers for the future, in the short term I continue to hear from many of my constituents who are unable to get in contact with their local Taxpayer Assistance Centers (TACs) to address outstanding issues with their returns in person. While one of the issues is staffing capacity, taxpayers who are interested in a TAC appointment are unable to get through to the nationwide telephone scheduling service to set up that appointment. Therefore, even when the TACs do have capacity, taxpayers are unable to take advantage of that capacity because the only method of setting up those appointments—the nationwide telephone scheduling line—is not properly managed.

Do you believe it is important in some circumstances that taxpayers have access to in-person IRS services? Why or why not?

*Answer.* Yes, in-person IRS service is a critical component in the IRS's customer service toolkit. I believe that there should be multiple channels for being accessible to taxpayers so the IRS can provide service in the variety of ways that taxpayers need, whether that's in person, on the phone, or online. If confirmed, meeting taxpayers where they are will be an important part of the daily mission.

*Question.* If confirmed, do you commit to investigating this issue further and implementing improvements and/or alternatives to ensure that taxpayers can secure available TAC appointments?

*Answer.* Yes, if confirmed, ensuring taxpayers can access Taxpayer Assistance Centers will be a continued priority, one that I understand has been improved upon this filing season.

*Question.* Do you believe there are at least some positions at the IRS, such as positions at local Taxpayer Assistance Centers, that require employees to conduct their work in the relevant IRS facility, yes or no?

*Answer.* I believe there are many circumstances that require in-person work.

*Question.* If you answered "yes" above, do you believe it is important that now, in 2023, employees in those positions return to in-office work?

*Answer.* If confirmed, it will be a priority of mine to ensure IRS employees are where they need to be to carry out the IRS's mission most effectively.

*Question.* How do you plan to address situations in which employees whose positions are best performed at an IRS facility resist returning to in-office work?

*Answer.* If confirmed, it will be important to work with the IRS workforce in all manners to ensure taxpayers are receiving world class customer service. I understand the work patterns in many industries have shifted in the aftermath of the COVID-19 pandemic. If confirmed, I look forward to engaging the IRS workforce on the steps necessary to position every employee to maximize their success and contributions.

*Question.* On or around April 7, 2022, members of the Senate Finance Committee submitted questions for the record (QFRs) to former IRS Commissioner Charles Rettig regarding the IRS's annual budget hearing. The committee only received responses to those QFRs from the IRS on or around January 25, 2023, which was over 9 months after they were originally submitted and approximately 3 months after Mr. Rettig stepped down from his position as Commissioner. It is unacceptable to wait so long for QFR responses. Members of the Senate Finance Committee cannot properly exercise our oversight function when we are unable to get responses to our questions in a timely fashion. The timing of the responses also begs the question as to who actually drafted them, since they were submitted to the committee long after the Commissioner—to whom they were addressed—was no longer at the IRS.

If confirmed, do you commit to returning QFR responses to Senate Finance Committee members within 3 months of the date of transmission from the committee, "yes" or "no"?

*Answer.* Timely communication with and responses to Congress will be a priority of mine.



*Question.* In June 2021, troves of confidential taxpayer information were leaked to the public as part of a ProPublica exposé. Frankly, it is unacceptable that after nearly 2 years, we are still in the dark about the source of this leak. Regardless of an individual's income, the IRS has a duty to each and every taxpayer to protect their information.

If confirmed to this position, do you commit to working with proper investigatory authorities and my House and Senate colleagues to get answers on this concerning breach of taxpayer information?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and the IRS. My understanding is that this matter was immediately referred to the appropriate authorities, including the Treasury Inspector General for Tax Administration (TIGTA), the Department of Justice, and Treasury's Office of Inspector General, each of which conduct their work independently of the IRS. I cannot speculate about that work, any potential findings, or the timeline. I can commit to you that, if confirmed, I will ensure the IRS continues to prioritize protecting taxpayer information and will take any appropriate action to do so.

*Question.* If confirmed, do you commit to (i) investigating whether high net worth individuals' tax information is set aside in a separate location (whether physically or electronically) from the taxpayer information of the general population and (ii) reporting back to me and the committee on your findings within 4 months of confirmation? If the answer is "no," please explain.

*Answer.* Working with this committee and other oversight entities will be an important priority of mine, if confirmed. I commit to learning more about this issue and timely follow-up with you and this committee, in line with applicable laws and regulations.

*Question.* As you are no doubt aware, there have been instances of IRS employees, even staff in leadership capacities, who have unfairly targeted taxpayers based on their political or religious beliefs.

As you were appointed to be Acting Commissioner following what is likely the most notorious of these scandals, what are your thoughts on targeting certain individuals based on these factors?

*Answer.* In order for our tax system to work, taxpayers must have confidence that all taxpayers, regardless of who they are, are being treated fairly and impartially. If confirmed, I will make sure that taxpayers—regardless of background and whether they are individuals, small businesses, or non-profits—are being treated fairly and that the tax laws are being applied impartially and equally to all.

*Question.* What did you do to prevent such discrimination from happening again when you took on the role as Acting IRS Commissioner?

*Answer.* While Acting Commissioner, I worked diligently to treat taxpayers fairly and impartially, which included transparency and accountability with this committee and oversight entities. As soon as I arrived, I began implementing all TIGTA recommendations for improving the tax-exempt functions. I also made public our progress on this implementation. Of note, I very quickly ordered a termination of the so called "be on the lookout" lists where applications for tax exempt status were being set aside based on the name of the organization rather than the substance of the application itself. I also worked diligently to respond to all discovery requests from investigative entities. Ultimately, more than 800,000 pages of documents were provided as well as dozens of interviews from IRS employees. This discovery was the basis for public reports made on the matter by TIGTA and congressional committees. A key step taken was my appointment of the IRS first Chief Risk Officer and the launch of an enterprise risk management program. Following my departure, TIGTA issued a report commending the IRS for improvements made to the tax-exempt function. In 2021, the IRS was internationally recognized for its risk management program by the Risk and Insurance Management Society (RIMS).

*Question.* If confirmed to this position, what do you plan to do to ensure the IRS always operates on a fair and neutral basis?

*Answer.* I can think of no more important factor in building trust than working to ensure fairness and neutrality. There are various levers that can be used to ensure neutrality is maintained, including, for example, employee training, continuous review of policies and practices, and leveraging ongoing input from oversight entities such as TIGTA. Of note, when I was last at the IRS 10 years ago, I worked diligently to treat taxpayers fairly and impartially, which included transparency and

accountability with this committee and oversight entities. A key step taken was my appointment of the IRS first Chief Risk Officer and the launch of an enterprise risk management program. In 2021, the IRS was internationally recognized for its risk management program by the Risk and Insurance Management Society (RIMS). If confirmed, I would expect the IRS risk management program will be incredibly important in coordinating reviews, trainings, and activities necessary to reinforce the importance of neutrality, impartiality, and fairness in all IRS activities.

*Question.* As you know, in August 2022, President Biden signed the Inflation Reduction Act into law. Contained in the bill was nearly \$80 billion in increased funding for the IRS over a 10-year period. Of this significant increase, \$45.6 billion was allocated for “enforcement” efforts, a 69-percent increase from previous spending projections.<sup>1</sup> I am concerned that there are not sufficient safeguards in place to ensure proper utilization of the funds enacted by the Inflation Reduction Act.

If confirmed to this position, do you commit to working with Congress and the appropriate oversight agencies to ensure that all the supplemental funding provided by the Inflation Reduction Act is being used to better serve taxpayers?

*Answer.* If confirmed, I commit to learning about the IRS’s plans and initiatives to improve customer service and staying in close communication with this committee about progress.

*Question.* If you answered “yes” to the question above, do you agree that your commitment applies to working with and providing updates to both the Senate Finance Committee majority and minority?

*Answer.* Yes, the role of the IRS is to be impartial and neutral in administering the code.

*Question.* Although Secretary Yellen stated that “audit rates will not rise relative to recent years for households making under \$400,000 annually” in a letter to former Commissioner Rettig, many of my colleagues and I remain concerned that hardworking low- and middle-income families and small businesses will be adversely affected by these increased enforcement efforts.

What actions do you plan to take to ensure that individuals and small businesses making less than \$400,000 annually are not targeted for audits?

*Answer.* Secretary Yellen and the IRS have committed that the IRA funding will not be used to increase audit rates, relative to historic levels, for households and small businesses making under \$400,000 a year, which I am similarly committed to following through on. As I have not been involved yet with the planning process, I do not have specifics on how IRS will implement this directive. But if confirmed, I look forward to ensuring that IRA implementation complies with this commitment and to keeping this committee informed of these efforts.

While I would want to reserve any final conclusions about steps I would want to take if confirmed, it would be important to have a clear methodology, ensure there is policy within the IRS regarding the use of resources for compliance activities, and conduct training to ensure ongoing clarity on the directive.

*Question.* As demonstrated by the apparent ProPublica leak, there are serious concerns about the IRS’s ability to maintain confidentiality regarding private citizens’ tax information. Another area of concern is maintaining privacy of persons who choose to donate to nonprofit organizations. The U.S. Supreme Court has recognized donor privacy as protected under the First Amendment, from *NAACP v. Alabama* (1958) to *Americans for Prosperity Foundation v. Bonta* (2021). Donor privacy is essential to philanthropic freedom and allows donors the right to remain anonymous should they wish. Despite this constitutional right, some groups have advocated for mandatory disclosure of donors. I worry that if we acquiesce to such demands, we risk suppressing philanthropy, an important pillar of our society. We should instead focus on preserving and even expanding vital protections for anonymous charitable giving.

If confirmed to this position, do you commit to working with me, my colleagues on this committee, and stakeholders on preserving donor privacy and ensuring personal donor information does not get disclosed by the IRS? Please answer “yes” or “no.” If your answer is “no,” please explain.

<sup>1</sup> <https://crsreports.congress.gov/product/pdf/IN/IN11977>.

Answer. The safety and security of taxpayer data is of paramount importance to me and to the mission of the IRS. In order to fulfill its mission, the IRS must safeguard the information of millions of Americans. If confirmed, I would prioritize this across all workstreams that would come across my desk and work with this committee to ensure the IRS's activities are transparent.

*Question.* A number of Hoosier small and medium-sized businesses rely on small captive insurance arrangements to insure against risk. They are concerned that the IRS's focus on the industry, which they believe is overly punitive and inaccurately characterizes the nature and purpose of these arrangements, will eliminate the availability of these insurance products and leave them without other viable options.

If confirmed to this position, do you commit to working with small captive insurance companies and related stakeholders to find a mutually-agreeable and fair path forward on this issue? Please answer "yes" or "no." If your answer is "no," please explain.

Answer. Yes, if confirmed, I look forward to working with all stakeholders regarding ways to improve customer service and taxpayer experience. In particular, small businesses are a key constituency I would hope to keep openly engaged with, which I understand is a bipartisan priority of this committee. I am not aware of the issue, but I will reflect on the commitment I made during the hearing to closely adhere to the taxpayer bill of rights. Taxpayers such as the small and medium-sized businesses in Indiana have numerous rights that, if confirmed, I will work to uphold, including the right to be informed of what is expected of them, the right to pay no more than the correct amount of tax, and the right to challenge an IRS position and be heard. If confirmed, I look forward to ensuring these rights are adhered to for all taxpayers and will work with you to make sure that is the case for businesses in your State.

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QUESTION SUBMITTED BY HON. MARK R. WARNER

*Question.* As you know, I am a supporter of remote notarization. In the last Congress I cosponsored the SECURE Act, which is intended to streamline the use of remote notarization in a variety of contexts. Remote notarization has proven itself as a way to execute important documents in a safe and efficient fashion. During the height of the COVID-19 pandemic, the IRS temporarily allowed certain documents to be executed through remote notarization. The agency has now proposed to make this policy change permanent. Can you commit to moving swiftly to finalize this proposal? And what are your thoughts on the subject more broadly?

Answer. Meeting taxpayers where they are is an important aspect of providing world-class customer service and bettering the taxpayer experience. There are many ways in which the IRS may be able to modernize and reflect the needs of taxpayers today. If confirmed, I look forward to learning more about the status of the remote notarization project and working to implement all IRS responsibilities in accordance with all laws and regulations.

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QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

*Question.* In *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), the Supreme Court ostensibly reasoned that unlimited outside spending would not distort our politics because the public would be able to see who was behind the spending. Even the *Citizens United* justices recognized that unlimited political spending without transparency would be corrupting. But the Court failed to account for a major way to mask who is spending: 501(c)(4) nonprofits, which can spend up to 50 percent of their income on political campaign intervention, do not have to disclose their donors. As a result, secret spending from outside groups in our elections has exploded. Since 2010, dark money groups have poured over \$2.6 billion into Federal elections. At least \$3 out of every \$10 in outside spending reported to the FEC since *Citizens United* can be traced to dark money groups, according to OpenSecrets.

Has the IRS tracked the amount of political campaign intervention spending through 501(c)(4)s since *Citizens United*?

Answer. As I am not currently at the IRS, I do not know if or how the IRS tracks this. I know this issue is critical to you and, if confirmed, I am committed to providing you a more comprehensive response to this question as I learn more.

*Question.* Tax-exempt entities under section 501(c)(3) are prohibited from engaging in any political campaign activity. At the same time, 501(c)(3)s are allowed to share employees, office space, resources, board members, and even funding with affiliated 501(c)(4) entities.

How does the IRS ensure that 501(c)(3) funding is not used for impermissible 501(c)(4) political campaign intervention? Has the IRS ever tested whether the corporate veil between a 501(c)(3) and 501(c)(4) is real or a sham?

*Answer.* As I am not currently at the IRS, I do not know what policies or procedures the IRS has in place for this. I know how important this is to you and, if confirmed, I am committed to providing you a more comprehensive response to this question as I learn more.

*Question.* Networks of entities organized under section 501(c)(4) can make grants to each other to flout the supposed 49.9-percent political campaign intervention limit for such entities. If a group of associated 501(c)(4)s pass money along to each other (e.g., group A spends half of its budget on political campaign intervention and gives the other half to group B, which does the same for groups C and D), the total political spending of the original donation can reach over 90 percent.

How does the IRS use information in Schedule I and Schedule R to track grants between groups to ensure compliance with the limit? Has the IRS ever investigated donation cycling among coordinating 501(c)(4)s?

*Answer.* As I am not currently at the IRS, I do not know what policies or procedures the IRS has in place for this nor do I have knowledge of any ongoing investigations. If confirmed, I am committed to providing you a more comprehensive response to this question once I am able to discuss this matter with those responsible for this at the IRS.

*Question.* It has been over a decade since Congress passed the Foreign Account Tax Compliance Act (FATCA), with bipartisan support, to provide the IRS the information it needs to find hidden income in offshore accounts. However, according to the Treasury Inspector General for Tax Administration “the IRS has taken virtually no compliance actions to meaningfully enforce” it.<sup>2</sup> According to the IRS Chief Research and Analytics officer in 2021 testimony before the Tax and IRS Oversight Subcommittee, preliminary research found that U.S. households hold as much as \$2 trillion in offshore tax havens—double what prior research had found.<sup>3</sup>

Before the passage of the Inflation Reduction Act (IRA), Secretary Yellen explained that human resource and information technology limitations caused by resource constraints had hampered the IRS’s ability to make effective use of the information collected under FATCA.

With the help of additional funding under the IRA, will you ensure that FATCA fulfills its promise to crack down on offshore tax evasion? How? What will be the initial steps taken that show this activity has begun?

*Answer.* The IRA provides the funding to transform the IRS into a 21st-century agency with better customer service, updated technology, a high-quality workforce, and resources to go after those who seek to evade their tax obligations. I do not have a specific idea of the IRS’s current enforcement of FATCA, but, if confirmed, I look forward to understanding the work that is underway and working with you and your office on this important enforcement priority.

*Question.* Rule-of-law nations find it difficult to track down and seize Putin’s and his oligarchs’ dirty assets, which are carefully hidden using shell companies, tax havens, and other tricks. Unfortunately, some of these assets may be concealed in the United States: while foreign banks report on the offshore accounts of U.S. taxpayers under the Foreign Account Tax Compliance Act (FATCA), U.S. banks do not share information about foreign taxpayers. In the words of one expert on financial crime,

<sup>2</sup>TIGTA, Report No. 2018–30–040, Despite spending \$380 million, the IRS is still not prepared to enforce Compliance with the Foreign Account Tax Compliance Act (July 2018).

<sup>3</sup>Closing the Tax Gap: Lost Revenue from Noncompliance and the Role of Offshore Tax Evasion, Before the Senate Finance Subcommittee on Taxation and IRS Oversight, 117th Cong. (2021) (testimony of Barry Johnson), <https://www.finance.senate.gov/hearings/closing-the-tax-gap-lost-revenue-from-noncompliance-and-the-role-of-offshore-tax-evasion>.

this double standard helped lead the U.S. to become “a truly world-class tax haven.”<sup>4</sup>

The President’s FY 2023 budget proposed to share information with foreign partners about foreign accounts held at U.S. financial institutions—known as reciprocal FATCA.

How could this proposal help to track down the dirty assets of Russian oligarchs?

How would this proposal help the IRS crack down on offshore tax evasion? What will you do to make this happen?

Answer. I appreciate your leadership and understand the importance of working internationally to ensure tax compliance goals are met. While I have not closely studied this specific proposal, I commit to studying the issue, if confirmed, and working with you to discuss how the IRS can enforce the relevant tax laws and close the tax gap by improving enforcement, focusing on wealthy and corporate tax evasion.

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#### QUESTIONS SUBMITTED BY HON. THOM TILLIS

*Question.* Recently, the Government Accountability Office noted that IRS’s modernization efforts have been hampered by competing priorities which are delaying the modernization of critical infrastructure systems, thus impeding the IRS’s ability to effectively serve taxpayers. While the Inflation Reduction Act included a massive \$80 billion in new funding for the IRS, only a very small percentage is targeted to modernization.

If confirmed as Commissioner, what areas of technology modernization are you most focused on for improving the way IRS serves taxpayers?

Answer. While I would want to reserve any final conclusions about what the key priorities should be until I have spent time at the IRS understanding the current environment, my current hypothesis is that the top modernization priorities fall into three buckets: ensuring the Individual Master File and Business Master File are updated to a modern platform to optimize data security and cyber resiliency, given the sensitivity of data maintained in those systems; embedding innovative technology in the call center to help significantly increase responsiveness to taxpayers trying to make contact with the IRS; and imaging paper forms into machine-readable output to manage and eliminate backlogs and help increase overall efficiency of return processing.

If confirmed, I look forward to getting up to speed on the current modernization efforts and future plans and engaging with you and your staff on IRS’s progress.

*Question.* Would you prioritize creating a system where taxpayers could file their individual tax returns directly with the IRS or would you instead focus on other more pressing areas of need?

Answer. If confirmed, it would be essential to administer the tax laws that are on the books and focus on solutions the IRS can deploy to improve customer service and the taxpayer experience. I will work with you to ensure you have visibility into priority actions on various pressing items, and in particular, planned steps related to the study or implementation of direct file options.

*Question.* As Commissioner, will you focus on administering the tax code in a non-partisan fashion, while relying on Congress—not the IRS—to make policy decisions?

Answer. Yes, if confirmed, it would be my priority to act in accordance with the responsibilities of the IRS Commissioner, which means administering the tax code in a fair, just, and impartial way.

*Question.* Do you believe the IRS should directly prepare tax returns on behalf of American taxpayers, or do you view that as an inherent conflict of interest?

Answer. There’s a recent IRS statistic that it can take an average of 13 hours to file an individual income tax return and hundreds of dollars. That’s unacceptable, in particular for working families and small businesses. It is critical that the IRS

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<sup>4</sup>Oliver Bullough, “The great American tax haven: Why the super-rich love South Dakota,” *The Guardian*, November 14, 2019, <https://www.theguardian.com/world/2019/nov/14/the-great-american-tax-haven-why-the-super-rich-love-south-dakota-trust-laws>.

work on strategies to make tax filing easier, simpler, and less burdensome for taxpayers.

The IRA requires the IRS to deliver a study of the feasibility of a direct file system and examination of taxpayer preferences. If confirmed, I look forward to engaging with you on this study and its recommendations.

*Question.* Do you think it is appropriate that the IRS, which is tasked with enforcing tax laws (and can't keep taxpayer information private) be given even more information and power by virtue having it prepopulate tax returns?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and to the IRS. If confirmed, I am committed to making data security a top implementation priority. This would involve:

- Establishing for the organization that data security is a top priority;
- Setting measurable goals with an objective to mitigate any risk of unauthorized disclosure;
- Assessing the current capabilities of the process, personnel, and technology to secure data effectively, identifying gaps, and establishing a robust action plan to timely to close;
- Establishing a program of continuous improvement so that the organization is routinely assessing its capabilities and risks and making improvements to keep ahead of the risks;
- Benchmarking other organizations and sectors for emerging data security solutions and ensuring that all approaches are up to date in terms of maximizing effectiveness; and
- Ensuring personnel are fully aware of their responsibilities and feel accountable to secure data.

I believe these steps would establish a critical evidence base useful in guiding any path forward that changes the manner in which tax returns are prepared.

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#### QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

*Question.* I was so grateful to work with Senator Cornyn on legislation that was included in the SECURE 2.0 retirement bill we passed last year that allows domestic violence survivors to withdraw penalty-free from their retirement plans. But I think a lot more must be done and I think the IRS can play an important role in supporting survivors and ensuring that their tax benefits aren't mistakenly going to their abusers.

Will you commit to reviewing what IRS can do to help victims by protecting their privacy and improving their ability to access the agency's resources?

*Answer.* The safety and security of taxpayer data is of paramount importance to me and to the mission of the IRS. In addition, if confirmed, it would be a priority of mine to meet taxpayers where they are and focus on solutions to improve customer service and the taxpayer experience, especially for those who are most vulnerable.

*Question.* According to the 2023 Purple Book submitted to Congress by the National Taxpayer Advocate, taxpayers with incomes below \$50,000 had about 90 percent of their audits conducted by physical correspondence, and 40 percent or more did not respond to the IRS. Much of that problem can be attributed to people who have moved and may not have gotten the outreach. I have a lot of concerns about this because that reliance on physical correspondence has a big impact on places where people move around a lot, like my State.

Can you speak to how you view a challenge like this and how to move IRS into a direction where it can better correspond with taxpayers?

*Answer.* Because I am not at the IRS, I am not familiar with all current rules and regulations regarding the IRS's current correspondence operations. However, if confirmed, I pledge to consider any and all opportunities to better serve taxpayers, be it in-person, online, or over the phone.

*Question.* Right now the labor market is very competitive and all organizations are competing for workers. One challenge the IRS has had in the past is that its hiring process is very long.

Can you speak to any thoughts you have on being a competitive employer and how this process can be streamlined?

Answer. Attracting, recruiting, and retaining a world-class customer service workforce will be a top priority of mine, if confirmed. It is a unique opportunity to build the IRS into a world class customer service organization at this time. If confirmed, I look forward to understanding the IRS's current processes in place for building such a world-class workforce and working with you and this committee to learn of any additional efforts that could help.

*Question.* Given the complexity that comes with filing taxes for many Americans, they often have questions and go to the IRS website for answers. It can be difficult to navigate and I think there can be a lot of improvements in getting the taxpayer the answers they need.

Can you speak to any experience you have in your previous roles in improving transparency and simplifying resources? As well as your thoughts on how IRS might use tools like AI to help answer taxpayer questions?

Answer. Across my career, I have worked on various initiatives to increase transparency. First, during both the Bush and Obama administrations, I led government-wide efforts to measure and remediate improper payments, including the launch of *PaymentAccuracy.gov*. Second, I was the OMB lead on coordinating and implementing the government-wide reporting and accountability requirements of the American Recovery and Reinvestment Act (ARRA). The launch of *Recovery.gov* created a new bar in the transparency of Federal spending. To make this website a reality, I worked with all 50 States to successfully launch *FederalReporting.gov*.

With respect to AI, I believe there are significant opportunities to benchmark how world-class customer service organizations in both the private and public sectors integrate AI into channels such as call centers and digital applications. I believe the IRS should benchmark these solutions and develop a strategy to integrate a new approach to improve taxpayer service.

*Question.* I introduced legislation last year that would help ensure that consumers who win fraud cases are not unfairly taxed on fees awarded to their attorneys. A loophole in the U.S. tax code unfairly penalizes consumers who rightly win their claims of abuse or fraud by allowing wrongdoers to send 1099s for their damages and attorney's fees even though they do not receive those funds.

Are you aware of this issue, and how can we work together to ensure that we are protecting wronged consumers from yet another harm?

Answer. I am not intimately familiar with this issue, but, if confirmed, I would look forward to understanding how the administration of this law works and working with you to provide technical assistance from the IRS on this legislation.

*Question.* Section 13103 of the Inflation Reduction Act (§ 48(e)(1)(A)(i)) provides a bonus investment tax credit for certain renewable energy investments (wind and solar projects less than 5 megawatts) made in certain low-income communities. Consistent with the law, Treasury was tasked with releasing this guidance 180 days after IRA enactment. Consistent with the law, preliminary guidance was released on February 13, 2023.

Congress clearly intended for *residents in low-income communities* to benefit from this program *starting this year*. Beyond the plain language of the law, which took effect January 1st, the then chairman of the Ways and Means Committee (Chairman Neal) and Congressman Danny Davis inserted statements into the Congressional Record on the day the Inflation Reduction Act passed the House that emphasized this point. And as you may know, I worked tirelessly in the Senate to pass the largest expansion and extension of the solar investment tax credit in history.

I appreciate how busy Treasury is implementing the IRA. However, the guidance for section 13103 released on February 13th (Notice 2023-17) effectively bars any investment in low-income communities until at least the third quarter of this year. Frankly, I'm concerned this program may not get any project built this year. Obviously, that is counter to the administration's Justice40 goals and advancing solar access and equity.

I would strongly urge you to consider issuing additional guidance in short order that allows low-income residents and communities to immediately benefit from this program. I understand that there is basic guidance that Treasury can issue now that will unlock investment in low-income communities.

I also understand that Treasury has the authority to revise the guidance and program rules at any time. Why not open the program for 2023 now, while continuing to make improvements to the program for 2024 and beyond?

Answer. As I am not currently at the IRS, I am not familiar with any operational considerations underway at the IRS regarding this tax credit program. However, if confirmed, I will work to understand the IRS's role in this credit's implementation and keep you informed of what I learn.

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QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN

*Question.* Late last year, the IRS dealt with yet another leak of sensitive information; this time for over 100,000 taxpayers. To make matters worse, while the sensitive data was reportedly taken offline, the old files were not purged from the system and were back online by December 1st. More concerning, it was not the IRS nor the contractor who caught this mistake but a third-party researcher who alerted the IRS that the files were publicly available.

I think it's safe to say that the IRS has a data security problem. The amount of sensitive information the IRS collects on taxpayers is staggering, and these leaks will not stop until data security is prioritized.

Do you commit to ensuring that third-party IRS contractors adequately protect and handle sensitive taxpayer information?

Answer. Data security and protecting taxpayer information is one of the most important responsibilities of the IRS. If confirmed, I will take this responsibility seriously and work tirelessly with the IRS workforce to advance data security and protect taxpayer information.

*Question.* In your opinion, what does securing data mean to you?

Answer. I believe there are numerous critical components to an effective plan for securing data. First, establishing for the organization that data security is a top priority. Second, setting measurable goals with an objective to mitigate any risk of unauthorized disclosure. Third, assessing the current capabilities of the process, personnel, and technology to secure data effectively, identifying gaps, and establishing a robust action plan to timely close gaps. Fourth, establishing a program of continuous improvement so that the organization is routinely assessing its capabilities and risks and making improvements to keep ahead of the risks. Fifth, benchmarking other organizations and sectors for emerging data security solutions and ensuring that all approaches are up to date in terms of maximizing effectiveness. Sixth, ensuring personnel are fully aware of their responsibilities and feel accountable to secure data. If confirmed, I look forward to ensuring the IRS is taking the above actions given how critical data security is to the mission.

*Question.* Recently, the IRS updated its website with suggested guidance for taxpayers with digital assets. In particular, the IRS suggests that taxpayers who receive mining or staking rewards should be prepared to pay taxes twice—on initial receipt as they participate in the validation of each block in a blockchain and upon ultimate disposition later of this created property. Such treatment would counter typical treatment for created property under the law, where such property is taxed only on disposition.

The IRS has produced conflicting signals regarding digital assets and how to bring consistent tax clarity to the millions of Americans participating in permissionless blockchain ecosystems. Will you commit to working with my office to fine-tune the IRS's guidance for taxpayers with digital assets?

Answer. I am not intimately familiar with the IRS's current treatment of digital assets since I am not currently at the IRS. However, if confirmed, I look forward to working with you and your office, once I've had the opportunity to understand the IRS's procedures and assess the administrability of the tax laws.

*Question.* Earlier this year, the IRS issued proposed guidance on the Service Industry Tip Compliance Agreement (SITCA) program. This program would create a tip-reporting program between the IRS and service industry employees to improve tip-reporting compliance. SITCA intends to serve as the main tip compliance program for various service industries whose employee earns part of their wage through tips.

Do you commit to ensuring that those who make under \$400k are not subject to increased audits due to this program?

Answer. Secretary Yellen and the IRS have committed that the IRA funding will not be used to increase audit rates, relative to historic levels, for households and



small businesses making under \$400,000 a year. It's my understanding that the IRA funding is not intended to increase audit scrutiny on low- and middle-income Americans or small businesses. As I have not been involved yet with the planning process for the IRA funding, I do not have specifics on how IRS will implement this directive. But if confirmed, I look forward to ensuring that IRA implementation complies with this commitment.

*Question.* Do you commit to ensuring that the SITCA program does not become mandatory for service industry businesses to participate in?

Answer. Since I am not currently at the IRS, I am not intimately familiar with the specifics of this program. As was noted during the hearing, the SITCA program is a voluntary program. However, if confirmed, I commit to learning more about the program that is underway, studying its impacts, and engaging with stakeholders and Congress on what I learn.

*Question.* Will you commit to not including miners, stakers, and other distributed ledger validators within the broker guidance that is due to be promulgated by the IRS?

Answer. Since I am not currently at the IRS, I am not familiar with the status and development guidance being developed by the IRS. However, if confirmed, I commit to learning more about the IRS and Treasury rulemaking efforts to date, studying its impacts, and engaging with stakeholders and Congress on what I learn.

*Question.* Can you commit to providing clear guidance on digital asset-related issues and making digital asset guidance a priority?

Answer. Clarity is an important component of tax administration, ensuring taxpayers and stakeholders clearly understand their tax obligations. If confirmed, I look forward to working across the IRS, including with the Chief Counsel, and Treasury, to maximize, to the fullest extent possible, clarity in guidance provided in relation to these important issues.

*Question.* There continues to be a significant processing backlog in Tennessee, especially with respect to amended employment tax returns, leaving many small businesses in Tennessee waiting for more than 2 years for these funds. Currently, at least 20 employers are awaiting over \$4 million in refunds. This backlog is frustrating as Congress intended to quickly support businesses experiencing serious financial hardships during the COVID-19 pandemic. With the additional resources recently provided to the Service, what plans do you have to resolve the backlog? How do you plan to resolve these issues related to aggregate filers?

Answer. It is critical that the IRS get healthy on its inventory so that taxpayers can resolve issues and get refunds more quickly. I am not familiar with any decision-making around this specific issue or work the IRS has done, but I know the IRS has been working diligently on the inventory and as a part of my commitment to improved customer service, getting healthy on inventory will be one of my top priorities, if I am confirmed.

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#### QUESTIONS SUBMITTED BY HON. ELIZABETH WARREN

*Question.* The Taxpayer Bill of Rights, which you mentioned in your hearing that you read daily, states that taxpayers have “the Right to a Fair and Just Tax System.”<sup>5</sup> Yet years of politically motivated cuts to the Internal Revenue Service (IRS) budget have led to serious equity and discrimination problems with IRS audits. According to a recent report by the Transaction Records Access Clearinghouse (TRAC), which uses IRS data, millionaires had only a 1.1 percent chance of an audit.<sup>6</sup> In FY 2022, the number of millionaires audited was less than half of what it was a decade earlier.<sup>7</sup> This data suggests the continuation of a long trend of diminishing oversight and enforcement for high-net-worth individuals. Meanwhile, low-income taxpayers filing for the EITC have over a five times higher chance of being audited

<sup>5</sup> Internal Revenue Service, “Taxpayer Bill of Rights,” <https://www.irs.gov/taxpayer-bill-of-rights#fair>.

<sup>6</sup> Transaction Records Access Clearinghouse, “IRS Audits Few Millionaires But Targeted Many Low-Income Families in FY 2022,” January 4, 2023, <https://trac.syr.edu/reports/706/>.

<sup>7</sup> *Id.*

than other taxpayers.<sup>8</sup> Furthermore, recent findings in a study by economists from the Treasury Department and multiple universities determined that the audit rate for black taxpayers is three to five times higher than the rate for other taxpayers.<sup>9</sup>

The Taxpayer Bill of Rights also entitles taxpayers right to “be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes,” as well as the right to “challenge the IRS’s position.”<sup>10</sup> But due to budget cuts, the IRS has increasingly relied on correspondence audits to scrutinize low-income taxpayer returns.<sup>11</sup> According to experts, these audit notices and math error notices are hard to understand and cause confusion and frustration for taxpayers.<sup>12</sup> Ninety percent of audits of taxpayers with incomes below \$50,000 are conducted by correspondence, much higher than the rate for those with higher incomes.<sup>13</sup> The additional funding from the Inflation Reduction Act should be used to rectify these and other equity issues at the IRS.

Under your leadership, will the IRS commit to reversing the long trend of decreasing audit rates for millionaires and to reversing the increasing audit rates for low-income filers such as EITC recipients?

Answer. It is essential that our tax system operates fairly and right now, there is significant evidence that high earners are paying far less than what they owe in taxes. For example, an assessment from the National Bureau of Economic Research indicates that working people pay 99 percent of the taxes they owe, while 20 percent of the income from wealthy individuals and large corporations is shielded from IRS view. This outcome degrades public trust in our tax system because honest taxpayers should know that when they file an accurate return with the IRS that all other taxpayers, including the wealthiest Americans, are doing the same. Funding in the IRA will address this disparity and focus on the highest-income earners. As you know, I have a long career working in government and in the private sector focused on data-driven solutions, and, if confirmed, I will focus my time on ensuring the IRS uses the IRA funds to improve tax compliance among wealthy and corporate tax evaders.

*Question.* Following President Biden’s first executive order on racial equity, the Treasury Department has recently completed racial equity analysis for tax benefits, but has not done so for tax enforcement. Do you believe that Treasury Department and IRS should extend its work on racial equity to studying and addressing racial inequities in tax enforcement? Why or why not?

Answer. Fairness is an essential element of tax administration. We have to understand whether the approaches in tax administration have a disparate impact on any population, especially populations that are most vulnerable. If confirmed, I will work with the IRS to talk to those who are familiar with these impacts and report back to this committee on my findings, as I able to within the bounds of all applicable laws, rules, and regulations.

*Question.* With the additional funding from the Inflation Reduction Act, in addition to not raising audit rates on taxpayers making less than \$400,000 will you prioritize improving the correspondence audit process and the math error notice process to ensure clarity, equity, and protection of taxpayer rights?

Answer. I agree the priorities of clarity, equity, and protection of taxpayer rights are the bedrock of an IRS that builds public trust, which I am committed to prioritizing, if confirmed.

*Question.* The combination of Republican-led IRS budget cuts and lobbying from high-net-worth individuals and large corporations has made it more difficult and costly for Americans to file their taxes. According to the IRS, the average American

<sup>8</sup>Transaction Records Access Clearinghouse, “IRS Continues Targeting Poorest Families for More Tax Audits During FY 2022,” March 29, 2022, <https://trac.syr.edu/tracirs/latest/682/>.

<sup>9</sup>*New York Times*, “Black Americans Are Much More Likely to Face Tax Audits, Study Finds,” Jim Tankersley, January 31, 2023, <https://www.nytimes.com/2023/01/31/us/politics/black-americans-irs-tax-audits.html>.

<sup>10</sup>Internal Revenue Service, “Taxpayer Bill of Rights,” <https://www.irs.gov/taxpayer-bill-of-rights#fair>.

<sup>11</sup>Bloomberg Tax, “IRS Service Woes Slowing Streamlined Low-Income Taxpayer Audits,” Naomi Jagoda and Richard Tzul, June 21, 2022, <https://news.bloombergtax.com/daily-tax-report/irs-service-woes-slowing-streamlined-low-income-taxpayer-audits>.

<sup>12</sup>*Id.*

<sup>13</sup>National Taxpayer Advocate, “Annual Report to Congress 2022,” pp. 18–19, <https://www.taxpayeradvocate.irs.gov/reports/2022-annual-report-to-congress/full-report/>.

spends 13 hours and \$250 every year to file their taxes.<sup>14</sup> But, for tens of millions of Americans this process could take minutes with a truly free and simplified filing program. Yet, the IRS outsourced their Free File program to the tax preparation industry, which serves only 3 percent of taxpayers when 70 percent are eligible.<sup>15</sup> It is time for the IRS to reclaim Free File and develop additional options for free online filing—just like the Government Accountability Office has recommended<sup>16</sup> and the American public overwhelmingly supports.<sup>17</sup>

At a Senate Finance Committee hearing on June 7, 2022 Secretary Yellen stated, “I absolutely agree with the comments you made about [Free File]. It hasn’t worked. We need to develop a new system. There’s no reason in the world that a modern economy shouldn’t have a system that makes it easy for such a large group of taxpayers to file their returns. . . . It’s definitely something we should do and when the IRS is adequately resourced, it’s something that will happen.”<sup>18</sup> Subsequently, the IRS received an additional \$80 billion in funding, including significant funding for operations support such as information technology, business systems modernization, and a task force to design an IRS-run free “direct efile” tax return system.

Do you believe that simple free and online filing tools are pivotal to the success of the IRS, and will you prioritize working with Secretary Yellen to develop them?

Answer. There’s a recent IRS statistic that it can take an average of 13 hours to file an individual income tax return and hundreds of dollars. That’s unacceptable, in particular for working families and small businesses. It is critical that IRS work on strategies and devote resources to make tax filing easier, simpler, and less burdensome for taxpayers. The IRA calls for the IRS to deliver a study of the feasibility of a direct file system and examination of taxpayer preferences. If confirmed, I look forward to engaging with IRS employees on the development and outcomes of the required study and any next steps it identifies.

*Question.* According to recent reporting, major tax preparation companies, such as H&R Block, TaxAct, and TaxSlayer have been “secretly transmitting sensitive financial information” of American users to Meta and Google using a widely used code called the Meta Pixel and Google Analytics.<sup>19</sup> This is not only an appalling breach of trust, but also likely illegal, given strict laws and regulations about taxpayer data privacy. Both software tools are invisible to users but record their browsing history and even information they enter online, transferring them to Meta and Google to enable targeted advertising.<sup>20</sup> Reportedly, the data includes names and email addresses, and more sensitive financial information such as income, filing status, refund amounts, health savings account usage, dependents’ names and college scholarship amounts.<sup>21</sup>

The Internal Revenue Code clearly states that “returns and return information shall be confidential,” with limited exceptions.<sup>22</sup> One of the exceptions is for a taxpayer to designate a third party to receive return information, but those third parties “shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.”<sup>23</sup> A tax preparer “who knowingly or recklessly (1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or (2) uses any such information for any purpose other than to prepare, or assist in preparing,

<sup>14</sup> Internal Revenue Service, “IRS Tax Year 2022 1040 (and 1040–SR) Instructions,” p. 107, January 20, 2023, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107>.

<sup>15</sup> U.S. Government Accountability Office, “IRS Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free,” April 28, 2022.

<sup>16</sup> *Id.*

<sup>17</sup> Data For Progress, “Senator Warren: Filing Taxes Should Be Free, Fast, and Easy,” July 14, 2022, Elizabeth Warren, <https://www.dataforprogress.org/blog/2022/7/13/senator-warren-filing-taxes-should-be-free-fast-and-easy>.

<sup>18</sup> Senate Committee on Finance, “The President’s Fiscal Year 2023 Budget,” June 7, 2022, <https://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2023-budget>.

<sup>19</sup> The Markup, “Tax Filing Websites Have Been Sending Users’ Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> 26 U.S.C. § 6103(a).

<sup>23</sup> 26 U.S.C. § 6103(a).

any such return” faces civil and criminal liability, including \$1,000 per unauthorized disclosure or actual and punitive damages, and up to 1 year in prison.<sup>24</sup>

Under your leadership, will the IRS commit to protecting taxpayers’ sensitive financial information, including by pursuing enforcement action against large tax preparation companies who break the law?

What specific action(s) would you take to protect taxpayers’ data?

Answer. The safety and security of taxpayer data is of paramount importance to me and to the mission of the IRS. In order to fulfill its mission, the IRS must safeguard the information of millions of Americans. If confirmed, I would take any unauthorized disclosure of taxpayer data extremely seriously, as I know my predecessors did. And, as has been done in the past, I would ensure that the matter was referred to the appropriate investigative authorities and that any appropriate remedial action was taken upon conclusion of the investigation.

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

The committee meets today to discuss Danny Werfel’s nomination for IRS Commissioner. I want to welcome Mr. Werfel back to the Finance Committee, where we know him well.

I expect a large part of this hearing will focus on the IRS funding included in the Inflation Reduction Act. That’s where I’ll begin, and I want to focus on three main points.

First, for some time I’ve talked about the two-tiered tax system in America: one for firefighters, nurses, and teachers, whose taxes come straight out of their paychecks; another for billionaires and high-flyers, who to a great extent can pay what they want and when they want. Today we’ll focus on ending the two-tiered system of enforcement in our tax laws. That’s needed today—and it’s a big part of what Democrats sought to address in the Inflation Reduction Act—because audit rates are a lot higher today for those of modest means than the very wealthy.

Second, finally, thanks to the Inflation Reduction Act, the IRS is getting the resources it needs to go after tax cheating by the big guys: the wealthy and corporations. There are members who oppose that effort, and I get that they want to deflect and distract. That’s why you’re hearing these wild, made-up fantasies about 87,000 agents armed with rifles, busting down people’s doors. If you don’t want to engage on the real issue, which is tax cheating by the wealthy and corporations, you change the channel and talk about something else.

And third, contrary to a lot of baseless attacks you hear today, improving technology and staffing up the customer service side of the IRS is a big win for law-abiding families and small businesses. In my view they’ll be less likely to face an audit thanks to the Inflation Reduction Act.

I’ll walk through those point by point, beginning with the two standards of enforcement.

Working people and the middle class today have a 99-percent rate of compliance with the tax code. Yet working families who claim the Earned Income Tax Credit are audited far more often than the wealthy.

It didn’t get that way by accident. A decade of Republican budget cuts gutted the IRS’s ability to do the kind of in-depth enforcement work it takes to make sure corporations and the wealthy are paying what they owe.

From 2012 to 2020, our economy got a whole lot bigger, but the total dollar amount of unreported taxes uncovered by corporate audits fell by nearly 60 percent. Over the last decade, audit rates of wealthy taxpayers making more than \$5 million a year fell by 90 percent. On the other hand, the audit rate for working people didn’t budge, even though the IRS was working with fewer resources. That means working Americans bore a much heavier burden.

That’s where the second main point comes in. When Democrats wrote the Inflation Reduction Act, we decided it was long past time to say to big corporations and the tax cheats at the top: “Nobody is above the law, not even you.”

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<sup>24</sup> 26 U.S.C. § 7216; 26 U.S.C. § 7431; 26 U.S.C. § 6713.

That's why the bill included new resources for enforcement. Democrats have been clear that this funding will not go to audits of Americans who earn less than \$400,000. In fact, during the debate on the bill, Republicans actually struck legislative language from the bill that would have constructed even stronger guard rails on that issue.

For Democrats, this is about going after the cheating at the top and doing a better job of collecting what the wealthy and corporations already owe. The official tax gap projection says that \$540 billion in taxes go unpaid each year. Donald Trump's IRS commissioner Charles Rettig said it could be as high as \$1 trillion. The Inflation Reduction Act funding is going to help get at that issue too.

Finally, better technology and more customer service personnel for the IRS can go a long way to relieving headaches for typical taxpayers and small businesses. For years it's been a struggle to get anybody on the phone when you call the IRS with a question. In Spring 2021, only 11 percent of phone calls got through. Last year it was 13 percent. In the early stages of this filing season, it's up to almost 90 percent. A huge improvement.

These tech upgrades and more personnel ought to *reduce* the odds that a law-abiding family or small business faces an audit. These days, taxpayer information goes into a host of outdated systems that struggle to communicate with each other. Fixing that will help the IRS better use the information it already has. If the IRS can answer its own questions and resolve issues proactively, it's less likely that a busy parent or an owner of a local restaurant opens the mailbox one day to find a scary letter from the tax man.

With that, I want to thank Mr. Werfel for his willingness to return to public service and the IRS. I think the President made an excellent choice with his nomination. I'm looking forward to our discussion.

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## COMMUNICATION

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### NATIONAL ASSOCIATION OF TAX PROFESSIONALS

February 14, 2023

The Honorable Ron Wyden  
Chairman  
U.S. Senate  
Committee on Finance  
Washington, DC 20510

The Honorable Mike Crapo  
Ranking Member  
U.S. Senate  
Committee on Finance  
Washington, DC 20510

**Re: Hearing to Consider the Nomination of the Honorable Daniel I. Werfel to be Commissioner of the Internal Revenue Service**

Dear Chairman Wyden and Ranking Member Crapo:

I am writing on behalf of the National Association of Tax Professionals (NATP) members to express our support for the nomination of Daniel Werfel as the next Commissioner of the Internal Revenue Service (IRS). NATP is the largest association dedicated specifically to providing federal tax professionals with the resources, connections and education they need to serve their clients with the highest level of excellence. Our 24,000 leading tax professional members believe in a superior standard of ethics and exemplify professional excellence as they serve more than 11 million U.S. taxpayers.

In addition to previously serving as an interim IRS Commissioner, Mr. Werfel has held various senior positions within the federal government, including the Controller of the Office of Management Budget and OMB Deputy Director for Management. He has effectively managed large and complex organizations, bringing together diverse teams to achieve common goals. Strong leadership of the Service is needed now more than ever as priorities for the \$80 million allocation from the Inflation Reduction Act will be determined and implemented.

Our members and their clients deserve significant improvements within the IRS, and we hope Mr. Werfel's priorities will include the following:

- Technology modernization that will improve the overall efficiency of the tax filing process.
- Hiring staff to make an immediate impact on wait times and customer service quality.
- Training and development for current staff on new tax laws, modern customer service practices and new technologies that the agency is adopting.

In conclusion, we are optimistic about the leadership that, if confirmed, Mr. Werfel can bring to the IRS. We encourage the committee to conduct a thorough and swift hearing so that significant improvements can be experienced by the U.S. taxpayers as soon as possible.

Thank you for considering our endorsement.

Sincerely,

Scott Artman, CPA, CGMA  
Executive Director

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