

Since June 2009, Ambassador Goldberg has served as the Coordinator for the Implementation of United Nations Resolution 1874, which imposed economic and commercial sanctions on North Korea. In this position, Ambassador Goldberg has relied on sensitive intelligence reporting to build a diplomatic consensus to search North Korean cargo.

President Obama nominated Ambassador Goldberg on October 23, 2009. After completing the pre-hearing procedures, the Intelligence Committee held a confirmation hearing on the nomination on December 1, 2009. As part of the confirmation process, Ambassador Goldberg was asked to complete a Committee questionnaire, pre-hearing questions, and post-hearing questions for the record. The answers he provided have all been posted to the intelligence committee's website. The Senate Foreign Relations Committee also held a hearing on Ambassador Goldberg's nomination on November 19, 2009.

In sum, Ambassador Goldberg will be an asset to INR and to the intelligence community. His management experience leading foreign embassies will serve him well as he takes the helm of INR. His background—particularly his service as a diplomat on four continents—prepares him to address the range of global intelligence questions INR analysts address.

I look forward to working with Ambassador Goldberg as he leads a highly respected and important agency within the intelligence community. I urge the Senate to approve Ambassador Goldberg's nomination.

Mr. REID. Mr. President, I ask unanimous consent that the nominations be confirmed en bloc; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; that any statements relating to the nominations be printed in the RECORD; and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were confirmed.

Mr. REID. Mr. President, it is hard to comprehend we have been working for weeks to get a couple people confirmed—actually four. One is the No. 3 person in the Pentagon. We just got that done, Clifford Stanley. The Secretary of Defense has been waiting for this person, as I have indicated, for weeks and weeks. This man is responsible for making sure the right troops go to Afghanistan and come back from Iraq. We finally got that done.

The nomination of Philip Goldberg I talked about before. He is Secretary Clinton's person to deal with intelligence matters coming before the Department of State. We finally got that done.

The sad part is we have two others on which we have been working. They were held up, we were told, by one Senator, but that is not the way it is. We

have, for example, a woman, Caryn Wagner to be Under Secretary for Intelligence and Analysis with the Department of Homeland Security. That is being held up by the Republicans. No. Again, Secretary Napolitano will have to wait to have, in this vast Department of Homeland Security, someone in charge of intelligence.

What is that about? It is about people trying to destroy our country—homeland security. The most evil people in the world are trying to do harm to Americans in our homeland, but yet we cannot get a person confirmed who has come out of the committee overwhelmingly. They are holding him up because of something no one knows. But we know every day that goes by, the security of this Nation is in jeopardy because of this.

I might note, this person being held up in the Department of Homeland Security, the Senator holding this up, it is my understanding, the junior Senator from Oklahoma, voted for this nomination out of committee. But he is holding it up now because of other matters. He was nice enough to call me and tell me—I did not talk with him, but he called my office to indicate he was going to hold this nomination.

Laura Kennedy, a career member of the senior Foreign Service—her job is going to be to deal with disarmament. It is too bad the United States of America, a nuclear power in the world, does not have a representative of ambassadorial rank to represent the United States at disarmament conferences. How is that one? Why it is being held up has nothing to do with her qualifications or background. It is some other reason.

I have told the President enough is enough. He has the right, as President of the United States, to do recess appointments. It should be done. What is being done to this President is unfair. It has never been done before. We have had to file cloture on many Presidential nominations that President Bush never had to do.

It is very unfortunate that because of the storms that have hit our Nation's Capital, it has been very difficult to get things done. We are not going to be able to bring this up now until next week. Well, we can't do it next week because it is a recess, the Presidents Day recess, and we are out for the week. So we can come back in 10 days or a week and try again. In the meantime, we don't have anyone dealing with disarmament for our country; we don't have someone helping one of the most important offices in the country, which is homeland security, dealing with the intelligence office.

What is that about? Telephone conversations that are picked up about someone trying to come and blow up the Capitol or one of the buildings in New York or Los Angeles or Salt Lake City or Portland or Denver. We have agents who have infiltrated some of these gangs—I will use that term very loosely—these clandestine operations

that are trying to do evil to the people in this country, and we don't have anyone heading that department. It is disgraceful.

The Republicans are holding up these people for reasons that have nothing to do with the background, morality, and competence of these people. They are just holding them up because they want to hold them up. We have had them held up for a number of weeks because they do not like a decision that has been made as to where a building is to be built. The Republicans have backed up the person who has been doing this because he wanted the building built in his State.

I would hope the American people understand what is going on here with this party of no. I have been a person who has gotten along very well in my career, Mr. President, being a very moderate person, trying to be someone who gets along with Democrats and Republicans, but I am obligated to speak out as to what is going on here, and I have only picked two of the numerous people being held up. There are scores of them being held up for reasons that have nothing to do with anything dealing with these people or how they will function once in office.

Frankly, I think the President should recess all of them—all of them. He has been given very little recognition for the importance of the job that he has been doing in trying to find the best people in America to fill these positions. No one can say Democrats did this when we were in the minority. We didn't do this. There were people held up, but this is something that is beyond the pale.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### SMALL BUSINESS PENALTY FAIRNESS ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Senate Finance Committee be discharged from further consideration of S. 2917 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title. The legislative clerk read as follows:

A bill (S. 2917) to amend the Internal Revenue Code of 1986 to modify the penalty for failure to disclose certain reportable transactions and the penalty for submitting a bad check to the Internal Revenue Service, to modify certain rules relating to Federal vendors, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2917) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows: S. 2917

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Penalty Fairness Act of 2009".

#### SEC. 2. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

“(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

“(A) in the case of a listed transaction, \$200,000 (\$100,000 in the case of a natural person), or

“(B) in the case of any other reportable transaction, \$50,000 (\$10,000 in the case of a natural person).

“(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than \$10,000 (\$5,000 in the case of a natural person).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

#### SEC. 3. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than June 1, 2010.

#### SEC. 4. APPLICATION OF BAD CHECKS PENALTY TO ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 6657 of the Internal Revenue Code of 1986 is amended—

(1) by striking “If any check or money order in payment of any amount” and inserting “If any instrument in payment, by any commercially acceptable means, of any amount”, and

(2) by striking “such check” each place it appears and inserting “such instrument”.

(b) EFFECTIVE DATES.—The amendments made by this section shall apply to instruments tendered after the date of the enactment of this Act.

#### SEC. 5. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) IN GENERAL.—Section 6331(h)(3) of the Internal Revenue Code of 1986 is amended by striking “goods or services” and inserting “property, goods, or services”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies approved after the date of the enactment of this Act.

#### REGARDING THE DEATH OF REPRESENTATIVE JOHN P. MURTHA, OF PENNSYLVANIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 413.

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

The legislative clerk read as follows:

A resolution (S. Res. 413) relative to the death of Representative John P. Murtha, of Pennsylvania.

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

Mr. REID. Mr. President, I had the good fortune of serving with JOHN MURTHA in the House, as the Presiding Officer did. He was a brave man. He was the first to break away and was noteworthy in complaining about the Iraq war. As a result of that, it brought a lot of attention to that issue.

I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 413) was agreed to, as follows:

S. RES. 413

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John P. Murtha, late a Representative from the Commonwealth of Pennsylvania.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

#### ORDERS FOR THURSDAY, FEBRUARY 11, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 2:30 p.m. on Thursday, February 11; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, the Senate will not be in session tomorrow due to the winter storm that has battered our area again, the Washington, DC area. Despite the storm, we are going to make progress on the JOBS bill. I had a good conversation earlier today with the Republican leader, Senator GRASSLEY, Senator BAUCUS, and others. We will continue to work with everyone on an agreement to move forward with this matter and Senators will reschedule any votes. I doubt seriously there will be any votes this week. It appears, from what I have been able to hear, people now cannot get planes to get here and they are having trouble getting planes to get out of here, so it has made for a very difficult situation. We will keep them informed as to what our schedule will be Monday next.

For the information of Democratic Senators, we are going to have a caucus on Thursday at 12:30, a very important caucus. We must do that. I want every member of the caucus to understand the JOBS bill, why we are moving forward. My friends, Senator DURBIN and SCHUMER—I was engaged with the Speaker and was not able to be on the floor during that vote. A number of Members have raised questions with my leadership, including Senator MURRAY. I want to make sure everyone understands clearly what is going on.

We have had a difficult time, as everyone knows, with the storms being such as they are. We were unable to have our caucus today, which would normally have given everyone the idea of what was going on, so I tell all Senators, I hope you can be here on Thursday. You certainly can't leave if you want to, the storms being such as they are. We are going to have that caucus at 12:30 on Thursday. The DPC luncheon will be put over until we get back, which is also extremely important. That is based on the retreat we had.

#### ADJOURNMENT UNTIL THURSDAY, FEBRUARY 11, 2010

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order under the provisions of S. Res. 413, as a further mark of respect for the late Congressman JOHN MURTHA.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, February 11, 2010, at 2:30 p.m.