U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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JOBS Act Final Passage

Opening Statement of Chairman Grassley

October 9, 2004

As everyone knows, the WTO has ruled that FSC-ETI is an illegal export subsidy and has authorized up to $4 Billion a year of sanctions against U.S. exports.

Those sanctions began in March. They now are at 12% and increase 1% for each month that we don't repeal FSC-ETI. By November, they will be at 13%. Senator Frist rightly called these sanctions Euro Taxes on our exporters.

Mr. President, it has been a long road to final passage.

Both bodies passed bills to deal with these Euro Taxes.

Both bodies struggled to get to conference.

Nothing has been easy with this bill, but we are, at last, at the final stage of the process.

Now, that we are at the doorway of final passage, we cannot fritter away the opportunity to eliminate the Euro Tax.

Mr. President, America's workers, especially those in the manufacturing sector, put in the work necessary, to make the U.S. the most productive economy in the world.

We senators have to employ the same work ethic.

We have to match our constituents' work productivity.

We cannot delay this matter any longer.

We cannot leave the jobsite without finishing our work.

I'd like to inform the Senate of what happened during the conference this week. It was one of the most open and unusual conferences we have ever had.

There were 18 House conferees and 23 Senate conferees.

The conference chairman, Mr. Thomas, started the ball rolling with a discussion draft.

The discussion draft reflected the core elements of both bills.

The main piece complied with our WTO obligations by repealing the FSC-ETI regime.

In its place, we provide a deduction for all manufacturers, big and small.

Mr. President, that was a significant movement toward the Senate position. In one move, Chairman Thomas addressed the top Senate priority. That is, that all manufacturers receive the benefit of the deduction.

The next piece of the discussion draft included a package of international tax reforms that will make America's manufacturers more competitive. This package reflects the priorities of both the House and Senate bills.

Finally, Mr. President, the discussion draft included identical and nearly identical provisions from both bills.

Revenue neutrality was another important principle of the Senate bill. I appreciate Chairman Thomas' cooperation on this Senate priority.

Indeed, it was the bipartisan Finance Committee staff that refined the offsets that made this bill viable in the first place.

After presentation of the discussion draft, each member had an opportunity to put forth their priorities through filed amendments in a public conference.

Finance Committee conferees recognized a similarity to the custom of Finance Committee markups.

This process was very unusual.

Normally, conferees would go through a series of meetings or exchanges of offers or some other elongated process.

Mr. President, I have been a member of the Finance Committee for nearly 20 years. I can tell you, in nearly all cases, conferees debate the issues in private.

Nearly all the toughest decisions come down to private negotiations between the two chairmen.

Those decisions are reached after conferee input.

In this conference, all discussions were aired publicly.

Sometimes conferences take months; sometimes they end undone with the adjournment of a Congress. We had neither option before us.

We were in an unusual and time sensitive situation.

Unusual situations require unusual procedures.

We had only a few days left to enact this measure. That's not much time, but here we are.

The bottom line is we have to move this measure and I'm fully committed to getting this bill done before we leave for the elections.

I will say I appreciate the House's willingness to open this process up and let transparency occur through the amendment process.

I'd also like to thank my Finance Committee conferees, particularly, my friend and Ranking Member, Senator Baucus. We wouldn't be here without the bipartisan spirit of our Finance Committee members. That spirit remained in place as we took the final steps in conference.

Let me say that both the House and Senate agreed on the basic structure of the bill and the policy.

In addition to the major movement to the Senate on the structure of the manufacturing deduction and revenue neutrality, many Senate priorities have been addressed.

An expanded renewable electricity production credit is included. That was a high priority for Senate conferees, including Senators Bingaman, Smith, Daschle, Hatch, Baucus, Snowe, Breaux, Lincoln, Conrad, Bunning and Gregg.

Chairman Thomas recognized this as an important bipartisan Senate priority and included Section 45 in his Mark even though it cost over $2 billion to accommodate the Senate on this issue.

We have a very good small business package as well.

The bill before us extends small business expensing for another 2 years.

The bill contains significant S corporation reforms. Even though the Subchapter S corporation provisions were House provisions, they have historically been Senate priorities.

We have probably the most comprehensive agricultural and rural community tax incentive package ever. I thank Chairman Thomas for including these Senate priorities in his mark.

For everyone, there is the substantial overhaul of the fuel excise tax system with the VEETC proposal, Fuel Fraud and biodiesel provisions.

These provisions will mean more highway money for more states.

According to Federal statistics, for the current fiscal year, 37 of the 50 states will receive more highway money because of VEETC.

There will be still more highway money for all states from provisions in this bill shutting down fuel fraud.

VEETC and Fuel Fraud provisions are estimated to put over $24 billion dollars into the Highway Trust Fund.

Now I want to point out that this bill does not contain many special interest member provisions.

If you will recall, the JOBS bill passed the Senate 93 to 5.

In part, the bill received such widespread support because many member items were accommodated. Literally dozens of narrow tax benefits were adopted in committee and on the floor.

Those provisions also unnecessarily caused the bill to be defined as a special interest bill. Senator Baucus and I put out a staff analysis that showed that only a small portion of the bill's revenue was absorbed by member items. But that did not stop the criticism of those items.

The House bill also contained member items. They were fewer but were significantly defined. Most of those items enjoyed Senate support.

In addition to the press criticisms, the President has also made clear that he would not support a bill that is heavily laden with narrow items.

Neither side got everything that they wanted. For example, the House made a huge concession by giving up its rate cut for only C corporations. They had invested $15 billion in this for small C corporations and another $64 billion for large C manufacturing corporations.

They relented on this point in order to accommodate Senate concerns about extending the manufacturing rate cut to all manufacturers, regardless of whether they were C corporations, S corporations, partnerships or individuals.

We have heard harsh complaints about the conference bill from Sen. Landrieu because the bill does not contain her reservists amendment. I want to set the record straight on this point.

The Senate voted in support of her amendment in conference. We approved it and presented it to the House for inclusion in the conference bill. The House rejected the amendment.

The conference was open to the public. Everyone witnessed the vote. There were no backroom deals on the reservists amendment.

Finally, as a premise, let me note that we knew the House would not accept as much in revenue offsets. Indeed, the bill before us is smaller in size by more than $30 billion than the Senate passed JOBS bill.

There has been some grumbling about how much the bill grew beyond the simple repeal of FSC-ETI. Well, one of the reasons it grew is because the Finance Committee found sufficient offsets, most of the loophole closers, to allow members to get their particular interests into the bill.

This is also true of Sen. Landrieu's reservists amendment. Not only did we support it, we found a way to pay for it. We modified the foreign housing exclusion for high-income U.S. employees working overseas.

Unfortunately, the House rejected that offset and, in turn, rejected her amendment.

I think the Senate is being distracted by too much emphasis on particular, specific, member priorities.

I believe that the core benefits of the bill should not be sacrificed for narrow items. The core benefits go to the manufacturers. That is what this bill is all about.

That is not to say that we did not attempt to include a number of member issues from both sides and both bodies.

There was a balance to be struck.

I committed to Chairman Thomas that I would defend the mark as a whole. Chairman Thomas made a similar commitment. That commitment enabled us to accommodate member items that have broad support.

Mr. President, let's finish the job this week before we leave.

There is no excuse for allowing partisanship politics to hold up this bill.

I will remind everyone one more time: this bill passed the Senate Finance Committee on a bipartisan vote of 19 to 2. Only two senators, both from my side of the aisle, voted against the bill. But both of those senators supported the Conference Report.

This is a bipartisan bill that reflects everyone's concerns, both Republican and Democrat.

I'd like to describe once again the history of this bill. The JOBS Act was a bipartisan bill from the ground up.

The framework was laid when Sen. Baucus was Chairman of the Finance Committee.

It began with a hearing in July 2002 to address the FSC-ETI controversy within the World Trade Organization.

We heard from a cross section of industries that would be damaged by repeal of ETI.

We also heard from U.S. companies that were clamoring for international tax reform because our tax rules were hurting their competitiveness in foreign markets.

Their foreign competitors were running circles around them because of our international tax rules.

During this hearing, Sen. Bob Graham of Florida and Sen. Hatch expressed concern about how our international tax laws were impairing the competitiveness of U.S. companies.

After some discussion on forming a blue-ribbon commission to study this problem, we all decided that decisive action was more important than a commission.

During that hearing, Chairman Baucus formed an international tax working group that was joined by Sen. Graham, Sen. Hatch, and myself, and was open to any other Finance Committee senator that was interested in this issue.

This bipartisan Finance Committee working group developed the framework that forms the basis of the bill that is before us today.

We directed our staff to engage in an exhaustive analysis of the many international reform proposals that had been offered.

We sought to glean the very best ideas from as many sources as possible.

Senator Baucus and I also formed a bipartisan, bicameral working group with the Chairman and Ranking Member of the Ways & Means Committee in an effort to find some common ground on dealing with repeal of FSC-ETI. That effort did not go so well.

But it did inspire Sen. Baucus and me to continue our Senate bipartisan development of a FSC-ETI repeal and international tax reform package.

We continued our efforts in cooperation with Sen. Hatch, Sen. Bob Graham, and other members of the Finance Committee who wanted to do what was fair and right in complying with the WTO ruling.

We continued our bipartisan efforts when I became Chairman in 2003. In July 2003, we held two hearings on the FSC-ETI and international reform issues.

One hearing focused on the effect of our tax policies on business competition within the United States and the other on international business competition.

These two hearings led to the bipartisan Senate bill.

Let's review what is in the bill before us today because most of it comes from our bipartisan Senate bill.

The core part of this bill repeals the current FSC-ETI provisions that are in our tax laws.

FSC-ETI reduces the income tax on goods manufactured in the U.S. and exported overseas, by as much as 3 to 8 rate points. That is, if the corporation's tax rate is 35%, the tax rate on export income is 27 to 32%, instead of 35%.

It lowered the U.S. corporate rate on goods made in the U.S. and sold overseas.

The WTO has determined that FSC-ETI is an impermissible export subsidy and has authorized the European Union to impose up to $4 billion a year of sanctions against U.S. exports until we get rid of FSC-ETI.

Those sanctions began on March 1st. They started as a 5% Euro tax on U.S. exports, and will increase 1% for each month that we don't repeal FSC-ETI. Because of our inaction, our exporters now confront an additional 12% Euro tax.

Our companies carry this burden because Congress has failed to act. That is why we MUST pass this bill before we leave Washington.

This is should be a very serious concern for all members because the sanctions are hitting commodity products, such as agricultural goods, timber, and paper, as well as manufactured products.

Presently, about 89% of FSC export benefits go to the manufacturing sector. Repealing FSC-ETI raises around $55 billion over 10 years.

If that money is not sent back to the manufacturing sector, it will be a $5 billion tax increase on manufacturing. It is mathematically impossible for it to be anything else.

That is why the bill before us takes all $55 billion of the FSC-ETI repeal money and sends it back to the manufacturing sector in the form of a 3 point tax rate cut on manufacturing income.

This rate cut is for manufacturing in the U.S. – it is not for manufacturing offshore.

We start phasing in those cuts next year.

The cuts apply to sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, foreign companies that set up manufacturing plants in the U.S.

In total, this bill provides over $76 billion of tax relief to our U.S.-based manufacturing sector to promote factory hiring in the United States.

It contains another $7 billion for small businesses, local communities, inland shipping and other local business concerns.

There has been chatter in the press about the "short-line railroad" provisions benefiting big railroad companies. Just the opposite is true.

Short lines are the small "spurs" that run off the main railway systems and generally connect to local community businesses, such as grain elevators or factories, to the main rail arteries. They are often owned by small rail companies or local community business.

This short rail provision is vital to farming and rural communities across America, as well as secondary cities that do not have the benefit of massive public rail systems.

The bill also contains an agricultural and small business package which devotes another $5 billion to our home communities.

As I said before, this is probably the most comprehensive agricultural and rural community tax incentive package ever.

We also include international tax reforms, mostly in the foreign tax credit area, and most of which benefit the manufacturing sector.

The international tax reforms largely fix problems our domestic companies face with the complexities of the foreign tax credit.

These reforms are necessary if we are to level the playing field for U.S. companies that compete with our trading partners.

You will hear arguments that the international reforms provide an incentive to move jobs offshore. I adamantly disagree with that allegation.

We have carefully selected international reforms that do not provide offshore incentives. I will have much more to say about that later.

Our bill also includes the House version of the Homeland Reinvestment Act, which will temporarily reduce tax on foreign earnings that are brought into the U.S. for investment here at home, instead of overseas.

The Senate version of this provision was sponsored by Sen. Ensign, Sen. Boxer, and Sen. Smith, a bipartisan measure.

We include a provision that allows naval shipbuilders to use a method of accounting which results in more favorable income tax treatment.

There are enhanced depreciation provisions to help the ailing airline industry.

The bill also expands the New Markets Tax Credit to High Out-Migration Counties. These credits help economic development in rural counties that have lost over 10 percent of their population.

We have included the Civil Rights Tax Fairness Act.

We have a special dividend allocation rule that benefits farm coops.

We have other farm provisions that give cattlemen tax-free treatment if they replace livestock because of drought, flood, or other weather-related conditions.

We included a provision that allows payments under the National Health Service Corps loan repayment program to be exempt from tax. This is an important measure to enhance the delivery of medical services to rural areas.

The JOBS bill contains several energy tax provisions that were voted out of the Finance Committee and that have been previously approved by the full Senate.

The volumetric ethanol excise tax credit, or VEETC, provision in this package would add up to $14.2 billion in revenues to the Highway Trust Fund over the six-year life of the transportation bill that is pending before Congress.

This provision alone could create as many as 674,000 new jobs across the country.

The energy tax package also includes a new incentive for the production of renewable biodiesel. This provision means jobs in the Heartland – renewable fuels have directly generated over 150,000 new jobs. In fact, in 2004 alone, this industry will add 22,000 new jobs.

The bill also includes a provision to accelerate the production of natural gas from Alaska and the construction of a natural gas pipeline from Alaska to the lower 48 states. According to the U.S. Department of Labor's Bureau of Economic Analysis, construction of the Alaska natural gas pipeline would create nearly 400,000 jobs in construction, trucking, manufacturing, and other service sectors.

The bill provides all of this tax relief, nearly $140 billion worth, but remains revenue neutral.

Let me repeat that. This bill does not add one dime to the federal deficit.

The tax relief in this bill is paid for in full by extending customs user fees, shutting down abusive tax shelters, and attacking the abusive tax strategies used by Enron, which we unearthed during the Finance Committee's Enron investigation.

Last October, the Finance Committee held hearings on the status of abusive tax shelter activities. During that hearing, we receive anonymous testimony from a leasing industry executive describing how U.S. corporations are able to take tax deductions for the Paris sewer lines and the New York subway system.

Major corporations are claiming tax deductions on tax-payer funded infrastructure located both in the U.S. and overseas. Imagine our surprise to learn that the U.S. taxpayer is subsidizing the cost of electric transmission lines in the Australian Outback. The bill before us ends this abuse.

It was shortly after the attacks of 9-11 that we saw a beginning exodus of U.S. companies moving their corporate headquarters to tax havens in order to evade U.S. taxes.

It was the events of 9-11 and the ensuing stock market plunge that provided companies with a cost-efficient way to get out of the U.S.A. just to cheat on their taxes.

You may recall the videotape of a Big 4 accounting firm partner saying that U.S. companies were resistant to this scheme out of a post-9-11 sense of patriotism and national duty. But she said that patriotism would have to take a back seat when they see their improved earnings per share.

Well, in the bill before us, patriotism will not take a back seat.

The bill includes measures to shut down corporate expatriations. While I am not pleased with the effective date, this bill ensures that inversions will not continue.

In fact, this bill represents the most comprehensive attack on tax shelters since 1986.

Mr. President, there is a great deal of good in this bill. We can rescue the manufacturing sector. We can end EU sanctions. We can respond to the recent rise in gas prices. And we can shut down every known tax abuse.

It is time to pass this very, very important bill to aid our manufacturing sector, remove tariffs off our farmers and workers, and to place the Senate back on its footing to do its job and move legislation that benefits the American people.