

1 OPEN EXECUTIVE SESSION TO CONSIDER AN ORIGINAL BILL TO
2 PREVENT IDENTITY THEFT AND TAX REFUND FRAUD AND THE
3 TAXPAYER PROTECTION ACT OF 2016
4 WEDNESDAY, APRIL 20, 2016
5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.

8 The meeting was convened, pursuant to notice, at
9 10:25 a.m., in room 215, Dirksen Senate Office Building,
10 Hon. Orrin G. Hatch (chairman of the committee)
11 presiding.

12 Present: Senators Grassley, Crapo, Roberts, Cornyn,
13 Thune, Burr, Isakson, Toomey, Coats, Heller, Scott,
14 Wyden, Stabenow, Cantwell, Nelson, Menendez, Cardin,
15 Brown, Bennet, Casey, and Warner.

16 Also present: Republican Staff: Chris Armstrong,
17 Deputy Chief Oversight Counsel; Chris Campbell, Staff
18 Director; Jim Lyons, Tax Counsel; Eric Oman, Senior
19 Policy Advisor for Tax and Accounting; and Mark Prater,
20 Deputy Staff Director and Chief Tax Counsel. Democratic
21 Staff: Michael Evans, General Counsel; Joshua Sheinkman,
22 Staff Director; and Tiffany Smith, Senior Tax Counsel.
23 Non-Designated Staff: Joshua LeVasseur, Chief Clerk and
24 Historian; and Bryan Palmer, Deputy Clerk.

25 Also Present: Thomas Barthold, Chief of Staff for
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1 the Joint Committee on Taxation; and Mark Mazur,
2 Assistant Secretary for Tax Policy at the U.S. Department
3 of Treasury.

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

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4 The Chairman. The Committee will come to order.
5 Today, the Committee has before it the Chairman's mark of
6 legislation to prevent identity theft and tax refund
7 fraud, as modified, as well as a markup of a bill titled
8 the Taxpayer Protection Act of 2016, as modified.

9 Welcome, everyone, to this morning's executive
10 session.

11 It has been a few months since we have gathered
12 together to consider legislation. I think all of us are
13 looking forward to debating and reporting these two
14 important bills today.

15 The Committee will first consider legislation to
16 fight identity theft and tax refund fraud. The bill we
17 will debate and hopefully report today consists of 18
18 separate provisions and represents a significant step
19 forward in the effort to address and hopefully prevent
20 stolen identity refund fraud.

21 That said, none of us are under any illusions that
22 this legislation will solve the problem entirely. For
23 now, our goal is to make it as difficult as possible for
24 fraudsters to get away with these types of crimes. The
25 bill aims to put more tools in the proverbial toolbox and

1 going forward, the Committee will remain vigilant as we
2 seek to identify additional measures that will allow us
3 to detect and prevent stolen identity refund fraud.

4 We will also continue to oversee the activities of
5 the IRS and the private tax preparation and processing
6 industry to ensure that these growing problems are
7 adequately and appropriately addressed by using the tools
8 that will be provided by this bill.

9 According to the American Institute of Certified
10 Public Accountants, 63 percent of CPAs who answered a
11 2015 survey said that at least one of their clients was a
12 victim of tax identity theft in the 2015 filing season.
13 And with the theft of sensitive taxpayer information at
14 large retailers, insurers and other entities across the
15 United States, as well as the recent breach of the IRS'S
16 Get Transcript and IP PIN tools, we will almost certainly
17 see this trend continue in the future unless further
18 action is taken.

19 The continued and heightened threats to taxpayers
20 and the tax system from cyber criminals that we heard
21 about at our hearing last week is yet another reason for
22 the Committee to act today to move this bipartisan
23 legislation forward.

24 At our hearing last week, we heard how the IRS and
25 leaders of the electronic tax industry and State revenue

1 agencies convened a summit last year to discuss ways that
2 they could work together to protect taxpayers from stolen
3 identity refund fraud. Some of their agreed-upon
4 solutions are already having positive effects.

5 Our bill will require the IRS to provide us updates
6 on some of these solutions and add to and enhance these
7 particular efforts.

8 In addition, the bill provides "streamlined critical
9 pay authority" to the IRS so that it can quickly recruit,
10 hire and retain certain information technology
11 professionals to better address pressing stolen identity
12 refund fraud issues, as well as fraud and cybersecurity
13 concerns.

14 Furthermore, the bill will also increase penalties
15 for misappropriating a taxpayer's identity in connection
16 with tax fraud and for improper disclosures or uses of
17 information by tax return preparers.

18 I want to thank our Ranking Member, Senator Wyden,
19 and his staff for working so closely with us to ensure we
20 had a bipartisan product to mark up today. I have really
21 appreciated that over the last few years we have worked
22 together and it means a lot to me.

23 Many of the provisions in this bill were included in
24 legislation that Senator Wyden and I introduced in 2014
25 and others were included in bills introduced by Senator

1 Nelson.

2 I also need to recognize Senator Isakson, who has
3 been very active in this space, as well.

4 I look forward to our discussions and markup of this
5 legislation and the ideas that our members have for
6 addressing stolen identity refund fraud.

7 In addition to this important bill, we will also
8 consider the Taxpayer Protection Act of 2016. That is
9 another bipartisan bill that will provide, strengthen and
10 clarify a series of taxpayer protection measures.

11 This bill includes 27 separate proposals, many of
12 which come from bills introduced by Senators Grassley,
13 Thune, Cardin and Cornyn. I want to thank these members
14 for their efforts in developing these ideas and
15 proposals.

16 I know all of the members of this Committee feel
17 strongly about protecting taxpayers given the many
18 amendments filed to this bill by members looking to
19 further improve this bipartisan legislation. I think we
20 will have a robust discussion of all these proposals and
21 I look forward to working through these issues.

22 With that, I want to once again thank all of the
23 members for their efforts in addressing these matters and
24 working with us to get to this markup today.

25 I would now like to recognize Senator Wyden for his

1 opening remarks.

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

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4 Senator Wyden. Thank you very much, Mr. Chairman.

5 You are very correct that we have worked together on
6 many of the specifics that we are going to be considering
7 today so that we can address this ID theft issue and the
8 question of taxpayer protection.

9 Every new headline about hackers and crooks and
10 scamsters stealing taxpayer dollars and personal data is
11 a reminder that there is much more work to be done to
12 protect the hardworking taxpayers of this country.

13 There is a recent example of the hack into the Get
14 Transcript system at the IRS. Here, the crooks nailed
15 taxpayers coming and going. Lax security on the IRS
16 system left the front door open to hackers, who stole
17 data on three quarters of a million taxpayers. Then when
18 the IRS gave out special identity protection PIN numbers
19 to the victims, the IRS opened the back door by again
20 using a security system that did not keep the bad guys
21 out.

22 That is why this package -- and there was bipartisan
23 support for the streamlined critical pay authority which
24 the IRS can use to build a topnotch team of tech experts
25 to beat back the hackers, protect taxpayer data, and

1 finally, colleagues, get out in front of the crooks and
2 it is going to be much easier to flag and crack down on
3 fraudulent returns by making better use of the national
4 database of new hires.

5 These are strong bipartisan steps that I pushed to
6 include in this legislation.

7 But, colleagues, I just want to spend a couple of
8 minutes here in wrapping up by way of saying that with
9 this good work that has been done, there remains a
10 glaring loophole in this package as it stands now and my
11 view is politics has gotten in the way of fixing it.

12 If this legislation, when it hits the floor, does
13 not allow for minimum basic standards to crack down on
14 crooked, fraudulent, and incompetent return preparers, it
15 will be one more example of lawmakers in Congress
16 willfully failing to protect vulnerable taxpayers.

17 The victims of fraud and incompetence are not just
18 Democrats, Republicans or Independents and they are not
19 exclusive to Blue States or Red States. The fact is this
20 is an issue that has absolutely nothing, zero, to do with
21 politics.

22 It does have everything to do with the Americans we
23 represent who are getting ripped off by criminals and
24 Congress sitting on its hands instead of acting to stop
25 it.

1 Right now, there are no minimum national standards
2 whatsoever for paid tax return preparers, absolutely no
3 rules, colleagues, to prevent incompetence; no safeguards
4 to keep con artists from falsifying returns and leaving
5 their victims in financial ruin.

6 Colleagues, it just does not pass the smell test to
7 say everything is okay with a system that has taxpayers
8 handing over their Social Security and bank account
9 numbers to people who meet no standards whatsoever.

10 There are nearly a half-million registered preparers
11 who do not claim to have professional credentials and
12 last year alone, these paid tax preparers submitted more
13 than 75 million returns, well more than half of all
14 returns filed with the IRS.

15 Study after study has found high rates of errors in
16 tax returns filed by paid preparers who are not required
17 to meet minimum basic standards of competency.

18 By comparison, preparers in Oregon and a handful of
19 other States with minimum standards have lower rates than
20 paid preparers nationally. Even unpaid volunteers
21 required to meet minimum standards outperform paid tax
22 preparers.

23 One prominent national chain of preparers has been
24 forced to close dozens of locations across the country
25 because of rampant fraud committed by franchisees and

1 their workers.

2 The Maryland comptroller was recently forced to stop
3 accepting returns from 65 questionable tax prep firms at
4 68 locations in the State. One California man who ran a
5 string of tax prep businesses ripped of taxpayers to the
6 tune of \$14 million before he was banned from the
7 industry by a Federal court.

8 Just in the last few weeks, indictments have been
9 handed down to a few fraudsters in New Mexico, Texas,
10 Maryland, Rhode Island, New York, Alabama, and elsewhere.
11 And I think, colleagues, it is particularly noteworthy
12 that these indictments stem from crimes committed 3, 4
13 and 5 years ago in several cases. That is how long it
14 takes to bring criminals to justice in this shadowy
15 environment. Those are just a handful of the cases that
16 have been uncovered.

17 What, to me, ought to scare us most is that there is
18 no good way of figuring out just how much money the
19 criminals are actually pocketing. There is no way to
20 tell exactly how many Americans have been victimized or
21 to keep the bad guys out from the beginning.

22 The bottom line is that Congress has left the door
23 open and the fraudsters and the rip-off artists and the
24 organized criminals have invaded. Their victims are
25 often some of the most vulnerable people in the country,

1 working families who struggle to make ends meet and turn
2 to paid preparers every single spring.

3 Meanwhile, tax lawyers and accountants who typically
4 work with wealthier Americans and business owners go
5 through years of schooling and rigorous certification.
6 They do not operate in the shadows the way criminal paid
7 preparers do, because there are strong rules to protect
8 their clients.

9 So when it comes to getting tax help, colleagues,
10 the well off are fine. They are safe. The less
11 fortunate end up getting thrown to the wolves.

12 In my judgment, the fact that Congress is
13 maintaining this imbalance is simply unfair to millions of
14 Americans. It would be like the Congress telling
15 construction companies that on the less affluent side of
16 town, they do not have to build houses to code or use
17 licensed contractors.

18 The standards ought to be there, basic minimum
19 standards. They ought to be there to protect everybody.

20 I finally want to wrap up by saying setting minimum
21 standards for the preparers is not some wacky, brand new
22 idea that came from the far left. A small handful of
23 States have rules in place, including my home State of
24 Oregon. And most importantly, under Democratic and
25 Republican leadership in the past, the recent past, this

1 Committee supported legislation giving the green light
2 for minimum standards.

3 Unfortunately, for unrelated reasons, those efforts
4 never got a bill to the President's desk.

5 In September, the Finance Committee had a bill ready
6 to go that combined these vital minimum standards with
7 many of the same additional proposals that are now up for
8 consideration.

9 The markup was pulled at the 11th hour. Eight
10 months later, the provision on minimum standards for
11 preparers is now absent.

12 There are two bills before the Committee now. Part
13 of the second bill writes into permanent law the
14 Volunteer Income Tax Assistance program, called VITA,
15 which helps low income folks file their taxes. To
16 protect these taxpayers near the bottom of the income
17 scale, this program requires testing and minimum
18 standards for its volunteers.

19 My guess is the Committee is going to vote to make
20 that requirement permanent. So what we are talking about
21 now is basically formalizing a double standard. I can
22 see absolutely no reason why minimum protective standards
23 are good enough for a modest program like VITA, but they
24 do not make the cut for paid preparers used by millions
25 around the country.

1 So I am going to offer an amendment, when we get to
2 that point in the discussion, that would end this double
3 standard and allow for minimum standards for preparers.

4 This amendment is going to be different from
5 proposals we have looked at in the past. For example, a
6 number of my colleagues have said -- and I have
7 appreciated the conversations that we have had -- a
8 number of colleagues have said they oppose setting
9 minimum standards because of the IRS'S role in overseeing
10 the process.

11 So in this amendment, colleagues, I have chosen to
12 leave the IRS out of the equation. The Treasury
13 Department handles setting up the standards and making
14 sure that they are in place. In fact, this amendment
15 goes so far as to move the office that handles these
16 issues, colleagues, out of the IRS completely.

17 After the last markup was canceled, we went to great
18 lengths to address all the concerns that members heard
19 from outside groups, including the American Institute of
20 Certified Public Accountants. They all, in my view, had
21 a number of things to say that were legitimate.

22 So we went to work to address those concerns and I
23 think colleagues got their letter last night saying that
24 they now support this amendment so we would have minimum
25 standards.

1 Finally, 2 days ago was tax day and I am sure right
2 across the country now, there are desperate people,
3 people who were victimized by these scamsters, trying to
4 figure out how to clean up the damage.

5 I would hope we would set aside now -- and I have
6 tried to do this in my opening statement -- let us set
7 aside our opinions about the Administration and politics.
8 This Committee has the ability this morning to take steps
9 to protect people from financial ruin on a bipartisan
10 basis, really a nonpartisan basis.

11 So I hope my colleagues will support it.

12 Mr. Chairman, thank you for the work that we have
13 done. There are many other features of this bill that I
14 think are very sensible and I appreciate the chance to
15 talk about one that, regrettably, I think is a big
16 omission.

17 The Chairman. Thank you, Senator Wyden.

18 I would now recognize Senators who want to make
19 opening statements. As always, I hope most Senators will
20 choose not to give statements at this time to allow us to
21 move more quickly to the mark. We will, of course,
22 gladly put any opening statement into the record.

23 That said, for any Senator who wants to give an
24 opening statement, I would ask that they limit their
25 comments to no more than 3 minutes, and we have the time

1 clock here.

2 So if anybody wants to make any opening statements

3 -- let us start with Senator Grassley.

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1 OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
2 FROM IOWA

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4 Senator Grassley. Chairman Hatch, Ranking Member
5 Wyden, I thank you and your staff for the hard work put
6 into making today's markup a reality.

7 Both the ID theft bill and the Taxpayer Protection
8 bill have important provisions to improve taxpayers'
9 interaction with the Internal Revenue Service.

10 In recent years, tax ID theft has been all too
11 common. We all have heard from countless constituents
12 seeking help in addressing difficulties they have
13 experienced with the IRS on account of tax ID theft.

14 Hopefully, the bill before us will both help to
15 protect more taxpayers from experiencing this sort of
16 theft and make it easier for taxpayers who experience tax
17 ID theft to get their cases resolved.

18 I am also pleased that the Taxpayer Protection Act
19 that we are marking up today includes several provisions
20 on the Taxpayer Bill of Rights Enhancement Act I
21 introduced with Senator Thune last year.

22 Given that in recent years, gross mismanagement and
23 inappropriate actions by IRS employees have shaken what
24 confidence taxpayers have had in the agency, Senator
25 Thune and I felt it was once again time for Congress to

1 address taxpayers' rights.

2 At the time of the introduction of my and Senator
3 Thune's bill, I noted that our legislation was intended
4 to serve as a conversation starter for ideas on further
5 ways to reform the IRS to better serve taxpayers.

6 This markup will further this conversation.

7 Members of the Committee on both sides of the aisle
8 have put forward good ideas that are represented by the
9 bipartisan mark put forward by our Chairman.

10 I look forward to working with all members of the
11 Committee to pass this important legislation.

12 The Chairman. Thank you, Senator.

13 Senator Warner?

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1 OPENING STATEMENT OF HON. MARK R. WARNER, A U.S. SENATOR
2 FROM VIRGINIA

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4 Senator Warner. Thank you, Mr. Chairman.

5 I will make sure I adhere to that 3-minute limit.

6 I just want to say thanks for all the colleagues'
7 good work. Three provisions that were included in the
8 Chairman's mark, one on the ID theft bill, we all talk
9 about stories of people who have been victims of ID
10 theft.

11 I know that that includes my dad and the kind of
12 call I got from him was not a very happy call a couple
13 years back.

14 One of the things that we did include was making
15 sure that -- the notices that the IRS sends out are often
16 very confusing to taxpayers. So you put forward a
17 proposal to have a GAO study about the clarity of
18 language to make sure that taxpayers, when they are
19 notified about identity theft, are notified in a clear
20 way.

21 On the taxpayer rights bill, there were two
22 provisions added, on that Senator Burr and Senator Bennet
23 and I had worked on, which was a complete no-brainer.

24 One of the reasons why I think people get so
25 frustrated at times with government -- 14,000 veterans

1 who had left the military because of combat-related
2 injuries, they get a one-time payment when they leave the
3 military. DOD was actually taking taxes out of that one-
4 time payment, even though that was against the law.

5 By including this amendment, we have made clear that
6 those veterans who were separated due to combat-related
7 injuries would get their full tax payments, common sense
8 and appropriate and making sure, on a going-forward
9 basis, this does not happen again.

10 Then, finally, an effort -- many of our States --
11 many of our Federal employees use State tax
12 administrators. Too often, that information, in terms of
13 the filing about the W-2s, are not done in a timely
14 manner and, again, you put forward language or accepted
15 language that would make sure that we prod getting out
16 those W-2 forms to our Federal employees so they are not
17 delayed in getting their tax refunds.

18 So, Mr. Chairman, thank you for working with us on
19 these items. I think they improve the quality of the
20 mark.

21 The Chairman. Thank you, Senator Warner.

22 Senator Cornyn?

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1 OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR
2 FROM TEXAS

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4 Senator Cornyn. Thank you, Mr. Chairman. Thank
5 you and the Ranking Member for getting us here today and
6 revisiting some very important legislation that, as the
7 Ranking Member has said, has been modified somewhat from
8 the original proposal, and I will mention that in just a
9 moment.

10 In 2012, I introduced a bill called the Small
11 Business Taxpayer Bill of Rights and the goal of that was
12 to try to relieve some of the compliance costs associated
13 with an overly burdensome tax code. Some of the
14 provisions of that have been included in the mark, for
15 which I am grateful, but the fact remains that small
16 businesses and other taxpayers spent about \$350 billion
17 this year alone in compliance. It just should not be
18 that expensive and that hard to pay your taxes and comply
19 with the law.

20 In addition, a dispute over a complex tax code with
21 the IRS can become, obviously, an expensive endeavor for
22 small businesses who have limited resources.

23 So as I said, the purpose of the Small Business
24 Taxpayer Bill of Rights is to mitigate some of these
25 problems. And I was reminded, as we all are, when we are

1 at home and visiting our constituents, recently by a
2 meeting I had in Houston with a small company, about 200
3 employees, called Forge USA, which is a family-owned,
4 medium-sized, open die-forging business making that very
5 point. But I am grateful for the support of small
6 businesses like Forge USA.

7 This legislation has also been supported by the
8 Texas Association of Business, U.S. Hispanic Chamber of
9 Commerce, and the National Taxpayer Union, among others.

10 Last year, we made progress by including provisions
11 that improve taxpayer access to Tax Court in the PATH Act
12 and more progress is being made today in the mark.

13 I want to thank, again, the Chairman and Ranking
14 Member for working with us to include three additional
15 provisions of this legislation, including giving
16 taxpayers relief from IRS fees on installment agreements;
17 requiring an audit by the Inspector General to make sure
18 that the IRS is not unlawfully targeting taxpayers when
19 it comes to audits, assessments and investigations; and,
20 providing taxpayers more time to contest an IRS levy.

21 I also have a strong interest in working with the
22 Committee to pass other provisions of the Small Business
23 Taxpayer Bill of Rights, especially Cornyn Amendment
24 Number 2, as the process moves forward.

25 Finally, I just want to say that I think one of the

1 obstacles to the earlier mark was an attempt -- and I
2 think it was an unwise attempt -- by the Federal
3 Government to dictate the financial terms of
4 representation between sophisticated taxpayers and their
5 representatives, not just standards, but the financial
6 arrangements, and I am glad to see that omitted from this
7 mark.

8 So thanks to the Committee staff on both sides, as
9 well as Tom Barthold and his staff at Joint Tax for their
10 assistance and professionalism.

11 Thank you, Mr. Chairman.

12 The Chairman. Senator Isakson?

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1 OPENING STATEMENT OF HON. JOHNNY ISAKSON, A U.S. SENATOR
2 FROM GEORGIA

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4 Senator Isakson. Mr. Chairman, I will be brief. I
5 want to thank you and the Committee for including in the
6 manager's mark today the Isakson amendment that prohibits
7 the IRS targeting any citizens for exercising any right
8 under the First Amendment to the Constitution.

9 This is a provision that Senator Collins has added
10 to the appropriation bills annually the last 3 years.
11 But by adding it in your mark today and adopting it
12 codifies it in law firmly.

13 Thank you for your cooperation. I appreciate the
14 Committee's work.

15 The Chairman. Thank you, Senator.

16 Senator Heller?

17 Senator Heller. Mr. Chairman, thank you.

18 With your permission, I would just like to submit my
19 opening comments into the record.

20 [The prepared statement of Senator Heller appears at
21 the end of the transcript.]

22 The Chairman. Thank you, Senator.

23 Senator Nelson?

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1 OPENING STATEMENT OF HON. BILL NELSON, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Nelson. Mr. Chairman, back in 2005, this
5 first came to my attention by inmates in prison filing
6 false tax returns and getting refunds, if you can believe
7 it, behind bars.

8 The next thing I notice, street crime in Tampa
9 dropped, breaking-and-enterings dropped because the
10 criminals suddenly figured out they could use the laptop,
11 using somebody else's identity, and get refunds. This
12 became a phenomenon in Tampa and Miami.

13 So over the years, you all have taken little dinks
14 and danks of some of this legislation that I have
15 proposed, such as trying to protect the master death list
16 that puts out Social Security numbers of everybody, which
17 was just ripe for the criminals to go and create a false
18 identity.

19 Back earlier, we had a bill -- as a matter of fact,
20 a number of us in here supported it -- giving certain
21 requirements for tax preparers. What was cosponsors of
22 Crapo, Thune, Isakson and Hatch today apparently his not
23 en vogue. Senator Wyden is going to address that.

24 Senator Crapo and I had hearings and we heard a
25 number of just emotional pleas by taxpayers about what

1 they had been through because their identity had been
2 stolen.

3 Fortunately, now, the Chairman has taken other
4 parts, what I refer to, the additional dinks and danks of
5 this comprehensive taxpayer bill and has put it into this
6 bill and I am grateful for that.

7 Thank you, Mr. Chairman.

8 The Chairman. Thank you so much.

9 Senator Scott?

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1 OPENING STATEMENT OF HON. TIM SCOTT, A U.S. SENATOR FROM
2 SOUTH CAROLINA

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4 Senator Scott. Thank you, Mr. Chairman. Thank you
5 for holding this markup today.

6 I have an amendment that is identical to my bill
7 S.2246, the EPIC bill, End the Partisan IRS Culture.
8 Because 300 organization and individuals have been
9 targeted by the IRS because of their political views, I
10 believe it is time for us to stop the requirement of
11 unionization at the IRS.

12 The American people should be able to trust that the
13 IRS is running as efficiently as possible and not being
14 used as a blunt force tool to enact revenge on political
15 enemies.

16 There are over 200 employees at the IRS that are
17 doing solely union work instead of working for the
18 taxpayers to help facilitate the best possible
19 interactions with the IRS for all Americans. In fact,
20 there is so much union activity at the IRS, it was
21 estimated in 2011 that the IRS employees spent more than
22 600,000 hours -- 600,000 hours -- of official time on
23 union duties only, costing \$27 million of taxpayer money
24 instead of answering phone calls from South Carolina or
25 doing returns from Oregon or helping set up a new

1 nonprofits or approving new nonprofits in Utah.

2 Mr. Chairman, this is not without precedent, my
3 amendment. Currently, several agencies are already
4 excluded from organized labor requirements, from the FBI,
5 the GAO, the CIA, and the military.

6 Because the IRS handles sensitive personal taxpayer
7 information, there should be a sense of fairness and
8 respect to every single taxpayer. And when the IRS'S
9 unethical action targeted 300 organizations and
10 individuals, we should stop that from happening and one
11 of the ways that we can do that is simply by eliminating
12 the requirement for unionization.

13 When you look at the results, not only the \$27
14 million of taxpayer money, not only the 600,000 hours,
15 but 94 percent -- in 2012, 94 percent of union
16 contributions went to Democrats.

17 It should be no surprise that the IRS targeted
18 conservative people because of their political beliefs,
19 conservative organizations because of their political
20 beliefs.

21 This simply removes the requirement of unionization
22 and does not prevent it.

23 Thank you, Mr. Chairman.

24 The Chairman. Thank you Senator.

25 Senator Stabenow?

1 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR
2 FROM MICHIGAN

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4 Senator Stabenow. Thank you very much, Mr.
5 Chairman.

6 First of all, I want to say thank you for your work
7 and the Ranking Member's work in putting together a 2-
8 year investigation that actually has shown that, in fact,
9 there was not targeting, there were not politics. There
10 was no evidence of any involvement from anyone at the
11 White House, at political levels at Treasury, or by any
12 political appointee, not a call, not a conversation, not
13 an e-mail, nothing.

14 There were bureaucratic failures, but that is very
15 different than the characterizations we have heard over
16 and over again.

17 I want to thank you for that bipartisan effort that
18 was released last June that really set the record
19 straight. So no matter how many times we repeat it, it
20 does not, in fact, bear out what the bipartisan
21 investigation concluded.

22 I also want to thank you, Mr. Chairman, for this
23 bill and the importance of this bill and the fact that
24 the real challenge relates to scams against taxpayers and
25 what is happening in terms of identity theft.

1 I want to thank you, Mr. Chairman and Ranking Member
2 Wyden, for including my amendment, Stabenow-Thune Number
3 1, in the modified mark. It is my pleasure working with
4 Senator Thune on these issues.

5 The Chairman's mark allowed the IRS to move funding
6 between accounts to help combat identity theft and our
7 amendment clarifies that this funding can be used to
8 educate taxpayers about scams and how they can protect
9 themselves.

10 I also appreciate that the Thune-Stabenow Amendment
11 Number 1 was also accepted, Mr. Chairman. This amendment
12 expresses a sense of the Senate that criminal penalties
13 for impersonating an IRS employee should be increased and
14 pursued to the fullest extent possible.

15 I appreciate the Ranking Member's efforts to bring
16 more integrity into the system and accountability for
17 taxpayers.

18 Thank you, Mr. Chairman.

19 The Chairman. Thank you.

20 Just to correct the record, Republicans did find
21 that there was impropriety that went on during that time,
22 though there were wide differences between the Democrats'
23 appraisal of that and the Republican appraisal. And by
24 the way, the Committee did not fully examine the Treasury
25 or the White House with regard to those matters. I think

1 the record just needs to show that.

2 Senator Casey?

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1 OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S.
2 SENATOR FROM PENNSYLVANIA

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4 Senator Casey. Mr. Chairman, thank you.

5 I will just make a brief comment on two of my
6 amendments that were included.

7 One in the Prevent ID Theft bill was an amendment
8 that required that the IRS provide notification to
9 taxpayers when there is suspected theft and specific
10 instructions about filing police reports and providing
11 forms to allow them to authorize disclosure of personal
12 information.

13 The second amendment that was accepted as part of
14 the Taxpayer Protection bill mark, would direct the IRS
15 to provide basic information to taxpayers about tax
16 scams. We heard a lot of information over the last
17 couple of months about tax scams.

18 The Commissioner was here outlining what the IRS
19 will not do. So that if you get a call, for example,
20 demanding immediate payment, that is something the IRS
21 never does. So we want to make sure that taxpayers are
22 aware of that.

23 So I appreciate the fact that we will have the very
24 specific list of activities that the IRS would never do
25 and make that part of the information that taxpayers get.

1 Finally, Mr. Chairman, just for the record, I would
2 ask consent to add Senator Schumer as a cosponsor of
3 Casey Amendment Number 1 in the Taxpayer Protection Act
4 legislation.

5 The Chairman. Without objection.

6 Senator Casey. Thank you, Mr. Chairman.

7 I will submit a longer statement for the record.

8 [The prepared statement of Senator Casey appears at
9 the end of the transcript.]

10 The Chairman. Thank you.

11 Senator Roberts, you are next.

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1 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
2 FROM KANSAS

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4 Senator Roberts. Mr. Chairman, I am pleased that
5 my amendment regarding protecting charitable
6 contributions has been accepted in your revised
7 Chairman's mark. I thank you and Ranking Member Wyden
8 for your support. I also thank Senator Crapo for his
9 support.

10 My amendment addresses an issue that arose last year
11 concerning proposed IRS regulations on the substantiation
12 requirements for charitable contributions. Under the
13 proposal, charitable contributions would have been
14 required to provide to the IRS the name, address, Social
15 Security or tax identification number of any donor making
16 a contribution of \$250 or more.

17 The IRS proposal raised serious concerns about
18 privacy and the security of sensitive financial data of
19 the donors to charitable groups. The IRS proposal would
20 also burden charities, many of which are small,
21 volunteer-operated organizations with new administrative
22 costs and potential liability for the theft of data.

23 No surprise the charitable sector rose in uniform
24 opposition to the measure. I also offered legislation to
25 block consideration of the ill advised IRS plan.

1 Thankfully, the IRS saw how problematic the proposal
2 was and withdrew it from their agenda. However, at the
3 time when the IRS and all other financial record-keepers
4 are under attack from identity thieves and hackers, the
5 amendment now in the mark makes sure that the IRS has
6 clear direction on how best to approach taxpayer
7 substantiation requirements.

8 The amendment eliminates IRS authority to require
9 detailed donor information on returns from charities, but
10 maintains current law and procedures on taxpayer
11 attestation of their donations to charities.

12 This amendment will help to safeguard critical
13 taxpayer information, such as Social Security numbers and
14 other sensitive taxpayer information.

15 Good day.

16 Senator Wyden. Mr. Chairman?

17 The Chairman. Senator Wyden?

18 Senator Wyden. Just very briefly, I want to commend
19 Senator Roberts for his work on this. This is going to
20 be an important area going forward, this question of
21 charities.

22 Senator Thune and I teamed up on a recent bill. So
23 this is going to be an area of bipartisan interest and I
24 thank the Senator from Kansas for including it.

25 The Chairman. Thank you, Senator.

1 Senator Thune?
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1 OPENING STATEMENT OF HON. JOHN THUNE, A U.S. SENATOR FROM
2 SOUTH DAKOTA

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4 Senator Thune. Mr. Chairman, thank you to you and
5 Ranking Member Wyden for bringing these bipartisan
6 measures before the committee today.

7 I am especially pleased that the Taxpayer Protection
8 Act of 2016 that we will be considering does include four
9 provisions pulled from the Taxpayer Bill of Rights
10 legislation that Senator Grassley and I introduced last
11 summer. Senator Grassley spoke about that a little
12 earlier.

13 We sponsored our legislation not only because of
14 abuses in taxpayer rights we have seen at the IRS in
15 recent years, but also because it has been nearly 20
16 years since Congress enacted comprehensive taxpayer
17 rights legislation.

18 American taxpayers deserve a tax collection agency
19 that is accountable to them and that respects their due
20 process rights.

21 So among the other measures, today's legislation
22 includes our provision, Senator Grassley and I, that will
23 codify the electronic record retention requirements
24 issued by the Office of Management and Budget and the
25 National Archives. It is critical that the IRS follows

1 the law when it comes to maintaining employee e-mails,
2 especially in circumstances involving potential
3 misconduct.

4 I am also pleased that the bill adopts an amendment
5 that I offer with Senators Grassley, Roberts and Enzi
6 that will require the Government Accountability Office to
7 study the impact on taxpayers in States without a
8 permanent IRS appeals presence.

9 We need to make sure that taxpayers in South Dakota
10 and the other 15 States affected have the same access to
11 appeals and settlements as the rest of the country.

12 Finally, I would note that the legislation to
13 prevent tax-related identity theft incorporates an
14 amendment that I filed with Senator Stabenow, which she
15 mentioned earlier, encouraging stiffer penalties and
16 greater enforcement when it comes to phone scams where
17 someone impersonates an IRS official in order to extort
18 payment.

19 We know that these phone scams are a growing problem
20 and we need to do whatever we can to combat them.

21 Mr. Chairman, today's markups are an important step
22 forward in combating tax-related identity theft and in
23 protecting taxpayer rights.

24 The Taxpayer Protection Act of 2016, as I said
25 builds upon the five provisions from the Grassley-Thune

1 legislation that were enacted into law last December, but
2 more remains to be done.

3 I look forward to considering amendments today to
4 improve these bills and I hope the legislation before us
5 moves forward in a bipartisan manner so as to get to the
6 President's desk as soon as possible.

7 Thank you, Mr. Chairman.

8 The Chairman. Thank you, Senator Thune.

9 We will now turn to Senator Coats.

10 Senator Coats. Mr. Chairman, I do not have an
11 opening statement. I just want to thank you and the
12 Ranking Member for working with us and your staffs for
13 working with us on some issues, several of which were
14 incorporated in this and accepted and a couple that I
15 will be offering amendments on.

16 The Chairman. Thank you, Senator.

17 Senator Cardin, we will turn to you.

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1 OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, A U.S.
2 SENATOR FROM MARYLAND

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4 Senator Cardin. Thank you, Mr. Chairman.

5 I do want to thank you and Senator Wyden for
6 bringing us together on two bills that are very
7 important.

8 The ID theft bill I strongly support and I strongly
9 support the Ranking Member's comments as relates to tax
10 preparer authority and I hope we will have a chance to
11 put that back into the markup. I was disappointed that
12 it was taken out of the mark.

13 In regard to the Taxpayer Protection Act, again, I
14 thank you for bringing together a bipartisan bill. Some
15 of my colleagues commented about provisions that were
16 taken out of legislation that they filed. I filed S.2333
17 and four provisions that were included in that Taxpayer
18 Bill of Rights are included in the Chairman's mark on the
19 Taxpayer Protection Act, and I thank you for that,
20 including the congressional authorization, the VITA
21 program. We have already talked about that.

22 This helps low income taxpayers. It is authorized
23 here at a \$15 million level. I know that Senator Brown
24 will be offering an amendment later that I am joining him
25 with that we hope would be accepted that will take it to

1 the level that is more realistic, without increasing the
2 amount of moneys that are appropriated to the IRS, giving
3 them the flexibility to do that.

4 You have also incorporated into the Taxpayer
5 Protection Act holding a taxpayer harmless in regard to a
6 wrongful levy by the IRS, and I thank you for doing that.

7 You have included a provision that I had in my
8 legislation extending the time limits that taxpayers have
9 to contest a levy. That is an important provision and
10 one that limits the use of taxpayer information where the
11 taxpayer has given consent to the purpose for which that
12 consent basically was given.

13 I than all four of those provisions strengthen the
14 underlying bill.

15 I will bring up during the amendment process a
16 provision that was not included, and I understand why.
17 The IRS did not support it and it has now come back with
18 a score, as I understand it, of about \$1 billion, which
19 raises an issue of why I will bring it up for discussion,
20 and that is using a consistent standard for levies on
21 retirement accounts.

22 Right now, in regard to the assets in a retirement
23 account, the IRS, rightly so, has to establish a flagrant
24 violation and has to use economic -- has to take into
25 consideration economic hardship. But for the flow of

1 income, they could just use discretion, which does not
2 make any sense why there is a different standard on
3 whether they can use a levy for the principal, but not
4 for the income flow.

5 I understand why it is unlikely we can take it up at
6 this particular meeting, but I hope we will have some
7 discussion on that issue, because it does require, I
8 think, our attention.

9 Again, I thank the Chairman for bringing this
10 together.

11 The Chairman. Thank you, Senator.

12 Senator Burr?

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1 OPENING STATEMENT OF HON. RICHARD BURR, A U.S. SENATOR
2 FROM NORTH CAROLINA

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4 Senator Burr. Mr. Chairman, thank you and the
5 Ranking Member. I will be very brief.

6 I want to thank both sides for including in the
7 manager's amendment two amendments on my behalf.

8 One provides the Commissioner of the IRS the power
9 to fire senior executives who have failed in performance
10 or committed serious misconduct. The legislation is
11 based on the law that Congress passed in 2014 and mirrors
12 the exact language that we extended to the Secretary of
13 the VA to take similar actions within the Veterans'
14 Administration.

15 The second amendment prohibits the Commissioner of
16 the Internal Revenue Service from rehiring any employee
17 of the IRS who has been involuntarily separated for
18 misconduct or for poor performance. I think these are
19 both commonsense things to extend to the IRS and I thank
20 the Chairman for having this in the mark.

21 I yield.

22 The Chairman. Thank you, Senator Burr.

23 Senator Cantwell?

24 Senator Cantwell. I will put my statement in the
25 record.

1 [The prepared statement of Senator Cantwell appears
2 at the end of the transcript.]

3 The Chairman. Thank you.

4 Once again, we will consider two separate marks
5 today, one that includes a bill to prevent identity theft
6 and tax refund fraud, as modified, and another for the
7 Taxpayer Protection Act of 2016, as modified.

8 The Chairman's modifications are hereby incorporated
9 into the mark. We will briefly walk through both marks
10 and answer any questions.

11 As is usually the case, when the Committee considers
12 tax legislation, we have with us the Chief of Staff of
13 the Joint Committee on Taxation, Tom Barthold.

14 Mr. Barthold, would you briefly describe both marks
15 and their respective modifications?

16 Mr. Barthold. Thank you, Chairman Hatch and
17 Senator Wyden.

18 The ID theft bill, which, as you noted, you brought
19 before the Committee in September the Joint Committee
20 described in detail in JCX-108-15 and 109-15.

21 The modifications that have been offered by the
22 Chairman over the past couple days are described in Joint
23 Committee Documents JCX-27, 28 and 29-16.

24 For this bill, let me just highlight a couple of the
25 changes and the modifications of the underlying bill. I

1 think it is fairly well understood by the Committee.

2 The Modification Number 1 primarily changes dates
3 and deletes provisions that were enacted into law as part
4 of the PATH Act this last fall. It also adds a couple
5 additional reporting requirements, one related to the
6 Refund Fraud Information Sharing and Assessment Center
7 that the IRS has entered into with State agencies and
8 private vendors, and it also requires the Government
9 Accountability Office to make ongoing assessments of IRS
10 progress in combating fraud.

11 The second modification, as has been noted, deletes
12 the regulation of tax preparers from the underlying mark.

13 I would leave to questions any details members might
14 have about the rest of this bill.

15 Mr. Chairman, you would like me to describe the
16 second bill at this time, also.

17 The Chairman. Yes. That would be fine.

18 Mr. Barthold. The second bill, the Taxpayer
19 Protection Act of 2016, is described in Joint Committee
20 Documents JCX-16, with a revenue table in JCX-31-16, and
21 the modification that the Chairman produced last night is
22 described in JCX-33, with a revenue table in JCX-34.

23 Again, since the underlying legislation has been
24 before the Committee for a couple of days, I will
25 highlight just a few items from the modification.

1 First, with respect to whistleblowers, the
2 Chairman's modification provides for improved
3 communication between the Internal Revenue Service and
4 the whistleblower, and it also provides for protection
5 against retaliation by an employer against
6 whistleblowers.

7 The modification modifies and, in many cases, lowers
8 the fees that are charged related to installment
9 agreements that the IRS may enter into with delinquent
10 taxpayers. In particular, the fees are waived in the
11 case of taxpayers who elect to make electronic funds
12 transfer.

13 I will note that the revenue table that we provided
14 to the Committee with respect to this provision last
15 night said that a revenue estimate for this provision was
16 not available.

17 I now have an estimate from my colleagues on that
18 provision. Over the 10-year period, we see that
19 provision as raising \$49 million.

20 Other provisions to note in the Chairman's
21 modification, there is provided for an assessment and
22 review by TIGTA of the IRS'S audit criteria to ensure
23 that those criteria are not discriminatory in practice.

24 The modification would limit the participation of
25 outside contractors by the IRS in taking sworn testimony.

1 The modification would require the IRS to give
2 exempt organizations notice if they have failed to file
3 for 2 years -- failure to file for 2 years, as you know,
4 a consequence of which could be revocation of their
5 exempt status.

6 The modification also requires that within the IRS,
7 an identity protection specialized unit be created, which
8 would be the sole point of contact, accountable to the
9 Secretary, for handling a case of ID theft from beginning
10 of taxpayer contact through completion.

11 I will stop at this point, Mr. Chairman, and be
12 happy to answer any detailed questions that the members
13 might have.

14 The Chairman. Thank you, Mr. Barthold.

15 In addition to Mr. Barthold, Eric Oman from the
16 Majority Staff and Todd Metcalf from the Minority Staff
17 of the Finance Committee are here to answer any questions
18 about the marks or modifications.

19 We are also joined by Mark Mazur, the Assistant
20 Secretary for Tax Policy at the U.S. Treasury.

21 Welcome. We are really happy to have you here, as
22 well.

23 Do Senators have any questions regarding the marks
24 or modifications?

25 [No Response.]

1 The Chairman. Then let me recognize Senator Wyden
2 for any comments he may have on the mark. Then after
3 that, we will recognize any Senators who have any
4 questions about the mark.

5 Senator Schumer. I have no questions at this time,
6 Mr. Chairman.

7 The Chairman. Then let us turn to the identity
8 theft and refund fraud bill.

9 If there are no further questions, the bill to
10 prevent identity theft and tax refund fraud, as modified,
11 is now open for debate and amendment.

12 Senator Wyden. Mr. Chairman?

13 The Chairman. Yes, Senator.

14 Senator Wyden. I have an amendment. Can I
15 proceed?

16 The Chairman. Yes. We are going to recognize you
17 first.

18 Senator Wyden. Thank you very much, Mr. Chairman.

19 I ask unanimous consent that Senator Stabenow be
20 added as a cosponsor.

21 The Chairman. Without objection.

22 Senator Wyden. Thank you.

23 Colleagues, this tax preparer amendment is identical
24 to what Chairman Hatch and I proposed on a bipartisan
25 basis last September, except for two particulars.

1 The first is it has removed completely any
2 discretion the IRS would have on these issues.

3 Second, the American Institute of Certified Public
4 Accountants, the Nation's largest group of accountants,
5 to my knowledge, had some questions with respect to the
6 bill last fall, the bill that Chairman Hatch and I
7 proposed together.

8 We addressed all of them in this amendment and last
9 night each member of the Committee was sent a letter by
10 the American Institute of Certified Public Accountants
11 endorsing the legislation.

12 So let me just walk, colleagues, briefly through
13 what the amendment does.

14 This gives the Treasury Department the authority to
15 develop and impose minimum standards for paid tax return
16 preparers. The amendment strips the IRS of authority and
17 discretion and place the offices in charge of these
18 minimum standards under the direct authority of the
19 Secretary of Treasury.

20 My view is it is alarming that most paid tax return
21 preparers do not have to meet any standards for
22 competence in order to prepare someone else's tax return.
23 There are over 400,000 of these individuals preparing up
24 to 75 million returns a year.

25 The groups that the Finance Committee has always

1 relied on for guidance on how to root out fraud and
2 protect taxpayers, the GAO, the Treasury Inspector
3 General, the Taxpayer Administration, and the National
4 Taxpayer Advocate, all of them, all of these groups that
5 we have relied on for decades to give us nonpartisan
6 advice, all of them say that minimum standards for tax
7 return preparers are needed.

8 My view is this should not be a political issue. A
9 lack of basic tax return preparer competency is not a Red
10 State and a Blue State issue. It is a Red, White and
11 Blue consumer protection issue.

12 This amendment is going to help restore minimum
13 standards to protect all American taxpayers from
14 incompetent and unscrupulous return preparers.

15 Testing and minimum competency requirements can be
16 effective at addressing fraud, tax preparer incompetence,
17 and identity theft. My home State has seen this. And at
18 that witness table not too long ago, a small preparer
19 said, "Look, this works." Having these minimum standards
20 makes sense.

21 Western civilization is not going to end with all
22 kinds of bureaucratic requirements being imposed. It
23 makes for more accurate tax returns, which is what the
24 GAO found, as well.

25 A handful of other States have passed minimum

1 standards, but overwhelmingly, overwhelmingly in America,
2 most parts of the country do not have these minimum
3 standards. So you have got all kinds of minimum
4 standards for volunteer programs or a variety of other
5 kinds of programs, but people that get Social Security
6 numbers from taxpayers, people who get bank account
7 numbers from taxpayers, no minimum standards.
8 Colleagues, it just does not pass the smell test.

9 We cannot fully protect taxpayers without cracking
10 down on unscrupulous return preparers. So I hope members
11 are going to put the politics aside. That is what I have
12 tired to do in my discussions of this with Chairman Hatch
13 now for really a year, and I hope colleagues will support
14 this.

15 Thank you, Mr. Chairman.

16 The Chairman. Thank you, Senator.

17 Senator Menendez?

18 Senator Menendez. Mr. Chairman, let me first thank
19 you and the Ranking Member for holding this markup.

20 The theft of taxpayers' identity to commit refund
21 fraud has exploded exponentially in the past few years
22 and is one of the fastest-growing crimes. And for those
23 honest taxpayers unlucky enough to be a victim, the
24 process to restore their identity is often a long,
25 complicated and frustrating experience.

1 Even though it was not their fault, even though they
2 did nothing to deserve it, they are often left with the
3 burden to clear their name with too little assistance.
4 So that is why it is critically important that we address
5 the causes of identity theft.

6 While this legislation takes good commonsense steps
7 to do such, just requiring IRS to truncate Social
8 Security numbers, helping the IRS update its IT system,
9 unfortunately, there are some pieces that I believe are
10 overly broad and others that are lacking.

11 There is no question that we need to increase the
12 penalties for criminal enterprises, scammers, and con
13 artists that steal taxpayers' identities to commit refund
14 fraud. We should use all of our efforts to go after
15 these bad actors with malicious intent that are ruining
16 honest taxpayers' lives.

17 However, we need to differentiate between these
18 professional criminals and immigrants that are just
19 trying to get a job and support their families and are
20 doing no harm.

21 I look forward to working with the Committee to
22 ensure that we are not criminalizing all immigrants
23 simply for trying to work.

24 In addition, the modified mark no longer allows the
25 agency to oversee paid preparers, as the Ranking Member

1 has spoken eloquently about and which I am strongly
2 supportive of, which is one of the most effective ways to
3 combat ID theft and refund fraud.

4 It no longer has even the most basic safeguards to
5 prevent unscrupulous paid preparers from taking advantage
6 of or stealing the identity of honest taxpayers.

7 Omission of this critical provision ensures this
8 bill is an inadequate and incomplete response to ID
9 theft, at best, as un-enrolled preparers have
10 disproportionately higher error rates, as well as
11 troubling levels of outright fraud, particularly when
12 filing for the earned income tax credit, EITC.

13 This is something that I have heard this Committee
14 go after time and time again, and here is one of the most
15 significant elements of challenges in the EITC program,
16 and yet we are not dealing with it. This problem is so
17 pervasive, the IRS once again included it on its annual,
18 quote, "dirty dozen list of scams." And the National
19 Taxpayer Advocate, Nina Olson, noted that un-enrolled
20 return preparers over-claimed the EITC on 49 percent of
21 the returns they submitted, 49 percent.

22 When asked about combating EITC improper payments,
23 when asked about the solution to this problem, Ms. Olson
24 made very clear that regulating paid preparers is the
25 best way to improve accuracy and reduce overpayment.

1 She said, and I quote, "Simply stated, un-enrolled
2 preparers are the make-and-break point for all EITC
3 compliance strategies. Un-enrolled preparers have the
4 highest error rate of all types of preparers. If a
5 single un-enrolled preparer plays fast and loose with
6 EITC eligibility rules, tens, if not hundreds of taxpayer
7 returns could be in error."

8 I have heard this Committee, colleagues on both
9 sides of the aisle, talk about the nature of the concerns
10 about EITC. So here is the National Taxpayer Advocate
11 saying this is the most significant critical issue you
12 can deal with to try to deal with the question.

13 So quite simply, if we are serious about addressing
14 improper payments, refund fraud and taxpayer scams, we
15 need to include this commonsense provision that
16 previously had bipartisan support and was in the
17 Chairman's original mark.

18 Now, we have an opportunity to fix this oversight
19 hopefully here in the Committee, but if not, on the
20 floor. We still have an opportunity to stand up for
21 honest taxpayers and stop protecting crooks and scam
22 artists.

23 We still have an opportunity to listen to the
24 American people, 80 percent of whom want paid preparers
25 to be regulated and adequately trained. But if we fail

1 to act, if we fail to include the most effective tool to
2 combat the scourge of taxpayer identity theft, then we
3 cannot claim to have seriously addressed the problem and
4 ignoring this problem is beneath this auspicious
5 Committee and the Senate in which we serve.

6 I hope we can do that, Mr. Chairman, and I thank you
7 for the opportunity.

8 The Chairman. I would like to thank you, Senator,
9 and also Ranking Member Wyden for his leadership on this
10 important issue, especially given the success of a
11 similar State-based program in Oregon.

12 While I support minimum standards for paid tax
13 return preparers, I will vote against this amendment
14 today because I want to work with my Republican
15 colleagues to assuage some of their well-founded concerns
16 about the broad scope of authority provided to the
17 Treasury Department in this proposal.

18 In this case, I do not want the perfect to be the
19 enemy of the good in that if the amendment were to
20 prevail, some of my Republican colleagues have indicated
21 the bill, as amended, would not likely clear the Senate.

22 I would rather that we get the consensus identity
23 theft protections across the goal line, if we can, and it
24 is my sincere hope that we can, in the near future, move
25 forward on this policy in a way that both protects

1 taxpayers from unscrupulous tax return preparers and
2 limits the ability of the Treasury Department to overstep
3 any authority we give it.

4 Is there any other comment or any other amendment?

5 Senator Wyden. Senator Coats.

6 Senator Coats. Mr. Chairman?

7 The Chairman. Senator Coats?

8 Senator Coats. Mr. Chairman, I just want to
9 support what you said, that the decision today does not
10 take this issue off the table, at least from my
11 perspective.

12 The Chairman. That is right.

13 Senator Coats. But it is clear to me that adoption
14 of this would undermine our ability to take this all the
15 way through the Senate and move it to statutory approval.

16 So I just want to say I am certainly open, at the
17 appropriate time, when we are not jeopardizing this issue
18 from going forward, to work with my colleagues to try to
19 address this issue, because I do think this is a matter
20 that we ought to look at.

21 The Chairman. Thank you, Senator.

22 Senator Wyden?

23 Senator Wyden. Thank you. I would like to respond
24 to you and Senator Coats and particularly note the fact
25 that the three of us have worked together very, very

1 often on tax issues.

2 I am very appreciative, for example, Mr. Chairman,
3 of the fact we got a good package at the end of the year
4 for working families and small businesses. And then it
5 is not exactly an atomic secret that Senator Coats has
6 been my partner on tax reform for a number of years and I
7 am very appreciative, still the only bipartisan bill.

8 Colleagues, here is why I think it would be a great
9 mistake, a great mistake for the country and for
10 hardworking taxpayers for us to reject this amendment at
11 this time.

12 This has been the longest running battle since the
13 Trojan War. It goes back to two very admired colleagues,
14 one of whom still serves here, Chairman Grassley, and Max
15 Baucus, both of whom said that this was an important step
16 to take.

17 Bob Menendez walked through what the Taxpayer
18 Advocate said. I mentioned that the GAO made the same
19 comments. Every single nonpartisan group we rely on has
20 said this is needed.

21 Now, it would be one thing, in response to what my
22 colleagues have said, if we had not taken 8 months -- 8
23 months, colleagues -- to work solely on what we were told
24 were the two big concerns 8 months ago. But, colleagues,
25 8 months ago, we had a bipartisan mark, the Chairman and

1 I.

2 We were told by colleagues they had two concerns:
3 Was there discretion, any kind of possibility for the IRS
4 to abuse it? What did we do with respect to that one?
5 We basically took all the discretion away from the IRS.
6 We took authority over tax professionals away from the
7 IRS and moved it to the Office of Professional
8 Responsibility, outside of the IRS.

9 The IRS is really not going to be able to do
10 anything under this that involves any discretion
11 whatsoever.

12 So that is why the premier accounting group in the
13 United States, the American Institute of Certified Public
14 Accountants, said that they are for this.

15 So here we are, we have had a debate that has lasted
16 a full decade, where bipartisan leaders of this Committee
17 have repeatedly indicated that they are for this.
18 Chairman Hatch and I have a proposal in September.
19 Concerns are raised by groups outside this building. We
20 take those concerns and we fix them, we fix them in their
21 entirety.

22 Now, we are being told that taxpayers, hardworking
23 taxpayers who are being hammered ought to say, "Well, you
24 know, maybe this is going to be done another time" and
25 nobody even commits to when that other time would be.

1 So, Mr. Chairman, particularly, noting the affection
2 I have for you and the Senator from Indiana, I cannot put
3 this off any longer and I would ask for the yeas and
4 nays.

5 The Chairman. Is there any further debate?

6 [No Response.]

7 The Chairman. Then the Clerk will call the roll.

8 The Clerk. Mr. Grassley?

9 Senator Grassley. No.

10 The Clerk. Mr. Crapo?

11 Senator Crapo. No.

12 The Clerk. Mr. Roberts?

13 Senator Roberts. No.

14 The Clerk. Mr. Enzi?

15 The Chairman. No by proxy.

16 The Clerk. Mr. Cornyn?

17 Senator Cornyn. No.

18 The Clerk. Mr. Thune?

19 The Chairman. No by proxy.

20 The Clerk. Mr. Burr?

21 The Chairman. No by proxy.

22 The Clerk. Mr. Isakson?

23 Senator Isakson. No.

24 The Clerk. Mr. Portman?

25 Mr. Portman. [No response.]

1 The Clerk. Mr. Toomey?
2 The Chairman. No by proxy.
3 The Clerk. Mr. Coats?
4 Senator Coats. No.
5 The Clerk. Mr. Heller?
6 The Chairman. No by proxy.
7 The Clerk. Mr. Scott?
8 The Chairman. No by proxy.
9 The Clerk. Mr. Wyden?
10 Senator Wyden. Aye.
11 The Clerk. Mr. Schumer?
12 Senator Wyden. Aye by proxy.
13 The Clerk. Ms. Stabenow?
14 Senator Stabenow. Aye.
15 The Clerk. Ms. Cantwell?
16 Senator Cantwell. Aye.
17 The Clerk. Mr. Nelson?
18 Senator Nelson. Aye.
19 The Clerk. Mr. Menendez?
20 Senator Menendez. Aye.
21 The Clerk. Mr. Carper?
22 Senator Wyden. Aye by proxy.
23 The Clerk. Mr. Cardin?
24 Senator Cardin. Aye.
25 The Clerk. Mr. Brown?

1 Senator Brown. Aye.

2 The Clerk. Mr. Bennet?

3 Senator Wyden. Aye by proxy.

4 The Clerk. Mr. Casey?

5 Senator Casey. Aye.

6 The Clerk. Mr. Warner?

7 Senator Wyden. Aye by proxy.

8 The Clerk. Mr. Chairman?

9 The Chairman. No.

10 The Clerk will announce the vote.

11 The Clerk. Mr. Chairman, the final tally is 12
12 ayes, 13 nays.

13 The Chairman. The nays have it and the amendment
14 fails.

15 Senator Coats?

16 Senator Coats. Mr. Chairman, I am offering an
17 amendment, the modified Coats Amendment Number 1 to this
18 original bill.

19 I was approached by an investigative reporter who
20 had really done a lot of homework, months of homework
21 regarding employment-related theft and fraud. A
22 particular incident had occurred that tipped him off to
23 look more deeply into this, a very sad case in Indiana,
24 when a victim of this kind of ID theft was prohibited
25 from getting health insurance for his family and his

1 children because the Social Security Administration
2 falsely thought that he had earned too much money to
3 qualify for the insurance. In fact, the decision was
4 based on a W-2 earnings report of someone else.

5 This would not have happened if the Social Security
6 Administration had known about the theft. This amendment
7 simply puts in place a process by which we can ensure
8 that this does not happen to victims of identity theft by
9 placing some requirements on the Internal Revenue Service
10 that when it discovers this on paper forms or
11 electronically filed tax returns, there is a notification
12 process so that we do not end up with victims of this
13 identity fraud.

14 That is the short of it all. I can go into greater
15 detail on all of this, but it is simply designed. On
16 two occasions now this came up with the Commissioner here
17 testifying before us. First, he said, "Well, that is
18 not our job. Our job is to collect money, and that is
19 going to have to be done through some other process."

20 Surely, I would think, in the interest of not just
21 our taxpayers and protecting them from fraud that is
22 taking place, we should address situations where it
23 affects the victim and understand the difficulties that
24 they have in trying to explain the situation on their
25 employment application, or explain it to their insurance

1 company, or to qualify for Federal benefits, or any
2 number of things. Surely we can find a way in which to
3 provide information to the Social Security Administration
4 so that we can prevent this unfairness from happening.

5 This is the modified amendment, similar to
6 amendments I filed in September. This amendment has been
7 deemed germane to the issue.

8 So I would ask for my colleagues' support to adopt
9 this.

10 Senator Wyden. Mr. Chairman, before we go to the
11 substance, I want to raise a question about where we are
12 with respect to this amendment, because this really
13 raises a question of fair treatment for all members.

14 When the markup was scheduled in September, the
15 Chairman asked members to file their amendments by a
16 deadline. This amendment was not filed by the deadline.
17 It has now been characterized as a modification to
18 another amendment that was previously filed. However,
19 that previously filed amendment has been incorporated
20 into the Chairman's modification.

21 So there really is not anything left to modify. The
22 so-called modification is, in fact, a completely new
23 amendment unrelated to an amendment that the sponsor
24 purports to modify.

25 So the point of my speaking out here is the filing

1 deadline is there to provide members with notice so they
2 can prepare for amendments. It should not be
3 circumvented in a way that suggests that there is special
4 treatment inconsistent with the evenhanded way that we
5 have always, again, tried to conduct our markups.

6 Now, Mr. Chairman, I think the staff has talked
7 about this. In deference to you, I do not intend to make
8 a point of order now, but I think this is disappointing
9 with respect to this approach and it raises a real
10 question with respect to fair treatment of all members.

11 The Chairman. Senator, we are grateful for your
12 remarks and we will take that under consideration, and I
13 am grateful you are willing to not block this.

14 Senator Coats. Mr. Chairman, if I could just have
15 a short response to that.

16 I am conscious and sensitive to what the Senator
17 from Oregon has said. I did file three different
18 amendments back in September. But under Committee
19 procedures, Senators, as I understand it, can modify
20 previously filed amendments as long as the modified
21 amendment is germane to the bill, which this is, and
22 adequate notice is provided to members, which we
23 provided.

24 So I understand the concern about modification if it
25 is not germane or notice is not provided, but in this

1 case, both of those standards were established. I did
2 not mean to try to slip something in here without my
3 colleagues knowing what we were doing.

4 I think it is very much germane to what we are
5 doing.

6 Senator Wyden. Mr. Chairman, again, in the name of
7 fair treatment -- and that is why I want to come back to
8 this -- members can modify their amendments at any time,
9 but not in any way. The purpose of a modification is to
10 respond to arguments or refine an approach.

11 Here, you are having introduced an entirely new
12 issue and it seems to me that is the whole point of the
13 filing deadline.

14 So I have made it clear I am not, in deference to
15 the Chairman, going to make a point of order here, but I
16 think this is troubling.

17 The Chairman. Senator, I am grateful for your
18 deference.

19 I want to thank Senator Coats for his leadership on
20 this issue. It is unfathomable to me that the IRS had
21 turned a blind eye to this problem when legitimate
22 taxpayers are stuck with the consequences of someone
23 using their Social Security number to gain employment.

24 Now, this amendment provides commonsense
25 notification to victims and requires the IRS and Social

1 Security Administration to do more to address this
2 problem.

3 I am going to vote yes on this amendment and I
4 encourage all my colleagues to do the same.

5 Can we have a voice vote on this?

6 All those in favor of this amendment, say aye.

7 [A Chorus of Ayes.]

8 The Chairman. Those opposed, nay.

9 [A Chorus of Nays.]

10 The Chairman. The ayes have it. The amendment is
11 adopted.

12 If there is no further debate, I would entertain a
13 motion that the Committee order the bill to prevent
14 identity and tax refund fraud reported, as modified, and
15 amended.

16 Senator Grassley. So moved.

17 Senator Wyden. I so move.

18 The Chairman. Moved by Senator Grassley and the
19 Ranking Member.

20 Does any Senator require a recorded vote on this?

21 [No Response.]

22 The Chairman. If not, those in favor will say aye.

23 [A Chorus of Ayes.]

24 The Chairman. All those opposed will say no.

25 [No Response.]

1 The Chairman. The ayes have it and the bill is
2 ordered reported.

3 I ask unanimous consent that the staff be granted
4 customary authority to make technical, conforming and
5 budgetary changes to the legislation.

6 Without objection, that is so ordered.

7 That vote concluded our business on the bill to
8 prevent identify theft and tax refund fraud.

9 Let us now move to the next bill, the Taxpayer
10 Protection Act of 2016, which is now open for debate and
11 amendment.

12 Senator Grassley has asked to be recognized.

13 Senator Grassley. I am sorry. I did not know you
14 were going to have opening remarks. I am offering an
15 amendment.

16 The Chairman. You can offer your amendment.

17 Senator Grassley. This would be the Grassley-Thune
18 Amendment Number 3.

19 Our amendment amends the notice provision presently
20 under Section 7431 that requires IRS to notify taxpayers
21 about the unauthorized disclosure or inspection of their
22 confidential taxpayer information.

23 This notification requirement is presently only
24 prompted if the person is criminally charged. However,
25 frequently, no criminal charge will be brought by the

1 Department of Justice because it does not view the
2 violation seriously enough to justify consuming its
3 resources.

4 In these situations, a taxpayer may be completely
5 left in the dark about the improper disclosure or
6 inspection of their taxpayer information. Taxpayers
7 should have a right to know when their taxpayer
8 information is improperly assessed so that the taxpayer
9 may protect themselves or avail themselves of any
10 remedies that may exist for that taxpayer.

11 Our amendment provides a step in the right direction
12 in respecting the rights of taxpayers. It does this by
13 simply requiring the IRS to notify a taxpayer should a
14 Federal or State agency take a disciplinary action
15 against an employee for improperly assessing and
16 disclosing confidential taxpayer information.

17 This notification will also inform the taxpayer of
18 his or her rights that arise as a result of
19 administrative action.

20 So I would urge my colleagues to support this
21 amendment.

22 The Chairman. Is there any objection to this
23 amendment?

24 [No Response.]

25 The Chairman. Then without objection, the

1 amendment is adopted.

2 Well, we do not have nine members, so I cannot get
3 it adopted.

4 Senator Grassley. That is okay.

5 The Chairman. Senator Brown?

6 Senator Brown. Mr. Chairman, I call up Brown-
7 Cardin Number 1, Committee Amendment Number 77 to the
8 Taxpayer Protection Act.

9 I ask unanimous consent to add Senators Stabenow,
10 Bennet, Schumer and Menendez as cosponsors.

11 The Chairman. Without objection.

12 Senator Brown. Thank you, Mr. Chairman. Thanks
13 for your cooperation.

14 The amendment raises the cap to the IRS Voluntary
15 Income Tax Assistance, the VITA, matching grant program
16 allocation to \$30 million, subject, of course, to
17 appropriations override.

18 We know that VITA sites are among the best tools we
19 have to assist taxpayers and reduce return errors. Not
20 only are VITA sites free, they are also more reliable.
21 They have -- get this -- a 94 percent accuracy rate,
22 higher than any other category of tax preparation.

23 They lead to fewer errors on EITC. We have heard
24 that debate in here about errors on EITC. Eligible
25 returns and millions of dollars of tax relief for

1 communities in need will come forward because of VITA,
2 because of the VITA sites.

3 While we are taking major steps to ensure the VITA
4 program continues to serve taxpayers, we still fall far
5 short. The current demand for VITA services far outstrip
6 supply. Just this week, on tax day, VITA sites across
7 the country were forced to turn away workers who sought
8 tax preparation assistance due to a lack of resources.

9 My amendment, Mr. Chairman, would increase the IRS
10 election to \$30 million. It would not -- it cannot
11 increase the IRS budget nor would it provide additional
12 appropriations for the IRS or VITA. It would simply
13 allow the IRS to fund the program under its own
14 discretion.

15 This amendment has been endorsed by the Corporation
16 for Enterprise Development and the United Way. We all
17 are proud of what the United Way does in our States to
18 establish VITA sites and encourage people to use EITC,
19 and I ask for support of the amendment.

20 Also, Mr. Chairman, if I could ask unanimous consent
21 to enter this letter from the United Way to Senator
22 Cardin and me in support of the amendment.

23 The Chairman. Without objection.

24 [The letter appears at the end of the transcript.]

25 Senator Brown. Thank you, Mr. Chairman. I ask for

1 support of the amendment.

2 The Chairman. Thank you. We do not have enough
3 Senators present to vote on it at this particular point,
4 but we will try to get Senators back.

5 Senator Coats?

6 Senator Coats. Well, Mr. Chairman, not knowing
7 which bill we are considering here today will pass,
8 whether it is one or two or one or the other, I would
9 like to offer the same amendment to this piece of
10 legislation so that whatever comes to the floor, it will
11 incorporate this.

12 The Chairman. We are going to recess until we get
13 to the votes on the floor and then we will take this
14 matter up off the floor and hopefully get this bill done
15 today.

16 So with that, we will recess until further notice
17 and we will ask all of our colleagues, after the first
18 vote, to meet in the President's Room off the floor and
19 we will finish the markup at that time.

20 With that, we will recess until further notice.

21 [Whereupon, at 11:45 a.m., the Committee was
22 recessed, reconvening at 5 p.m.]

23 The Chairman. Welcome back and thank you all for
24 coming. Let us try to stay here until we get 14 Senators
25 present to pass this bill.

1 We are meeting here to process the three remaining
2 amendments and report the Taxpayer Protection Act of
3 2016.

4 Before we move to that item, however, there is one
5 piece of business I would like to wrap up.

6 I ask unanimous consent to submit my statement for
7 the record regarding Senator Portman's vote on Senator
8 Wyden's Amendment Number 1 to the identity theft bill.

9 Hearing no objection, my statement is inserted in
10 the record.

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

13 The Chairman. Now, I propose that we move the
14 outstanding Grassley, as modified, Brown and Coats
15 amendments en bloc by voice vote.

16 Is there any objection to that?

17 Senator Wyden. I second.

18 The Chairman. All those in favor should say aye.

19 [A Chorus of Ayes.]

20 The Chairman. Any nays?

21 [No Response.]

22 The Chairman. The ayes have it.

23 If there is no further debate, I would entertain a
24 motion that the Committee order the Taxpayer Protection
25 Act of 2016 reported, as modified and amended.

1 Senator Wyden. I so move.

2 The Chairman. Does any Senator require a recorded
3 vote?

4 [No Response.]

5 The Chairman. If not, all those in favor will say
6 aye.

7 [A Chorus of Ayes.]

8 The Chairman. The bill is passed.

9 I ask consent that the staff be granted customary
10 authority to make technical and conforming changes.

11 Without objection, it is so ordered.

12 [Whereupon, at 5:15 p.m., the Committee was
13 adjourned.]

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**Chairman Hatch Statement for the Record Regarding the April
20, 2016 Identity Theft and Tax Refund Fraud Markup
April 20, 2016**

I note that the committee has ordered to be reported the Chairman's mark on Identity Theft and Tax Refund Fraud. The business meeting was recessed subject to the call of the chair. We have resumed the business meeting to dispose of the remaining business.

In the interim period, I have learned of an error that I wish to correct. The error concerns the voting of Senator Portman's proxy on a matter the committee considered with respect to the first business matter.

On Wyden Amendment #1 to the Second Modification to a Bill to Prevent Identity Theft and Tax Refund Fraud, Senator Portman did not vote his proxy. Senator Portman was recorded as having voted no by proxy. I ask unanimous consent that the record should reflect that Senator Portman did not vote on this amendment.

SENATOR DEAN HELLER OPENING STATEMENT
SENATE FINANCE COMMITTEE MARKUP
Bill to Prevent Identity Theft and Bill to Promote Taxpayer Protection
April 20, 2016 – 10:00 AM

Thank you, Mr. Chairman. I commend the committee for moving forward with this bipartisan markup.

First, I would like to begin with why we are holding this important markup today. The IRS data breaches over the past few years have deeply concerned me, my state and my fellow colleagues.

Over 2 million taxpayers' identity were stolen in 2014. In my home state alone, there have been over 14,000 victims last tax season and the numbers are only expected to rise. This is unacceptable.

I am pleased to see that two of my amendments—promoting education and outreach to vulnerable taxpayers on identity theft and assessing what ways that security features can be strengthened for taxpayers who e-file their tax return—were included in the Chairman's Mark. I appreciate the Chairman and Ranking Member's commitment to address identity theft.

I also appreciate the chairman's commitment to including two of my amendments holding the IRS accountable in the Chairman's Mark for the Taxpayer Protections Act. Both of these amendments—requiring sufficient notice for IRS closure of a taxpayer walk-in center and requiring regular status reports on what the IRS's "Future State," is incredibly important to vulnerable taxpayers in the Silver State, especially those taxpayers who live in rural areas. I want to thank my friend, Senator Schumer, for his support of these important amendments.

I want you all to know I remain deeply committed to working with my colleagues on both sides of the aisle to address identity theft and protect all taxpayers.

With that, I thank the Chairman and the Ranking Member as this committee works to better protect American and Nevadan taxpayers.

**Senator Casey – Statement for the Record
Regarding the April 20, 2016 Identity Theft and Tax Refund Fraud Markup**

Identity theft and tax scams are a substantial problem for thousands of Americans every year. In Pennsylvania, for example, we had over 172,000 taxpayers who were victims of tax-related ID theft in 2014. I am encouraged that the Committee is considering legislation to address this issue, and I would like to comment on the amendments I have offered to these bills.

My first amendment, which I offer with Senator Enzi, to the ID Theft bill would permit the IRS to disclose to law enforcement officials relevant tax return information related to missing or exploited children. Each year, 800,000 children are reported missing in the United States, and around 200,000 of them are victims of family abduction carried out by a parent or other relative. It can be difficult for investigators to find these children—but the IRS often has basic identification information from tax returns that can greatly help law enforcement officials. For instance, in a 2007 study, the Treasury Inspector General for Tax Administration (TIGTA) examined 1,700 Social Security Numbers for missing children and their alleged abductors from the National Center for Missing and Exploited Children database. TIGTA found that in more than a third of the cases, the IRS had new addresses on file.

This basic information—such as a child’s new name or new address—could make it much easier for authorities to find the child and ensure his or her safe return to custodial parents. Under Section 6103, however, this information is confidential and cannot be disclosed to investigating authorities without consent. My amendment would make a very narrow exception to Section 6103 to permit the IRS to disclose certain tax return information to law enforcement officials who are conducting a criminal investigation into missing or exploited children. Taxpayer information will only be released to law enforcement officials as part of a legitimate investigation or judicial proceeding, under the orders of a federal judge. This is a common-sense fix that maintains the existing balance between taxpayer privacy and the judicious release of information that will make a meaningful difference to a child’s safety.

My second amendment, which was added to the ID Theft bill, requires the IRS to provide notification to taxpayers when there is suspected ID theft. The IRS must provide instructions about filing police reports and forms to allow the taxpayer to authorize disclosure of personal information to investigating authorities. Identity theft is not like other types of crimes. Taxpayers who learn that their identities have been stolen are often in the dark about many details of the fraud—they do not know the full extent of the damage or how to assist authorities in apprehending the wrongdoers. The bill we are considering today makes great strides in this respect by requiring the IRS to notify a taxpayer of possible identity theft and any investigations being conducted. My amendment would simply require the IRS to include two additional items in that notification to the taxpayer. First, the taxpayer would receive instructions on how to file a police report, and second, the taxpayer would receive the forms

to submit to allow investigating law enforcement officials to access the taxpayer's personal information. This would ensure that taxpayers have the information they need to take action and help authorities bring the criminals responsible to justice.

Finally, I was glad to see my amendment to the Taxpayer Protection Act included in the mark. This amendment directs the IRS to provide basic information to taxpayers about tax scams while they are on hold with the agency. The IRS encourages taxpayers who believe they may be victims of identity theft to report the issue to the agency. However, the IRS does not have the resources to take all the calls it receives. There are frequently long hold times for taxpayers on the phone. My amendment would direct the IRS to use this hold time to play recordings with information about tax scams and ID theft. The recordings will notify taxpayers about things the IRS will never do, such as call without first sending a letter to taxpayers or demand immediate payment. This will help many taxpayers get critical educational information about ID theft and tax scams so they can better protect themselves. It may even help resolve issues for taxpayers who are calling with questions about possible tax scams.

The legislation that we are considering today contains many important provisions for combating ID theft and improving protections for American taxpayers. I am glad that this Committee has come together to address these critical issues on a bipartisan basis.

Senator Maria Cantwell
U.S. Senate Committee on Finance
“An Original Bill to Prevent Identity Theft and Tax Refund Fraud and The Taxpayer
Protection Act of 2016”
Wednesday, April 20, 2016
Statement for the Record

I want to thank my colleagues Chairman Hatch and Ranking Member Wyden for their hard work on these two important taxpayer protection bills.

I'm glad that we are finally proceeding to the Identity Theft and Tax Refund Fraud bill nearly eight months after this markup was first noticed. In that time we've had the IRS Commissioner, Treasury Inspector General and others in front of this committee more times than I can count, talking about their need for the tools in this bill to help protect taxpayers from scams and criminals.

Washington state has the eighth highest rate of tax-related identify theft victims in the country, with over 60,000 confirmed victims. We were second only to my colleague Bill Nelson's state of Florida on a per capita basis, and the rate of identity theft complaints nearly doubled from 2013 to 2014.

As criminals get more sophisticated, it's critical that the IRS keep pace. That's why I'm pleased that this bill includes a 5 year authorization of “critical pay authority” so that the IRS can hire the best and the brightest minds in information technology and cyber security.

I represent one of the biggest technology centers in the country, and I talk to business leaders all the time about how competitive the market is for top engineers in the private sector, where they are unencumbered by federal hiring processes. By letting critical pay authority lapse, we've put the IRS at a competitive disadvantage. There are 10 critical employees who the IRS will lose if this provision is not enacted, in addition to already losing their Chief Technology Officer.

However, I am disappointed that this bill was amended to strip out the provision allowing the IRS to regulate all paid tax preparers. This is a bipartisan, common sense provision that would protect individual taxpayers from unscrupulous return preparers taking advantage of them, and also protect taxpayers as a whole from fraud and overpayments.

A GAO investigation found that only 2 of the 19 returns completed by paid preparers had accurate refunds. The IRS has found that 44 percent of EITC claims filed by paid prepares have errors. The IRS, GAO, Taxpayer Advocate, and Treasury Inspector General have all

recommended we provide this authority and it has been endorsed by the American Institute of Certified Public Accountants and consumer groups across the country.

So I hope we can come together around this bipartisan and commonsense proposal and let the IRS establish some basic, minimum standards for paid preparers and adopt Senator Wyden's amendment.

SUBMITTED BY SENATOR BROWN

United Way Worldwide
701 North Fairfax Street
Alexandria, Virginia 22314-2045
Tel. 703.836.7100

April 19, 2016

The Honorable Sherrod Brown
Senate Finance Committee
713 Hart Senate Office Building
Washington, DC 20510

The Honorable Ben Cardin
Senate Finance Committee
509 Hart Senate Office Building
Washington, DC 20510

Dear Senators Brown and Cardin,

United Way Worldwide writes to express support of your amendment to the Taxpayer Protection Act of 2016, which would raise the cap on the IRS allocation to the Volunteer Income Tax Assistance (VITA) matching grant program from \$15 million to \$30 million, subject to appropriation override.

VITA is an effective public-private partnership executed in local communities across the country, whereby thousands of volunteers are trained and certified to provide qualifying individuals and families with free, reliable and accurate assistance in filing federal tax returns. Most taxpayers utilizing VITA earn an annual household income of less than \$40,000 and come from traditionally hard-to-reach populations, including people with disabilities, Native Americans and the elderly. During the 2015 filing season, tens of thousands of VITA volunteers prepared more than 1.5 million tax returns nationwide, resulting in \$2.3 billion returning to local communities in 2015 -- dollars spent to cover child expenses, pay bills, purchase groceries and household necessities, as well as to save for the future.

United Way appreciates that the Chairman's Mark of the Taxpayer Protection Act of 2016 codifies the Volunteer Income Tax Assistance (VITA) matching grant program and gives IRS the discretion to fund VITA with up to \$15 million from its own budget in the absence of a specific appropriation. More than 380 United Ways across the country partner, sponsor, or invest in VITA and we can attest to the powerful return on investment of this public-private partnership. We also know that \$15 million represents only a fraction of the costs of

operating VITA tax sites nationwide. Though the tax returns are prepared by volunteers, sponsoring community organizations contribute significant resources to recruit and train the volunteers, supervise the volunteers to ensure accuracy, provide office space and computers for electronic filing, and conduct outreach to community members.

And demand for VITA services only continues to grow. The IRS has determined that while 2.1 million presently access free tax assistance, a total of 19 million would do so if it were readily available.

With VITA's accuracy rate at 94% -- the highest of any major tax preparation service -- it is in our collective interest to strengthen a proven community solution that enables Americans to accurately meet their tax obligations while supporting economic opportunity. By raising the cap on IRS allocations to the VITA matching grant program to \$30 million, your amendment is a sensible approach to shore up this proven public-private partnership.

Thank you for standing for strong communities across the country by offering this amendment.

Sincerely,

Steve Taylor
Senior Vice President and Counsel for Policy
United Way Worldwide