



# Committee On Finance

Max Baucus, Ranking Member

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## **Statement by Senator Max Baucus Markup before the Committee on Finance**

We meet today to report out three distinct and weighty matters: the nomination of the Treasury Secretary, tax legislation on the telephone tax and tax preparers, and the Oman Free Trade Agreement.

### **The Nomination of Hank Paulson**

First, we consider the nomination of Hank Paulson to become Secretary of the Treasury.

Mr. Paulson is a man of great talents. He will need them.

The Government is running 300-billion-dollar budget deficits. The balance of trade is ever widening. New economic competition is coming from China and India. And the Treasury Department suffers depressed morale.

Plainly, we need strong, new leadership at Treasury. And I hope that Hank Paulson will be the man for the job.

### **Telephone Tax and Good Government Bills**

Next, we consider the telephone tax, first instituted to pay for the Spanish American War.

Senator Henry Cabot Lodge once said: "The war of the United States with Spain was very brief. Its results were many, startling, and of world-wide meaning."

One of those "startling" results was the longevity of the federal telephone excise tax. The war lasted just 229 days. But the tax lasted more than a century.

It is time to give Americans relief from this regressive tax. It is time to repeal the tax, once and for all.

Mr. Chairman, I know that you have worked hard with all of the Members of the Committee to ensure that their proposals related to telephone taxes and to improved tax administration have been considered. As a result, we have a good bill that will finally repeal the tax.

The Chairman's Mark also will significantly improve tax administration and crack down on incompetent and unethical tax preparers.

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I am pleased that this bill gives us the opportunity to fix so quickly many of the problems with paid preparers that were exposed during this Committee's hearing in April.

GAO testified about its undercover visits to paid preparers who were only too willing to look the other way when it came to cash income or unwarranted credits. GAO testified that its undercover visits resulted in just 2 correct tax returns out of 19 prepared.

This bill will require all preparers to meet competency requirements. And this bill significantly strengthens penalties on those preparers who choose to ignore the tax laws. It protects taxpayers from having their tax return information being sold to the highest bidder for who-knows-what purpose.

The time is right to protect law abiding Americans as they fulfill their yearly tax obligation.

This bill contains many provisions that will improve tax administration. For example, it authorizes the IRS to offer direct electronic filing. Taxpayers will no longer be forced to pay a preparer or to buy software in order to file a tax return electronically. Taxpayers can file a paper return for free. And they should be able to file an electronic return for free, as well.

Another example is the increase in penalties on frivolous tax returns that divert IRS staff from meaningful work. With a \$345 billion annual tax gap, the IRS has no time or resources to waste.

The Senate passed many of the provisions in this bill already as part of my Good Government Act in 2004. And, very importantly, the bill is fully paid for.

Mr. Chairman, this is a good bill. I look forward to its passage by the full Senate.

### **U.S. – Oman Free Trade Agreement**

Third, today, we continue to consider legislation to implement the United States-Oman Free Trade Agreement.

This markup is the second to last step in this committee's consideration of the U.S.-Oman FTA under Trade Promotion Authority, or TPA. We do not have the opportunity to amend the legislation before us today. Rather, we are asked to vote on the implementing legislation as the administration has presented it to us.

Two months ago, we held a "mock" markup of the draft implementing text the administration submitted for Finance Committee consideration.

The "mock" markup allows this committee to consider amendments to the draft text before the text is submitted to Congress and it becomes unamendable under TPA.

This practice developed decades ago to ensure that Congress's constitutional prerogative to regulate international commerce would not be undermined. In exchange for this practice, TPA delegated to the Executive branch the power to negotiate free trade agreements with foreign countries.

During the "mock" markup, we heard a lively and engaging discussion in this committee of an amendment drafted by Senator Conrad. We heard a respectful exchange of ideas and viewpoints. We heard a discussion that led to a consensus of the Members of this Committee.

But the administration chose not to listen.

We heard 18 members of this committee vote in favor of Senator Conrad's amendment. And we heard 19 members of this committee vote in favor of the draft implementing text as amended.

But again, the administration chose not to listen.

And instead of working to reconcile the different versions of this legislation, the unamended House Ways and Means committee version was chosen without a word, without a mock conference, and without listening.

So before us today is implementing legislation that does not include the Conrad amendment text. These actions fail to respect how this committee voted unanimously.

These actions seriously violate the spirit of TPA. And these actions abuse the trust that Congress placed in the administration by granting it TPA.

The administration has clearly chosen not to listen on trade agreements. It didn't listen now. And it didn't listen last year. Last year, this Committee passed an amendment in the "mock" markup of the legislation to implement CAFTA. And the administration ignored that action, as well.

I hope that they are listening now. Because what they will hear is another nail driven into the coffin of TPA.

Mr. Chairman, the way this administration has misused trade promotion authority is outrageous. The harm and resentment run deep.

I must add, Mr. Chairman, that this disrespect for congressional power and prerogatives is not confined to TPA. It runs to all manner of issues. The administration dismisses congressional inquiries as unnecessary or harmful. And the administration issues Presidential signing statements indicating the administration's intent to ignore whatever provisions of laws it chooses.

In my view, the Senate has been far too timid in asserting its authority as a co-equal branch of government. I commend the Senate Judiciary Committee for holding a hearing yesterday on Presidential signing statements. As an institutional matter, and for the good of the country, the Congress must act as a check on the power of the Executive branch.

Frankly, the administration's actions make today's vote a close call for me. It's a close call whether I should oppose in Committee the implementing text before us today as a means to protest what I consider to be a bad process. I know some of my colleagues plan to do so. I can't blame them.

Overall, I think the U.S.-Oman FTA is a good agreement. The Omanis still have some work to do. They have made strong commitments, and they must live up to them. They must meet their obligations. And they must enforce them vigorously.

Mr. Chairman, after much consideration and deliberation, I have decided to support this agreement. This was not an easy decision. But I will do so because I believe that Oman and the Omani people should not be punished for the process failures that tarnish an otherwise good agreement.

The administration must understand that its actions on this agreement will have effects far beyond and long after this markup. I would like to work with the administration to repair the damage done. But today I am not hopeful.

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