

# Exhibit M



**Department of the Treasury  
Internal Revenue Service  
Privacy, Governmental Liaison and  
Disclosure**

**GLDS Support Services**

Stop 93A  
PO Box 621506  
Atlanta, GA 30362

David S Panzer  
2000 Pennsylvania Avenue NW  
Washington, DC 20006

**Date:**

May 17, 2023

**Employee name:**

Kimberly Hill

**Employee ID number:**

1001339342

**Telephone number:**

406-200-6070

**Fax number:**

855-205-9335

**Case number:**

2023-11421

Dear David S Panzer:

This is an interim response to your Freedom of Information Act (FOIA) request dated March 28, 2023, received in our office on March 28, 2023.

You requested the following.

1. Agreement and Negotiation Documents: I request all documents and communications by, between, or among IRS personnel and/or Treasury personnel with CFA representatives regarding any agreement(s) (to include any competitive or sole source contracts), memorandum of understanding, Other "transaction Authority award(s), grant agreement(s), or other form of agreement that in any manner authorized CFA to have its software programs or code publicly available on VITA's IRS.gov website, including that portion of the CTC that allowed taxpayers who had not filed tax returns to obtain the CTC, and/or to complete a CFA-sponsored tax return.
2. Government Funds Paid to CFA Related to any Agreement(s) Listed in Request 1: For any agreement(s) responsive to Request I, I request all documents and/or communications regarding government payment of funds, including, but not limited to, funds paid or due to be paid as a VITA grantee or in any other manner by IRS. If no documents indicate CFA has received funds for the software products or services, it provided to the federal government - in effect making CFA a "volunteer" delivering those products or services - please provide all documents or communications that analyze or assess how this provision of software or services complies with requirements of Title 31 of the United States Code.
3. All documents or communications relating to meetings, including remote by video or telephone, and in- person meetings of CFA personnel and IRS or Treasury personnel in Requests 1 or 2.
4. All documents and communications by, between, or among IRS personnel that include the following search terms: "Code for America", "CFA", or derivatives thereof.

5. White House and Treasury Communications Are Included in Requests 1, 2, 3, and 4 above: All documents or communications by, between, or among IRS personnel, White House personnel, and/or Treasury personnel, to include any responses from IRS personnel relating to Requests 1, 2, 3, and 4. Responsive documents are likely to be found with the IRS offices listed above these requests.
6. Rejected Returns By CFA: All documents or communications by, between, or among the IRS and/or CFA that address: (a) the total number of tax returns submitted by CFA in calendar year 2021 through 2022; and (b) the number and/or percentage of such tax returns rejected by the IRS that were submitted by CFA, including those that were rejected because they were fraudulently filed, suspected of being fraudulently filed, or were filed after a return had already been submitted. I am not seeking documents that disclose individual tax return information, only document(s) that contains summaries of anonymized return data and reasons for such rejection.
7. CFA Compliance IRS Publication 1345 Requirements: All documents or communications by, between, or among the IRS and/or CFA regarding CFA's (a) compliance with the requirements contained in IRS Publication 1345, and (b) Participants Acceptance Testing System ("PATs") testing of CFA software. I do not seek Individual tax return data, only documents with anonymized summaries of aggregated return data.

We searched for, and located, 10 pages responsive to your request.

Of the 10 pages located in response to your request, we're enclosing 10 pages. We're releasing 9 pages without exemptions and withholding 1 page in part. This is an interim response; you will receive appeal rights with our final response. Redacted portions of that page are marked by the applicable FOIA exemptions which are described below:

FOIA exemption (b)(6) exempts from disclosure files that would constitute an unwarranted invasion of personal privacy. We base the determination to withhold on balancing interests between the protection of an individual's right to privacy and the public's right to access government information.

While reviewing the responsive records and applying FOIA exemptions to withheld records, we considered that there is either a foreseeable harm in releasing withheld information, or the information is prohibited from being released by law.

We are unable to process the remaining portions of your request as they are overly broad in nature and do not meet the requirements of the FOIA or the applicable agency regulations

The FOIA requires that requesters (1) "reasonably describe" the records sought and (2) be made in accordance with published agency rules. 5 U.S.C § 552(a)(3)(A). IRS regulations at Treas. Reg. § 601.702(c)(5)(i), require that the request describe the documents in sufficient detail to

enable us to locate the records "without placing an unreasonable burden upon the IRS." The rationale behind this requirement is that the FOIA is not intended to reduce agency personnel to investigators on behalf of the requesters or to allow requesters to conduct "fishing expeditions" through agency files. *Dale v. IRS*, 238 F. Supp. 2d 99, 104-05 (D.D.C. 2002) (holding that a request seeking "any and all documents...that refer or relate in any way" to the requester failed to reasonably describe records sought and "amounted to an all-encompassing fishing expedition of files at [agency's] offices across the country, at taxpayer expense"). Additionally, FOIA does not require agencies to conduct legal research. See *Lamb v. IRS*, 871 F. Supp 301, 304 (E.D. Mich. 1994) (finding that requests are outside the scope of FOIA when they require legal research, are unspecific, or seek answers to interrogatories).

Send us your updated request, and a copy of your original request and a copy of this letter, within 35 calendar days, by June 20, 2023, or we may be forced to close your case with no further action. The 20 business-day statutory response time does not begin until we receive the requested information per Title 5 USC Section 552 (a)(6)(A)(i)). Fax your response to 877-891-6035 or mail to:

Internal Revenue Service  
GLDS Support Services  
Stop 93A  
PO Box 621506  
Atlanta, GA 30362

If you have questions regarding the processing of your FOIA request, please contact the caseworker assigned to your case at the phone number listed at the top of this letter.

If you are not able to resolve any concerns you may have regarding our response with the caseworker, you have the right to seek dispute resolution services by contacting our FOIA Public Liaisons at 312-292-3297. The FOIA Public Liaison is responsible for assisting in reducing delays, increasing transparency, and assisting in the resolution of disputes with respect to the FOIA.

There is no provision for the FOIA Public Liaison to address non-FOIA concerns such as return filing and other tax-related matters or personnel matters. If you need assistance with tax-related issues, you may call the IRS at 800-829-1040.

You also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and federal agencies.

The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road--OGIS  
College Park, MD 20740-6001  
202-741-5770  
877-684-6448  
ogis@nara.gov  
ogis.archives.gov

Sincerely,

A handwritten signature in black ink that reads "D. Fitti-Hafer". The signature is written in a cursive style with a large initial "D".

Deanna Fitti-Hafer  
Disclosure Manager  
Disclosure Office 13

Enclosure: Responsive documents - 10

Enclosure

**1. Please provide any agreements between the IRS and CFA, including grants.**

We don't have any agreements and haven't provided any grants to Code for America (CFA), other than the IRS authorizing CFA as an e-File provider.

**2. Has CFA received Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) grants? If so, please provide documentation, including Form 15272, compliance with security procedures, any coordinated corrective actions, and evidence that CFA has fulfilled all grant requirements and necessary documentation to ensure compliance with VITA and TCE's terms and conditions.**

The IRS did not award CFA a Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) grant.

**3. To the extent CFA has received VITA grants, please identify all CFA tasks, projects, and programs for which such grants are used.**

Not applicable.

**4. Has the IRS provided any information technology, including equipment, to CFA?**

No, the IRS has not provided any information technology, including equipment, to CFA.

**5. Did the IRS perform any due diligence regarding CFA's business prior to Treasury announcing the federal government's collaboration? If yes, please describe the review process and corresponding analysis and conclusions, including analysis of CFA's privacy policy published on [www.getctc.org](http://www.getctc.org).**

The IRS has not been involved in the discussions between Department of the Treasury (Treasury) and CFA. The IRS's relationship with CFA was limited to approving CFA as an e-File provider through our standard process for third-party return preparers. CFA developed a simplified filing tool for lower-income taxpayers that went online in August 2021.

**6. Considering the sensitive nature of return information, and the apparent massive leak of a "vast trove" of taxpayer information to ProPublica, please provide a complete description of CFA's security protocols used in any context of the IRS's collaboration with CFA to protect tax return information, including any relevant compliance with Publication 4299 and the six security, privacy and business standards detailed in**



**Publication 1345.**

We do not have information on CFA's security protocols, and we did not collaborate with CFA; however, as an e-File provider, CFA must comply with security requirements for e-File providers. Publication 1345 states an e-File provider should be diligent and report any patterns or schemes they see. A participant that has selected the provider option to be an Electronic Return Originator (ERO) can find additional information on reporting requirements in the article Reporting Fraud and Abuse Within the IRS e-File Program.<sup>1</sup>

Providers must conform to the six standards outlined on page 8 of Publication 1345, including an external vulnerability scan of all system components. All providers are subject to the e-File security standard for reporting security incidents described in Publication 1345; however, providers who are EROs must also contact their local stakeholder liaison to report such incidents. The instructions to do this reporting are available on IRS.gov.<sup>2</sup> Providers with multiple roles must follow instructions for submitting incident reports, also available on IRS.gov.<sup>3</sup>

**7. Has CFA reported a security incident, as described in Publication 1345, to the IRS? If yes, please summarize each incident.**

We have not received any incident reports involving CFA.

**8. Is CFA authorized by the IRS to be part of the e-File program?**

Yes, as of May 14, 2021, the IRS authorized CFA to be an e-File provider.

**9. If CFA is an IRS certified e-File provider, please identify and substantiate with documentation, including substantiation of CFA adherence to the requirements in the IRS document "Become an Authorized e-File Provider." Also, please identify when CFA applied to become an IRS certified e-File provider and when an approval was granted.**

CFA is an authorized e-File provider. Providers can apply for authorization for specific types of business activities the provider believes it will use – these different business statuses are called "provider options." CFA applied for provider options to be an ERO for not-for-profit organizations and large taxpayers on May 11, 2021. The IRS accepted CFA into the e-File program on May 14, 2021, based on this application. CFA then revised their e-File application on July 14, 2021, to add an additional provider option to be an online provider so taxpayers

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<sup>1</sup> Available at <https://www.irs.gov/compliance/criminal-investigation/reporting-fraud-and-abuse-within-the-irs-e-file-program>.

<sup>2</sup> Available at <https://www.irs.gov/individuals/data-theft-information-for-tax-professionals>.

<sup>3</sup> Available at <https://www.irs.gov/e-file-providers/instructions-for-reporting-web-site-security-incidents-updated-10-02-08>.

may self-prepare returns by entering return data directly. CFA has now selected and been authorized for multiple provider options: ERO, online provider, transmitter, and software developer.

The e-File application is a web-based application and does not produce specific documentation. An e-File provider's possession of an active Electronic Filer Identification Number (EFIN) indicates that the provider passed all initial and ongoing compliance checks. CFA has an active EFIN.

**10. Prior to September 1, 2021, how much time did the IRS spend developing its own CTC Portal?**

The IRS developed, designed, and launched a separate Child Tax Credit Update Portal<sup>4</sup> (CTCUP) on June 20, 2021, to enable families to quickly and easily manage their advanced payments. From the time Congress enacted the American Rescue Plan on March 11, 2021, the IRS spent approximately 11 weeks planning, developing, and testing prior to September 1, 2021.

Free File Inc. developed the Non-filer Sign-up tool in partnership with the IRS. We do not have an estimate on how much time Free File Inc. spent developing it. The IRS's involvement was more limited. We provided the requirements and reviewed the final product before we made it available to the public, but we did not have more direct involvement in its development.

**11. Please provide CFA's past tax year of reports of potential identity theft refund fraud activity and its compliance, including the number of Form 3949-A's CFA filed with the IRS. Has CFA missed any reporting deadlines?**

Our database queries returned no records of any Form 3949A referrals responsive to this request. CFA has not missed any reporting deadlines.

**12. Has the IRS received a Form 14242, 14157, 14157-A or 13909 related to CFA? If yes, please summarize each report, complaint or affidavit.**

No.

**13. Is CFA a participating member of the Security Summit or Identity Theft Tax Refund Fraud Information Sharing and Analysis Center?**

No. CFA is not a member of the Security Summit or the Identity Theft Tax Refund Fraud Information Sharing and Analysis Center.

**14. Identify the number of returns that have been submitted through [www.getctc.org](http://www.getctc.org) and, separately, through the IRS CTC Portal and, for each of the two portal inlets, what percentage of returns were rejected?**

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<sup>4</sup> Available at <https://www.irs.gov/credits-deductions/child-tax-credit-update-portal>.



Taxpayers submitted approximately 474,000 returns through the non-filer tool CFA provided, [www.getctc.org](http://www.getctc.org), from August 17, 2021, through November 20, 2021. The system rejected approximately 71% of these returns.

Taxpayers submitted approximately 1.5 million returns through the Non-Filer Sign-up tool in the IRS portal from June 14, 2021 through October 21, 2021. The system rejected approximately 83% of these returns.

- 15. To your knowledge, how many refund deposits generated through [www.getctc.org](http://www.getctc.org) were to accounts that were not in the filer's name, to an account outside of the U.S. or credited to a debit card?**

We do not have this information.



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

May 11, 2022

The Honorable Mike Crapo  
Ranking Member  
Senate Finance Committee  
United States Senate  
Washington, DC 20510

Dear Senator Crapo:

Thank you for your letter dated December 16, 2021. You asked us to respond to questions about the IRS's collaboration with Code for America (CFA). I apologize for the delay in our response.

Attached please find an enclosure with responses to your questions.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Amy Klonsky, Chief, National Congressional Affairs Branch, at 202-317-6985.

Sincerely,

Charles P.  
Rettig

Digitally signed by  
Charles P. Rettig  
Date: 2022.05.11  
17:10:15 -04'00'

Charles P. Rettig

Enclosure

cc: The Honorable Charles E. Grassley  
The Honorable John Thune  
The Honorable Richard Burr  
The Honorable Rob Portman  
The Honorable Pat Toomey  
The Honorable Bill Cassidy, M.D.  
The Honorable James Lankford  
The Honorable Todd Young  
The Honorable John Barrasso, M.D.

**RECEIVED**

By ESCO at 12:56 pm, Dec 17, 2021

**From:** [Moore Harrison B](#)  
**To:** [\\*Chief of Staff Advisor; \\*C&L Congressional Correspondence](#)  
**Cc:** [Klonsky Amy E](#)  
**Subject:** FW: Letter from Senate Finance Members to the Commissioner  
**Date:** Thursday, December 16, 2021 4:24:06 PM  
**Attachments:** [SFC Letter to Rettig 12-16-21.pdf](#)

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Incoming letter from SFC re CTC and CFA (code for America)

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**From:** Wrase, Jeff (Finance) <Jeff\_Wrase@finance.senate.gov>  
**Sent:** Thursday, December 16, 2021 3:49 PM  
**To:** Moore Harrison B <[\(b\)\(6\)](#)>  
**Subject:** Letter from Senate Finance Members to the Commissioner

Harrison,

Please provide the attached letter from Members of the Senate Finance Committee to Commissioner Rettig. Please, also confirm receipt.

Thank you.

Jeff

**Jeffrey Wrase**  
Deputy Staff Director and Chief Economist  
Senate Finance Committee

RON WYDEN, OREGON, CHAIRMAN  
DEBBIE STABENOW, MICHIGAN  
MARIA CANTWELL, WASHINGTON  
ROBERT MENENDEZ, NEW JERSEY  
THOMAS R. CARPER, DELAWARE  
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SHERROD BROWN, OHIO  
MICHAEL F. BENNET, COLORADO  
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MARK R. WARNER, VIRGINIA  
SHELDON WHITEHOUSE, RHODE ISLAND  
MAGGIE HASSAN, NEW HAMPSHIRE  
CATHERINE CORTEZ MASTO, NEVADA  
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JAMES LANKFORD, OKLAHOMA  
STEVE DAINES, MONTANA  
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BEN SASSE, NEBRASKA  
JOHN BARRASSO, WYOMING  
JOSHUA SHEINKMAN, STAFF DIRECTOR  
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON FINANCE  
WASHINGTON, DC 20510-6200

December 16, 2021

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Commissioner Rettig,

On September 1, 2021, the Treasury Department announced a Treasury, White House and Code for America (CFA) “collaboration” on an Internet-based tax tool for individuals who did not file a necessary tax return but seek to receive a child tax credit (CTC).<sup>1</sup> The release included a link to CFA’s website and sign-up portal where individuals may access CFA software to prepare and submit tax filings necessary to receive the CTC and perhaps other stimulus payments.

In conjunction with the Treasury’s announcement, the White House changed its CTC website by replacing the IRS’s “Child Tax Credit Update Portal” with hyperlinks to [www.getctc.org](http://www.getctc.org). Some view this replacement as a federal government endorsement or preference for CTC eligible individuals to use CFA’s software over the IRS’s software.<sup>2</sup>

CFA also owns [www.getyourrefund.org](http://www.getyourrefund.org), an Internet-based portal providing “free” tax filing. With CFA’s evident increased presence in tax preparation activities and endorsement of CFA by the federal government, it is essential that Congress obtain documentation and knowledge that taxpayer privacy protections are not at risk. In light of an ongoing purported leak of IRS data to ProPublica that include personally identifiable information and have been used for politicized articles, and given that taxpayer information is supposed to be protected by federal statute and enforcement, it is of utmost importance that privacy protections are closely scrutinized.

Because of the recently established collaboration between the Executive branch and CFA, we are interested in obtaining information about the IRS’s collaboration with CFA, including

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<sup>1</sup> See <https://home.treasury.gov/news/press-releases/jy0341>. See also, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/15/fact-sheet-biden-harris-administration-whole-of-government-effort-to-ensure-child-tax-credit-reaches-all-eligible-families/>, and <https://www.whitehouse.gov/child-tax-credit/>

<sup>2</sup> William Hoffman, All’s Fair in Getting Child Credits Paid, Advocate Argues, Tax Notes, September 7, 2021.

documentation of adherence to all necessary taxpayer and privacy protections. Toward that end, please respond to the following questions and requests by January 17, 2021.

1. Please provide any agreements between the IRS and CFA, including grants.
2. Has CFA received Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) grants? If so, please provide documentation, including Form 15272, compliance with security procedures,<sup>3</sup> any coordinated corrective actions,<sup>4</sup> and evidence that CFA has fulfilled all grant requirements and necessary documentation to ensure compliance with VITA and TCE's terms and conditions.<sup>5</sup>
3. To the extent CFA has received VITA grants, please identify all CFA tasks, projects, and programs for which such grants are used.
4. Has the IRS provided any information technology, including equipment, to CFA?<sup>6</sup>
5. Did the IRS perform any due diligence regarding CFA's business prior to Treasury announcing the federal government's collaboration? If yes, please describe the review process and corresponding analysis and conclusions, including analysis of CFA's privacy policy published on [www.getctc.org](http://www.getctc.org).
6. Considering the sensitive nature of return information, and the apparent massive leak of a "vast trove" of taxpayer information to ProPublica, please provide a complete description of CFA's security protocols used in any context of the IRS's collaboration with CFA to protect tax return information, including any relevant compliance with Publication 4299 and the six security, privacy and business standards detailed in Publication 1345.
7. Has CFA reported a security incident, as described in Publication 1345, to the IRS? If yes, please summarize each incident.
8. Is CFA authorized by the IRS to be part of the e-File program?
9. If CFA is an IRS certified e-File provider, please identify and substantiate with documentation, including substantiation of CFA adherence to the requirements in the IRS document "Become an Authorized e-file Provider"<sup>7</sup>. Also, please identify when CFA applied to become an IRS certified e-File provider and when an approval was granted.
10. Prior to September 1, 2021, how much time did the IRS spend developing its own CTC Portal?

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<sup>3</sup> See, Publication 4299, <https://www.irs.gov/pub/irs-pdf/p4299.pdf>.

<sup>4</sup> See, Publication 1084, <https://www.irs.gov/pub/irs-pdf/p1084.pdf>.

<sup>5</sup> See, Publication 5376, <https://www.irs.gov/pub/irs-pdf/p5376.pdf> and Publication 5247 <https://www.irs.gov/pub/irs-pdf/p5247.pdf>.

<sup>6</sup> See e.g., Publication 4390, <https://www.irs.gov/pub/irs-pdf/p4390.pdf> (VITA/TCE Computer Loan Program).

<sup>7</sup> See <https://www.irs.gov/e-file-providers/become-an-authorized-e-file-provider>.



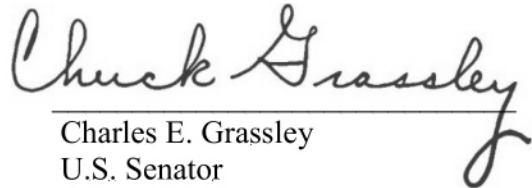
11. Please provide CFA's past tax year of reports of potential identity theft refund fraud activity and its compliance, including the number of Form 3949-A's CFA filed with the IRS.<sup>8</sup> Has CFA missed any reporting deadlines?<sup>9</sup>
12. Has the IRS received a Form 14242, 14157, 14157-A or 13909 related to CFA? If yes, please summarize each report, complaint or affidavit.
13. Is CFA a participating member of the Security Summit or Identity Theft Tax Refund Fraud Information Sharing and Analysis Center?<sup>10</sup>
14. Identify the number of returns that have been submitted through [www.getctc.org](http://www.getctc.org) and, separately, through the IRS CTC Portal and, for each of the two portal inlets, what percentage of returns were rejected?
15. To your knowledge, how many refund deposits generated through [www.getctc.org](http://www.getctc.org) were to accounts that were not in the filer's name, to an account outside of the US or credited to a debit card?

I look forward to receiving the details on collaborations with third-parties regarding the CTC by January 17. Please, also, arrange for your staff to provide an informational briefing to our staff of the Finance Committee within the next month.

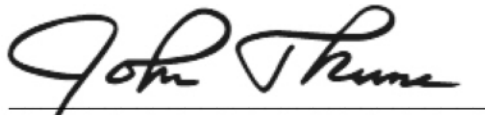
Sincerely,



Mike Crapo  
U.S. Senator



Charles E. Grassley  
U.S. Senator



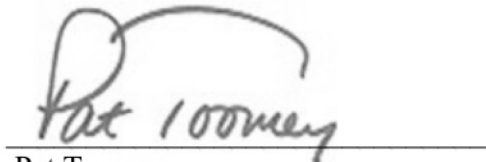
John Thune  
U.S. Senator



Richard Burr  
U.S. Senator



Rob Portman  
U.S. Senator



Pat Toomey  
U.S. Senator

<sup>8</sup> See, Publication 1345, <https://www.irs.gov/pub/irs-pdf/p1345.pdf> (Reporting of Potential Identity Theft Refund Fraud Activity).

<sup>9</sup> Id.

<sup>10</sup> <https://www.irs.gov/newsroom/security-summit>.

*Bill Cassidy, M.D.*

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Bill Cassidy, M.D.  
U.S. Senator.

*James Lankford*

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James Lankford  
U.S. Senator.

*Todd Young*

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Todd Young  
U.S. Senator.

*John Barrasso*

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John Barrasso, M.D.  
U.S. Senator.