

For now I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WHITEHOUSE. Mr. President, I am in an interesting predicament. I am informed there is no one from the minority party in town; this being the end of session, everybody has headed home. Therefore, there is no one around to respond to my unanimous consent request.

I will confess, I am inclined to take advantage of this moment by propounding the unanimous consent, which I would obviously win. The Presiding Officer would grant the order, since there would be no objection.

But I also believe that to do so would be inconsistent with the courtesies and the traditions of the Senate, and so I will not take that step at this time. But it is frustrating to be in this position of holding myself back out of respect for the traditions and courtesies of the Senate, when I feel that, at the moment, I am on the losing end of a violation of the courtesies and the traditions of the Senate.

So by the rule of what is good for the goose, my inclination to take advantage of this moment is reinforced. But I have great respect for this body, and I think the tradition that one does not propound unanimous consent requests without a member of the minority party present to object or otherwise respond or vice versa is one that merits respect.

Notwithstanding the predicament I find myself in, let me just say, in that absence of courtesy that has brought me here, I will yield the floor and we can return to this question when the Senate resumes. But for any who are listening, I think we are taking a step that some may regret, when the tradition of respect for the judgment of the home State Senators regarding a district court judge in their home State is disregarded in this way.

I will say no more. I will follow up when we return to session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### SMALL BUSINESS LENDING FUND ACT OF 2010—Resumed

Mr. REID. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus/Landrieu) amendment No. 4519, in the nature of a substitute.

Reid amendment No. 4520 (to amendment No. 4519), to change the enactment date.

Reid amendment No. 4521 (to amendment No. 4520), of a perfecting nature.

Reid amendment No. 4522 (to the language proposed to be stricken by amendment No. 4519), to change the enactment date.

Reid amendment No. 4523 (to amendment No. 4522), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions.

Reid amendment No. 4524 (the instructions on the motion to commit), to provide for a study.

Reid amendment No. 4525 (to the instructions (amendment No. 4524) of the motion to commit), of a perfecting nature.

Reid amendment No. 4526 (to amendment No. 4525), of a perfecting nature.

Mr. REID. Mr. President, I ask unanimous consent that all pending amendments and the motion be withdrawn.

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

#### AMENDMENT NO. 4594

Mr. REID. Mr. President, I call up the Baucus-Landrieu-Reid substitute amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS and Ms. LANDRIEU, proposes an amendment numbered 4594.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 4595 TO AMENDMENT NO. 4594

Mr. REID. I now ask to be reported the Bill Nelson first-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. NELSON of Florida, proposes an amendment numbered 4595 to amendment No. 4594.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To exempt certain amounts subject to other information reporting from the information reporting provisions of the Patient Protection and Affordable Care Act, and for other purposes)

At the end of subtitle B of title II, add the following:

#### PART V—ADDITIONAL PROVISIONS

#### SEC. \_\_\_\_\_. CERTAIN EXCEPTIONS TO INFORMATION REPORTING PROVISIONS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986, as amended by section 9006 of the Patient Protection and Affordable Care Act and section 2101 of this Act, is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection:

“(j) COORDINATION WITH RETURNS RELATING TO PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.—This section shall not apply to any amount with respect to which a return is required to be made under section 6050W.”.

(b) INCREASE IN THRESHOLD AMOUNT AND EXEMPTION FOR SMALL EMPLOYERS FOR REPORTING OF PAYMENTS RELATING TO PROPERTY.—Subsection (a) of section 6041 of the Internal Revenue Code of 1986, as amended by the Patient Protection and Affordable Care Act, is amended by adding at the end the following new sentences: “In the case of payments in consideration of property, this subsection shall be applied by substituting ‘\$5,000’ for ‘\$600’ and this subsection shall not apply in the case of any person employing not more than 25 employees at any time during the taxable year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer.”.

(c) REGULATORY AUTHORITY.—Subsection (k) of section 6041 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking “including” and all that follows and inserting “including—

“(1) rules to prevent duplicative reporting of transactions, and

“(2) rules which identify, and provide exceptions for, payments which bear minimal risk of noncompliance.”.

#### (d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts with respect to which a return is required to be made in calendar years beginning after December 31, 2010.

(2) PROPERTY THRESHOLD.—The amendment made by subsection (b) shall apply as if included in the amendments made by section 9006 of the Patient Protection and Affordable Care Act.

(e) PUBLIC COMMENTS AND SUGGESTIONS.—In order to minimize the burden on small businesses and to avoid duplicative information reporting by small businesses, the Secretary of the Treasury or the Secretary's designee is directed to request and consider comments and suggestions from the public concerning implementation and administration of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, including—

(1) the appropriate scope of the terms “gross proceeds” and “amounts in consideration for property” in section 6041(a) of the Internal Revenue Code of 1986, as amended by such section 9006,

(2) whether or how the reporting requirements should apply to payments between affiliated corporations, including payments related to intercompany transactions within the same consolidated group,

(3) the appropriate time and manner of reporting to the Internal Revenue Service, and

whether, and what, changes to existing procedures, forms, and software for filing information returns are needed, including electronic filing of information returns to the Internal Revenue Service,

(4) whether, and what, changes to existing procedures and forms to acquire taxpayer identification numbers are needed, and

(5) how back-up withholding requirements should apply.

(f) **TIMELY GUIDANCE.**—The Secretary of the Treasury is directed to issue timely guidance that will implement and administer the amendments made by section 9006 of the Patient Protection and Affordable Care Act in a manner that minimizes the burden on small businesses and avoids duplicative reporting by small businesses.

(g) **REPORTS TO CONGRESS.**—

(1) **IN GENERAL.**—Prior to the effective date of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, the Secretary of the Treasury shall report quarterly to Congress concerning the steps taken to implement such amendments, including ways to limit compliance burdens and to avoid duplicative reporting. Such reports shall include—

(A) a description of actions taken to minimize, reduce or eliminate burdens associated with information reporting by small businesses, and

(B) a description of business transactions exempted from reporting requirements to avoid duplicative reporting or because such transactions represent minimal compliance risk.

(2) **COMPARISON.**—Not later than 6 months prior to the effective date of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, the Secretary of the Treasury shall report to Congress a comparison of the expected compliance requirements after the implementation of such amendments to the compliance requirements under section 6041 of the Internal Revenue Code of 1986 prior to the effective date of such amendments.

**SEC. \_\_\_\_ . DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) **IN GENERAL.**—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of a taxpayer which is a major integrated oil company (as defined in section 167(h)(5)(B)), oil related qualified production activities (within the meaning of subsection (d)(9)(B)).”.

(b) **CONFORMING AMENDMENT.**—Section 199(d)(9)(A) of the Internal Revenue Code of 1986 is amended by inserting “(other than a major integrated oil company (as defined in section 167(h)(5)(B)))” after “taxpayer”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4596 TO AMENDMENT NO. 4595

Mr. REID. I now call up the JOHANNIS amendment No. 4596.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. JOHANNIS, proposes an amendment numbered 4596 to amendment No. 4595.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To repeal the expansion of information reporting requirements for payments of \$600 or more to corporations, and for other purposes)

At the appropriate place insert the following:

#### **PART IV—ADDITIONAL PROVISIONS**

##### **SEC. 4271. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.**

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

##### **SEC. 4272. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.**

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “8 percent” and inserting “5 percent”.

##### **SEC. 4273. USE OF PREVENTION AND PUBLIC HEALTH FUND.**

(a) **USE OF FUNDS AS OFFSET THROUGH FISCAL YEAR 2017.**—Section 4002(b) of the Patient Protection and Affordable Care Act is amended by striking “appropriated—” and all that follows and inserting “appropriated, for fiscal year 2018, and each fiscal year thereafter, \$2,000,000,000”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the enactment of section 4002 of the Patient Protection and Affordable Care Act.

##### **SEC. 4274. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.25 percentage points.

AMENDMENT NO. 4597

Mr. REID. I have an amendment to the language proposed to be stricken and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4597 to the language proposed to be stricken by amendment No. 4594.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the language proposed to be stricken, insert the following:

This section shall become effective 6 days after enactment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4598 TO AMENDMENT NO. 4597

Mr. REID. I now have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4598 to amendment No. 4597.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In the amendment, strike “6” and insert “4”.

#### **CLOTURE MOTIONS**

Mr. REID. I have four cloture motions at the desk: on the JOHANNIS second-degree amendment, the Nelson first-degree amendment, the substitute, and the bill.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions.

The legislative clerk read as follows:

#### **CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on JOHANNIS amendment No. 4596.

Harry Reid, Patrick J. Leahy, Dianne Feinstein, Charles E. Schumer, Herb Kohl, Joseph I. Lieberman, Jeff Bingaman, Barbara A. Mikulski, Richard J. Durbin, Al Franken, Byron L. Dorgan, Mark Begich, Benjamin L. Cardin, Amy Klobuchar, Kirsten E. Gillibrand, Jeanne Shaheen, Kay R. Hagan.

#### **CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 4595.

Harry Reid, Tim Johnson, Richard J. Durbin, Barbara Boxer, Al Franken, Byron L. Dorgan, Patty Murray, Robert P. Casey, Jr., Jon Tester, Jack Reed, Kay R. Hagan, Jeanne Shaheen, Patrick J. Leahy, Christopher J. Dodd, Bill Nelson, Tom Harkin.

#### **CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid substitute amendment No. 4594.

Mary L. Landrieu, Max Baucus, Dianne Feinstein, Patty Murray, Charles E. Schumer, Christopher J. Dodd, Al Franken, Robert P. Casey, Jr., Maria Cantwell, Sheldon Whitehouse, Byron L. Dorgan, Benjamin L. Cardin, Ron Wyden, Kent Conrad, Roland W. Burris, Jeff Merkley, Debbie Stabenow.

#### **CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 5297, the Small Business Lending Fund Act of 2010.

Mary L. Landrieu, Max Baucus, Dianne Feinstein, Patty Murray, Charles E. Schumer, Christopher J. Dodd, Al Franken, Robert P. Casey, Jr., Maria Cantwell, Sheldon Whitehouse, Byron L. Dorgan, Benjamin L. Cardin, Ron Wyden, Kent Conrad, Roland W. Burris, Jeff Merkley, Debbie Stabenow.

Mr. REID. I ask unanimous consent that the mandatory quorum calls be waived.

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

MOTION TO COMMIT WITH AMENDMENT NO. 4599

Mr. REID. Mr. President, I have a motion to commit with instructions at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill to the Finance Committee with instructions to report back forthwith with an amendment numbered 4599.

The amendment is as follows:

At the end, insert the following:

The Finance Committee is requested to study the impact of changes to the system whereby small business entities are provided with all opportunities for access to capital.

Mr. REID. Mr. President, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4600

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4600 to the instructions (amendment No. 4599) of the motion to commit.

The amendment is as follows:

At the end, insert the following:

"and the economic impact on local communities served by small businesses.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4601 TO AMENDMENT NO. 4600

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4601 to amendment No. 4600.

The amendment is as follows:

At the end, insert the following:

"and its impact on state and local governments.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

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

#### FILING DATE

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding an adjournment or recess of the Senate, Senate committees may file reported legislative and Executive Calendar business on Thursday, September 2, 2010, from 11 a.m. to 1 p.m.

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

#### APPOINTMENT AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to the provisions of S. Res. 105, adopted April 13, 1989, as amended by S. Res. 149, adopted October 5, 1993, as amended by Public Law 105-275, adopted October 21, 1998, amended by S. Res. 75, adopted March 25, 1999, amended by S. Res. 383, adopted October 27, 2000, and amended by S. Res. 355, adopted November 13, 2002, and amended by S. Res. 480, adopted November 20, 2004, further amended by S. Res. 625, adopted December 6, 2006, and further amended by S. Res. 715, adopted November 20, 2008, the designation of members of the Senate National Security Working Group for the remainder of the 111th Congress: Senator DANIEL K. INOUE, who serves in his capacity as President pro tempore of the Senate, and Senator JOHN F. KERRY to be majority administrative cochairman, while continuing in his already-designated position of Democratic co-chairman.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc Calendar Nos. 1025, 1026, and 1029; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, the President be immediately notified of the Senate's action; further, that the action under rule XXXI reflect that Calendar No. 948 should be included, not 958; and that the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF STATE

Rose M. Likins, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Luis E. Arreaga-Rodas, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

Peter Michael McKinley, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Colombia.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

#### AUTHORIZING TERMINATION OF CERTAIN EASEMENTS ON LAND OWNED BY THE VILLAGE OF CASEYVILLE, ILLINOIS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 232, H.R. 511.

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

The assistant legislative clerk read as follows:

A bill (H.R. 511) to authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements on this matter be printed in the RECORD.

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