March 1, 2013

The Honorable Orrin G. Hatch
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
United States Senate
Washington, DC 20510

Dear Senators Hatch and Alexander:

The U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, thanks you for introducing S. 399, the “American Job Protection Act,” which would repeal the employer mandate included in the Patient Protection and Affordable Care Act (PPACA). This requirement is already having a negative effect on employment and will continue to discourage small businesses from growing. In fact, the Chamber’s most recent quarterly small business survey released in January of 2013 confirmed that 71 percent of small business executives believe that implementation of the health care law will make it harder for them to hire more employees.

The PPACA requires businesses with 50 or more full-time equivalent employees to offer certain health benefits or pay steep penalties. Even businesses that do provide health benefits may still be subjected to draconian fines. Businesses with fewer than 50 full-time equivalent employees are hesitant to grow their businesses or hire what would amount to the fiftieth employee. Repealing this “shared responsibility” provision would not only protect existing jobs, but spur the creation of new jobs by removing the fear and uncertainty many small businesses are experiencing in anticipation of these coverage requirements that begin in 2014.

Prior to the enactment of the PPACA, businesses voluntarily offered health insurance to most Americans. According to the Employee Benefits Research Institute, more than 156 million Americans had employer-sponsored health insurance in 2009. But now, the employer mandate requires businesses to provide prescribed coverage, an unprecedented intrusion on employers’ freedom to develop employee compensation packages. This requirement is not only unlikely to achieve the objective of forcing all employers to provide federally prescribed coverage, it is also likely to incent employers to drop coverage entirely, limit employees’ hours, and restrict job growth.

The requirement would also disproportionately disadvantage low-income workers and the businesses that employ them, since these are the workers that would trigger the penalty provision and subject a business to unpredictable and significant fines. Further, for the first time, the PPACA defines a “full-time” employee as someone who works 30 hours per week, rather than the traditional definition of 40 hours per week.

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It is critical that the employer mandate be removed before it takes effect in 2014 so that employers can focus on strengthening their businesses, hiring more workers, and revitalizing the economy. The Chamber looks forward to working with you and your colleagues to enact this vital legislation.

Sincerely,

R. Bruce Josten