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Committee on Finance

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Floor Statement of Sen. Chuck Grassley
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Today the Senate starts debate on expiring tax and health provisions. They are known around here as "extenders." I'd like to make a couple of points on the process before I get into the substance of the substitute.

What I find surprising is that we are taking up a package, that like last week's exercise, absolutely belongs to the Senate Democratic Leadership. That is to say we are not taking up a bipartisan package that I put together with Finance Committee Chairman Baucus. To be sure, some of the structure reflects the agreement my friend, the chairman, and I reached. But this package is almost three times the size of the package we agreed on. Virtually all of the additional cost is due to proposals that I would not have agreed to in representing the Republican Conference. I was under the impression that the Senate Democratic Leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic Leadership was highly involved in the development of a bipartisan bill, they arbitrarily decided to replace it with a bill that skews toward their liberal wing.

So, my first comment to my colleagues, the media, and the public is, don't let this package be mislabeled as the Baucus-Grassley package. It is not the package my friend Chairman Baucus and I negotiated. Again, the package before the Senate dramatically differs in cost, balance, and intent from the Baucus-Grassley deal, announced on February 11.

My second preliminary comment goes to the way in which these expiring tax provisions have been described by many on the other side, including those in the Democratic Leadership. If you rolled the videotape back a week or so ago, you'd hear a lot of disparaging comments about these routine, bipartisan extenders. From my perspective, those comments were made in an effort to sully the bipartisan agreement reached by Chairman Baucus and me.

If you take a look at newspaper accounts of a week or so ago, you'd come away with the impression that the tax extenders are partisan pork for Republicans. A representative sample comes from one report, which describes the bipartisan bill as "an extension of soon-to-expire tax breaks that are highly beneficial to major corporations, known as tax extenders, as well as other corporate giveaways that had been designed to win GOP support." The Washington Post included this attribution to the Senate Democratic Leadership in an article last week. " "We're pretty close," {the majority leader} said Friday during a television appearance in Nevada, adding that he thought "fat cats" would have benefitted too much from the larger Baucus-Grassley bill."

The portrait that was painted by certain members of the majority, echoed without critical examination, in some press reports was inaccurate. For one thing the tax extenders include provisions such as the deduction for qualified tuition and related expenses and also the deduction for certain expenses of elementary and secondary school teachers. If you are going to school or if you are a grade school teacher, the Senate Democratic Leadership apparently viewed you as a fat cat. If your house was destroyed in a recent natural disaster and you still need any of the temporary disaster relief provisions contained in the extenders package, too bad, because helping you would amount to a corporate giveaway in the eyes of some.

The tax extenders have been routinely passed repeatedly because they are bipartisan and very popular. Democrats have consistently voted in favor of extending these tax provisions. House Speaker Nancy Pelosi released a very strong statement upon House passage of tax extenders in December of 2009, saying this was "good for businesses, good for homeowners, and good for our communities." December of 2009 was not very long ago. In 2006, the then-Democratic Leader released a blistering statement "after Bush Republicans in the Senate blocked passage of critical tax extenders" because "American families and businesses are paying the price because this Do Nothing Republican Congress refuses to extend important tax breaks."

Recent bipartisan votes in the Senate on extending expiring tax provisions have come in the Emergency Economic Stabilization Act of 2008, the Tax Relief and Health Care Act of 2006, which passed the Senate by unanimous consent, and the Working Families Tax Relief Act of 2004, which originally passed the Senate by voice vote although the conference report only received 92 votes in favor and a whopping 3 against. According to the non-partisan Congressional Research Service, extension of several of these provisions goes back even further, including the Tax Relief Extension Act of 1999, which again passed the Senate by unanimous consent but lost 1 vote on the conference report.

One member on the other side said, "Our side isn't sure that the Republicans are real interested in developing good policy and to move forward together. Instead, they are more inclined to play rope-a-dope again, my own view is, let's test them." Another member of this large 59 vote majority exclaimed, "It looks more like a tax bill than a jobs bill to me. What the Democratic Caucus is going to put on the floor is something that's more focused on job creation than on tax breaks."

Reading those comments I found myself scratching my head. The only explanation for this behavior is that certain senators decided last week that it serves a deeply partisan goal to slander what have been for several years bipartisan and popular tax provisions benefitting many different people. The Washington Post article I quoted from earlier includes a statement from a Senate Democratic leadership aide saying that, "No decisions have been made, but anyone expecting us immediately to go back to a bill that includes tax extenders will be sorely disappointed."

You can imagine, that today, a little over a week after these comments, I'm really scratching my head. We have before us the expiring tax and health provisions that were disparaged just a short time ago. Have they morphed from corporate tax pork? Have they suddenly re-acquired their bipartisan character? Are these time-sensitive items, now expired for more than two months, suddenly jobs-related?

Now, as we begin to debate another, quote, jobs bill, I want to focus on the economy, small businesses, and jobs.

We all agree that our nation is currently facing challenging economic times. While there have been some signs of improvements such as the recent growth in our gross domestic product, job losses continue to mount and many hardworking Americans are struggling to make ends meet. According the Bureau of labor Statistics, over 8 million jobs have been lost since our economy officially slipped into a recession in December of 2007. The unemployment rate is currently at 9.7 percent, which is simply an unacceptable level.

The lack of job creation continues despite aggressive actions taken at the federal level in order to stabilize the economy. This includes the enactment of TARP and the $800 billion dollar stimulus bill. However, these bills were all missing a critical ingredient for spurring job creation-substantial tax relief targeted at small business.

In October of 2008, Congress enacted the Troubled Asset Relief Program (TARP), a $700 billion dollar financial bailout bill that we were told had to be enacted immediately in order to deal with so-called toxic assets to prevent credit from drying up, which would have choked off the lifeblood of the American economy. What we actually got was direct infusions of cash into the largest Wall Street banks, which was 180 degrees different than what we were told by Treasury.

And later came the bailout of GM and Chrysler using TARP money after the Senate had just voted not to bail GM and Chrysler out. This inconsistent policy by Treasury created uncertainty in the financial markets and business community. Moreover, exorbitant bonuses were paid to executives and managers of firms that would have been out of a job if not for Congress, Treasury, and the Federal Reserve intervening.

And how effective was the bailout at improving credit markets? In October 2009, the Government Accountability Office released a report reviewing TARPs first year performance. The GAO report found credit had improved based on certain market indicators. However, they were not able to determine how much, if any, was attributed to TARP, as compared to general market forces or other federal actions.

While it is unclear to the extent credit has been freed up as a result of TARP, it is clear who has reaped the benefits of the program. This past year, many financial firms, including Goldman Sachs, J.P. Morgan Chase and others who received TARP funds posted record or near record profits.

While Wall Street executives have clearly benefited from TARP, small businesses and their employees have not been so fortunate. Small businesses continue to struggle to obtain credit in order to expand their operations, purchase inventory, or even to make payroll.

The so-called stimulus bill enacted almost solely by an overwhelming Democratic majority in Congress last February has not spurred job creation. The massive $800 billion spending bill was hastily rushed to the floor with little time to deliberate its merits.

Lawrence Summers, the Director of President Obama's National Economic Council, said the test for stimulus is whether it is timely, targeted, and temporary. This stimulus bill hit the tri-fecta; it failed on all three.

Through a report issued in January of 2009 by the current chair of President Obama's Council of Economic Advisors, Christina Romer, the administration predicted that the stimulus would save or create 3.7 million jobs.

We were told by the Obama Administration that if the bill was not passed quickly we would experience unemployment of 9 percent. However, we were also told by the Obama Administration that if the stimulus bill passed, unemployment would not go over 8 percent.

Well, Mr. President, the bill was passed but what did we get for the $800 billion in debt, before interest, that was laid at the feet of our children and grandchildren? The unemployment rate jumped from 7.7% in January--right before the stimulus was enacted--to a high of 10.1% in October. While unemployment recently dipped slightly to 9.7%, this was not due to job creation, but because millions of individuals have literally given up looking for work. The Obama Administration also stated that quote "more than 90 percent of the jobs created are likely to be in the private sector." In all, 3.3 million jobs have been lost since the stimulus bill was enacted, and 3.2 million of those jobs were private sector jobs. In summary, the Obama Administration was terribly inaccurate regarding its stimulus jobs projection.

At the time the stimulus bill was passed, I raised concerns that the bill was not targeted enough at small businesses and job creation. However, my point of view lost out and less than one-half of one percent of the bill included tax relief for small businesses. The money in the stimulus bill to give tax credits to people who buy electric plug-in golf carts, or to pay for rattlesnake husbandry in Oregon, among numerous other ill-advised provisions, would have been better allocated to small business tax relief. Since the stimulus, small businesses have been bearing the brunt of job losses in our economy. However, the words of those on the other side regarding the importance of small business to job creation does not match their actions when looking at the paltry amount of small business tax relief that they have provided. Again, in the jobs bill or stimulus bill or whatever you want to call it that passed the Senate last week, there was only one provision directed solely to small business tax relief. That was a provision that I support, increased expensing of equipment purchased by small businesses, but it is a very small provision and it only gave small businesses what they've already been getting for the last couple years.

That provision was only $35 million out of a $62 billion bill—the $15 billion that everyone talks about plus the $47 billion for the highway trust fund that is typically not mentioned. Last year, I introduced S. 1381, the Small Business Tax Relief Act of 2009. My bill would double the amount of equipment that a small business could expense, and it would make those higher levels permanent, instead of just for one year as the Reid bill did. In my negotiations on a "jobs bill", I sought to include provisions from my small business tax relief bill, but there was no agreement to put small business tax relief provisions from my bill in the bipartisan compromise we reached. Instead, we were asked to defer those provisions.

According to ADP National Employment data, from February of 2009 through January of 2010 small businesses with fewer than 500 employees saw employment decline by 2.67 million, while large businesses with 500 or more employees saw employment decline by 694,000.

While I am sure many of us disagree about the effectiveness of the financial bailout and stimulus spending in getting our economy back on track, I know we all agree that there has been a lack of job creation and too many people continue to be unemployed.

Because the stimulus bill has so clearly failed what it was supposed to do, which is to create jobs, the Administration and Congressional Democratic Leadership are running away from the word stimulus faster than the triple-crown winning horse, Secratariat. Everything proposed now is called a jobs bill, even if it includes proposals that were always labeled stimulus in the past. Only 6 percent of Americans believe the stimulus bill created jobs. That is less than the 7 percent of Americans who believe that Elvis is still alive.

Last week the Senate passed a bill that included a provision designed to increase hiring. This includes a payroll tax holiday for business that hire unemployed workers and a tax credit for the retention of newly hired individuals in 2010.

The payroll tax holiday part of this proposal is likely to spark some modest hiring at businesses at the margins, among those that have seen some improvements in their business, but are on the fence about whether to hire somebody now or wait until later. However, many businesses continue to struggle and won't hire new employees just because it is the stated policy goal of Congress. Before a business can hire a new employee, they need to know that that the new employee will generate additional revenue that exceeds the cost of the employee.

The latest survey of Small Business Economic Trends by the National Federation of Independent Businesses (NFIB) shows that many small businesses may not be in a place that they could afford to hire new employees, even with the payroll tax holiday.

I have here a chart from NFIB with selected components from their Small Business Optimism Index. While many components of this index improved slightly from December, it is clear that small businesses continue to struggle.

- A net negative 1 percent of owners plan to create new jobs in the next three months;
- A net positive of only 1% of businesses owners expect the economy to improve. Only 4% of business owners said it was a good time to expand
- a net NEGATIVE 42 percent of owners reported higher earnings

This last component is especially important for businesses when it comes to hiring new employees. If earnings are declining there is little a payroll holiday will do to spark hiring since the businesses needs to know that the revenue generated from the additional employee will exceed the cost, not just today but in the future as well.

According to the NFIB survey, when businesses are asked what the single most important problem facing their business is, the answer is lack of sales. But, this is closely followed by taxes and then government regulations and red tape.

I am glad that my colleagues on the other side have recognized that true job creation comes through the private sector and have thus sought hiring incentives through payroll tax relief. However, this minor tax relief is a drop in the bucket considering the challenges small businesses are facing due to the economy and proposed increased taxes and red tape included in the President's budget -- whether we are speaking about "cap and trade" that will drastically increase their energy costs, health care reform that would mandate small businesses to offer health benefits that will increase the cost of labor, or the call for tax increases on so-called wealthy taxpayers earning over $200,000 that will largely fall on the backs of small business.

If our intention is to increase long-term employment, the last thing we should be doing in this time of economic uncertainty is increase taxes or place additional burdens on those who are responsible for creating 70% of the jobs in our economy -- namely small businesses.

Providing small businesses a payroll tax holiday while intending to impose increased taxes, regulations and mandates amounts to throwing them a few peanuts while taking away their supper.

In recent months, I have spoken at length about the impact of the tax increases set to kick in 10 months from today. I've examined the impact of these tax increases on small businesses. Let's take a close look at this impact.

The President and my colleagues on the other side of the aisle have proposed increasing the top two marginal tax rates from 33 and 35 percent to 36 and 39.6 percent, respectively; increasing the tax rates on capital gains and dividends to 20%; fully reinstating the personal exemption phase-out, known as PEP, for those making over $200,000; and fully reinstating the limitation on itemized deductions, which is known as Pease, for those making over $200,000. With PEP and Pease fully reinstated, individuals in the top two rates could see their marginal tax rate increased over 15 percent or more.

My colleagues on the other side of the aisle respond that these proposals will only hit "wealthy" individuals and only a small percentage of small businesses fall into this category. What my colleagues fail to understand is that the small businesses that fit into this group are not static, but consist of different businesses over time that go in and out of the top two tax brackets depending on the market. Data from the Joint Committee on Taxation, which is the nonpartisan official Congressional scorekeeper on tax issues, shows that 44% of the flow-through business income will be hit with the increase in the top two tax rates proposed by the President and Democratic Congressional Leadership. This hits small businesses particularly hard, since most small businesses are organized as flow-through entities. It will increase taxes on single small business owners that make more than $200,000 per year, even if they plow all of their income back into their small business to keep paying their workers or hire additional workers.

Increasing taxes on this group punishes their success. It limits their ability reinvest in their company. It prevents them from putting away funds for tough economic times to keep their business afloat.

Government is currently creating a climate of uncertainty where the private sector does not know what we will do next, what taxes will be raised, or what regulatory barriers will be put in their way.

We can start to put some certainty back into the business world by declaring we will not increase taxes on businesses one dime by making the 2001 and 2003 bipartisan tax measures permanent. But let me be clear, businesses do not want to be certain that the government is going to raise their taxes and make them go through more red tape. They want to be certain that's not going to happen. Until then, many will simply sit on the sidelines and not hire more workers.

Moreover, we can directly provide targeted relief to small businesses. Last June, I proposed legislation to do just that. I introduced the Small Business Tax Relief Act of 2009 to lower taxes on job-creating small businesses.

Since the Democratic leadership barred any amendments last week, I'm hopeful we'll debate and vote on an amendment offered by Senator Thune. Many provisions in my bill are contained in the Thune amendment, which I support.

My bill contains a number of provisions that will leave more money in the hands of small businesses so that they can hire more workers, continue to pay the salaries of their current employees, and make additional investments in their business. This includes allowing flow-through small businesses such as partnerships, S corporations, LLCs, and sole proprietorships to deduct 20% of their income, effectively reducing their taxes by 20%. My bill also includes relief for small business owners from the unfair alternative minimum tax. It takes the general business credits, such as the employer-provided child care credit, out of the alternative minimum tax. This allows a mom and pop retail store that provides child care for their employees to get the same tax relief that a Fortune 500 company gets when it provides child care for its employees. My bill would also allow more of the nearly two-million small C corporations to benefit from the lower tax rates for the smallest C corporations. There are so many small C corporations because they were formed as C corporations before other entities such as LLCs become more widely used. Among other provisions, my bill would also lower the potential tax burden on small C corporations that convert into S corporations.

The NFIB has written a letter supporting my small business tax relief bill, stating, quote, "To get the small business economy moving again, small businesses need the tools and incentives to expand and grow their business. S. 1381 provides the kinds of tools and incentives that small businesses need."

I'd now like to talk about an opportunity for true bipartisanship that was killed by the Democratic leadership. The same day that Chairman Baucus and I released a bipartisan bill that contained significant compromises, behind closed doors Democratic leaders cherry-picked just 4 provisions out of the larger bill that Chairman Baucus and I agreed to. Those provisions had been agreed to in a meeting of senior members of the other side only while Chairman Baucus and I were negotiating. I was extremely disappointed to see the Democratic leadership blow up the bipartisan deal that Chairman Baucus and I reached. To pour a little salt into the wound, the Democratic leadership then prohibited any senator on either side of the aisle from even offering an amendment to improve the bill that he hijacked.

One of the four provisions the Democratic leadership cherry-picked is Build America Bonds. If it had been just me drafting a bill, I wouldn't have included this provision. However, in the sake of bipartisanship and compromise in the context of a much larger bill, I reluctantly agreed that putting this provision in the bill would not cause the overall bill to lose my support. Build America Bonds is a very rich spending program disguised as a tax cut. Bloomberg reported that large Wall Street investment banks have been charging 37% higher underwriting fees on Build America Bonds deals than on other deals. Therefore, American taxpayers appear to be funding huge underwriting fees for large Wall Street investment banks as part of the Build America Bonds program.

The Democratic leadership has said the Build America Bonds program is about creating jobs, but I want to know whether it's about lining the pockets of Wall Street executives. Last week, I asked Goldman Sachs CEO a number of questions about these much larger underwriting fees subsidized by American taxpayers. I expect to have that discussion shortly.

Turning back to the bill being debated this week, the Thune amendment, which incorporates many of the provisions from my small business tax relief bill, provides substantial small business tax relief and should be adopted.

In this bill, I hope that we can all work together toward improving our economy -- not through more government -- but by letting the engine of job creation-small business-keep more of their own money in the form of substantial small business tax relief.