United States Senate
Committee on Finance

Sen. Chuck Grassley · Iowa
Ranking Member

http://finance.senate.gov
Press_Office@finance-rep.senate.gov

Contact: Jill Kozeny, 202/224-1308
Jill Gerber, 202/224-6522

For Immediate Release
Friday, June 26, 2009

Grassley Introduces Bill to Strengthen Job-creating Abilities of Small Businesses

WASHINGTON – Sen. Chuck Grassley, ranking member of the Committee on Finance, late Thursday introduced a bill to strengthen small businesses by lowering their tax burden so they can continue to create 70 percent of all net new jobs, and ideally more.

"My bill will leave more money in the hands of small business owners so they can hire more workers, keep paying the salaries of their employees, and make additional investments that will lead to new jobs," Grassley said. "Unfortunately, the White House seems to see a lot of small business owners as a cash cow for other priorities and wants to raise their taxes. My point is, if we raise taxes on the one segment of the economy that creates the majority of new jobs, we'll be in even worse economic shape than we are now."

Grassley said the tax relief is especially important, given an expensive stimulus bill that has had little to no measurable effect on job retention or creation, despite predictions to the contrary from the White House and congressional sponsors. A floor statement from Grassley describes the lackluster effect of the stimulus bill on job creation. The text of this floor statement is found below this news release.

Grassley's *Small Business Tax Relief Act of 2009* includes provisions that would:

- Increase the amount of capital expenditures that small businesses could expense from $250,000 to $500,000. This would encourage businesses to invest in new equipment.
- Allow more small C corporations to benefit from the lower tax rates for the smallest C corporations.
- Take the general business credits out of the Alternative Minimum Tax (AMT) for those sole proprietorships, flow-throughs and non-publicly-traded C corporations with $50 million or less in annual gross receipts.
- Extend the 1-year carryback for general business credits to a 5-year carryback for small businesses.

- Provide a 20 percent deduction for flow-through business income for small businesses, which are defined as flow-through entities with $50 million or less in annual gross receipts.

- Lower the potential tax burden when a C corporation becomes an S corporation. Under current law, there is no tax on built-in gains of assets within a C corporation that converts to an S corporation if those assets with built-in gain are held for 10 years by the S corporation. The stimulus bill reduced this 10-year period down to 7 years for sales of assets with built-in gain that occur within 2009 and 2010. The Grassley bill reduces this time period to 5 years for all S corporations that have converted from a C corporation.

- Expand the net operating loss provision contained in the stimulus bill. Current law provides that net operating losses from any size business may be carried back 2 taxable years before the year that the loss arises and carried forward twenty years. The stimulus bill amended the carryback provision by expanding the carryback from 2 years to 5 years if a small business had gross receipts of $15 million or less. The Grassley bill expands this $15 million or less requirement so that small businesses with $50 million or less in gross receipts can get the benefit of the 5-year net operating loss carryback.

"I hope this bill gets bipartisan support," Grassley said. "Job creation is a bipartisan issue and really should be a non-partisan issue."

Grassley, an Iowa Republican, is ranking member and former chairman of the Committee on Finance, which writes all tax policy in the Senate.

Following are the text of Grassley's floor statement and a more bill detailed bill summary.

Floor Statement of Senator Chuck Grassley
Effectiveness of Stimulus Job Creation and Introduction of Small Business Bill
Thursday, June 25, 2009

Mr. President, President Obama, in his press briefing this past Tuesday, June 23, 2009, made the following statement regarding his assessment of the first four months of the American Recovery and Reinvestment Act: "I am not satisfied with the progress that we've made." I could not agree more with President Obama's assessment. Thus far, the $787 billion American Recovery and Reinvestment Act has fallen short on virtually every one of its advertised effects. In the abbreviated debate leading up to the consideration of this bill, we constantly heard the mantra from my friends on the other side: JOBS, JOBS, JOBS! This stimulus bill was supposed to create jobs, jobs, jobs, but in the four months since the bill's passage, there are still no jobs in sight.

The architects of this bill made several bold claims in projecting the job effects of the $787 billion stimulus bill. First, they said that its passage would keep the unemployment rate from exceeding 8 percent. Second, they said it was going to create or save 3 to 4 million jobs. And third, they said that 90 percent of the new jobs created would be in the private sector. So far, in all three of these areas, the actual effects of the stimulus bill have not lived up to the hype. Let's examine each of these areas one by one.

First, the stimulus bill was supposed to keep unemployment at or below 8 percent. In fact, the Administration projected that in the absence of stimulus, the unemployment rate would peak at around 8.8 percent. However, four months into this program, the unemployment rate stands at 9.4 percent and rising—higher than the Administration projected it would be in the absence of stimulus.

Just listen to President Obama's comments from his June 23rd press briefing to see which direction the unemployment rate is headed: "I think it's pretty clear now that unemployment will end up going over 10 percent, if you just look at the pattern, because of the fact that even after employers and businesses start investing again and start hiring again, typically it takes a while for that employment number to catch up with economic recovery. And we're still not at actual recovery yet. So I anticipate that this is going to be a difficult, difficult year, a difficult period." When asked how high he thought the unemployment rate would go, President Obama responded, "I am not suggesting that I have a crystal ball. Since you just threw back at us our last prognosis, let's not engage in another one." Once again, I have to agree with President Obama's assessment.

As the unemployment rate continues to go up, that means job numbers continue to go down, which brings me to my next point: The administration projected that the stimulus bill would create—or save—between 3 and 4 million jobs by the end of 2010. While we've got a long way to go before the end of 2010, the prospects of the stimulus bill living up to this job creation estimate seem very unlikely. Before we look at the actual job numbers for the past few months from the Department of Labor, let me discuss the source of the Administration's projections.

In January, Christina Romer, who is now Chair of the Council of Economic Advisers, and Jared Bernstein, who is now the Chief Economist for the Vice-President, released a 14-page paper titled "The Job Impact of the American Recovery and Reinvestment Act."

In this document, Romer and Bernstein repeatedly asserted that a package of the size discussed by the President-Elect would be expected to create between three and four million jobs by the end of 2010, which would more than meet the President-Elect's goal of creating or saving 3 million jobs by the end of 2010. In a follow-up report in May, the Council of Economic Advisers attempted to explain how the Administration planned on measuring the number of jobs created or saved by the stimulus. This document articulated that all recipients of stimulus funds for government investment will be required to provide "recipient reports" estimating the number of jobs retained or created directly by the funds.

Then, to arrive at the total estimate of jobs created or saved by the stimulus, the job numbers from the recipient reports will be added to the Administration's estimate of jobs created or saved through tax cuts, state fiscal relief and transfer payments. These estimates will be derived from Administration-produced multipliers and macro-economic modeling.

Sounds pretty simple, don't you think? Unfortunately, there are some problems.

The first problem is that the most accurate part of these job estimates will be from the recipient reports, and since the stimulus bill included approximately $271 billion in government investment spending, these reporting requirements cover just over a third of the $787 billion of stimulus funding.

And while the job estimates from these recipient reports should be an accurate representation of actual jobs created by the stimulus, the Administration even admits that “there will likely be inconsistencies and measurement error across the individual reports.”

This leads us to the second problem: for the other two-thirds of the bill, in the Administration’s own words, “There is no mechanism available for collecting data on actual job creation from these parts of the Act.” So, for two-thirds of the bill, the job estimates are basically going to be guesswork from the Administration based on mathematical formulas.
Since President Obama’s “First 100 Days” address on April 29, 2009, we have heard plenty about the 150,000 jobs that have been created or saved so far by the stimulus.

As I’ve pointed out, it is impossible to verify these numbers with any degree of certainty, and the Administration can’t even give an estimate of how many of the 150,000 jobs were created and how many were saved.

What we can verify are the actual job numbers produced on a monthly basis by the Department of Labor. According to the Department of Labor, in the three full months (March, April, and May) following the enactment of the stimulus bill, the U.S. economy has lost over 1.5 million jobs.

In the first five months of 2009, the U.S. economy has lost 2.9 million jobs. These are the painful numbers that really matter.

As Jared Bernstein, Chief Economist for the Vice President, said on June 8, 2009, “Most importantly from the perspective of American families, the nation’s employers are still shedding jobs on net.”

So, the advertised effect of the stimulus on unemployment was clearly wrong, and the job claims resulting from the stimulus are unverifiable. Now, how about the claim suggesting that 90 percent of the jobs created by the stimulus will be in the private sector?

To be clear, this claim was first made in Romer and Bernstein’s January report, and the President himself has repeated this assertion. Unfortunately, this projection—like the first two—is missing the mark by a long shot.

Let’s look at the actual data from the Department of Labor once again. In the first three months since the stimulus bill has been the law of the land, the private sector has lost nearly 1.6 million jobs. In those same three months, government payrolls have actually expanded by 81,000 jobs. Similarly, in the first five months of 2009, while the private sector has lost over 3 million jobs, the government has gained 96,000 jobs.

While I am encouraged to see at least one sector of the economy experiencing job gains, I don't expect that the Administration's projection of 90 percent of stimulus jobs being in the private sector will be realized. The Administration has promised that 600,000 additional public sector jobs will be created or saved this summer. While an increase of 600,000 government jobs would certainly be a positive development if it comes to pass, it does raise concerns as to whether the government will be the only winner from the stimulus bill.

My point today, Mr. President, is not to berate the Administration or those who voted for this bill. My point is, first, to note the conspicuous absence of job gains in our economy following the stimulus, and second, to bring our focus back to the source of 70 percent of net new jobs over the past decade—the engine that drives the U.S. economy. Of course, I am talking about America's small businesses.

America's small businesses have been suffering during this recession. If you go back to your states frequently, like I do, you'll hear about it directly. A few months ago, Senators Landrieu and Snowe held a hearing on the credit crunch hitting small business. They found that big banks have been cranking down on lending to small businesses.

Another very good source of answers about the environment of small business is found in the monthly survey of small business. This survey is published by the National Federation of Independent Business ("NFIB").

NFIB is the largest small business organization. NFIB has been conducting these surveys for 35 years.

NFIB's membership includes hundreds of thousands of small businesses all across America. You can find the survey on NFIB's website at http://www.nfib.com/Portals/0/PDF/sbet/sbet200906.pdf.
I'd encourage every member to check out the June 2009 survey.

The survey shows some extremely disturbing trends. On credit availability, small businesses are getting squeezed very hard. The availability of loans has fallen off a cliff since late 2007 and is at its lowest point since the recession period of 1980 to 1982.

This credit crunch and other factors have contributed to NFIB's index of small business optimism falling well below average. According to the survey, small business owners have become extremely pessimistic in the last couple of years. What you see here is the attitude of the decision makers in small business America.

Those are the decision makers for businesses that President Obama and Congress agree are the businesses most likely to grow or contract jobs. This data should concern every policy maker in this town.

While those two sets of data are bad, it doesn't get any better when you look at small business hiring plans. Another question on the survey asks the small business owner whether he or she plans to expand or contract employment over the next three months. The survey results show small business activity contracting tremendously, and the overall small business employment numbers tell the same story.

I must say that the President's recent efforts to increase lending to the small business sector are commendable. The center piece of his small business plan will allow the federal government to spend up to $25 billion to purchase the small-business loans that are now hindering community banks and lenders. Unfortunately, that's a drop in a very empty bucket.

Remember, colleagues, that small business accounts for about half of the private sector.

Moreover, the positives that will come to small businesses from this relatively small package of loans—which will ultimately have to be paid back—will be heavily outweighed by the negative impact of the President's proposed tax increases. Helping small businesses get loans just to take that money back in the form of tax hikes is not wise.

I now want to turn to those aforementioned tax hikes on small businesses that President Obama and my colleagues on the other side of the aisle have proposed. I certainly understand that small business is vital to the health of our economy. The President and I agree that 70 percent of new private sector jobs are created by small businesses. However, where we differ is that I believe small businesses' taxes should be lowered, not raised, to get our economy back on track.

In 2001 and 2003, Congress enacted bipartisan tax relief designed to trigger economic growth and create jobs by reducing the tax burden on individuals and small businesses. This included an across-the board income tax reduction, which reduced marginal tax rates for income earners of all levels, a reduction of the top dividends and capital gains tax rate to 15 percent, and a gradual phaseout of the estate tax.

Unfortunately, like many of the other provisions enacted in 2001 and 2003, these tax relief measures are scheduled to expire at the end of 2010.

Some have referred to this bipartisan tax relief as "the Bush tax cuts for the wealthy" and have suggested that the tax relief provided for higher-income earners should be allowed to expire. However, this tax relief was bipartisan and provides tax relief for all taxpayers. The President and my colleagues on the other side of the aisle have proposed increasing the top two marginal tax rates from 33 percent and 35 percent to 36 percent and 39.6 percent, respectively.

They have also proposed increasing the tax rates on capital gains and dividends to 20 percent, and providing for an estate tax rate as high as 45 percent and an exemption amount of $3.5 million.

Also, the President has called for fully reinstating the personal exemption phaseout, or PEP for short, and the limitation on itemized deductions, which is known as Pease. Under the 2001 tax law, PEP and Pease are scheduled to be completely phased out in 2010. However, like other provisions in the law, PEP and Pease are scheduled to come back in full force in 2011 should Congress fail to take further action.

With PEP and Pease fully reinstated, individuals in the top two rates could see their marginal effective tax rate increased by 20 percent or more. For example, a family of four that is in the 33 percent tax bracket in 2010 could pay a marginal effective tax-rate of 41 percent after 2010 – or even more if they had more children – because of PEP and Pease.

Some of my colleagues on the other side of the aisle have defended this proposal by claiming they will only raise taxes on "wealthy" taxpayers who make over $200,000 a year. For the vast majority of people who earn less than $200,000, raising taxes on higher earners might not sound so bad.

However, this means that many small businesses will be hit with a higher tax bill. These small businesses happen to at least 70 percent of all new private sector jobs in the United States.

These small businesses that are taxed as sole proprietorships, S corporations, and partnerships—including LLCs—whose owners make over $200,000, or $250,000 if married, would get hit with the President's proposal to raise the top two marginal tax rates.

In addition, there are just under 2 million C corporations that are not publicly traded, and all C corporations are subject to double taxation. To the extent these C corporations' owners that make over $200,000, or $250,000 if married, pay themselves a salary, they would get hit with the tax increase on the top two marginal tax rates proposed by the President.

Also, any owners of C corporations that receive dividends or realize capital gains and make over $200,000, or $250,000 if married, would pay a 20 percent rate on these dividends and capital gains after 2010 under the President's tax hike proposals, instead of paying the current law rate of 15 percent.

According to NFIB survey data, 50 percent of owners of small businesses that employ 20-249 workers would fall in the top two brackets. According to the Small Business Administration, about two-thirds of the nation's small business workers are employed by small businesses with 20-500 employees.

Do we really want to raise taxes on these small businesses that create new jobs and employ two-thirds of all small business workers?

With these small businesses already suffering from the credit crunch, do we really think it's wise to hit them with the double-whammy of a 20 percent increase in their marginal tax rates?

Newly developed data from the Joint Committee on Taxation demonstrates that 55 percent of the tax from the higher rates will be borne by small business owners with income over $250,000. This is a conservative number, because it doesn't include flow-through business owners making between $200,000 and $250,000 that will also be hit with the Budget's proposed tax hikes.

If the proponents of the marginal rate increase on small business owners agree that a 20 percent tax increase for half of the small businesses that employee two-thirds of all small business workers is not wise, then they should either oppose these tax increases, or present data that show a different result.

I will also fight for a lower estate tax rate and a higher estate tax exemption amount to protect successful small businesses and farmers. In a time when many businesses are struggling to stay afloat, it does not make sense to impose additional burdens on them by raising their taxes.

Odds are, they'll cut spending. They'll cancel orders for new equipment, cut health insurance for their employees, stop hiring, and lay people off. Instead of seeking to raise taxes on those who create jobs in our economy, policies need to focus on reducing excessive tax and regulatory barriers that stand in the way of small businesses and the private sector making investments, expanding production, and creating sustainable jobs.

As the current ranking member of the tax writing Finance Committee, you can be sure that I will continue to fight to prevent a dramatic tax increase on our nation's job engine – the small businesses of America.

This includes working to protect small businesses from higher marginal tax rates, an increase in the capital gains and dividends tax rate, and an increase in the unfair estate tax rate that will penalize the success of small businesses and farmers who would like to pass on their gains to the next generation.

In fact, today I have introduced a bill to lower taxes on these job-creating small businesses.

My bill contains a number of provisions that will leave more money in the hands of these small businesses so that these businesses can hire more workers, continue to pay the salaries of their current employees, and make additional investments in these businesses.

For instance, my bill would increase the amount of capital expenditures that small businesses can expense from $250,000 to $500,000. Also, my bill would allow more small C corporations to benefit from the lower graduated tax rates for smaller C corporations.

Another provision takes the general business credits, which are listed in section 38, out of the Alternative Minimum Tax (AMT) for those sole proprietorships, flow-throughs and non-publicly traded C-corps with 50 million or less in annual gross receipts. This provision amends section 39 to extend the 1-year carryback for general business credits to a 5-year carryback. This applies to general business credits for those sole proprietorships, flow-through entities and non-publicly traded C-corps with 50 million or less in annual gross receipts.

Another provision in my bill amends section 199 of the Internal Revenue Code, which contains the deduction for manufacturing, to provide a 20 percent deduction for flow-through business income for all small businesses, which are defined as flow-through entities with 50 million or less in annual gross receipts. Another provision in my bill deals with the situation where a C corporation becomes an S corporation. Under current law, there is no tax on built-in gains of assets within a C corporation that converts to an S corporation if those assets with built-in gain are held for 10 years by the S corporation. The stimulus bill reduced this 10-year period down to 7 years for sales of assets with built-in gain that occur within 2009 and 2010.

My provision reduces this time period down to 5 years for all S corporations that have converted from a C corporation.

Another provision in my bill expands the net operating loss provision contained in the stimulus bill. Current law provides that net operating losses from any size business may be carried back 2 taxable years before the year that the loss arises and carried forward twenty years. The stimulus bill amended the carryback provision by expanding the carryback from 2 years to 5 years if a small business had gross receipts of $15 million or less.

This provision expands that $15 million gross receipt requirement to $50 million in gross receipts so that more small businesses can qualify for this benefit.

Another provision in my bill amends section 1202 of the Internal Revenue Code to eliminate the tax on capital gains for certain start-up C corporations. The stimulus bill reduced the capital gains tax to approximately 7 percent on stock qualifying under 1202. However, President Obama has called for eliminating, not simply reducing, the tax on capital gains for these start-up businesses, and that is exactly what my provision would do.

The final provision in my bill permits a deduction for payments made under the Self-Employment Contribution Act, or SECA, at one- hundred percent of health insurance premiums that are paid by those who are self-employed.

Mr. President, we all want to see the job numbers from the Department of Labor moving in a positive direction. We all want to see the unemployment rate plummet. I firmly believe that the best way for us to do that is to prime the job-creating engine of our economy, which is small businesses. Furthermore, increasing taxes on small businesses as President Obama has proposed will destroy even more jobs.

My small business bill, if enacted, will lead to many new jobs. As opposed to the jobs President Obama argues that the stimulus bill has saved while our economy has been hemorrhaging jobs, my bill will create countable, verifiable, private sector jobs that will put people to work and get the economy moving in the right direction again.

I yield the floor.

Summary of Provisions in Senator Grassley's Small Business Bill

This bill amends section 179 of the Code to allow small businesses to expense up to $500,000 in capital expenditures (instead of the temporary amount of $250,000 under current law). Also, this provision would increase the phaseout to $2,000,000 in capital expenditures, up from the $800,000 temporary phaseout amount. Both the expensing and phaseout amounts would be indexed for inflation beginning in 2010. The date of enactment is taxable years beginning on or after January 1, 2009.

This bill amends section 11 of the Code to move the hump in graduated rates for C corporations up to $2,000,000. The hump is designed to take away the benefits of the graduated tax rates for higher-income C corporations.

This bill takes the general business credits, which are listed in section 38, out of the Alternative Minimum Tax (AMT) for those sole proprietorships, flow-through entities and non-publicly traded C corporations with $50 million or less in annual gross receipts.

This bill amends section 39 of the Code to extend the 1-year carryback for general business credits to a 5-year carryback. This applies to general business credits for those sole proprietorships, flow-through entities and non-publicly traded C corporations with $50 million or less in annual gross receipts.

This bill amends Section 199 of the Code to provide a 20 percent deduction for flow-through business income for small businesses (defined as flow-through entities with $50 million or less in annual gross receipts).

This bill amends section 1374 of the Code. Prior to the American Recovery and Reinvestment Act, when a C corporation became an S corporation there was no tax on built-in gain if the assets with built-in gain were held for 10 years. The American Recovery and Reinvestment Act reduced this time period to 7 years for sales within 2009 and 2010. This provision reduces this time period to 5 years for all S corporations that have converted from a C corporation.

This bill amends section 172 of the Code. Current law says that Net Operating Losses (NOLs) may be carried back 2 taxable years before the year that the loss arises and carried forward twenty years. The American Recovery and Reinvestment Act amended the carryback provision, changing it from 2 years to 5 years if the small business had gross receipts of $15 million or less. This provision expands that $15 million gross receipt requirement to $50 million in gross receipts.

This bill amends section 1202 of the Code to eliminate the tax on capital gains for certain small C corporations. The American Recovery and Reinvestment Act reduced the capital gains tax to approximately 7% on stock qualifying under section 1202.

This bill amends section 162 of the Code to allow a deduction for Self-Employment Contribution Act (SECA) payments for health insurance premiums that are paid by those that are self-employed, just as self-employed individuals are provided an income tax deduction for those premiums.