

Whereas individuals, families, and businesses can benefit from professional insurance and financial planning advice, including an assessment of their life insurance needs; and

Whereas numerous groups supporting life insurance have designated September 2009 as "National Life Insurance Awareness Month" as a means to encourage consumers to become more aware of their life insurance needs, seek professional advice regarding life insurance, and take the actions necessary to achieve financial security for their loved ones: Now therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of "National Life Insurance Awareness Month"; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe the month with appropriate programs and activities.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader of the Senate and the Speaker of the House of Representatives, pursuant to Public Law 111-21, announces the joint appointment of Phil Angelides of California to serve as chairman of the Financial Crisis Inquiry Commission.

The Chair, on behalf of the majority leader, pursuant to Public Law 111-21, appoints the following to serve as members of the Financial Crisis Inquiry Commission: the Honorable Bob Graham of Florida, Heather Murren of Nevada, and Byron Georgiou of Nevada.

The Chair, on behalf of the minority leader, pursuant to Public Law 111-21, appoints the following individuals to serve as members of the Financial Crisis Inquiry Commission: Keith Hennessey of Virginia, and Douglas Holtz-Eakin of Virginia.

ORDERS FOR THURSDAY, JULY 16, 2009

Mr. BROWN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, July 16; 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 there be a period of morning business for 1 hour, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half, and with Senators permitted to speak for up to 10 minutes each; further, I ask that following morning business, the Senate resume consideration of Calendar No. 89, S. 1390, the Department of Defense authorization bill; and, finally, I ask that the mandatory quorum under rule XXII be waived.

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

PROGRAM

Mr. BROWN. Mr. President, earlier today, the majority leader filed cloture on the pending hate crimes amendment. We will continue to work on an agreement to vote in relation to the hate crimes amendment tomorrow. If we are unable to reach an agreement, the cloture vote would occur at 1 a.m. Friday morning.

ORDER FOR ADJOURNMENT

Mr. BROWN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the remarks of Senators CHAMBLISS, GRASSLEY, and WHITEHOUSE the Senate adjourn under the previous order.

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

The Senator from Georgia is recognized.

SUNSTEIN NOMINATION

Mr. CHAMBLISS. Mr. President, I want to speak on the nomination of Cass R. Sunstein to be the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget.

I placed a hold on the consideration of Professor Sunstein's confirmation after his hearing in the Senate Committee on Homeland Security and Governmental Affairs. I chose to do this because Professor Sunstein has written, lectured, and made recommendations on animal rights issues that are very troubling to me and to folks who make their living in agriculture and those who enjoy our Nation's great hunting and fishing heritage.

Let me just say, Mr. President, it is extremely unusual for this Member of the Senate to place a hold on anybody. It is not something I normally do.

Professor Sunstein has theorized that animals—he has theorized in writing as well as in speeches—that animals should be permitted to bring suit against their owners and others with human beings being their representatives. Let me say that again. Professor Sunstein has theorized in writing and in speeches that animals should be permitted to bring lawsuits against their owners and others with human beings as their representatives.

That is a very radical and strange position, and it not only got my attention but it got the attention of any number of other folks around the country, both within and without the agricultural sector of our country. The devastating effect this would have on animal agriculture is incalculable. Mistreated livestock do not perform well. American farmers and ranchers work every day to make sure their stock is cared for in a humane manner, and yet they would still face a tremendous threat from frivolous lawsuits under this misguided theory. Even though claims would be baseless, they would

still bear the financial costs of reckless litigation. That is a cost that would put most family farming and ranching operations out of business.

Professor Sunstein also made offhand remarks during lectures that "perhaps hunting ought to be banned." While he offered assurances during his nomination hearing that his personal view supported hunting, I am not a member of that committee and thus was not able to question Professor Sunstein personally during his confirmation hearing.

I greatly enjoy the time I spend hunting with my friends and family, and I was also very disturbed by this statement.

The Administrator of OMB's Office of Information and Regulatory Affairs must have a firm foundation in common sense, and we owe it to the American public to ensure that regulators are properly vetted by the Senate. That is why I held up Professor Sunstein's nomination in order to provide him an opportunity to explain his views on animal rights as well as the second amendment.

Since his original hearing, Professor Sunstein has met with people involved in agriculture, including the American Farm Bureau Federation, the Farm Animal Welfare Coalition, the National Pork Producers Council, and the United Egg Producers. He has heard their point of view and exactly how devastating some of his theories would be to the reality of earning a living in rural America. He has satisfied some of them, and some are still decidedly wary of his ideas.

I have also had the opportunity to meet personally with Professor Sunstein to let him explain, and me explain to him how detrimental his theories would be to the folks working so hard to feed this country and to hopefully obtain from Professor Sunstein assurances that he does not oppose hunting or the right to bear arms. I tried to figure out what he meant by saying that animals ought to have the right to sue individuals.

Let me say, Professor Sunstein comes highly recommended by a number of folks from the conservative side of the philosophical divide in this country. His ability to look at regulatory measures and to provide cost-benefit analysis is very intriguing. He is obviously a very competent person when it comes to that side of the business community. I have a great appreciation for that.

I had a very good meeting with Professor Sunstein yesterday, and after our meeting I received a letter from Professor Sunstein wherein he explained some of his statements and inflammatory ideas. In that letter, he stated that he "would not take any steps to promote litigation on behalf of animals" and that Federal "law does not create an individual right to bring lawsuits on behalf of animals against agriculture." He also stated that he believes "the second amendment creates

an individual right to possess guns for purposes of both hunting and self-defense.”

At this time, I ask unanimous consent to have the letter to me from Professor Sunstein dated July 14, 2009, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
July 14, 2009.

Senator SAXBY CHAMBLISS,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAMBLISS: Thanks so much for the meeting today, which I greatly enjoyed.

You requested my views on three subjects. Before commenting on the details, let me emphasize that if confirmed as Administrator of the Office of Information and Regulatory Affairs, my primary concern would be to ensure that regulations are consistent with the Constitution, the law as enacted by Congress, and the principles reflected in governing Executive Orders.

Your first question involved the Second Amendment. I strongly believe that the Second Amendment creates an individual right to possess and use guns for purposes of both hunting and self-defense. I agree with the Supreme Court's decision in the Heller case, clearly recognizing the individual right to have guns for hunting and self-defense. If confirmed, I would respect the Second Amendment and the individual right that it recognizes.

You also asked about litigation, by individuals, on behalf of animals. Let me be very clear: If confirmed, I would not take any steps to promote litigation on behalf of animals. In particular, federal law does not create an individual right to bring lawsuits, on behalf of animals, against agriculture. I do not favor and would not promote such a right.

Finally, you inquired about private enforcement of the law. Such private enforcement can in some cases be a useful way of ensuring compliance with legislative requirements, but it can also create serious harm, by imposing significant costs and burdens on those who are already obeying the law. Sometimes Congress concludes that the balance favors private actions; sometimes it decides against such actions. If confirmed, I would consult, and follow, congressional instructions on the question of whether private rights of action are available.

I hope that these answers are helpful, and I would be happy to address these or other issues at any time. All best wishes.

Sincerely,

CASS R. SUNSTEIN.

Mr. CHAMBLISS. Administration nominees deserve a fair hearing by the Senate, and Professor Sunstein is no different. While I cannot agree with his ideas, his legal theories, or his views, now that he has been educated about the toll they would take on hard-working farmers and ranchers in America, I am not going to keep him from any further consideration. I intend to lift my hold on Professor Sunstein.

I understand from Professor Sunstein now that he has a much better understanding of animal agriculture and our country's sporting tradition. I am optimistic that this open dialog with animal agriculture will continue. I obviously look forward to working with him to ensure he continues to carry

out exactly what he stated to me in his letter of July 14.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

TAXES AND HEALTH REFORM

Mr. GRASSLEY. Mr. President, I rise to discuss the high rate of taxation that is about to take place if the House of Representatives passes its health reform bill. I would also raise the issue about the effect the same level of taxation—not quite as high—would have under the budget adopted by this body back in March. I wish to address the tax hikes, particularly as they apply to small business, that President Obama and my colleagues on the other side of the aisle have proposed.

The latest tax hike proposal is the House Democrats' graduated surtax of up to 5.4 percent on those making more than \$280,000. For those Americans who are married but file separate returns, this surtax increases taxes for those making over \$175,000.

I refer to this surtax as a small business surtax because it hits small business particularly hard. Here is how the House's small business surtax works. In 2011 and 2012, singles making between \$280,000 and \$400,000 will pay an extra 1 percent, those singles making between \$400,000 and \$800,000 will pay an extra 1.5 percent, and those singles making more than \$800,000 will pay an extra 5.4 percent. Then in 2013 and after, these rates go to 2 percent, 3 percent, and 5.4 percent, respectively. The only way the rates do not go up to these levels is if one of the President's advisers, the Director of OMB, says in 2012 that there will be more than \$675 billion in health care savings by the year 2019 in the bill the House has recently written. That is right, in addition to the tax questions, we have the House leaving up to a partisan Presidential adviser—not the President himself or a nonpartisan organization such as CBO—that taxes stay up or can go down.

Another troubling aspect of this charade is that this does not deal only with actual savings achieved but instead calls for a partisan's 2012 estimate of savings to be achieved through the year 2019. The Joint Committee on Taxation, a nonpartisan professional group here on the Hill that advises Congress, correctly ignores this charade in its estimate of the House small business surtax and correctly assumes that the rates are actually going to go up after 2013.

In 2011 and 2012, then, for married couples, the small business surtax kicks in at 1 percent for those making \$350,000 to \$500,000, it rises to 1.5 percent for married couples making between \$500,000 and \$1 million, and it goes up to 5.4 percent for those making over \$1 million. Then in 2013 and later, the rates go up to 2 percent, 3 percent, 5.4 percent, respectively. As discussed above, the only way these rates do not

go up in 2013 is if the OMB Director decides they should not go up.

Let's look at this tax increase from the venue of small business. I know people listening, as well as my colleagues, think: You talk about people making \$1 million or half a million dollars, why can't they pay another 2, 3, or even 5 percent? It is a situation where small business in America creates 70 percent of the jobs. It is a case of where most small business operates on cash flow, not investment from the outside as normal corporations would. So we are talking about the health of our economy, and we are talking about getting the economy out of this recession we are in.

By the way, the President and I agree that 70 percent of the new private sector jobs are, in fact, created by the small businesses I have just described. However, where the President and I differ is that I believe small businesses' taxes should be lowered, not raised during this time of getting the economy back on track—particularly when you look at the stimulus bill that was passed back in February. It doesn't appear to anybody as if it is doing any good yet, like creating the jobs it was supposed to do, like keeping unemployment under 8 percent, which is now 9.5 percent, and only one-half of 1 percent of that \$787 billion stimulus package was to help small business. We ought to be doing something, if we want to revitalize the economy, that helps small business, and increasing taxes on small business will not do that.

In 2001 and 2003, Congress enacted bipartisan tax relief designed to trigger economic growth and to create jobs by reducing the tax burden on individuals as well as small businesses. This included the across-the-board income tax reduction which reduced marginal tax rates for income earners at all levels. I know people do not believe this, but if you look at the allocation of the tax by the highest 1 percent of the people, even after the 2001 tax cut, you saw that highest 1 percent still paying a larger proportion into the Federal Treasury, of income tax, than they were doing prior to that. So even with tax reduction, you end up with a more progressive Tax Code—which nobody is willing to admit, but we can back that up by figures. It also, in 2001, included a reduction of the top dividends and capital gains tax rate to 15 percent and a gradual phaseout of the estate tax.

Unfortunately, the way you have to write tax bills under the reconciliation process around here, those tax bills enacted in 2001 and 2003 will expire December 31, 2010, and automatically we are going to get the biggest tax increase in the history of the country without even a vote of Congress because of sunset.

Some have referred to this bipartisan tax relief as “the Bush tax cuts for the wealthy.” However, it seems to be easily forgotten around here, but this tax relief was bipartisan tax relief and provided tax relief for all taxpayers. They