

Statement of Congressman Dan Lungren

Buried in Paperwork: A 1099 Update

**Committee on Small Business
U.S. House of Representatives**

February 9, 2011

First of all, I would like to thank the committee for this opportunity to testify regarding my legislative proposal—*The Small Business Paperwork Mandate Elimination Act of 2011 (H.R. 4)*. I wish to acknowledge that the Small Business Committee is the appropriate place to begin a discussion of my bill. The idea for H.R. 4 had its genesis in the groundswell of concern among the small business community over the unintended consequences of a 170 word provision buried within the 340,000 words of the health care law.

Essentially, Section 9006 of the “Patient Protection and Affordable Care Act” will require all businesses – and non-profit organizations – to file 1099 forms for every business-to-business transaction over \$600 per year. This new mandate is set to take effect on January 1, 2012.

Regardless of one’s view of the health care bill itself, the new 1099 filing requirement could not be more ill-conceived. The focus of this Committee relates to expanding opportunities for small businesses. Unfortunately, Section 9006 takes us in precisely the opposite direction.

We should be looking for ways to free small companies from unnecessary burdens. We should be looking for ways to free up “the animal spirits” in

order to encourage entrepreneurship. Rather than imposing new obstacles for companies, we should be seeking ways to restart the engine of job growth.

Imposing new paperwork burdens on our nation's job creators is misguided and certain to hamper the efforts of small companies to work their way out of our nation's lingering economic distress. In the current environment, it is not acceptable for us to dismissively pass off regulatory compliance costs without assessing their real-world effects on those who produce goods and services.

We do not have the luxury of thinking of the small business community as a constant variable which can easily absorb additional costs of doing business. Even in normal times, it is challenging enough for new business ventures to succeed.

In a report for the Small Business Administration (SBA), Office of Advocacy, Paul Headd points out that although small businesses are a dynamic source of job creation for our economy, they also operate in an environment best characterized by the notion of "creative destruction." In

this regard, SBA data indicates that half of all small businesses fail within the first five years.

The new 1099 filing requirement is emblematic of the broader array of regulatory obstacles which add to the difficulty faced by small business owners who are just trying to survive. This new government mandate only adds to the perceived burdens which lie ahead and raises what might best be described as an “uncertainty tax.” If we want to encourage investment, hiring and business growth, we should be looking at ways to create an environment which is more friendly to entrepreneurship. In this regard, the new filing requirement is entirely a step in the wrong direction.

I would also suggest that the specific impact of Section 9006 involves more than the additional paperwork requirements and compliance costs. Although this alone is sufficient justification for repeal of this onerous provision, there are also potential behavioral responses to it which are equally pernicious.

If a company does business with a number of suppliers, Section 9006 would require 1099 forms to be filed with respect to each of the suppliers where the sum total of the transactions exceed \$600 per year. One possible effect of

this is that there will be new incentives for companies to reduce the number of their suppliers by relying on larger entities to provide them with goods and services. Small businesses could prove to be a casualty of the law of unintended consequences.

Let me be clear that I accept the proposition that every person and every business entity has both a moral and legal obligation to fully report their taxable income. My legislation is not directed at this premise of our tax laws. What is at issue however is whether Section 9006 is a rational method of accomplishing compliance-related objectives. The fundamental problem with the new 1099 reporting requirements is that they are imposed on the broad universe of small business taxpayers that annually conduct more than \$600 of transactions with other vendors. The new filing requirements are both burdensome as well as over-inclusive.

According to National Taxpayer Advocate Service-analysis of 2009 IRS data, about 40 million businesses and other entities will be subject to the new requirement, including roughly 26 million non-farm sole proprietorships, 4 million S corporations, 2 million C corporations, 3 million

partnerships, 2 million farming businesses, 1 million charities and other tax exempt organizations and more than 100,000 government entities.

The overwhelming number of small business constituents that we represent, and who follow the law, will be forced to assume a new reporting burden which is patently unfair to them.

Finally, I would suggest to the committee that Section 9006 conveys the worst possible message to the small business community. It reflects a disconnect with the day to day reality faced by the men and women involved with companies in each and every one of our districts. As one small businessman recently related to me, "This is what you would expect from someone who has never laid awake at night worrying about making a payroll." He's right, and we shouldn't be adding to the worries of those who run small business enterprises.

With 269 cosponsors, I consider it a privilege to come before this committee to make our case. I was heartened by President Obama's comments during his State of the Union message calling for the repeal of this new burden on small business. We have an opportunity to work together and to

demonstrate to those who create jobs that we do in fact understand their struggles, and that it is our intention to remove rather than to impose new obstacles in their path.