IS UNCERTAINTY CONTRIBUTING TO THE JOBS CRISIS: THE VIEWS OF LOCAL ILLINOIS SMALL BUSINESSES

HEARING

BEFORE THE

SUBCOMMITTEE ON ECONOMIC GROWTH, TAX, AND CAPITAL ACCESS

OF THE

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IS UNCERTAINTY CONTRIBUTING TO THE JOBS CRISIS: THE VIEWS OF LOCAL ILLINOIS SMALL BUSINESSES

MONDAY, DECEMBER 12, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC GROWTH,
TAX, AND CAPITAL ACCESS,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:05 a.m., at the Woodstock City Hall Council Chambers, 121 West Calhoun St., Woodstock, Illinois, Hon. Joe Walsh (Chairman of the Subcommittee) presiding.

Present: Representative Walsh.

Chairman WALSH. Welcome. Thank you, everybody, for coming. Let me officially gavel in this hearing of the Small Business Subcommittee on Economic Growth, Tax, and Capital Access. We are now in order.

It is great to be in Woodstock. This is a field hearing away from D.C.

I would like to, before I get started, and I will do this again, thank our three witnesses for coming this morning. And we look forward to your testimony on a very important and timely topic, so thank you.

And welcome to everybody else who has come this morning.

According to economists, the recession ended more than 2½ years ago. While that may be the view in certain academic circles and on Wall Street, it is definitely not the view or experience of small businesses in Woodstock and on Main Street, or the over 13 million Americans who remain unemployed.

According to statistics from the Small Business Administration's Office of Advocacy and the National Federation of Independent Business, small businesses suffered more than their larger counterparts in the recession, and their optimism about the future is also lower than expressed by large businesses.

While the experiences they face in the difficult recession may account for some of this sentiment, a growing body of evidence and the voices of small-business owners are demonstrating that policy actions and inactions in Washington are in no small part causing their malaise.

The economy, our economy, needs entrepreneurs to take risks and invest in the kinds of capital improvements that will expand their businesses and create new jobs. However, when faced with uncertainty, businesses are often reluctant to bear new risk. And as a result, they hold off on making new investments.

In a recent research paper, economists with the University of Chicago and Stanford University created a policy uncertainty index that tracked business concerns about the direction of Federal spending, tax and other policies, and measured their impact on the broader economy and on employment.

In applying these models to publicly available data going back to 1985, the researchers found that policy uncertainty has had significant impact and effects on the broader economy and has impaired the creation of some 2.5 million jobs.

A similar study by the Federal Reserve Bank of Cleveland found that in 2011 the percentage of small-business owners planning to hire would be 6 percentage points higher if it were not for policy uncertainty.

This is not rocket science. It is common sense. If you are a business owner and need to hire another employee or buy some new equipment, but you are unsure about how Washington is going to change your taxes or how much a new regulation is going to cost your company, you will hold off on that purchase and you will hold off on that hire. Scenarios like this are playing out all across our district and all across the country.

This policy uncertainty is preventing American small businesses from creating jobs, and it is crushing economic growth.

The current Administration does not understand this. It doesn't understand how business works. In the last fiscal year alone, Federal agencies unleashed 43 major new rules. According to the National Federation of Independent Businesses, the cost of implementing these rules is $28 billion, the highest level since 1981.

Who is going to make new hires or buy any new equipment when they have to comply with $28 billion in new rulemaking?

The purpose of today's hearing is to learn how policy actions and inaction in Washington are affecting local Illinois small businesses and to hear their recommendations on how government can create a more positive business environment more conducive to job creation.

So again, to our witnesses, welcome. Thank you for coming. Let me just take a moment to explain the timing lights. You will each have 5 minutes or so to deliver your testimony. The light will start out as green. When you have 1 minute remaining, the light will turn yellow. And finally, it will turn red at the end of your 5 minutes. Try to keep within that time limit, but your chairman has been known to be quite lenient when it comes to finishing testimony.

And, again, your written testimony will be part of the official record.

Our first witness this morning is Eric Treiber. He is president and CEO of Chicago White Metal Casting in Bensenville, Illinois. The company was started by his grandfather in 1937 and manufactures metal castings for a number of industries. Eric is testifying today of behalf of the North American Die Casters Association.

Mr. Treiber, thank you, and welcome. You are welcome to deliver your testimony.

STATEMENTS OF ERIC TREIBER, PRESIDENT AND CEO, CHICAGO WHITE METAL CASTING, INC., BENSENVILLE, ILLINOIS, ON BEHALF OF THE NORTH AMERICAN DIE CASTERS ASSOCIATION; PERRY MOY, OWNER OF PLUM GARDEN RESTAURANT, McHENRY, ILLINOIS, ON BEHALF OF THE NATIONAL RESTAURANT ASSOCIATION; AND CRAIG LARSEN, FOUNDER AND PRESIDENT OF AHC ADVISORS INC., ST. CHARLES, ILLINOIS, ON BEHALF OF THE FINANCIAL PLANNING ASSOCIATION OF ILLINOIS

STATEMENT OF ERIC TREIBER

Mr. TREIBER. Thank you. Good morning, Chairman Walsh. You cut about a minute out of my presentation, so I appreciate that. That gives me some additional time.

Today, there are over 350 U.S. die casters manufacturing thousands of nonferrous casters. More than 90 percent of all manufactured goods and capital equipment use metal castings as engineered components, or rely on castings for their manufacture.

In Illinois, Chicago White Metal is one of nearly 40 die-casting facilities, and our company is a leading manufacturer of aluminum, magnesium, and zinc castings.

We have 230 employees. Many of them are in skilled trades, with an average tenure of 17 years.

Our customers come from the medical, automotive, industrial, telecommunications, and recreational industries. As an example, for the automotive sector, we produce a number of intricate die castings that become parts of rearview-mirror housings, headlight housings, and the power system of electric vehicles.

The manufacturing sector has been deeply affected by the recession with more than 2 million jobs lost. A strong U.S. manufacturing sector is key to jobs, innovation, and prosperity in the State of Illinois and America.

To regain momentum and encourage hiring, the U.S. needs not just improved economic conditions but also consistent policies in taxation, energy, labor, trade, health care, education, and, certainly, regulation.

Unfortunately, many die casters are holding off hiring new employees for the following reasons: uncertainty about the economy, uncertainty about tax liability, double-digit increases in our health care premiums, increased costs with waves of new regulations, and potential increases in our energy costs.

In particular, we are troubled by three new costly Environmental Protection Agency regulations—the Boiler MACT, Utility MACT, and Cross-State Air Pollution Rule.

We are extremely alarmed that Utility MACT could endanger America's power supply. The electric industry has only 3 years to comply with the new rules that are designed to force dozens of coal-fired power plants to shut down. It is likely that the Nation's power grid will be stressed in ways it has never experienced.

Given the great amount of uncertainty over critical government policy areas, instead of hiring new employees, the die-casting industry is faced with utilizing overtime with its current workforce and/or hiring temporary workers to fill employment needs.

This Administration has imposed excessive regulations with little regard for their impact on job creation and the economy.

In my testimony, I am focusing on two areas, the EPA and U.S. tax policy. The die-casting industry has long recognized the need for sensible regulations to ensure workplace safety and protect public health. But the Federal Government has gone too far.

The Obama Administration has 4,257 new regulations in the works, 219 of which will cost over $100 million annually, which is 15 percent more than last year.

A recent Small Business Administration report showed the total cost to employers of Federal regulations is $1.75 trillion. The average regulatory cost for each employee of a mid-sized manufacturer now exceeds $13,000 per year.

Meeting the demands of Federal regulations can cost companies millions of dollars each year in staff time. We specifically had one and a half people devoted to following regulatory compliance.

Some of the most economically threatening regulatory proposals come from the EPA. The agency is currently advancing 20 proposed major rules with 173 others.

In 2011, the agency began regulating greenhouse gas emissions from stationary sources under the Clean Air Act. While only the largest facilities will be regulated at first, this action sets the stage for future regulation of much smaller sources.

Despite being a small business, it turns out our company is already bound with a set of reporting requirements under the new greenhouse gas requirements. Nowhere did the EPA announce and/or outline these new reporting obligations. There was no public outreach to business. We had to do it all on our own. Our environmental manager spent hours researching potential reporting triggers and discovered that die casters that utilize magnesium, which we do, are immediately covered.

Beginning in 2012, we have to register at E-GGRT, which is the electronic greenhouse gas reporting tool, and start reporting our emissions. It takes about 6 hours a year to monitor, not even including the reporting time it will require.

We believe that major regulations that place new burdens on the private sector should be subject to congressional approval. I support the REINS Act, which is Regulations from the Executive in Need of Scrutiny, which passed the House on December 7th, which would require all bills be signed off by Congress and the President that have a $100 million or greater impact.

As Congress begins debating tax reform, the tax code should provide businesses relief from burdensome and confusing tax rules. Many of these provisions are enacted on a temporary basis, requiring repeated extensions.

The uncertainty resulting from such temporary tax policy makes it difficult for die casters, which rely on 5- and 10–year business strategies, to plan effectively.

The bonus depreciation and section 179 expensing will be extended in 2012, but at a much lower rate. Bonus depreciation and section 179 expensing provide tax relief for companies that want to buy capital assets, such as plant machinery and equipment. These investment incentives have had a positive impact and incentivized business purchasing and job creation.

While it is possible that Congress may choose to extend some of the expiring tax provisions, there is no guarantee that they will be available to the same extent. We need a national tax climate that does not place manufacturers at a competitive disadvantage in the global marketplace. Our tax rate is higher than trading partners such as Canada, and they pay perhaps half the taxes that we do, 18 percent compared to our 40 percent.

The bottom line is predictability and consistency in U.S. tax code will offer the long-term planning in investments that enable us to stay competitive.

Chairman Walsh, thank you again for the opportunity to testify today. I would be happy to ask respond to any questions at the appropriate time.

[The statement of Mr. Treiber follows on p. 16.]

Chairman WALSH. Thank you. Thank you, Mr. Treiber, for your testimony.

Our next witness is Perry Moy. Perry is the owner of Plum Garden Restaurant located right in McHenry. He is testifying today on behalf of the National Restaurant Association and previously served on that organization's board of directors.

Mr. Moy, you may now deliver your testimony.

STATEMENT OF PERRY MOY

Mr. MOY. Thank you, Mr. Chairman.

I speak from close to 50 years of experience in the restaurant business. My dad was a naturalized U.S. citizen, a descendant of the Chinese immigrants who built the railroad from San Francisco to St. Louis. He died at an early age of 30, leaving my mom with four kids.

In 1965, we moved to Park Ridge, which was a suburb just outside of Chicago, and my mom and I took the train down to: McHenry. We stopped in McHenry and went to Main Street. It was a bustling street. It had the bank. It had the post office. It had the famous Althoff's plumbing. That is where they started.

We walked down that street and I asked this big man—and I was all of 14, and my mom was all of 4′1″ and couldn't speak a word of English. "How much to rent this building, sir?" And he looks at us and looked at us and he finally said, "How about $70 a month? I will throw in the utilities, and you can live upstairs." And that was it. That is how the Plum Garden started. And I graduated from McHenry High School in 1969.

From that then, I am proud to say we are the oldest independent restaurant in the history of the county, close to 46 years. A lot of you in this room have been to my restaurant, and I employ about 18 people. I consider them to be a part of my family. We have worked hard to try to maintain the quality of service.

But this county has gone through some very, very tough times. We were the fastest growing county, as you alluded to, Mr. Chairman, due to the construction of homes being built here, 20,000, 30,000 homes a year sometimes. And now that industry is over.

We saw a 30 percent drop in my business in 2009. How do we handle the skyrocketing costs? And the fuel costs, we are at $5 a gallon, and stuff like that. The food costs are going up. How do we deal with things like this?

I got my team together and said, "We have to work harder. I am asking you to do more for less." And a lot of my staff have been with me since high school, over 20, 30 years. And that's how we began the turnaround.

From this, then, we worked harder. We worked smarter. We tried to do more. My staff did more for less, and I thank them for that. And that was a part of the spirit of our community.

I have learned a lot in this these past few years. First, I think America has ignored Main Street. Small business can't get access to capital they need. Nobody qualifies, especially in the restaurant business. Banks sit on funds, but we cannot achieve any of those funds. The SBA has great programs. I have looked into them.

And I encourage the Federal Government to make the SBA loan process as easy as possible. If Congress can keep the SBA loan guarantees high, and the bank's exposure—especially the local community banks' exposure at a minimum, it would be a great way to ease the pain during these tough times.

Secondly, I would like to see a moratorium on new taxes, regulations, and mandates. Let's just stop this craziness that is going on. As entrepreneurs, we don't know what is around the corner. Health care is a major concern. Maybe I may not qualify for the mandated national health policy that is going to come around, but I know every small-business guy and every restaurateur is so afraid of what is around the corner, they don't know how to react to that.

A business like mine is hit hard by not just Federal Government but local government. Everybody is seeking taxes, and mandates, regulations. Because they are hurting, they want to pass that burden onto us, and I have to pass that burden onto my guests and customers who have been with me close to 40 years. And it is just impossible to handle that challenge sometimes.

We all want to comply with the law, but these government mandates divert our savings and our energies to try to produce a great product.

And finally, the State of Illinois created—we went through an audit, a random audit, so they say. And at the end of the day, the Illinois Department of Revenue said, "Perry, the State of Illinois owes you $112." But then he asked for my purveyor bills, and he looked at them. He spent another 4 hours with me and looked at all my—he handed me a bill for $5,000. And I said, "I thought you said you owe me $112." He finally came up with a thing that had said, "Well, you use cooking oil, don't you, in your food?" And I said, "Yes, I do."

"Cooking oil is defined by the State of Illinois as a use. It is not deemed as food. Ten percent is food; 90 percent is use, so I am going to charge you 6 percent on your cooking oil, so you owe us $5,000." Never heard of it. I called up all my friends in the restaurant business, and they never heard of things like that.

These are some of the predatory things the government tries to do. They come out to reach in these times against small business.

As my friend here, Eric, has stated, we need a fair tax code. We want to know what is coming around the corner. I mean, things like I just put in a small bar and a new floor, and it cost me $8,000. If Congress could support that 15-year depreciation schedule for restaurants, I think that would be great. Instead, that is going to expire. It is going to go to 39 years. I know that both sides of the House are wrangling on it.

The other thing that I could see happening is the work opportunity tax credit incentive for restaurants. We hire people that fall through the cracks sometimes.

As a basic principle, the tax code always says that business expenses should be fully deductible. I remember back in the '80s that we had 100 percent business meal deductibility. I was honored to be a delegate to the White House Conference on Small Business, and that issue to maintain and retain business meal deductibility was the number two issue coming out of the White House Conference on Small Business under President Clinton, 14 or 40 votes short of being the number one issue. And I remember President Clinton asking me, why is this so important? Because it means jobs. It means a future. Because small-business people like myself and like sitting at this table need a place to share some coffee and some bread so that they can market themselves and create new jobs. And I think that is important.

Finally, I think that I want to thank Senator Durbin for helping us, for lowering the fees on debit cards. I mean, we have had partners in our restaurants, people that use credit cards and debit cards, the fees are outrageous. And he helped us lower those fees, and I thank him for that.

Unfortunately, government sometimes doesn't really understand that—just get out of our way, and I think we can create jobs. And the restaurant industry is the second-largest job creator in the country. We employ almost 13 million people.

So from this testimony, I hope that we can move forward. Just a moratorium on new taxes would be great.

Thank you, Mr. Chairman. Thank you, everybody here.

[The statement of Mr. Moy follows on p. 24.]

Chairman WALSH. Thank you.

Our next and final witness is Craig Larsen. He is founder and president of AHC Advisors, Inc., a financial planning company located in St. Charles. Mr. Larsen began his career working on the floor of the Chicago Mercantile Exchange before leaving to found AHC Advisors in 1995. He is testifying today on behalf of the Financial Planning Association of Illinois.

Mr. Larsen, thank you for coming, and I look forward to hearing your testimony.

STATEMENT OF CRAIG LARSEN

Mr. LARSEN. Thank you, Chairman Walsh. Thank you for inviting me here today to speak about the difficulties that small businesses face in today's uncertain political and economic climate.

I think my testimony will be less than 5 minutes, because in many places, I can say ditto. Although we are from three different industries, there is a common theme that I hear.

My company is a small business, a very small business. I have one full-time employee and one part-time employee. My company is expanding, and I need to hire another person. I will relate some of the challenges that I am facing later in my testimony.

The first area I would like to focus on is tax policy. The tax code is continuously being modified. In 1986, the goal of tax reform was to make the code more fair and simple. Since that time, there have been tens of thousands of changes and additions. That isn't simple.

This complexity adds to businesses uncertainty. Many of these changes are driven by special interests who are able to secure preferential treatment. These changes have been supported by both Democrats and Republicans over time.

For example, in Illinois, both the CME and Sears are seeking preferential treatment that won't be available to small businesses.

The current tax rates will be in effect until the end of 2012. New business projects or an expansion of existing ventures are evaluated by using models that estimate take-home profits to their owners over the life of the project. A very important component of this evaluation is the expected tax rate.

If businesses are unable to reasonably predict future tax rates, how can they be expected to expand or undertake new projects on the margin if it is possible that future tax rates could be so high as to make these projects unprofitable?

If businesses don't expand existing projects or take on new projects, employment growth will remain muted. Although differences in political philosophy will shape an individual's view of how the tax code should be written, it cannot be disputed that more complexity and uncertainty in the tax code reduces the likelihood that businesses will invest in existing or new projects that will produce economic growth and, most importantly, create jobs.

Regarding regulation, although there has been a significant increase of regulation of many industries—we have heard some examples here—including health care and energy also, I am going to focus on the industry in which my company is engaged, which is financial services.

The financial services industry is one of the most heavily regulated sectors of our economy. There are tens of thousands of pages that regulate financial companies. However, what we see time and again is that new regulations don't eliminate problems in the future, even in the areas that they were specifically designed to address.

For example, the Madoff scandal is a good example. What Madoff did violated the laws that were currently on the books, and I don't believe that additional regulations would have stopped him from engaging in fraudulent behavior.

Compliance is so complex and ambiguous in the financial services industry that I have had to outsource this area to an outside legal firm. Despite this, we spend quite a bit of time internally dealing with compliance issues. I estimate that our external and internal regulatory compliance costs exceed $10,000 per year. These costs have increased since the passage of Dodd-Frank.

This is time and money that is spent dealing in large part with ambiguous and unclear legislation as it is written. This is time and money that could otherwise be spent growing my business.

However, I don't believe that all regulations are bad. A set of consistent, clear, and reasonable regulations are important to have. Unfortunately, that is not what we have in the financial services industry. Instead, we have financial regulations that are vague and ambiguous in many areas, that were designed in large part, many of them, in the '30s and '40s. They are also, in large part, a product of the lobbying efforts of the very same financial institutions that were at the heart of the financial crisis.

George Stigler found that oftentimes regulators become captives of the regulated, because that is who lobbies the regulators. That is important to remember.

My experience as a business owner is such: My business is expanding. I need to hire more people. Given elevated costs related to tax increases and increased regulation, and, importantly, uncertainty about potential even greater costs in the future, I have made a decision to hire only a part-time employee, instead of a full-time employee.

How am I supposed to make informed and rational decisions on hiring when there is so much uncertainty? This is uncertainty both in the tax code and the regulations that my firm operates under.

I don't think that I'm alone. In fact, we have heard that here. I think that businesses large and small are dealing with similar issues and that this directly contributes to the stellarly high unemployment rate that we face today in the United States.

It is my hope that we can leave the environment of tax uncertainty and excessively politically driven regulations behind us. Our country would be better off if we put in place a set of limited but commonsense regulations and a tax code that is less complex and provides businesses with the certainty of knowing what their future tax rates will be. Businesses would then be able to plan for the future, grow, hire even more employees, and get our country back on the path of growth and prosperity.

Thank you for your time, and I will take any questions that you may have.

[The statement of Mr. Larsen follows on p. 28.]

Chairman WALSH. Thank you. Thank you all for your testimony.

Let me sort of weave my way around a few different topics with some questions.

Let me address the first couple toward each witness.

It was former Illinois Senator Everett Dirksen, I believe, who said a billion here, a billion there, pretty soon you are talking about real money.

I have been in Washington a year now. We are not talking billions; we are talking about trillions of dollars that Washington is spending that Washington doesn't have.

All of this Federal spending, all of the debt, all of the deficits, give us your take on what that does to your particular type of a business. What sort of uncertainty in general does that create for you as small-business men? The overall debt that Washington finds itself faced with.

Mr. TREIBER. From our standpoint, not just as a businessman, but as a person in the community, it is as if—if we ran our business like the government is running theirs, we would be bankrupt. We would be out of business. So it leaves me specifically wondering how can they operate this way, because if we were to do that, we would no longer exist. So it leaves me wondering who is really in charge.

Mr. MOY. Mr. Chairman, it is such a negative role model that we look at. We look for leadership. There is a lack of it. And that then, we feel that we have been left down. And I think that is the major concern. And that creates that uncertainty and that cloud.

Mr. LARSEN. I would just say from my perspective the huge debt we have—I think our total debt is almost 100 percent of GDP, so we owe almost as much as we produce in a year—as I look at that and plan, my assumption is that we obviously have to pay that debt back in the future. And unfortunately, I think that is going to come through increased taxes. However——

Chairman WALSH. No, Craig, continue that was—or maybe come back to that as well. Do most business men and women understand or assume that that is going to have to be paid by someone?

Mr. LARSEN. So money doesn't grow on trees. You can only spend the same dollar once. So if a dollar is spent, it is spent on some venture and it is owed, it has to be paid back. And that has to come from either a cut in spending or an increase in taxes. Unfortunately, I think in this environment, we are going to narrow the deficit by increased taxes. It is unfortunate, but I see that.

So when it comes to planning, for example, my expansion, I'm looking at new office space and all the capital costs that go into that. Now I have to discount what additional profits may be sent to the government, and that is less money that can be used to pay back——

Mr. MOY. And there is also a concern of inflation. You keep printing that money out and all of a sudden now the charge of my food has to go up to coincide. It is a domino effect. It is just a horrible, vicious cycle that we seem not to be able to get out from under.

Chairman WALSH. Eric, any final thoughts on the whole debt and the uncertainty that that creates for business?

Mr. TREIBER. Well, again, it is unknown, but one would assume that the way to mitigate this in the future is going to be through increased taxes.

Chairman WALSH. Let's then segue into taxes and tax policy. The House will probably vote this week on another extension of, say, the payroll tax cut. The Bush tax rates are going to be up again, so there will be debate and discussion as to whether they should be extended temporarily.

The prevailing mood in Washington seems to be to extend things temporarily, to fiddle around with taxes temporarily. Give me your notions on this whole movement toward temporarily raising or cutting taxes and doing something permanently, either raising or cutting them, and how that impacts business.

Start with Craig.

Mr. LARSEN. So Milton Friedman won the Nobel Prize in 1976 for something called the permanent income theory. In a nutshell, what that means is that people make rational decisions based not upon what might happen next week or next year, but what is going to happen in the long run. And so when you apply that to temporary tax cuts, what he found is that what happens next year really doesn't matter because businesses essentially expect that in the long run, this temporary tax cut might expire or you have uncertainty. So temporary tax cuts might do nothing but build the deficit.

Chairman WALSH. Will extending the payroll tax cut, and even cutting the employer's piece of it temporarily, will that lead to any hiring?

Mr. LARSEN. No, because—I am very surprised that this is being talked about and continues to be something that is found as a way to stimulate the economy. You are taking a system that is already under stress, Social Security, and now we are paying less into it. Well, you are paying less into it. Eventually that money has to be paid back.

And so it is a very clear example of how temporary tax cuts are going to lead to future tax increases, because if you are paying this much less to Social Security, which is already under stress, in the future, you are going to have to pay this much plus what you didn't pay in the past. It is, in my opinion, a terrible idea.

Chairman WALSH. It shouldn't be surprising.

Perry, so we temporarily cut your share of the payroll tax. Is that going to lead to more hiring?

Mr. MOY. A short-term fix creates long-term problems. I support the permanent. Cut it permanently. Then we can adjust to the budget. Maintain the Bush tax cuts. We are overtaxed, as it is. And from that then, we can plan for the future.

When government acts in a way of a temporary fix, a short-term fix, it creates long-term concerns and problems. And the big problem will be that it is not going to create a workable job creation economy.

Chairman WALSH. The whole issue of the payroll tax and Social Security is an issue that nobody in Washington really is even talking about. Members of both parties are, "It is a tax cut, it is the tax cut," not even mentioning the fact that we are dipping into the money to pay for Social Security.

So an important issue, a separate issue, because everybody is just on the tax cut bandwagon.

But, Eric, this notion of temporary vs. permanent when it comes to tax policy?

Mr. TREIBER. That would spur absolutely no job creation for us. A temporary tax credit, we are going to have to—it is not going to——

Chairman WALSH. Not going to compel you to hire.

Mr. TREIBER. Absolutely not. Absolutely not.

We talked about the R&D tax credit, which expires basically every year. It is set to expire again at the end of this year. It is the 14th or 15th time. That type of policymaking really hinders our desire to go out and make investments in our company and capital equipment because we don't know what the future holds.

So temporary tax cuts or those that require renewal every year are very self-defeating.

Chairman WALSH. If the three of you could each be king for a day and you could enact one permanent piece of tax policy, what would it be?

Mr. MOY. A moratorium.

Chairman WALSH. A moratorium on?

Mr. MOY. A moratorium on any new tax, regulation, mandate.

Chairman WALSH. Craig, if you could specifically permanently alter one aspect of taxation, what would it be?

Mr. LARSEN. Pick a rate and stick with it. Let us plan. Obviously, I would prefer lower rates, but whether the rate is 23 percent or

26 percent, that really doesn't matter. What matters is, pick a rate and stick with it. Let businesses plan.

Chairman WALSH. Eric.

Mr. TREIBER. I would reduce the corporate tax rate to something that is comparable with those countries that we are competing with across the globe.

Chairman WALSH. Quickly, let's move to health care. The health care legislation that was passed last year, what has that done negatively or positively in each of your estimations to the overall business jobs climates in the country?

Perry, let's start with you.

Mr. MOY. In 1965, when we opened the restaurant, I offered health insurance in 1971. I was the oldest and one of the first groups that Blue Cross Blue Shield—it was innovative at that time, because I offered it to my staff. From that then, I had to take it away, because of this great recession that we are having.

And what the mandated health care does is create false hopes for my staff. "Oh, we are all going to be taken care of." And no matter what I say to them, "It is not going to be that way for you. It is not going to be like it was in 1971 when I offered you and gave you the health care benefits. That is not going to be the same. It is going to be different. It is going to be challenging, and no one knows how it is going to be."

Chairman WALSH. Craig, when it comes topic of this hearing, the overall uncertainty in the environment right now, combine that with a favorable or unfavorable climate for small businesses, what will this health care legislation do?

Mr. LARSEN. Like a lot of the other regulations, create a lot of uncertainty and make it difficult to plan.

The whole health care act, part of what balanced this act and made it revenue neutral was the CLASS Act when it came to long-term care, and that is falling apart. So now there is a hole where we don't have that revenue. Somebody has to fill that. So it is going to come either through increased taxes or possibly, I would expect, businesses could expect their penalty that they pay for not insuring employees will go up.

Again, it comes back to uncertainty and the known. Now there is uncertainty, but there is the known that we are going to be dealing with some bad things down the road.

Chairman WALSH. Eric.

Mr. TREIBER. Our costs to insure our employees is increasing in double digit percentages each year. Our agents and providers have told us that that is what is going to happen, that is what we should expect going forward. We are a $30 million a year revenue company, and our health care burden has gone to $650,000 a year, so it is going up by $65,000 or $70,000 every year. That is a big number.

Chairman WALSH. And so what will that force you to do?

Mr. TREIBER. What we have done is we passed those increases along to our associates. And, in some cases, we pared back various benefits. For example, the dental benefit became an option and you have to pay for it extra. And people have a difficult time understanding that.

But it was mentioned here, the penalties for eliminating coverage altogether, we have run the numbers on that, in the absence of all the data out there, but it would be less expensive for us to forgo coverage——

Chairman WALSH. Forgo coverage.

Mr. TREIBER [continuing]. And pay the penalty.

But where does that leave our associates? That is not something that a four-generation family business wants to do.

Chairman WALSH. You have how many employees?

Mr. TREIBER. Two hundred and thirty.

Chairman WALSH. Okay. But even——

Mr. TREIBER. They are not all in the program. Some may be through their spouse—covered. We have about 120 people that are in the program.

Chairman WALSH. You are telling me what I have heard from most companies in the 100- to 200- to 300-employee range, that when you run the numbers, it will be much less expensive to basically just forgo coverage.

Mr. TREIBER. And I say that with not knowing what the future holds. There are a lot of things that haven't been enacted yet as part—in 2013 and 2014 that are going to hit the road.

Chairman WALSH. One specific question for each one of you. Eric, I will start with you. Manufacturing and the fact that—this is something that I hear at my town halls all the time: How are we going to get these jobs back here? How are we going to get the manufacturing sector back into this country?

In your estimation, balance all the regulation, what we have been talking about this morning, regulations and taxes, how that contributes to us not being able to keep manufacturing jobs here, balance that with policy toward China, other external forces that are preventing us or causing us to lose manufacturing jobs. How do you wrap it all up?

Mr. TREIBER. If the question was asked of me a few years ago for manufacturing in general, there would be a heavier slant toward offshore competition, currency manipulation, unfair trade practices, things of that nature. That is shifting more toward a focus on taxes and regulations in the fast past few years, as the cost of doing business in low-cost regions is rising. As their overall economies improve and their employees ask for higher wages, the costs levels are shrinking. And now we are focusing on other things, such as regulatory policies and taxes.

In no way diminishing the importance of what Perry does, it is our belief and has been our belief that manufacturing is the economic engine that drives this country. If you look back at all times of recession and times of prosperity, it is having a strong manufacturing sector. When that exists, we get to go use Perry's restaurant and we get the financial services from Craig. Without that, a nation that relies on Starbucks and McDonald's and banks is doomed for failure.

Chairman WALSH. So what are two or three things that your government can do to bring back and keep manufacturing jobs here?

Mr. TREIBER. Establish sound and responsible regulations through, for example, the REINS Act, which would require Congress to approve and the President to sign off on regulations that are of such a financial magnitude that they pass a certain threshold. That would be one ready example.

Chairman WALSH. So is it fair to say from your perspective that the regulatory environment in this country makes it very difficult to keep manufacturing jobs here?

Mr. TREIBER. No doubt about it. And all regulations aren't bad. We need environmental regulations. We need regulations for our employees to have a safe and comfortable workplace to go to. We understand that. We promote that. We are an environmentally very proud steward of our footprint.

But give us a chance to compete against other countries.

Chairman WALSH. Craig, we are losing small and community banks weekly in this country. Nobody worries for the big banks. They are fine, and they are sitting on a lot of cash. They have been taken care of. It is the small and community banks that have really taken it on the chin. I hear from small businesses in my district all the time that they can't get access to capital.

We held a hearing in Washington a few months ago and brought in the heads of small and community banks, and they all said the same thing to us: "The reason we can't lend is because of regulations." Namely, they pointed toward Dodd-Frank.

Give me your 30 seconds to a minute on Dodd-Frank, what we can and should do. I will limit you to 30 seconds.

Mr. LARSEN. Okay, I guess first of all, removing a lot of ambiguity in the bill. It was well-intentioned. I think they try to take care of the too big to fail. Part of the problem is that we didn't take care of too big to fail as it relates to overseas branches. So if they went down, I don't think that would solve the problem.

I think Dodd-Frank is a good example of legislation that was passed on the heels of a crisis that tried to address everything, and it didn't do much, in my opinion, to help. I think smarter regulation, more clear regulation, would be more helpful.

Chairman WALSH. Are you telling me you have the nerve to sit here, Craig, and tell me that Washington passed a piece of legislation without fully understanding what was in it?

Mr. LARSEN. Yes, believe it or not, yes.

Chairman WALSH. Okay.

Perry, I think you told me that before, but as a 14-year-old, how you and your family started that business, your business, back in the good old days; I don't mean this to be an easy question, but can you imagine doing that today? Would it be as easy to simply start a new business like that today?

Mr. MOY. We have to bring back that climate, Mr. Chairman. And we have lost sight of that. The strength of this country has always been the middle class. We are a blue-collar country. We have the values. We have the people. We have the wherewithal and the desire to succeed, but we have stopped them. Government has put a block right in front of them.

Chairman WALSH. My final question, short answer from each of you, there is obviously a lot that we as a country have to get right in the next year, or two or three. The biggest problem we have, which impacts everything, is we are not working. Americans are not working. Too many of us are not working.

Give me a brief answer as to, again, if you want, connect it to what we are talking about today, but when it comes to jobs policy, what can or should your government do or not do to help put this country back to work?

Eric, start with you.

Mr. TREIBER. I think things that are focused on creating jobs. I was lucky enough to sit in the Congress when President Obama addressed a joint session of Congress, and it was all about creating jobs. And now it looks like we are blocking it. There are a lot of holes out there.

As Perry said earlier, get out of the way of small business. We are the creators of the majority of jobs in this country. Get out of our way. Let us do business the way we need to do business, responsibly regulated, and we will create the jobs the way we have been doing it for decades.

Chairman WALSH. Perry, how are we going to get this country working again?

Mr. MOY. As an industry that employs almost up to 10 percent of the jobs here in this country, get out of our way. Don't regulate us. Don't mandate us. And again, no new taxes.

Let us create the jobs that we are capable of doing.

Chairman WALSH. Craig, you are president for a day. What is your jobs policy?

Mr. LARSEN. Reduce regulations, a stable tax policy, and the realization that government doesn't create jobs, business creates jobs. So every time you hear the government talk about, "We want to grow jobs, and we have a certain policy to do this or that," what they are doing is picking winners and losers.

I love what Perry said: Get out of our way.

Chairman WALSH. Thank you, three. And we are going to wrap up this field hearing here right now.

I would like to acknowledge Woodstock's finest, our mayor, for letting me sit in his chair this morning, Mayor Brian Sager in the back row there. Raise your hand?

Thank you.

Stick around, anybody, when I gavel the hearing to a close, I would be happy to answer anybody's questions informally and get your thoughts. And maybe we can get the witnesses to stick around for a little bit as well.

I would like to thank all three of you for coming today. You have all provided, I think, valuable insight into how decisions that we make in Washington impact you all. Most of the hearings that we hold, obviously, are in D.C. It is always enjoyable and, I think, as informative to get outside the Beltway and hold a field hearing.

I ask unanimous consent that any members of the Subcommittee have five legislative days to submit their statements and any supporting materials for the record.

Your written testimony as witnesses will be made part of the written record.

And without any objection, that has been ordered.

Chairman WALSH. Now we will gavel this hearing to a close. Thank you for coming.

[Whereupon, at 10:55 a.m., the Subcommittee was adjourned.]

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Testimony

of

Eric Treiber, President & CEO, Chicago White Metal

Before the House Committee on Small Business

Subcommittee on Economic Growth, Tax and Capital Access

"Is Uncertainty Contributing to the Jobs Crisis:

The Views of Local Illinois Small Businesses"

Field Hearing, Woodstock, Illinois

December 12, 2011

Good morning, Chairman Walsh and Ranking Member Schrader. My name is Eric Treiber, and I am president of Chicago White Metal based in Bensenville, Illinois. I also serve as a Board Member of our national trade association, the North American Die Casting Association (NADCA).

In Illinois, Chicago White Metal is one of nearly 40 die casting facilities and dozens of key suppliers employing thousands of workers. My company is a leading manufacturer of aluminum, magnesium and zinc die castings – all produced entirely in the United States. My grandfather started the company in 1937, which makes us a third-generation family business. We have nearly 230-employees; many of whom are in skilled trades and have an average tenure of more than 17 years each with our company.

Our customers come from the medical, automotive, industrial, telecommunications, and recreational industries just to name a few. Our metal castings are found in products all over the country. As an example, for the automotive sector, we produce a number of intricate magnesium and aluminum die castings that become part of rear view mirror assemblies, headlight housings, keyless entry systems, and the power system of electric vehicles.

Uncertainty Contributing to the Jobs Crisis

As you know, the manufacturing sector has been deeply affected by the recession with more than 2 million jobs lost. In fact, a number of die casting facilities were forced to shut their doors. A strong U.S. manufacturing sector is key to jobs, innovation and prosperity in the state of Illinois and America. To regain momentum and encourage hiring, the U.S. needs not just improved economic conditions but also government policies more attuned to the realities of global competition. We need sound and consistent policies in taxation, energy, labor, trade, health care, education and, certainly, regulation.

Unfortunately, many die casters are holding off hiring new employees for the following reasons:

1) We don't know if the economy will continue to pick up in 2012;
2) There is uncertainty about what our tax liability will be in 2012 and 2013 because a host of tax provisions expire at the end of this month and the Bush tax cuts are set to expire at the end of 2012;
3) We continue to face annual double-digit increases in our health care premiums;
4) We are faced with increasing costs associated with a wave of new regulations; and,
5) We are faced with potential increases to our energy costs. Manufacturers use one-third of our nation's energy supply. Die casters operate a large number of machines, including ones that melt the metal for our castings, lighting for our production lines and warehouses, – all requiring electricity and/or natural gas. In addition, we rely on rail, trucks and ships to receive our supplies, as well as for transporting our castings to our customers.

In particular, we are troubled by three new costly U.S. Environmental Protection Agency (EPA) regulations - the Boiler MACT, Utility MACT and Cross-State Air Pollution Rule – and, in particular, what their impact will be on energy prices. In the case of the Utility MACT, we are extremely alarmed that it could endanger America's power supply. The electric industry has only three years to comply with the new rules that are designed to force dozens of coal-fired power plants to shut down. It is likely that the nation's power grid will be stressed in ways never before experienced.

Given this great amount of uncertainty over the outcome of a number of critical government policy areas, instead of hiring new employees, the die casting industry is faced with utilizing overtime with its current workforce, and/or hiring temporary workers to fill their employment needs.

Over the last two years, we have not seen sensible and cost-beneficial regulation being proposed by federal government agencies. On the contrary, an aggressive federal bureaucracy has imposed excessive regulations with little regard for their impact on job creation and the economy.

Die casters need a level playing field. Our foreign competitors typically comply with fewer regulations and have governments that use every tool at their disposal to give those companies a competitive edge, frequently at the expense of U.S. manufacturers. The solution is to ensure the regulatory environment in our country does not put manufacturers at a disadvantage.

The sheer amount and breadth of the administration's proposed and newly implemented regulations make it impossible to address each and every one. In my testimony today, I will focus on two key areas – EPA regulations and U.S. tax policy.

Background on the Die Casting Industry

As an important segment of the larger metal casting industry, the die casting industry produces over one-third of all metal castings. More than 90% of all manufactured goods and capital equipment use metal castings as engineered components or rely on castings for their manufacture. Today, there are over 350 U.S. die casters manufacturing thousands of non-ferrous castings: from automobile engine and transmission parts to complex components for computers and medical devices. In the United States, die casters contribute over $7 billion to the nation's economy annually and provide over 50,000 jobs directly and indirectly.

The die casting industry is a microcosm of American business with over 55% of the companies having fewer than 100 employees, while our larger firms are world leaders. We offer good-paying, blue-collar jobs with benefits that have allowed our employees to support their families and send their children to college. The industry is widely dispersed throughout the country with the highest geographic concentration of facilities located in the mid-West.

Aluminum, magnesium and zinc die castings are helping automakers design and manufacture cleaner, safer, better performing cars that use less fuel and produce fewer emissions. In fact, die casters are producing castings for hybrid vehicles, plug-in electric and hydrogen vehicles, as well as vehicles using alternative fuels such as ethanol and natural gas.

In Illinois' 8th district, Allied Die Casting in McHenry, Illinois has been producing custom die castings since 1966. Also located in Congressman Walsh's district is Magma Technologies in Schaumburg. They are a supplier of metal casting process simulation software and related engineering services. Other Illinois die casters across the state are producing castings for power tools, security devices, furniture, commercial lighting fixtures, lawn & garden, and Harley-Davidson motorcycles to name just a few.

Regulatory Environment

The U.S. die casting industry has long recognized the need for sensible regulations to ensure workplace safety and protect public health. They help to keep employees in our workplaces safe and our environment clean. But the federal government has gone too far. A staggering 3,503 final rules were promulgated alone in 2009.

Some agencies are guilty of an agenda of overreach and insensitivity to costs and manufacturing. The EPA is currently advancing 20 proposed major rules and 173 others. The Health and Human Services Department is expected to release 30,000 pages of new health care regulations. Eleven different agencies are drafting 243 new rules governing the cost and access to credit for businesses. In addition, new rules and guidance documents have been developed by a range of agencies – from the Occupational Safety and Health Administration, Wage & Hour Division to the National Labor Relations Board and the Equal Employment Opportunity Commission.

For laws that affect manufacturers, there are often scores of burdensome regulations that impose substantial compliance costs – burdens often never anticipated by the lawmakers who passed the legislation. Meeting the demands of federal regulations can cost companies millions of dollars each year in staff time, equipment and programs. Our company specifically requires 1.5 staff members dedicated full-time to regulatory compliance.

Currently, the Obama Administration has 4,257 new regulations in the works, 219 of which will cost over $100 million annually – 15 percent more than last year. At a time when manufacturers are fighting to survive in an already tough economy, thousands of additional regulations will only result in significantly fewer jobs – hitting small businesses particularly hard.

A recent Small Business Administration report showed the total cost to employers of federal regulations is $1.75 trillion. The average regulatory cost for each employee of a mid-size manufacturer now exceeds $13,000 per year. Manufacturers bear the heaviest burden from environmental regulation, while facing similar or more stringent regulations in workplace, health, transportation, financial, and tax administration. Dollars spent by manufacturers on regulatory compliance with cumbersome or duplicative regulations are dollars not spent on capital investment or hiring new employees in America.

Some of the most economically threatening regulatory proposals come from the EPA. The agency has embarked on a decades-long process to implement the Clean Air Act and its amendments. There is no doubt that enormous benefits have been brought to our nation from efforts to improve air quality. But the continued ratcheting down of emission limits produces diminishing returns at far higher marginal costs. This means that each new air rule will have a greater impact on job creation than those in the past.

At the beginning of this year, the agency began regulating greenhouse gas (GHG) emissions from stationary sources under the Clean Air Act. While only the largest facilities will be regulated at first, this action sets the stage for future regulation of much smaller sources.

Despite being a small business, it turns out Chicago White Metal is already bound with a set of reporting requirements under the new GHG regulations. Nowhere did EPA announce and/or outline these new reporting obligations, nor have they done any type of outreach with the small business community. Our environmental manager was first made aware of the potential reporting trigger through our national trade association.

This got him interested in the topic and he began to research further. About 20 hours of research later, we discovered that die casters that utilize magnesium in their operations are immediately covered under Subpart T (Note: There are 47 subparts to the GHG rule).

Our company is now required to register at E-GGRT (Electronic Greenhouse Gas Reporting Tool). This took a bit of time, but now we have our user name and password. Beginning in 2012, we will have to start reporting our GHG emissions.

Our estimate is 6 hours of recording time per year, plus an unknown amount of time required for the actual reporting at the E-GGRT site since we haven't done this type of reporting before.

Die casters are also concerned that states are unprepared for the new permitting requirements under the GHG rule, which will cause significant delays. This permitting gridlock will likely discourage manufacturers from building new facilities or expanding their current facilities, hurting competitiveness and discouraging job creation. Furthermore, additional facilities –even the smallest businesses – will be phased into the onerous permitting requirements.

I believe that major regulations that place new burdens on the private sector should be subject to congressional approval. I support the REINS Act (Regulations from the Executive in Need of Scrutiny) which passed the House on December 7th. The bill requires Congress and the President to sign-off on all new regulations that have an economic impact of $100 million or more. It will increase accountability and job creation, two things we need a lot more of right now.

Many die casters also strongly support two additional bills, the Regulatory Accountability Act (H.R. 3010) and the Regulatory Flexibility Improvements Act (H.R. 527) which recently passed the House and will ease the burden of unnecessary regulations by reforming how regulations are analyzed —including mandating that agencies implement the least costly option to achieve the objective.

Many agencies have been using loopholes to avoid regulatory reviews that Congress intended, and this legislation will put a stop to this practice. Additionally, H.R. 527 takes the important step to subject independent regulatory agencies, such as the National Labor Relations Board, to the same regulatory principles as Executive Branch agencies. These two bills make positive changes to our regulatory review process. The regulatory system must take into account valid concerns without impeding innovation and job creation.

Tax Policy

As Congress begins debating tax reform, the tax code should strengthen the economy and provide businesses relief from burdensome and confusing tax rules and regulations. A strong economy is also critical to industry growth and job creation, which is why efforts to simplify and streamline the tax code must be found. Businesses face layers of taxes under the current system that is prohibitive as well as confusing. Many tax provisions are enacted on a temporary basis - in large part due to budgetary and political constraints - requiring repeated extensions (occasionally even retroactively). The uncertainty resulting from such temporary tax policy makes it difficult for die casters, which rely on five- and ten-year business strategies, to plan effectively for the future and remain competitive in an increasingly global economy.

In fact, several key business tax breaks currently available are set to change or expire entirely after December 31, 2011. While it is possible that Congress may choose to extend some of these provisions, there is no guarantee that the provisions will be available to the same extent in 2012. For example, absent congressional action, bonus depreciation and section 179 expensing will be extended in 2012, but at a lower rate of 50 percent bonus depreciation and a lower amount of $125,000 for section 179 expensing with a $500,000 phase-out cap. Currently, 100 percent bonus depreciation and a $500,000 amount for section 179 expensing is allowed with a phase-out cap of $2 million in 2011. Bonus depreciation and section 179 expensing provide tax relief for companies that want to buy capital assets, such as plant machinery and equipment. These historic capital investment incentives have had a positive impact and incentivized business purchasing and job creation.

The R&D tax credit is also set to expire at the end of this year. U.S. manufacturers (small and large), including die casters, perform half of all R&D in the nation, which drives more innovation than any other sector. To maintain this competitive advantage, tax provisions must be enacted that will stimulate investment and recovery, including strengthening the R&D tax credit and making it permanent. The R&D credit was first enacted in 1981, but since that time, it has been extended some 14 times. Without action this year, the credit will expire for the fifteenth time on December 31, 2011. In addition to this uncertainty, other countries are moving ahead of us by offering stronger innovation tax incentives to attract research and development and the good-paying jobs that go with it to their markets. In 2009, the U.S. ranked 24th out of 38 industrialized countries in the strength of its R&D tax incentives.

Companies often enjoy an assortment of attractive choices when deciding where to locate their headquarters, do their research or build new facilities. While the use of government incentives is commonplace, a country's or state's business climate itself ultimately determines where a company will be located.
As a springboard for future economic growth, investment and jobs, the United States must seek to be the best country in the world in which to maintain and locate a manufacturing company's headquarters.

To do this, we need a national tax climate that does not place U.S. manufacturers at a competitive disadvantage in the global marketplace. Chicago White Metal's tax rate is higher than its global trading partners like Canada, where companies pay perhaps half as much in taxes – 18 percent compared to our approximately 40 percent. The United States now imposes the highest or second-highest statutory corporate income tax in the world among developed nations, even as our competitors reduce their rates to improve their economic climate. Congress should reduce the corporate tax rate to 25 percent or lower without imposing offsetting tax increases.

Many die casters and more than 70 percent of American manufacturers are S-corporations that file taxes at the individual rate. We must institute permanent lower tax rates for individuals and small businesses that fall into this category.

Bear in mind as well that the Illinois income tax rates have increased, effective January 1, 2011. For C corporations, the Illinois corporate income tax rate increased from 7.3% to 9.5%; for individuals, the rate increased from 3% to 5%. Additionally, Illinois has suspended the ability for C corporations to utilize any net operating losses for tax years ending after December 31, 2010 through December 31, 2014.

Bottom line – Predictability and consistency in the United States tax code would allow for the long-term planning and investments that enable us to stay competitive.

Conclusion

Chairman Walsh and Ranking Member Schrader, thank you again for the opportunity to testify today on how the uncertainty regarding numerous federal government policies is contributing to the continued job crisis.

A thriving manufacturing sector benefits our country, puts people to work and drives the economic growth that is necessary if we are to bring down our debt. The best way to ensure economic growth and employment is by enacting a comprehensive and consistent set of policies that allow manufacturers to compete in the global marketplace. I would be happy to respond to any questions.

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Testimony of Perry Moy
Plum Garden Restaurant, McHenry, Illinois
On Behalf of the National Restaurant Association

For The Hearing On

"Is Uncertainty Contributing to the Jobs Crisis: The Views of Local Illinois Small Businesses"

Before

U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access

Monday, December 12, 2011

Congressman Walsh, Congressman Schrader and other members of the subcommittee, thank you for inviting me to appear before you today. I testify today on behalf of the National Restaurant Association, the leading business association for the nation's restaurant industry.

Thank you for asking for the restaurant industry's perspective on how uncertainty has affected jobs. We know a lot about that. When times are uncertain, restaurateurs are among the first to feel the effects.

Restaurateurs are job creators. There are nearly 1 million restaurants in the United States, with total sales expected to exceed $600 billion this year. We employ close to 13 million people. We're an industry of predominantly small businesses. More than seven in 10 restaurant establishments are single-unit operations. But taken together, our nearly 1 million restaurants are also the nation's second-largest private-sector employer, employing over 9 percent of the U.S. workforce.

Restaurateurs are entrepreneurs. We're dynamic, creative and competitive. We have to be ... we know we're only as good as the last meal we served. That keeps us on our toes. We operate on narrow margins; the median profit for a typical restaurant is about 4 percent, according to NRA research. So we must be attuned to everything: the weather, the economy, the latest food trends, the newest marketing tactics. We also are closely attuned to the impact of government actions at the federal, state and local levels.

I speak from close to 50 years of experience. My dad was a naturalized U.S. citizen, a descendant of the Chinese immigrants who helped build the U.S. railroad system. He died at the age of 30, leaving my mother with four young kids. In 1965, my family was living in Park Ridge, working at my uncle's restaurant. My mother and I got on a train and got out at the last stop: McHenry, Illinois. She and I walked down Main Street, where we saw a man washing a storefront's windows. I was 14. We asked about the rent. We settled on $70 a month and opened up the Plum Garden.

Forty-six years and more than a few grey hairs later, I'm proud to say we are the oldest independent restaurant in the history of our county. The Plum Garden is an 80-seat restaurant that employs 18 people. The restaurant has helped me raise my family. It's put men and women through college. It's taught hundreds of young people about the world of work. And it's been a home: Many of my employees have been with me for more than 20 years. I consider them to be part of my family. We've been privileged to be a part of our community, and I have felt proud to be able to give back. I've served as a McHenry County Commissioner, as chairman of the Illinois Restaurant Association, and as a Board member of the National Restaurant Association.

Our county has seen its share of tough times. We were a fast-growing area a few years back. Then the construction bubble burst. The economy took over every aspect of my business in 2008. 2009 was the worst year I've ever experienced. My customers included the carpenters, plumbers, electricians, realtors, and others who depended on the construction industry. They saw the bottom drop out -- and we saw a 30 percent drop in business at the Plum Garden. And while that was happening, food and energy costs skyrocketed. These are big-ticket items for restaurants. Price spikes of unexpected costs pushed us to the edge.

We needed to act. So we sat down as a team and said we'd work together to build up the restaurant. We reengineered the menu. We lowered some prices. We added some items. We agreed we would maintain quality and portion size. We got smarter about trying to sell. We asked staff to do more for less. In 2010, we started to turn around. But the storm lingers – our margin of profit has dropped to 1 or 2 percent.

Still, we were able to add four jobs last year: two in the kitchen, two in the front of the house. Adding a job isn't an easy decision. I need to know I'm bringing in enough business to meet payroll every week. That's particularly important in restaurants, where labor typically accounts for about a third of sales.

I've learned a lot in the past few years.

First, I think America has ignored its Main Street businesses. Small businesses can't get access to the capital they need – in good times and in bad. Banks are sitting on money but not loaning it out. Small businesses often can't meet the criteria to get funding. The SBA has good programs. I encourage the federal government to make the SBA loan process as easy as possible. If Congress can help keep the SBA's loan guarantees high, the bank's exposure is minimal. It's a way to ease the pain as we get out from under this.

Two, let's put a moratorium on new taxes, regulations and mandates. As entrepreneurs, we don't know what's around the corner. Health care is a huge concern. My business may be too small to be covered by the employer mandate in the new health care law -- but I know that every fellow restaurateur I talk to fears what's coming. Each new rule and regulation that comes to light seems more complicated than the one enacted before.

And that's just at the federal level. Businesses like mine are hit hard by all levels of government. In Illinois, the corporate tax went up more than 70 percent. Every government agency is scrambling for revenue. My restaurant just went through an internal audit. The state Department of Revenue looked at three years of our financials -- and concluded that the state owed <u>us</u> $112. So then they looked at our purveyor bills -- and told me that I owe a "use tax" of about 6 percent on the cooking oil I use. Apparently in Illinois cooking oil is considered 10 percent a "food" and 90 percent a "use." I was charged $5,000 for the $1,500 a month I spend on cooking oils.

We are good actors; we want to comply with the law. But these government mandates can divert our resources and savings. I'd rather spend those dollars on payroll and staff. Please take the steps you can to help me create jobs.

Three, give us a tax code that's predictable and fair. In my restaurant, we just spent about $8,000 to put in a small bar and a new section of our floor. When your profit margin has shrunk to under 3 percent, saving $8,000 for a small renovation is not easy. It took us about two years. Under today's law, I can depreciate that expense over 15 years. But Congress is about to let the 15-year depreciation schedule for restaurant construction and improvements expire and revert to 39 years -- even though we have strong support from members of Congress from both parties. This makes it hard for businesses to plan capital investments.

The same applies to hiring. The Work Opportunity Tax Credit is a great incentive for businesses to provide jobs for people who might otherwise fall through the cracks. It also expires at the end of 2011.

As a basic principle, the tax code also says that business expenses should be fully deductible. But to raise revenues, Congress now restricts the tax deduction for business meals to 50 percent. Full deductibility would bring the business meal deduction in line with other ordinary and necessary business expenses and boost jobs in restaurants and small businesses. The NRA submitted an extensive statement to this subcommittee last month about these and other tax reforms.

We firmly believe that the right public policies can encourage economic growth. For example, we thank Senator Durbin for helping to bring down the fees we pay when our guests pay by debit card. Congress's reforms are helping to bring an out-of-control market under control and help us pass these savings along to our guests.

Unfortunately, government often stands in the way of letting small businesses do what they do best -- grow their businesses and create jobs. Thanks for taking his time to hear from those of us on the "front lines" of job creation.

Testimony of
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On

Is Uncertainty Contributing to the Jobs Crisis:
The Views of Local Illinois Small Businesses

Before

the House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access

Monday, December 12, 2011

Chairman Walsh, Ranking Member Schrader, and esteemed members of the Sub-Committee on Economic Growth, Tax and Capital Access, thank you for inviting me here today to speak with you about the difficulties that small businesses face in today's uncertain political and economic environment.

My name is Craig Larsen. I am a CERTIFIED FINANCIAL PLANNER™ and President of AHC Advisors, Inc., a St. Charles, Illinois company that provides financial planning, investment management, and consulting services to individuals, businesses, governmental bodies, and pension funds. AHC is a fee-only investment company which means that we are paid directly by our clients, and not from commissions on the investments that our customers make. This enables us to give investment advice that is not based upon which investment will pay the highest commission, but rather on which investment is in the client's best interest. AHC is an independent firm that is not affiliated with any bank or brokerage company. We are a fiduciary to our clients at all phases of the investment relationship. As a fiduciary we put our client's interests ahead of all other interests, including our own, at all times. In addition, I presently serve as Treasurer of the Financial Planning Association of Illinois.

I formed my company in 1995, after beginning my career at the Chicago Mercantile Exchange and Chicago Board of Trade in 1987. My company is a small business. I have one full time employee, and one part time employee. My company is expanding and I need to hire another person. I will relate some of the challenges that I am facing later in my testimony.

My testimony today is shaped by my experience as a small business owner, a financial planner and wealth manager who deals with business owners, a former elected Township Trustee, and an observer of the political process.

My comments will focus on the uncertainty that businesses face regarding tax policy, as well as regulation.

Before I go into detail I want to state that from my perspective there are signs of optimism in our economy. Although unemployment is still too high and house prices are still significantly lower than their peak, retail sales are growing, business activity is improving, and the consumer has pared their debt burdens back to levels that make it much more likely that they will be able to expand spending in the future.

I see the glass as half full for the US economy, but a great deal of economic uncertainty remains. Some of this uncertainty is not in our direct control. For example we could be impacted by the credit crisis in Europe, or by an economic slowdown in the emerging markets. However there are some factors that policymakers can impact; namely the uncertainty created by unsettled tax and regulatory policy. This uncertainty has an impact on business planning and job creation.

TAX POLICY

The first area I would like to focus on is tax policy. The tax code is continuously being modified. The changes are often made to spur certain behaviors, reward favored industries, punish disfavored industries, and reward specific constituencies. These changes have been supported by both Democrats and Republicans over time.

The tax code is often used as a political tool to promote or discourage activity in the various sectors of the economy. In essence the government selects the winners through various subsidies and tax breaks. The government also dictates the losers through less favorable tax treatment and the absence or removal of subsidies.

At present there is great uncertainty regarding what future tax rates will be, as well as who will be favored and disfavored by any changes in the tax code. Congress does not look like it will extend many tax provisions that expire this year, such as the alternative minimum tax (AMT). I believe this is adding tremendous and unnecessary uncertainty to businesses, both large and small, as it relates to planning for the future.

The current tax rates will be in effect until the end of 2012. The inability to reasonably predict future rates on income, capital gains and dividends has a dampening effect on businesses. New business projects, or an expansion of existing ventures, are evaluated by using models that estimate take-home profits over the life of the project. A very important component of this evaluation is the expected tax rate.

It is my opinion that uncertainty about future tax rates is hindering job growth in our country. If businesses are unable to reasonably predict future tax rates how can they be expected to expand or undertake new projects on the margin if it is possible that future tax rates could be so high as to make these projects unprofitable? If businesses don't expand existing projects, or take on new projects, employment growth will remain muted.

Tax-favored industries and business are subject to change over time as our political leadership changes. I believe this adds a dimension of political uncertainty to business planning because today's winners may be tomorrow's losers if the political leadership changes. Therefore any rational business needs to consider this eventuality and plan accordingly. This may lead to an intense focus on short-term profits to be earned before the political winds shift against the business. This focus on the short-term may be detrimental to long-term growth for the business. This is not the way to encourage long-term healthy economic growth in our country.

Milton Friedman won the Nobel Prize in Economics in 1976. Friedman's work included the permanent income model, which included the observation that temporary tax cuts have less effect on consumption than economists had previously thought. Because temporary tax cuts are likely to be reversed, people react rationally by making consumption decisions based upon their longer-term income expectations.

Instead of working to set long-term tax rates, our recent political process has concentrated on short-term, one-time tax rebates and temporary tax rate changes. These temporary tax measures have been the product of both Republican and Democratic administrations. It is my opinion that, as Milton Friedman found, these temporary measures do little to stimulate long-run economic growth, and just add to our mounting national debt.

Tax policy is not only a federal issue. Here in Illinois, the state income tax rate has increased. The added tax burden reduces the ability of businesses to hire new employees as revenue is diverted from businesses profits to the state. Several large firms based in Illinois have threatened to leave the state as a result of these tax increases. At present the Chicago Mercantile Exchange (CME) and Sears are considering moving out of state if they don't get tax relief.

Finally, our tax code is tremendously complex, and continues to grow in complexity. In 1986, the goal of tax reform was to make the code more fair and simple. Since that time, there have been tens of thousands of changes and additions, each with its own set of rules, requirements, and phase-outs. This complexity, and the likelihood that it will continue to increase, adds to business uncertainty. Many of these changes are driven by special interests who are able to secure preferential treatment. In Illinois both the CME and Sears are seeking preferential treatment that won't be available to small businesses.

Although differences in political philosophy will shape an individual's view of how the tax code should be written, it cannot be disputed that more complexity and uncertainty in the tax code reduces the likelihood that business will invest in existing or new projects that will produce economic growth and, most importantly, create jobs.

REGULATION

In addition to writing legislation, federal, state and local governments are heavily involved with picking winners and losers through the regulatory process. These regulations tend to change over time, but are especially driven by changes in which political party in charge. Government regulatory activity increases the uncertainty in the business planning process, as industries must calculate that probability they may fall into disfavor in the future. I would like to stress that Republicans as well as Democrats have used regulatory policy as a means to pick winners and losers.

Increasing regulatory burdens are also having a dampening effect on economic growth and job creation. Although there has been a significant increase in regulation of many industries including health care and energy, I am going to focus on the industry in which my company is engaged – Financial Services.

The financial services industry is one of the most heavily regulated sectors of our economy. There are tens of thousands of pages that regulate financial companies. Often new regulations are passed in reaction to current events. For example Sarbanes Oxley and the Dodd Frank bill were both passed on the heels of traumatic market problems. However, what we see time and again is that new regulations don't eliminate problems in the future, even in the areas that they were specifically designed to address.

The Madoff scandal is a good example. What he did violated laws that were currently on the books, and I don't believe that additional regulations would have stopped him from engaging in fraudulent behavior.

Often after regulations are written they are subject to interpretation by regulatory bodies and the courts. In some cases there may be regulations that only become clear after regulators or the courts have had their say. Much of the regulatory code that governs the financial services industry was written in the 1930's and 1940's, and can be ambiguous in today's market environment.

Compliance is so complex that I have outsourced this area to an outside legal firm. Despite this, we spend quit a bit of time internally dealing with compliance issues. I estimate that our external and internal regulatory compliance costs exceeds $10,000 per year. These costs have increased since the passage of Dodd Frank. This is time and money that could otherwise be spent growing my business. Many firms in my industry have been sold by their owners, or merged with other firms, in the face of the burdens of ever growing regulations and escalating costs of compliance.

It is important to remember that every dollar spent on compliance is a dollar less that firms have available to pay new employees. In my industry that means that employment growth is shifted from a productive firm to one in another industry that is growing by virtue of gaining more business from firms who are struggling to deal with ever growing regulatory burdens. Not surprisingly, the very same firms that offer services to deal with increasing regulatory burdens often support these increased regulations. It is a profit engine for them.

I think a strong argument can be made that transferring resources from profit making activities to dealing with increased regulatory burdens won't have a positive effect on long-term economic growth, and job creation.

However, I don't believe that all regulations are bad. A set of consistent, clear, and reasonable regulations are important to have. Unfortunately that is not what we have in the financial services industry. Instead we have financial regulations that are vague and ambiguous in many areas, and in large part the product of the lobbying efforts of the very same financial institutions that were at the heart of the financial crisis.

A necessary update to current financial regulation would be the implementation of a common fiduciary standard among all "financial advisors" who give personalized investment advice. Currently some advisors act in the best interest of their clients as a fiduciary at all times. My company operates in this manner. Other advisors are not required to do so. This creates uncertainty in the industry and confusion for consumers. The Financial Planning Association (FPA), the CFP Board of Standards, and the National Association of Personal Financial Advisors (NAPFA) have joined together to advocate for a strong fiduciary standard for all financial advisors who give personalized investment advice.

MY EXPERIENCE AS A BUSINESS OWNER

My business is expanding. Last year, I hired a full-time employee and my company became eligible for a $2,500 tax credit through the Illinois *Small Business Jobs Creation Tax Credit.* Although I appreciate the tax credit, it only helps offset costs for one year. The costs of hiring and retaining an employee long term are much greater than this one-time tax credit. So much so that in my case I would have made the hiring decision even if the tax credit wasn't available. This goes back to the work of Milton Friedman that I referenced earlier – economic decisions are made based upon long-term expectations, and not short-term tax incentives.

I need to hire more people. However the costs of recent tax increases and compliance costs, along with uncertainty regarding future taxes and regulatory burdens, make it difficult to do so. I would like to hire a full-time employee. However, given elevated costs elsewhere, and potentially even greater costs in the future, I have made the decision to only hire a part time employee.

The financial burden that my business faces from the increase in the state income tax, increased regulatory costs, and rising insurance costs, combine to represent a large part of an employees salary. I can quantify these costs.

However, I cannot quantify what future tax rates will be, or, with respect to regulation, if I will find my company in a favored or disfavored group. I do know that given the huge size of the national debt, I am expecting my tax rates to be higher in the future. But, I do not have a clue as to how much higher they might be.

When I hire an employee, like most businesses, I want the employee to be with my firm for a long time. However, the uncertainty in tax and regulation policy make it difficult to make informed hiring decisions because I have uncertainty about what my costs will be. There are other areas that I have to consider in making employment decisions, for example employment law and health care regulations, but in the interest of time I will not touch on them today.

How am I supposed to make informed and rational decisions on hiring when there is so much uncertainty? As I mentioned earlier, in the face of increased tax rates and escalating costs of dealing with regulations I have determined that the prudent path for my company is to hire a part-time instead of a full time employee. I don't believe that I am alone. I think that businesses, large and small, are dealing with similar issues, and that this directly contributes to the stubbornly high unemployment rate that we face today in the United States.

It is my hope that we can leave the environment of tax uncertainty and excessive, politically driven regulations behind us. Our country would be better off if we put in place a set of limited, but common sense regulations, and a tax code that is less complex and provides businesses the certainty of knowing what their tax rates will be in the future. Businesses would then be able to plan for the future, grow, hire even more employees, and get our country back on a path of growth and prosperity.