

ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
ARMED SERVICES
FINANCE
SPECIAL COMMITTEE ON AGING

United States Senate

UNITED STATES SENATE
WASHINGTON, DC 20510-2105
P: 202-224-4543

2400 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
P: 617-565-3170

1550 MAIN STREET
SUITE 406
SPRINGFIELD, MA 01103
P: 413-788-2690

www.warren.senate.gov

Mr. Billy Long
Commissioner-Designate, U.S. Internal Revenue Service
Trump-Vance Transition Team
1100 S Ocean Blvd
Palm Beach, FL 33480

January 8, 2025

Dear Mr. Long:

On December 5, 2024, President-elect Trump signaled his intention to take the unprecedented step of firing the current Internal Revenue Commissioner and announced that he intended to nominate you as his replacement to lead the Internal Revenue Service (IRS).¹ In the wake of that announcement, I am writing to express our concern about your qualifications to serve as IRS Commissioner. Although you were in Congress for twelve years, and are a successful businessman, your most significant tax experience has been your recent work promoting a fraud-ridden pandemic-era tax credit, which you have incorrectly claimed “everybody qualifies” for.² And a podcast on which you promoted your work on behalf of companies facilitating the credit was recently pulled from the internet – raising questions about whether you or another entity is trying to whitewash your record.³

The role of IRS Commissioner is critical for ensuring the wealthy pay their fair share in taxes, and that honest, hardworking Americans can file their taxes and claim their refunds. But as analysts have noted, your “lack of tax industry experience sets [you] apart from other recent IRS commissioners.”⁴ Although you bill yourself as a “Certified Business and Tax Adviser,” this

¹ Washington Post, “Trump names his own pick for IRS commissioner, breaking from tradition,” Julie Zauzmer Weil and Jacob Bogage, December 5, 2024, <https://www.washingtonpost.com/business/2024/12/05/billy-long-irs-commissioner-trump/>.

² “Congressman Billy Long Speaking from Mark Speak Computer,” YouTube, uploaded by Asset Recovery, April 21, 2023, 1:01, <https://www.youtube.com/watch?v=5KK57glCd88>.

³ Listen Notes, “Secret Tax Credit That Could Put Thousands Back in Your Pocket with Billy Long,” Brainsky Unleashed, September 4, 2023, <https://www.listennotes.com/podcasts/brainsky-unleashed/secret-tax-credit-that-could-ox6f8u9p-Xq/>.

⁴ CBS News, “What to know about Billy Long, the ex-congressman and auctioneer Trump wants to head the IRS,” Aimee Picchi, December 6, 2024, <https://www.cbsnews.com/news/trump-irs-billy-long-auctioneer-congressman-werfel-what-to-know/>.

certification appears to only require a three-day training.⁵ Indeed, your lack of significant management or tax experience – and your promotion of credits that have been “magnet[s] for fraud” – raise serious questions about your qualifications to lead the IRS.⁶

Your main tax experience began after you departed Congress in 2023, when you “quickly set out to make money” and went to work for Commerce Terrace Consulting and Lifetime Advisers.⁷ There, you encouraged people to file for the Employee Retention Tax Credit (ERTC),⁸ a refundable tax credit designed to support businesses able to demonstrate that the COVID-19 pandemic impacted their bottom line.⁹

The ERTC has been an important tool to encourage employers to keep employees on their payrolls and keep struggling businesses afloat, and I voted in support of enacting and expanding the credit¹⁰, and wrote a letter to the IRS urging them to expedite the processing of valid claims.¹¹ However, ERTC fraud and abuse has created huge delays and harmed honest businesses trying to claim the credit. Inundated by fraudulent claims, the IRS has initiated over 250 criminal investigations,¹² and imposed a moratorium on the processing of new claims from September 2023 to August 2024.¹³

In particular, firms known as “ERTC mills” specialize in gaming the ERTC’s eligibility criteria by offering to file claims for employers even in instances where the company is not eligible, in return for a slice of the payout.¹⁴ The result? Huge refunds from the IRS to fraudulent parties, and payouts for ERTC mills and their principals who peddle fraud in exchange for compensation

⁵ Springfield News-Leader, “Trump wants Billy Long to head IRS. Here's what to know about the Springfield politician,” Susan Szuch, December 9, 2024, <https://www.news-leader.com/story/news/politics/2024/12/09/trump-wants-springfields-billy-long-to-head-irs-heres-what-to-know/76798608007/>.

⁶ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.

⁷ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.

⁸ *Id.*

⁹ IRS, “Employee Retention Credit,” <https://www.irs.gov/coronavirus/employee-retention-credit>.

¹⁰ CARES Act, S.3548, <https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>; American Rescue Plan Act of 2021, H.R. 1319, <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>.

¹¹ Letter from Senators Ed Markey and Elizabeth Warren to IRS Commissioner Werfel, September 23, 2024, <https://www.markey.senate.gov/news/press-releases/senators-markey-warren-send-letter-to-irs-commissioner-urging-action-on-payment-of-employee-retention-tax-credits>.

¹² New York Times, “I.R.S. Freezes Pandemic-Era Tax Credit Amid Fraud Fears,” Alan Rappeport, September 14, 2023, <https://www.nytimes.com/2023/09/14/us/politics/irs-pandemic-employee-credit-fraud.html>.

¹³ Internal Revenue Service, “IRS moves forward with Employee Retention Credit claims: Agency accelerates work on complex credit as more payments move into processing; vigilance, monitoring continues on potentially improper claims,” news release, August 8, 2024, <https://www.irs.gov/newsroom/irs-moves-forward-with-employee-retention-credit-claims-agency-accelerates-work-on-complex-credit-as-more-payments-move-into-processing-vigilance-monitoring-continues-on-potentially-improper-claims>.

¹⁴ Washington Post, “The Employee Retention Tax Credit gives waste and fraud a bad name,” Editorial Board, February 19, 2024, <https://www.washingtonpost.com/opinions/2024/02/19/irs-employee-retention-tax-credit/>; Inc, “Trump’s IRS Pick Billy Long is Sweet on the Fraud-Plagued Employee Retention Tax Credit,” Melissa Angell, December 6, 2024, <https://www.inc.com/melissa-angell/trumps-irs-pick-billy-long-is-sweet-on-the-fraud-plagued-employee-retention-tax-credit/91035459>.

– paid for by taxpayers and by eligible, struggling businesses, who face huge delays in the IRS processing their legitimate claims.¹⁵

Given the widespread issues caused by ERTC mills, taxpayers deserve a better understanding of your role in this space. While it is apparent that you sold tax advisory services – including by wearing a hat advertising the ERTC¹⁶ – it is not clear what work, if any, you did to help businesses file their ERTC claims with the IRS, how you were compensated for your work promoting the credit, or what guardrails were in place to prevent ERTC fraud.

There is no record of you on the IRS’s database of tax return preparers – a searchable directory that lists individuals who hold credentials recognized by the IRS – nor do you appear in the Missouri Board of Accountancy database.¹⁷ Meanwhile, you claimed that your business success can be partially attributed to the “trust factor because people know [you],” raising questions about whether you used your position as a former Member of Congress to promote your firm, rather than tax expertise.¹⁸

Additionally, you made several concerning statements that raise questions about your grasp of the ERTC’s eligibility requirements. In a discussion about the ERTC in a YouTube video last year, you claimed that “everybody qualifies” for the credit,¹⁹ and you told social media followers to “DM [you] to save 40% on [their] taxes.”²⁰ Similarly, in a podcast in 2023, you claimed that you “have attorneys that write opinion letters to make sure everyone does qualify. So [you] have yet to have one turned down.”²¹ You bragged that you helped secure a \$3.6 million ERTC payout for an organization, only for its chief executive to say that “it had ultimately dropped its claim after receiving advice that it may not qualify for the credit.”²² You have also stated that businesses you’ve worked with “have had the best two years of their life”²³ during the pandemic,

¹⁵ JustWorks, “Justworks Advocacy: Employee Retention Credit (ERTC) Delays,” David Feinberg, November 12, 2024, <https://www.justworks.com/press/company-news/justworks-advocacy-ertc-delays#whats-next>.

¹⁶ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.

¹⁷ Springfield News-Leader, “Trump wants Billy Long to head IRS. Here's what to know about the Springfield politician,” Susan Szuch, December 9, 2024, <https://www.news-leader.com/story/news/politics/2024/12/09/trump-wants-springfields-billy-long-to-head-irs-heres-what-to-know/76798608007/>; IRS, “Directory of Federal Tax Return Preparers with Credentials and Select Qualifications,” <https://irs.treasury.gov/rpo/rpo.jsf>.

¹⁸ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.

¹⁹ “Congressman Billy Long Speaking from Mark Speak Computer,” YouTube, uploaded by Asset Recovery, April 21, 2023, 1:01, <https://www.youtube.com/watch?v=5KK57gICd88>.

²⁰ Tax Notes, “Trump Taps Former Lawmaker to Serve as IRS Commissioner,” December 5, 2024, <https://www.taxnotes.com/featured-news/trump-taps-former-lawmaker-serve-irs-commissioner/2024/12/04/7nyq0>.

²¹ Listen Notes, “Secret Tax Credit That Could Put Thousands Back in Your Pocket with Billy Long,” Brainsky Unleashed, September 4, 2023, 6:52-6:58, <https://www.listennotes.com/podcasts/brainsky-unleashed/secret-tax-credit-that-could-ox6f8u9p-Xq/>.

²² New York Times, “How a Consulting Firm and Trump’s IRS Pick Pushed a Problematic Tax Credit,” Andrew Duehren, December 24, 2024, <https://www.nytimes.com/2024/12/24/business/billy-long-irs-tax-credit.html?smid=url-share>.

²³ New Republic, “Trump’s Plan to Turn the IRS Into a Grifter’s Paradise,” Timothy Noah, December 6, 2024, <https://newrepublic.com/article/189098/trumps-plan-turn-irs-grifters-paradise>

and urged people to question their accountants, saying, “If you’ve been told no, no, no by your C.P.A., at least give Promax and Lifetime a chance and let them see if you do qualify or not.”²⁴

The lawsuit-ridden firm that you promoted, Lifetime Advisors, has been criticized for taking an “aggressive stance” on ERTC eligibility.²⁵ Two accredited accountants reportedly left the company “after raising concerns about how the firm prepared taxes.”²⁶ Meanwhile, Lifetime had a clear financial stake in pushing questionable ERTC claims – with one contract granting Lifetime 20% of a \$300,000 ERTC credit in fees from a client.²⁷ In fact, one nonprofit hired Lifetime but was later warned by an external auditor that Lifetime’s “expansive interpretation” of the ERTC eligibility criteria “borders on absurdity” – causing the nonprofit to return its refund to avoid a potential IRS audit.²⁸ Lifetime, however, refused to refund its fee.²⁹ Finally, according to press reports, when Congress was considering shutting the program down due to rampant fraud, you “traveled to Washington to try to persuade [your] former colleagues in Congress... not to follow through.”³⁰

These comments and associations are worrisome, given that the IRS has repeatedly warned about the volume of fraudulent claims from ineligible businesses.³¹ I am also troubled that shortly after the announcement of your nomination, with no explanation, and after press reports of your appearance on it, the podcast cited above was pulled down from multiple podcast platforms, including the Listen Notes website, Apple, Spotify, and YouTube, raising questions about whether your full record on tax issues is being obscured in advance of your confirmation hearing.³²

The Senate Committee on Finance is expected to hold your confirmation hearing early in the new year. In advance of that hearing, in order to fully understand your involvement in ERTC claims, I am requesting answers to the following questions by January 26, 2025.

1. On your profile on X, you have described yourself as a “Certified Tax & Business Advisor.”
 - a. How and when did you achieve this certification?

²⁴ New York Times, “How a Consulting Firm and Trump’s IRS Pick Pushed a Problematic Tax Credit,” Andrew Duehren, December 24, 2024, <https://www.nytimes.com/2024/12/24/business/billy-long-irs-tax-credit.html?smid=url-share>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*


³⁰ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.

³¹ Washington Post, “The Employee Retention Tax Credit gives waste and fraud a bad name,” Editorial Board, February 19, 2024, <https://www.washingtonpost.com/opinions/2024/02/19/irs-employee-retention-tax-credit/>; <https://www.inc.com/melissa-angell/trumps-irs-pick-billy-long-is-sweet-on-the-fraud-plagued-employee-retention-tax-credit/91035459>.

³² Listen Notes, “Secret Tax Credit That Could Put Thousands Back in Your Pocket with Billy Long,” Brainsky Unleashed, September 4, 2023, 6:52-6:58, <https://www.listennotes.com/podcasts/brainsky-unleashed/secret-tax-credit-that-could-ox6f8u9p-Xq/>.

- b. Are you an IRS enrolled agent? If so, when did you achieve “enrolled agent” status?
2. How many ERTC claims have been filed by the firms you work for?
 - a. How many have been challenged by the IRS?
3. How many ERTC claims have you yourself prepared or filed?
 - a. How many of these claims have been challenged by the IRS?
4. Do you or your firm actually prepare returns, and if so, do you put a PTIN on the return?
5. What was your compensation while working at 1) Lifetime Advisors and 2) Commerce Terrace Consulting? Were you compensated based on the number of clients you brought in?
6. Press reports indicate that when Congress was considering shutting the program down due to rampant fraud, you “traveled to Washington to try to persuade [your] former colleagues in Congress... not to follow through.”³³
 - a. Are these reports accurate?
 - b. Have you at any time advised, consulted, or discussed with any former colleagues the status of the ERTC program?
 - c. If so, when were these discussions, and what was the nature of them?
7. The podcast on which you appeared on September 4, 2023, to promote the ERTC was removed from multiple websites at some point during the week between December 4th, 2024 and December 13th, 2024.
 - a. Were you aware that this podcast was removed?
 - b. Did you direct or encourage anyone to remove this podcast?
 - c. Why was this podcast removed?

Sincerely,



Elizabeth Warren
United States Senator

³³ New York Times, “He Promised Huge Tax Refunds. Now Trump Wants Him to Lead the I.R.S.,” Andrew Duehren, December 6, 2024, <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>.