

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 1520

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 128, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 128) directing the clerk of the House of Representatives to make a correction in the enrollment of H.R. 1520.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 128) was agreed to.

UNITED STATES—MEXICO ECONOMIC PARTNERSHIP ACT—Continued

Mr. GRASSLEY. Mr. President, I ask unanimous consent to engage in a colloquy with my colleague, Finance Committee Ranking Member WYDEN, to discuss a tax provision included in the omnibus appropriations bill currently before the Senate. The tax title in this bill contains important clarifications to, and expansions of, the Employee Retention Tax Credit established under section 2301 of the CARES Act. This credit has provided vital payroll support to struggling businesses in Iowa and across the country. The enhancements included in this bill are necessary to help more employers access the credit. Importantly, the bill clarifies that businesses that received Paycheck Protection Program loans, or PPP, are still eligible for the credit based on other wages and benefits paid. Does Member WYDEN agree that our intent is to allow struggling small businesses to access the retention credit, even if they have received a PPP loan?

Mr. WYDEN. That is correct. COVID-19 has shuttered small businesses across the Country. This is especially true in Oregon, where small businesses are the backbone of our economy. Ensuring businesses can access relief from both the Paycheck Protection Program and the Employee Retention Tax Credit is critical. The legislation before us today would allow businesses who took out a PPP loan to access the retention credit in two instances. First, those businesses that have had or will have their loan forgiven can claim the credit for any wages that were not paid for

with PPP loan proceeds. Second, a business that does not have its PPP loan forgiven can claim the credit for any wages. As this change will be retroactive, does the Chairman agree that it is equally as critical that these small businesses are able to quickly and easily claim these past credits they will now be eligible for?

Mr. GRASSLEY. Yes. That is why we are allowing these businesses, both those with forgiven loans and those without, to claim credits for wages paid in previous quarters that this bill makes eligible for the credit on their fourth quarter 2020 payroll tax filings. This will prevent small businesses from having to amend their previously filed payroll tax returns, easing the paperwork burden for both taxpayers and the Internal Revenue Service. I know Ranking Member WYDEN will join me in urging the IRS to do all they can to simplify and expedite the process for eligible businesses retroactively claiming the retention credit. The last thing these businesses need right now is additional, complex payroll tax filings.

I thank the ranking member for engaging in this colloquy to discuss this important issue and the clarification included in the pending appropriations bill.

Mr. TOOMEY. Mr. President, I wish to enter remarks regarding the Consolidated Appropriations Act, 2021, which I will refer to as the 2021 Approps Act.

Specifically, my remarks are about sections 1001 through 1005 of the 2021 Approps Act. I was the sponsor and principal drafter of these sections. I also negotiated the final legislative text of these sections with Treasury Secretary Steven Mnuchin and my Democratic colleagues in the Senate, including Democratic Minority Leader CHUCK SCHUMER.

These sections relate to the Federal Reserve's temporary emergency lending facilities under section 13(3) of the Federal Reserve Act that are creatures of the CARES Act P.L. 116-136. These facilities were established in response to the extreme turmoil in the credit markets caused by the COVID-19 pandemic in March 2020. They were made possible by \$500 billion in funding and authority provided by the CARES Act. As a result, these facilities are often referred to as the CARES Act facilities, which is how I will refer to them.

The CARES Act facilities are the Primary Market Corporate Credit Facility, the Secondary Market Corporate Credit Facility, the Municipal Liquidity Facility, the Main Street Lending Program, and the Term Asset-Backed Securities Loan Facility (TALF). The CARES Act required and Congress intended the CARES Act facilities to cease operations by December 31, 2020.

I was one of the two Republican Senators involved in drafting the CARES Act provisions that provided the funding and authority for the CAREES Act facilities. During the last 2 days—December 19, 2020 and December 20, 2020—

I have spoken at length on the Senate floor about the creation, intended purpose, and success of these facilities, as well as the impact of sections 1001 through 1005 of the 2021 Approps Act on these facilities and the reasons for enacting these sections. As a result, I will not repeat those remarks now.

Today, I would like to focus on the impact of one particular section of the 2021 Approps Act: section 1005. But let me first remind my colleagues of what sections 1001 through 1005 of the 2021 Approps Act do. Collectively, these sections rescind more than \$429 billion of unused money out of the CARES Act facilities and use that money for other important purposes; definitively end the CARES Act facilities by December 31, 2020, as Congress intended and the CARES Act requires; forbid the CARES Act facilities from being restarted; and prevent the CARES Act facilities from being replicated without congressional approval.

Specifically, section 1005 of the 2021 Approps Act prevents the creation of any Federal Reserve emergency lending facility established under section 13(3) of the Federal Reserve Act that is "the same as" any CARES Act facility. Because an earlier version of TALF was established in 2008 prior to the CARES Act, section 1005 of the 2021 Approps Act specifically allows TALF—but only TALF—to be replicated in the future without congressional approval. Under section 1005 of the 2021 Approps Act, all of the other CARES Act facilities—the Primary Market Corporate Credit Facility, the Secondary Market Corporate Credit Facility, the Municipal Liquidity Facility, and the Main Street Lending Program—cannot be replicated in the future without congressional approval.

So what does it mean for a new facility to be "the same as" a CARES Act facility? That question can easily be answered by looking at the purpose of the CARES Act facilities. The purpose of each CARES Act facility is identified in its term sheet.

Let's walk through them. The purpose of the Primary Market Corporate Credit Facility was to lend directly to corporations by purchasing bonds or syndicated loans from them at issuance. The purpose of the Secondary Market Corporate Credit Facility was to purchase corporate bonds and corporate bond Exchange Traded Funds (ETFs) in the secondary market. The purpose of the Municipal Liquidity Facility was to lend directly to states and municipalities by purchasing their municipal bonds from them at issuance. The purpose of the Main Street Lending Program was to extend credit directly to small or medium sized businesses, including nonprofit organizations.

These purposes are clear and are what define each of the CARES Act facilities. A future lending facility that had the same purpose as a CARES Act facility would be the "same as" as CARES Act facility and therefore could