



U.S. SENATE COMMITTEE ON

Finance

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Statement of Sen. Chuck Grassley, Senate Floor Consideration of "Trifecta"
Thursday, Aug. 3, 2006

Mr. President, I rise to discuss the so-called "trifecta" bill. On a preliminary note, I'd like to talk a little bit about the nickname of this bill. Its authors in the House and Senate came up with that nickname. They call it the "trifecta" bill.

Many folks know I'm a bit of a frugal person. You'd definitely hear it from my staff. Some might say I'm cheap. I'd say I'm frugal. Frugal folks tend to be drudges and a bit predictable, but, at the end of the day, frugality tends to mean that you have your house to go home to and a little bit of savings in the bank.

You don't see a lot of frugal folks that take big speculative gambles.

So, when I saw the term "trifecta," not being much of a gambler, I didn't know what it meant. I asked my staff about it. They explained that it was a horse or dog racing term. It refers to a compound bet. That is, the bettor places a bet on three horses. The bettor indicates which horses will win, place, and show.

I asked my staff about the typical odds on a trifecta in a horse race. They picked the 2006 Kentucky Derby. According to the record, Barbaro was favored to win by 6 to 1 odds, Bluegrass Cat was 30 to 1 odds to win, and Steppenwolfer was 30 to 1 odds to win.

The \$2 trifecta paid \$11,418 which is a pay-out of \$5,709 per every dollar. Big pay-off. Long odds. So does our trifecta have those kind of odds? The answer is no. But it does require 60 Senators to pay off.

Being a frugal person and a cautious legislator, you see how I might have problems with a trifecta legislative strategy. I guess I'd look at this exercise as that kind of longshot. With Senate votes as horses, let's take a look. At the last race, on a motion to proceed to the House death tax repeal bill, 57 horses came in. So, the bet was to find 3 horses among the horses that ran the other direction and turn them around. As a farmer with some experience with horses, let me say, once they're out of the barn and running around, it's hard to turn them around. Senators can be similar, especially when a vote is highly political.

It looks to me like we may not turn around many of the horses today. I hope I'm wrong. If I'm right, the bottom line is that we bet on the wrong horses. Maybe we should've taken a bet that was more likely to pay off.

Now, I want to turn to the substance of the bill before us. What's this trifecta bill all about? There are really three key pieces. The first piece is permanent death tax relief. The second piece deals with expiring tax provisions and some other items, known as the "trailer bill."

The last piece is a federal minimum wage increase. I'm not going to describe the minimum wage piece. It is not in my committee, the Finance Committee's, jurisdiction. It was an add-on by the House. I really have no history with it and feel no reason to explain it, support it, criticize it, or defend it. I'll leave that to others. From a personal standpoint, I have supported minimum wage increases in the past. I'll continue to support them as long as the increase doesn't raise teen unemployment and doesn't hurt small business.

I'm going to focus on the first two pieces of the trifecta. That is, the death tax relief and the trailer bill. Those matters are squarely within the Finance Committee's jurisdiction. I have some history with those issues. I care a great deal about the policy in both of those areas. As chairman, I feel a lot of responsibility for the tax policy in these areas.

Let's take a look at death tax relief first. I support repeal. I take it from the vote we had on the motion to proceed to the death tax repeal bill that a majority of the Senate also supports repeal or some sort of significant relief.

But, Mr. President, a majority doesn't matter. You've got to have 60 votes. A simple majority won't get you the result, especially when the issue is controversial.

In this case, I did some checking around on the votes after the cloture motion failed. It became apparent to me, after conversations with members, staff, and interested parties that the bar for getting the 60 votes was pretty high. At first, the impression was kind of fuzzy, but it became clearer as the weeks moved on. Several barriers existed for the Republican Leadership and Senator Kyl. One, the fact that we were then so close to an election had politicized the issue. The Democratic Leadership were becoming invested in blocking a Republican accomplishment. They made it clear to Democratic Senators who might otherwise be willing to work towards good policy that those Senators would face the wrath of the Democratic Caucus.

Moreover, the Democratic Leadership exploited the policy positions that Senator Kyl and others considered priorities. Even though Republicans moved, the movement never seemed to be enough. Also, Democrats were focusing on points that they knew the Republican negotiators could not be flexible. It was a troublesome negotiation. Unfortunately, members and staff often heard what they wanted to hear. This pattern only got worse as time went on.

While these negotiations were going on, there was a parallel track developing. Senate Republican Leadership came up with a different plan. The plan was to add a death tax compromise to the pension conference. I counseled against it because I thought the mix of conferees would not be agreeable to it and it would be an awkward addition to a broadly bipartisan bill. Nevertheless, I agreed to consider this maneuver if the proponents could show me a path to the 60 votes. The proponents went against my counsel and did not deliver on the one thing I asked them to do – show me the votes. That plan didn't work because, as I'd predicted, a majority of conferees were not supportive of it. After four months of tough negotiations, none of the senior conferees, all of whom were invested in the pension policy, were keen on the idea either. And here, I'm talking about House and Senate, Republican and Democrat. The mission was launched and quickly aborted.

Along came “plan B.” Plan B was the result of my “wily” counterpart. You know the guy who, according to House colleagues and staff, supposedly “snookers” the Senate year-in and year-out in conferences. My House counterpart, who, like the rest of the conferees, was never on board with the pension conference plan, raised this Plan B with me. Plan B was the idea of combining some new death tax compromise with the trailer bill. I counseled against this plan. It was clear pursuing this plan would cause problems with completing the pension conference. Chairman Enzi backed me in this view. Once again, I asked the proponents to show the path to 60 votes. Once again, they didn’t show the path and went ahead over my objection.

So, Mr. President, we are where we are. The process was lousy and offensive, but the substance is good. I will support this trifecta bill’s death tax relief proposal. I wish this death tax policy would become law. If that does not happen, then we have to think about the next step. We’ve got to keep our eye on the ball. We should be aiming for good death tax policy and for the 60 votes on how to get there.

We’ve all learned a few things in this painful process. One, death tax is a unique kind of issue. It is not like other tax issues. It is a moral issue to folks on both sides of the aisle. To be politically palatable, the death tax proposal needs to be either in isolation or proportionate if combined with other tax proposals. Small so-called sweeteners don’t get us over the goal line. Holding up popular must-do current law tax provisions also doesn’t get us there. Just look at the vote counts in the House on the various bills. Those vote counts show it.

Right now, we’re stuck. The Democratic Leadership is holding back members from voting their consciences and their state interests. That resistance is there now and it is strong. It won’t last past the political season. The Democratic Caucus will be accountable. If the trifecta bill fails, we’ll be back. But we won’t get anywhere until we’re out of the political season. That’s the ugly political fact I have to convey to Senators Kyl, Lincoln, and others who’ve worked in a bipartisan way to get this done.

I took a look in the tax code and the recent history of death tax relief. In the last 20 years, comprehensive death tax relief occurred twice. In 1997 in a bipartisan tax relief bill and in 2001 on another bipartisan tax relief bill. Both were produced by Finance Committee members with a bipartisan working group and involvement of the Chairman. My judgment is that, if the trifecta bill fails, that’s the way we’re going to have to go again.

Now, I turn to the other part of the trifecta, the trailer bill. In this Congress, I have fought long and hard for extension of tax provisions that expired at the end of last year. The extension provisions in were included in tax reconciliation. Let’s consider how we got here on extenders and the trailer package. Extenders were part of a package deal that I argued for in the Budget Committee. When the Budget Committee met in February and March of last year, I asked for \$90 billion. The \$90 billion was meant to cover expiring provisions, including capital gains and dividend rates and the hold-harmless for the alternative minimum tax (“AMT”). Chairman Gregg agreed to a reconciliation instruction of \$70 billion. In committee and on the floor, I defended the reconciliation instruction as part of this plan. Including extenders was a key part of that strategy. It came up a lot in debate. It was a factor in holding the instruction on the floor and in conference.

When the reconciliation bill was marked up in the Finance Committee, extenders were part of the same package deal. The inclusion of two years of extenders on the floor helped us hold the

Finance Committee bill together.

When we went to conference, the House brought a year of extenders, no AMT hold-harmless, and two years of capital gains and dividends. Although we could not get two years of capital gains and dividends through the Senate, I knew it was important to the Republican Leadership, especially Senator Kyl and myself. We could not fit all the pieces together because, in part, the House would not take our anti-tax shelter measures and loophole closers. Something had to drop. The something was extenders.

Now, because extenders were part of the plan, and, we were into the expired year, I insisted on assurances from Chairman Thomas of House Ways and Means and the bicameral leadership. At that time, I released a statement stating that we would be putting the extenders in the pension conference report. This statement was based on assurances I had received from leaders in both the House and Senate.

I asked for those assurances to do the right thing from a policy perspective and a political perspective. From a policy perspective, the taxpayers should be able to rely on the tax legislative process. This should be especially true with respect to current law expiring provisions that enjoy overwhelming bipartisan support. I'm going to talk about those provisions shortly.

From a political perspective, I asked for those assurances to defend Republican Senators who would be attacked when the reconciliation conference agreement was announced. Indeed, those attacks did come and I referred to the assurances in defending the Senators who were under attack. In addition, several Republican Senators asked me to make sure that there was a glide path for these extenders. For instance, Senator Hutchison raised the state sales tax deductibility extender in a Senate Republican Leadership meeting. Republican High Tech Coalition members asked for similar assurances.

My interest has always been to accomplish what is possible, not taking chances with widely-applicable tax relief measures that millions of taxpayers are relying on. For example, over 12 million Americans benefit from state sales tax deduction. Over 3 million teachers benefit from tax deductions for education expenses. Teachers have prepared for the upcoming school year and they don't know whether supplies they buy out of their own pocket will be deductible. Over 3.5 million families benefit from the college tuition deduction.

Mr. President, a week ago, I said some colleagues want to engage in a riverboat gamble involving these popular tax relief provisions by including it with the death tax. They called Chairman Thomas' bill the trifecta bill.

I will treat the proponents with more respect than they have treated this Chairman and the institution of the Finance Committee. I will support this bill.

The burden is on the proponents of this gambit to produce. But to do that, they are going to have to deal with the realities of the votes in the Senate. People want and should expect that Congress will provide certainty in estate planning. My colleagues have placed all the chips on the table, it is on them to make sure it's a winning hand. If the trifecta bill fails, they need to answer to those millions of American families who relied on our promise and goodwill as legislators.

Now, for my message to the Democratic Leadership. While I'm frustrated with my leadership, let me say that it should also be clear that the Democratic Leadership has been more eager to produce press releases than results. The Democratic Leadership has been actively and aggressively undermining efforts to reach a deal. This has only served to deny relief from the death tax for America's small business and family farmers.

This obstruction has also forced these farmers and small business owners to have to live with continued uncertainty of the current death tax structure. This is not right. The people's business should be done.

The time has come for the Democratic Leadership to stop playing politics with family farmers and small business folks and let responsible Democrats work on a fair compromise. It is wrong that Democratic Leadership is preventing Senators from voting their conscience in this manner. Senators should be allowed to put the interests of their constituents first, instead of the priorities of the Democratic leadership.

When you cut through all the finger-pointing and the press releases, both sides are to blame that we can't get these extenders done. Both death tax and expiring provisions should be processed in a bipartisan constructive manner. We should be realistic and seek to accomplish the possible. Let's do the people's business.

Mr. President, I will support the trifecta bill. But should it fail, I will use my best efforts to do what needs to be done. I will stick by my word to the American people and ask those who gave their word to me to keep their word. Either result would be the right thing for the people. To do neither, and, not act on extenders would be the wrong thing for the people. That's why we're here – to serve the people. We're here to govern.