

## SENATE—Wednesday, July 28, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father, creator and sustainer of our lives, thank You for the gift of freedom. Lord, we are grateful for the religious, political, and social freedoms that bless our lives. Remind our lawmakers to think seriously about the blessings of liberty as they help people to reflect soberly about the cost of protecting our democratic way of life.

Raise up on Capitol Hill people who are true to You and who will follow wherever You lead. As they accept Your guidance, lift their burdens and keep them from being bogged down by trying to carry their problems without Your strength.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 28, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period

of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first 30 minutes and the majority will control the final 30 minutes.

Following morning business, we will resume consideration of the small business jobs bill. I will continue to work with the Republican leader today on an agreement to consider amendments to the bill. If we are able to reach an agreement, we will have votes on amendments today.

Last night, I filed cloture on the substitute and the underlying bill, two cloture motions. As a result, the filing deadline for germane first-degree amendments is at 1 p.m. today.

Senators will be notified when an agreement is reached and votes are scheduled.

### MEASURE PLACED ON THE CALENDAR—S. 3657

Mr. REID. Mr. President, S. 3657 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for a second time.

The assistant legislative clerk read as follows:

A bill (S. 3657) to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to object to any measure or matter.

Mr. REID. I object to any further proceedings on this bill.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

Mr. REID. Would the Chair announce morning business.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from Nebraska is recognized.

### PAPERWORK MANDATE ELIMINATION ACT AMENDMENT

Mr. JOHANNIS. Mr. President, I rise to talk about small businesses. I think we all know and recognize—certainly they do—that small businesses and businesses in general face a mountain of paperwork to comply with a whole host of regulations, most notably our very complex tax laws. Instead of trying to aid that, now Washington is increasing that paperwork mountain through a new 1099 mandate found in, of all places, the new health care bill. This mandate has absolutely nothing—absolutely nothing—to do with improving health care of this country, and it should not be a part of that law or any other law, for that matter. Thus, I am offering an amendment to repeal this mandate.

The amendment says no to piles of unnecessary paperwork which the IRS itself admits is going to be virtually useless. Any taxpayer with business income will be required to issue 1099 forms to all vendors from whom they buy more than \$600 of goods or services in any year. So now the most routine business expenses will be subject to this new burdensome paper trail.

Let me give my colleagues some examples. A laundromat that buys soap each week would now have to issue a 1099 to their supplier and the IRS at the end of the year. A landscaper who buys lawn fertilizer a couple of times a month will now be forced to issue 1099s to the companies they do business with, and no one is excluded. The law applies equally to businesses and churches and charities and even State and local governments.

A recent *cnmoney.com* article suggests that the cost of the new paper trail could literally swamp small companies. One small business organization conducted a survey and found that their members currently average about 10 1099 filings per year. The new rules would push that average to more than 200 filings—200 filings—per year, an almost 2,000-percent increase. Of course, their costs for that would skyrocket.

According to the National Federation of Independent Business:

At \$74 per hour, tax paperwork is the most expensive paperwork burden placed on small businesses by the Federal Government.

Small businesses have been hit so hard by this recession, they just simply cannot afford this new burden. We need to give them a break. They are imploring us to do something to help them.

According to the National Taxpayer Advocate, which is part of the IRS, this provision will affect—get this—40 million businesses in the United States,

including 26 million of our very small-businesses, our sole proprietorships.

Americans are desperately searching for jobs. They want to work. These businesses should be focused on growing, not be wasting their resources on unnecessary paperwork that the government won't even utilize.

The amendment I introduced is clear. It simply repeals the section of the law requiring the extra paperwork. I might add, it is paid for. It identifies two areas within the health care law to fully offset the repeal of this mandate. First, by lowering the affordability exemption from the new individual mandate from 8 percent to 5 percent, fewer individuals will be subject to the individual mandate.

The new health care individual mandate infringes on individual freedoms of Americans and, in my view, it has constitutional problems. People who did not want to buy government-approved insurance in the first place are compelled to buy it under the new law. Thus, exempting more people, especially the poorest among us, from this absolutely ill-advised mandate is a good thing. These folks may be living paycheck to paycheck and requiring one more thing to come out of that paycheck instead of making the mortgage payment or buying the groceries is not right. Thus, allowing more people to decide for themselves whether they buy health insurance when they look at all their other obligations is a positive.

Let's be clear. My amendment does not restrict these individuals from buying health insurance or signing up for government subsidies. My amendment simply says, if they don't want to, they don't have to.

Second, the new health care law establishes a \$15 billion, what I would regard as a slush fund for a long list of potential uses by the Obama administration, including the Community Transformation Grants Program. I generally support wellness programs. I believe in wellness. Who doesn't believe in wellness? However, concern has been raised that this fund will be used for a number of purchases that aren't specifically related to healthy outcomes. Thus, my amendment proposes that this fund not be allocated resources until 2018 to help offset removing this 1099 provision. It decreases the amount in this \$15 billion fund; it doesn't eliminate it, but it does give us time to get it right. Besides, this delay gives us more time to ensure that only worthy projects utilize taxpayer money. These outlined pay-fors will cover any government revenue that might be lost by this ill-advised 1099 provision. With record deficits, we must be accountable for tax dollars, so this amendment is fully offset.

Small businesses generate 64 percent of our job growth in this country. We need them. We need them to move us

toward economic recovery. Let's send a message that we want them to focus their time and money on hiring workers, on expanding our economy, not filling out unnecessary paperwork that even the IRS acknowledges is so overwhelming it will not be utilized.

My hope is, we will get a vote on this amendment later today, and I ask my colleagues to stand for small businesses, to stand by them, and to send the message to them that we want them creating jobs. I ask my colleagues to support this very commonsense amendment.

I yield the floor and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I am going to proceed in my leader time.

The ACTING PRESIDENT pro tempore. The leader has that right.

#### DEFLECTING ATTENTION

Mr. MCCONNELL. The small business bill we are now considering has an interesting history, and given the President's recent statements on the bill, it is worth recounting that history.

Remember, we got on this bill in June. But then Democrats took us off of it to move to financial regulation. Then last week, they took us off of it again to move to the DISCLOSE Act.

So if the President wants to criticize somebody about slowing this bill down, he simply has the wrong party. He needs to direct his criticism at Democrats, not Republicans.

The fact is Democrats had other priorities. They thought it was more important to impose job-killing regulations on the financial industry and give even more authority to the kinds of regulators who missed the last financial crisis.

They also thought it was more important to shut up their critics ahead of the fall elections by pushing a bill that amounted to an all-out assault on free speech.

These are the things Democrats have been doing instead of the small business bill. Yet the President continues to claim that somehow Republicans are the problem. Well, it is obvious what they are doing: They want to deflect attention away from the fact that trillions of dollars in government spending and debt has failed.

Spending, debt, regulations, more government—none of it has worked. Now they want to raise taxes on the very small businesses that are trying so desperately to create jobs.

It is time to change course and to do something that will create lasting private sector jobs and get us moving in the right direction.

Democrats can try to deflect attention away from their failed policies all they want, but the consequences of their actions are obvious to the American people.

It is time to put aside the liberal wish list and allow America's small business men and women to do something that has a chance of reviving this economy. Spending, debt, and tax hikes are the last things we need.

Republicans have offered a number of ideas to improve the small business bill and, until now, those amendments have been obstructed by the other side and, along with them, the bill itself.

I am encouraged to see that the majority has changed its mind and now seems committed to staying on this bill, allowing votes on Republican better ideas, and working with us on something other than raising taxes, growing the debt, or burying job creators in a sea of new regulation.

#### ENERGY

Mr. President, it is perfectly obvious that Democrats are doing their best to keep us from passing a serious energy bill before the August recess.

Later today, we expect the majority leader to offer the Democratic alternative to the oilspill response that the Republicans proposed last week.

This is not a serious exercise. All indications are that they don't intend to have a real debate about one of the most important issues we face. Anybody who has been here for any period of time knows that energy bills take at least a couple of weeks. So it doesn't appear there is either the time or the willingness on the other side to debate this critical issue.

We would have liked to have had a debate on ideas we have already offered. Our energy bill would give the President the ability to raise the liability caps on economic damages done by companies such as BP, without driving small independent oil producers out of business.

It would lift the administration's job-killing moratorium on offshore drilling as soon as new safety standards are met—a moratorium that one senior Gulf State Democrat says could cost more jobs than the oilspill itself. How can you have a serious energy debate without addressing a problem that a leading Gulf State Democrat said is costing more jobs than the oilspill itself?

Our bill has a true bipartisan commission—with subpoena power—to investigate the oilspill, rather than the President's antidrilling commission.

Importantly, it also takes good ideas from Democrats, including Senator BINGAMAN's idea for much needed reform at MMS. Surely, we can all agree that this administration's oversight at MMS is in need of major reform.