Senate Votes to Make Child Credit Refundable, Sends Bill to House

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Putting pressure on the House to act on what some members say is a politically volatile issue, the Senate voted 94 to 2 in support of a measure to make the child credit refundable and to provide a uniform definition of child for tax purposes.

Only two senators — Senate Finance Committee member Don Nickles, R-Okla., and Sen. James M. Inhofe, R-Okla. — voted against the plan, which Finance Committee Chair Charles E. Grassley, R-Iowa, had assembled.

Senate Finance Committee member Blanche L. Lincoln, D-Ark., led the effort to make the child credit refundable. She introduced legislation, S. 1162, early in the week with Senate taxwriters Olympia J. Snowe, R-Maine, and James M. Jeffords, I-Vt., and offered it as a second-degree amendment to an energy bill, S. 14, being debated by the Senate. The move effectively halted action on the energy bill, forcing Republicans to settle the issue. By week's end, 51 senators had signed onto Lincoln's bill as cosponsors. Support for the bill grew as members raised concerns that many military families would not benefit from the child credit.

The issue also gained momentum in the House, where Democrats threatened to hamper procedures on noncontroversial items until the House accelerates the refundability provisions in the child credit.

Grassley worked throughout the week to broker an agreement that would satisfy Democrats and attract Republican support at the same time.

"My bottom line is to get a bill to the president's desk as soon as possible," Grassley said. He said he also wanted to choose an offset that House Republican leaders have not objected to. The Senate-passed bill would extend Customs user fees beyond their expiration date. Grassley said he plans to work to make the credit and other provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) permanent.

The Senate-passed measure would provide $10 billion in tax cuts and refundable credits that would:

- accelerate refundability provisions in EGTRRA that would provide a $1,000 per child credit for families with children who will not receive checks from the IRS this summer because they have no income tax liability. Under current law, the credit is refundable in 2003 and 2004 to the extent of 10 percent of the taxpayer's earned income over $10,500. The percentage is increased in 2005 under EGTRRA to 15 percent ($3.5 billion);
- provide a single definition of a qualifying child for the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head-of-household filing status. A child would have to have the same principal place of residence as the taxpayer for more than one half the tax year, have a specified relationship to the taxpayer, and have not yet reached a specified age ($1.4 billion);
- gradually raise the child credit's $110,000 phaseout threshold for married couples from $110,000 to $115,000 in 2008-09 and to $150,000 in 2010. The income threshold for individuals remains at $75,000 ($5 billion); and
- allow military families to count income earned while serving in a combat zone toward total income for child credit purposes.

Sponsors of the bill said the Senate vote is a victory for the 6.5 million working families who would receive checks from the IRS this summer if the bill becomes law. "This clearly is a win for working families, a win for the economy, and a win for fiscal responsibility," Snowe said.

Senators used a House bill, H.R. 1308, as a shell vehicle for the measure. They effectively stripped House language and replaced it with the language Grassley negotiated. The Senate appointed Grassley, Nickles, Lincoln, and Senate taxwriter Trent Lott, R-Miss., as conferees.

The House is likely to take up its own version of a tax cut that includes child credit provisions, said John Feehery, a spokesman for House Speaker J. Dennis Hastert, R-Ill. The House could move the bill the week of June 16.

'Fairness' Trumps 'Class Warfare'

Republicans came under attack from Democrats and in media reports for having removed the refundability provision from the Senate-passed bill during House and Senate negotiations on the tax cut that became the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA; P.L. 108-27).

Republicans had brushed off distribution fairness questions during the tax cut debate by claiming Democrats were using "class warfare" tactics. But the tide of public opinion changed when news reports suggested the tax cut left out more than 6.5 million families who do not qualify for the child credit.

At first, the Bush administration argued that the new law is fair because it provides tax relief to all Americans who pay income tax. However, that claim may not be accurate. A new study by the Urban Institute-Brookings Institution Tax Policy Center estimates that 8.1 million people who pay income taxes would receive no relief under JGTRRA. The study suggests five million single taxpayers in the 10 percent tax bracket who have no children and receive no dividend or capital gains income and 2.6 million taxpayers with head-of-household filing status will not receive a tax cut under JGTRRA. It also suggests that many middle-income taxpayers will not benefit from the new law primarily because of the alternative minimum tax.

Grassley said he had to drop the item because House negotiators opposed Senate-passed offsets for items that exceeded $350 billion. Grassley offered his own plan to address the child credit early in the week. His plan would have cost considerably more because it would have made the $1,000 per child credit permanent. Under current law, the credit is $1,000 in 2003 and 2004, $700 in 2005 through 2008, $800 in 2009, and $1,000 in 2010. The credit reverts to $500 in 2011. Grassley's bill would have provided a permanent $1,000-per-child credit.

A Marriage 'Penalty' Fix

Sen. Kay Bailey Hutchison, R-Texas, had raised concerns with Senate leaders that they should not address one permanency issue without also applying a permanent fix to the tax "penalty" for married couples filing jointly.

"I don't want to make one permanent without the other," she said. She introduced legislation with Senate taxwriter Jim Bunning, R-Ky., and Sens. Sam Brownback, R-Kan., Conrad Burns, R-Mont., Thad Cochran, R-Miss., Peter G. Fitzgerald, R-Ill., and Chuck Hagel, R-Neb., to make marriage provisions in EGTRRA and JGTRRA permanent over the 10-year period and beyond.

The legislation would:

- provide a standard deduction for joint filers worth twice that for individual filers;
- widen the 15 percent bracket for joint filers to double the size of the individual bracket; and
- boost by $3,000 the income phaseout for joint filers who claim the earned income tax credit — a policy shift Hutchison claims would extend EITC benefits to an additional three million low-income workers.

According to Hutchison, the various tax changes could cost up to $85 billion over 11 years. She said the marriage provisions are more important than any short-term deficit infraction.

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"I do not think it should be offset because it is provided for in the budget," she said, adding, "We must take out this ridiculous see-saw you see in the code." She said Senate Majority Leader Bill Frist, R-Tenn., and Grassley assured her they would take up the issue this year.

House Hones Alternative

A marriage "penalty" fix is one of the tax cuts House GOP leaders are considering for a broader tax package that would include the refundable child credit.

House Majority Leader Tom DeLay, R-Texas, said House Republicans do not plan on moving the Senate's child credit as a stand-alone bill but would consider it as part of a larger package. "We think we've already done child credit tax relief in a very meaningful way," DeLay told House Democrats who had pressed the issue on the floor. House Majority Whip Roy Blunt, R-Mo., sounded a similar theme, saying he is comfortable leaving JGTRRA as it is because parents would receive "100 percent of their income tax back."

But House Democrats prepared for a long battle. They introduced two bills — a companion legislation to Lincoln's bill and a broader package — to expand the child credit. Rep. Rosa L. DeLauro, D-Conn., said Democrats would try to force the package to the floor at every opportunity.

"We are going to shame those on the other side who believe this is not important," she said. Referring to the 12 million children who do not qualify for the child credit, DeLauro said: "This is not a Democratic [Party] issue. They are Americans."

DeLay said the House would provide lawmakers with "plenty of opportunities" to attach a refundable provision. "There's a lot of other things that are more important than that," he said of the refundable child credit earlier in the week, adding, "For me it's a little difficult to give tax relief to people that don't pay income taxes."

DeLay said House leaders plan to move additional tax cuts in the 108th Congress "to take advantage of every dollar" available to tax cuts in the budget resolution. The 2004 budget conference agreement endorses roughly $1.2 trillion in total tax relief across the next decade, which, a Senate GOP budget aide said, leaves about $904 billion in unrealized tax cuts now that the Bush growth plan has been signed into law.

According to DeLay, that gives House lawmakers enough room to move a number of near-term tax priorities — including a developing international bill that House Ways and Means Chair William M. Thomas, R-Calif., has promised to unveil before August, a bipartisan pension security package from taxwriters Rob Portman, R-Ohio, and Benjamin L. Cardin, D-Md., that GOP leaders claim could move before the July 4 recess, and a measure to make permanent estate tax repeal.

DeLay also mentioned he would like to see Congress move on the Sales Tax Equity Act of 2003 (H.R. 720), a bill introduced by House taxwriter Kevin Brady, R-Texas, that would allow taxpayers in states with no income tax to deduct state and local sales tax payments in lieu of state and local income taxes. DeLay declined to lay out a timetable for action on the sales tax deduction.

DeLay said he sees no need to use any of the revenue-raisers included by the Senate in H.R. 2.

Saving Offsets for FSC-ETI

Although DeLay asserts that the House would not take up revenue-raisers, it probably would consider at least one. Congress is under pressure from the World Trade Organization and the European Union to repeal the U.S. FSC Repeal and Extraterritorial Income Exclusion (ETI) Act, which provides favorable tax treatment to U.S. exporters. Bush included FSC-ETI repeal in his budget, which also asserted that Congress could not simply replace the act with a similar regime. The administration's budget recommended reforming tax code provisions that affect U.S. corporations operating abroad.

> ***'We think we've already done child credit tax relief in a very meaningful way,' DeLay said.***

Republicans admit that additional offsets are needed for the international bill. Grassley said taxwriters need to save offsets — such as the "Enron-related" tax shelter provisions Lincoln used in her bill — for the international tax bill. He said House and Senate taxwriters are working on a package that would balance the interests of domestic manufacturers that export and of manufacturers overseas. "We want to make sure we have a level playing field," he said.

Grassley said the international bill to repeal the ETI Act would include many of the same offsets cleared by the Senate Finance Committee in May during consideration of the tax cut, but it would not repeal the section 911 exclusion (of up to $80,000) for foreign earned income and the exclusion for some housing expenses.

"It's very controversial, I found out," Grassley said. The section 911 repeal was the single largest revenue-raising provision in the Senate-passed "jobs and growth" bill, which included more than $80 billion in offsets.

> ***Grassley said the international bill to repeal the ETI Act would not repeal the section 911 exclusion for foreign earned income and the exclusion for housing expenses.***

Thomas is reportedly gearing up to introduce a modified version of foreign sales corporation repeal legislation that he unveiled in the last Congress. Blunt said Thomas may include "counterbalancing offsets" in his bill, which House leaders could decide are unnecessary.

"We have plenty of room in the budget for additional tax cuts under the normal procedure — like $850 billion worth of additional tax cuts — without worrying about offsets," said Blunt. "At the same time, there are plenty of places in the tax code where you can make some meaningful reforms. I think we are open to reform as part of a tax package, but it is not necessary to raise somebody's taxes to reduce somebody else's."

Last year Thomas introduced a bill, H.R. 5095, the American Competitiveness and Corporate Accountability Act, to repeal the ETI Act and enact new tax benefits for U.S. companies with international operations. A spokeswoman for Thomas said he plans to introduce a new international bill that is "needed to show significant progress" in repealing the ETI act. The EU has threatened to retaliate on January 1, 2004, with $4 billion in sanctions against U.S. agricultural products if the United States does not make "significant progress" in conforming with the WTO ruling.

It is not clear when the House would act on an international bill once it is introduced.

Thomas's bill already has competition from a plan sponsored by House Ways and Means Committee ranking minority member Charles B. Rangel, D-N.Y., House taxwriter Phillip M. Crane, R-Ill., and House Small Business Committee Chair Donald A. Manzullo, R-Ill. Sponsors include 61 Republicans and 39 Democrats.

"I'm encouraged by the broad bipartisan support and momentum that continues to build for our bill. There is no Republican or Democratic position on this issue — this is a jobs issue," Crane said. "We must act quickly to avoid retaliation, but I'm hopeful that we can move forward on this issue in the weeks ahead."

A spokeswoman for Thomas said he plans to introduce a new international bill that is 'needed to show significant progress' in repealing the ETI act.

The Job Protection Act of 2003 (H.R. 1769) would repeal the FSC-ETI tax provision of the tax code and replace it with a corporate rate reduction for domestic manufacturers.

Senate Energy Debate

The Senate resumed periodic consideration of an energy bill, S. 14. Taxwriters plan to eventually add a $15.5 billion tax bill that would provide incentives for alternative fuel vehicles, conservation and efficiency, production of domestic oil and natural gas, and electricity from clean coal. The Senate Finance Committee cleared the bill April 2 and released a report on the legislation last week.

The House has already cleared an energy policy bill, H.R. 6, that includes a tax title similar to the Senate's. The House bill would provide $18.7 billion in tax breaks for conservation and production of alternative and traditional fuels.

Subsidies for U.S. Semiconductors

Sen. Joseph I. Lieberman, D-Conn., is promoting tax incentives for U.S. manufacturing of high-end semiconductor chips and is urging the Department of Defense to undertake several steps to encourage domestic production within the industry. He issued a white paper on June 2 calling on the Pentagon and U.S. intelligence agencies to work with industry to propose targeted federal tax incentives, in coordination with state and local governments, to help the industry in meeting investment costs.

The white paper suggests that the next generation of chip fabrication facilities would cost at least $3 billion per plant. Lieberman said tax incentives and other government assistance programs are needed to help the industry compete with manufacturers in China, which he said are subsidized by the Chinese government.

"This report should provide an analysis of the semiconductor manufacturing issues that relate to defense and national security, as well as an analysis of the potential solutions that are discussed in the White Paper," Lieberman wrote in a letter to Defense Secretary Donald Rumsfeld. ■

Full Text Citations

- **Finance Committee** release clarifying low-income child credit provision. *Doc 2003-13339 (1 original page); 2003 TNT 104-24*
- Letter from Senate Minority Leader Tom **Daschle,** D-S.D., to President Bush. *Doc 2003-13344 (2 original pages); 2003 TNT 104-27*
- **Grassley** release on "dropped" child tax credit. *Doc 2003-13461 (3 original pages); 2003 TNT 106-19*
- Statement by Sen. Blanche L. **Lincoln,** D-Ark., on her Working Taxpayer Fairness Restoration Act. *Doc 2003-13464 (2 original pages); 2003 TNT 106-20*
- **Summary** from Ways and Means ranking minority member Charles B. **Rangel,** D-N.Y., of his **Working Families Tax Credit Act** (H.R. 2286). *Doc 2003-13510 (1 original page); 2003 TNT 107-25*
- Release from **Rangel** on H.R. 2286. *Doc 2003-13548 (2 original pages); 2003 TNT 107-26*
- Release from House Minority Whip Steny H. **Hoyer,** D-Md. *Doc 2003-13555 (2 original pages); 2003 TNT 107-28*
- Release from Finance Committee Chair Charles E. **Grassley,** R-Iowa. *Doc 2003-13558 (2 original pages); 2003 TNT 107-30*
- Text of S. 1173, the **Relief for Working Families Act,** introduced by Grassley. *Doc 2003-13678 (27 original pages); 2003 TNT 108-19*
- Release from Rep. Rosa L. **DeLauro,** D-Conn., regarding companion bill to Lincoln-Snowe legislation. *Doc 2003-13732 (2 original pages); 2003 TNT 109-22*
- **Fact sheet** from **DeLauro**. *Doc 2003-13735 (2 original pages); 2003 TNT 109-23*
- Release from Rep. Rahm **Emanuel**, D-Ill., on Lincoln-Snowe bill. *Doc 2003-13728 (2 original pages); 2003 TNT 109-20*
- Release from Rep. Rodney **Alexander**, D-La., on his bill to expand the child tax credit. *Doc 2003-13727 (1 original page); 2003 TNT 109-19*
- **Ways and Means Committee** GOP fact sheet on child tax credit. *Doc 2003-13719 (3 original pages); 2003 TNT 109-18*
- Floor statement by Finance Committee ranking member Max **Baucus,** D-Mont., regarding Lincoln legislation. *Doc 2003-13778 (3 original pages); 2003 TNT 109-27*
- Announcement by Senate Majority Leader Bill **Frist,** R-Tenn., on child credit agreement. *Doc 2003-13772 (1 original page); 2003 TNT 109-25*
- **Statement by Daschle**. *Doc 2003-13782 (1 original page); 2003 TNT 109-30*

- **Center on Budget and Policy Priorities** report on exclusion of child credit provision for low-income earners. *Doc 2003-13399 (3 original pages); 2003 TNT 105-37*
- **CBPP** report on Senate child credit proposal. *Doc 2003-13779 (2 original pages); 2003 TNT 109-36*
- **Fair Taxes for All Coalition** release supporting Lincoln legislation. *Doc 2003-13680 (2 original pages); 2003 TNT 108-46*
- **Citizens for Tax Justice** report on child tax credit effects. *Doc 2003-13349 (2 original pages); 2003 TNT 104-21*
- **Citizens for Tax Justice** state-by-state analysis. *Doc 2003-13714 (2 original pages); 2003 TNT 109-35*
- **Statutory text of S. 1149** (S. Rept. No. 108-54), the Energy Tax Incentives Act of 2003, as reported by the Finance Committee. *Doc 2003-13023 (330 original pages); 2003 TNT 102-6*
- Joint Committee on Taxation estimated revenue effects **(JCX-56-03)** of **S. 1149**. *Doc 2003-13380 (4 original pages); 2003 TNT 105-6*
- Release from Senate Minority Leader Tom **Daschle,** D-S.D., on ethanol amendment. *Doc 2003-13627 (1 original page); 2003 TNT 108-42*

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DeLay, GOP Aides List Pension Reform as Top Priority for June

By Warren Rojas — warrenr@tax.org

House Republicans last week pledged to move the latest pension reform bill (H.R. 1776) by taxwriters Rob Portman, R-Ohio, and Benjamin L. Cardin, D-Md., before the next congressional recess — although a cohesive floor strategy continues to elude lawmakers.

Republican leaders and several GOP aides remain committed to shepherding the bipartisan Pension Preservation and Savings Expansion Act of 2003 — the third major rewrite from the Portman-Cardin taxwriting team — through the chamber in short-order. The final price tag for the comprehensive retirement tweaks could ultimately determine whether the bill would fly solo or get rolled into a legislative bundle with some other outstanding tax priorities.

The core provisions of Portman-Cardin III would:

- accelerate and make permanent many of the pension provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and the Taxpayer Relief Act of 1997;
- boost existing contribution limits so that beginning in 2004 workers can contribute up to $15,000 to 401(k) plans, $10,000 to SIMPLE plans, and $5,000 to individual retirement accounts;
- broaden catch-up contribution limits for near-retirees age 50 and over;
- expand and make permanent the new savers credit for low-income workers;
- replace the current 30-year Treasury bond benchmark with a finite interest rate for pension calculations;
- reform distribution rules on tax-deferred retirement plans;
- provide incentives for annuity income plans;
- expand and streamline SIMPLE and SEP plans;
- allow retirees to cover medical expenses with pretax pension funds;
- enhance pension portability; and
- simplify the growing universe of pension regulations.

At press time, Portman staffers were waiting for fresh estimates from the Joint Committee on Taxation on the potential revenue effects of their pension changes. Portman hinted earlier in the week that preliminary estimates showed the bill