

If we pass the second-degree amendment, quite simply, what we have voted yes to do is delay the repeal of the 1099 amendment and eventually we are going to flirt with disaster on this and it will not get done.

We need to focus all our energy on helping our job creators grow and create more jobs, not force them into worrying about hiring more accountants. Pardon my boldness but there is no reason to delay. An identical version of my amendment passed the House with large bipartisan support: 314 to 112. I urge my colleagues, with all I have, to oppose the second-degree amendment my friend from New Jersey is proposing.

Let's be clear. This latest distraction from 1099 repeal is just that—it is a distraction. We all know it is not truly about a study to look at health care costs. If we want to do a study, put the amendment on some other piece of legislation. This is about derailing and delaying the 1099 repeal because if the second-degree amendment passes, it says: Instead of sending this to the President to become law, we need to go back to the drawing board.

While the proponents of the second-degree amendment will claim it is innocuous, make no mistake, it is designed to obliterate this amendment because of a budgetary offset. Again, I remind us, a similar offset was passed unanimously recently by the Senate. Just like a Politico article from yesterday noted: "Senate Democrats are working on an amendment that could kill the [Republicans' pay-for in the future]."

If the second degree passes, then we are essentially adding nearly \$25 billion to our debt over the next 10 years. While some may preach the virtues of pay-as-you-go rules, when it comes right down to it, they will undermine virtually any fiscally responsible pay-for.

So here we are again crossing the same bridge we have crossed so many times before. In fact, the Senate refused this idea when we rejected the Baucus amendment that repealed 1099 but was not paid for. That amendment fell 23 votes short of passage because it fiscally did not make sense.

So why are we still here aimlessly walking around in circles when we ought to be marching straight ahead? Why are we proposing to send this bipartisan legislation back to the House? Because that is what will have to happen, when it ought to go directly to the President's desk for signature.

Our vote today can send a message that we have all the votes necessary to get this done and get it on the President's desk and everybody can celebrate: our job creators, Democrats, Republicans, Independents.

The logic of the second-degree amendment is absolutely baffling. Here we are in the ninth inning and somehow our pay-for has become magically unacceptable, even after a similar pay-for was approved unanimously by the

Senate before. Where were all the objections? Where was the demand for further study when we unanimously approved a similar offset for the doc fix legislation?

Let me be very clear: A vote in favor of the second degree is a vote against our business and job creators. My amendment has been waiting for a vote for 14 days now, and the repeal has been pending for nearly 1 year. Isn't enough enough?

The time for delay and further study must be over. Let's pass my amendment today by an overwhelming vote of the Senate. Let's reject the second degree. Let's get this piece of legislation to the President for his signature and we can all celebrate. Small businesses, our job creators, deserve no less.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

GOVERNMENT SPENDING

Mr. SESSIONS. Madam President, government funding is set to expire next week on April 8. We are in the midst of the 2011 fiscal year that ends September 30, and the Congress has only appropriated money through April 8. If Congress does not act by that time, the government would shut down.

Congress needs to act, but Congress needs to listen to the American people and listen to the financial experts whom we have dealt with and reduce spending and reduce the surging deficit we face this year, last predicted to be \$1.4 trillion. Nothing has ever been seen like it before, and it has to be addressed. There is no way around it.

So we have this deadline hanging over our heads, and the reason is, my colleagues in the Democratic leadership in the Senate will not agree to the kind of substantial but realistic spending reductions the House of Representatives has sent to us. The House has sent us a budget plan that I think will work. But what we hear is, the sky will fall if we trim the \$61 billion from a \$3.7 trillion budget—\$3,700 billion that we spend—if we reduce that spending by \$61 billion, somehow this will cause the country to sink into oblivion.

The American people know better than that. That is not realistic. Of course, we can cut those kinds of numbers out of this huge budget we have, and the American people will be better off for it.

As ranking member on the Budget Committee, I have looked at the numbers, and that \$61 billion reduces the baseline of Federal spending by \$61 billion this year, but over 10 years—because it is a baseline reduction—it would save \$860 billion. This is the kind of small but significant step that does make a difference.

People say: It does not make any difference. Why don't we just increase spending? Why do we cut spending at all? Of course, we have to reduce spend-

ing. The American people know the borrowed money and overspending of the past 2 years have failed to produce what it promised. Instead, all that has been achieved through this massive surge in Federal spending, through the stimulus package and other programs, is a crushing debt burden that weakens our economy and is a drag on our economy, as expert witnesses have told us. It threatens our economic future. Alan Simpson, former Republican Senator, and Erskine Bowles, formerly the Chief of Staff to President Clinton, were appointed by President Obama to cochair the debt commission. The fiscal commission reported to us, and jointly they submitted a written statement that said if the United States fails to act, it faces "the most predictable economic crisis in its history." This is a real warning. They said such a crisis could arrive in as soon as 1 or 2 years.

People have been saying: Oh, we are on the wrong track. If we do not get off it, in 3 or 4 or 5 years, we are going to have a crisis. More and more people are warning us that crisis is sooner. Mr. Bowles said: In 1 year, give or take a little bit, we will have a crisis. Mr. Simpson said: I think within 1 year.

The American people rightly expect their elected leaders to confront this threat with seriousness and candor. But the President has never once looked the American people in the eyes and told them the truth about the financial crisis we face. Has he ever discussed those kinds of words with the American people, that we face an actual crisis? We could have a debt problem that hits us very quickly, just like the one in 2008 that put us in a deep recession. We are in a fragile recovery now, and we need to keep that recovery going. The last thing we need to do is have another recession, or some sort of other financial collapse that puts more people out of work and weakens an already struggling economy. It is not necessary this occur.

The President and his Budget Director have, instead of being truthful with us, falsely boasted to the American people that under their budget we will "live within our means" and "not add more to the debt" and that "we're not going to spend any more money than we're taking in." He submitted his 10-year budget to the Congress, and that is what he says his budget will do. But not one of those statements is true—not one.

When the budget was announced, Mr. Bowles, whom the President appointed to head the debt commission, said it is nowhere close to what we need to be doing to get our house in order. In fact, the Congressional Budget Office finds this: that our annual deficits never once fall below \$748 billion. I was saying \$600 billion before based on the President's estimates of his budget. Now the Congressional Budget Office has done an independent analysis of the President's budget, and they say the lowest single annual deficit, in 10 years, would be \$748 billion.

Is it going down, you ask? Is this budget going to put us living within our means and live on what we take in? In the outyears, the deficits out 7, 8, 9, 10 years of the President's budget, they are going up. In the 10th year, the budget deficit is \$1.2 trillion—a \$1,200 billion deficit that year.

You might ask: What do those numbers mean? We spend, this year, about \$3.7 trillion through September 30. We take in \$2.2 trillion. This is why we are on an unsustainable path and we have to get off of it. It is not a partisan matter; it is a matter of facing reality. We still have Members of the Senate in denial. We have the majority leader down here complaining that he might not get money for his cowboy poetry festival in Nevada. Give me a break. This country is headed on the path of great danger and we need to turn around.

Imagine the fate a CEO would face if, in the process of asking for shareholders to buy company stock, he declared, "We are not adding to the debt," while his accountants were telling him the company's debt was on a path to double, as our debt is. The President even nominated a deputy director for OMB, Heather Higginbottom, who has no budget experience and who attempted to defend these claims before the Budget Committee last week. I don't know, maybe they couldn't find anybody with experience who would take the job. The best I can tell, she has never had a single business course or an economics course, never managed any kind of organization on budget, ever. She majored, I think, in political science and campaigned for President Obama and Senator JOHN KERRY.

We need some seriousness here. We in Congress are not stepping up to the plate, frankly. We are not taking the kind of decisive action needed to curb our rising debt. And the majority leader, my good friend, Senator REID—which is a tough job, I have to tell my colleagues; it is a tough job—but now he is saying the problem is there is a division within the Republican Party. You see, we have these extremists over here, the new Republicans who got elected the last election promising to do something about spending and they are out of touch. They are extremists. There are some good Republicans over here. They have been here a long time, and we know how to get along and cut deals and we are going to take care of this thing. You just have to keep these people under control.

I might remind the leader that every single Republican either voted for the \$61 billion in cuts or called for more cuts. There is no division in the Republican Party about the need to have reasonable and significant reductions in the expenditures. There is essentially unanimous Republican agreement that we ought to cut \$61 billion or more from this year's discretionary budget. By contrast, the majority leader lost nearly one-fifth of his caucus on his proposal, which was basically to do nothing—reduce spending by \$4 billion.

Ten Members or more defected. They knew that wasn't enough, even under pressure from the President and from the majority leader. So it is clear where the momentum lies.

I wish to repeat again, though: This is not and cannot be seen as a partisan squabble. The Chairman of the Federal Reserve talked to us a few weeks ago, and he submitted a written statement to the Budget Committee. This is what Mr. Bernanke said. He talked about the Congressional Budget Office debt projections. I have made some reference to those and how dangerous they show our path to be.

This is what Chairman Bernanke said:

The CBO projections, by design, ignore the adverse effects that such high debt and deficits would likely have on our economy. But if government debt and deficits were actually to grow at the pace envisioned in this scenario, the economic and financial effects would be severe. Diminishing confidence on the part of investors that deficits will be brought under control would likely lead to sharply rising interest rates on government debt and potentially to broader financial turmoil. Moreover, high rates of government borrowing would both drain funds away from private capital formation and increase our foreign indebtedness, with adverse long-run effects on U.S. output, incomes, and standard of living.

He goes on to say:

It is widely understood that the federal Government is on an unsustainable fiscal path. Yet, as a nation, we have done little to address this critical threat to our economy. Doing nothing will not be an option indefinitely; the longer we wait to act, the greater the risks and the more wrenching the inevitable changes to the budget will be. By contrast, the prompt adoption of a credible program to reduce future deficits would not only enhance the economic growth and stability in the long run, but could also yield substantial near-term benefits in terms of lower long-term interest rates and increased consumer and business confidence.

This is the head of the Federal Reserve, the man supposedly most knowledgeable about the economy of the United States of America. We are not making this up.

We have a proposal from our Democratic majority in the Senate to do nothing, basically—to do zero, nada—despite this kind of warning.

We are living in a fantasy world if we don't think we can cut \$61 billion from this budget. My friend John McMillan, just elected the director of Agriculture and Industries in Alabama, is facing a critical crisis in his department. I saw the headline in the paper. He has 200 employees. He is going to have to lay off 60 of them. Cities and counties are doing this kind of thing all over the country. Do we think the State of Alabama will cease to exist if that happens? It is sad that they have that kind of challenge before them. We don't have to do that much right now, but if we took those kinds of steps—something significant—we could make a bigger difference than a lot of people realize in the debt we are facing.

Governor Cuomo in New York and Governor Christie in New Jersey and

Governor Brown in California and others all over the country are making real, significant alterations in the level of spending, while we worry about protecting the cowboy poetry festival in Nevada.

Remember this—people have forgotten this. Since President Obama took office, Congress has increased discretionary spending on our non-defense Federal programs by 24 percent. We didn't have the money for that. We never should have increased spending that much. It was a big error. But we know what they said: Don't worry, we are making investments in the future. But you have to have money to make investments. If you don't have money, how can you make investments? All of this increase was borrowed. We are in huge debt and when we increase spending, we have to borrow the money to increase spending. Every penny is borrowed. We did an \$800 billion stimulus package. Every penny was borrowed. We pay \$30 billion-plus a year interest on that borrowed money for as long as I am alive and longer, no doubt. There is no plan to pay off that debt. I know people are talking and they are working things out and they said they are going to try to reach a compromise so we don't have to shut down the government, and I certainly hope that is true. But I do not believe we need any tax-and-spend compromise. I will not support that. I don't think the American people will support it, either. They know we spend too much. They know we have ramped up spending \$800 billion with the stimulus package, that nondefense discretionary spending has gone up 24 percent in 2 years, and they know we can reduce Federal spending without this country sinking into the ocean. That is what they expect us to do. That is what Governors and mayors are doing, county commissioners are doing, all over my State and all over America.

We have to recognize that Washington is spending too much—not taxing too little. How can we ask Americans to pay more in taxes when Washington is not even willing to cut \$61 billion?

I have a proposition for my colleagues who wish to raise taxes before we consider asking the American people to pay another cent in taxes: Why don't we first drain every cent of waste from the Federal bureaucracy? We will never truly dig ourselves out of this crisis and put this Nation on a real path to prosperity unless we bring our spending under control. America's strength is measured not by the size of our government but by the scope of our freedoms and the vigor and vitality of the American people and their willingness to invest and work hard for the future. That is what makes us strong. Endless spending, taxing, and borrowing is a certain path to decline, and we are on that path today, and we must get out of it.

We know the threat. We know what we need to do. The economy is trying

to rebound. So let's take some good steps today. Let's pass this \$61 billion reduction in spending this fiscal year. It will amount to about \$860 billion over 10 years. It will be a very significant first step. That is what is before us today—not the other issues. We have to decide what we are going to do about funding the government between now and September 30. That is the rest of this fiscal year. Let's take a firm step on that. Let's begin to look at what we are going to do for next year's budget and what we are going to do about our surging entitlement programs that are on an unsustainable course. We can do all of those things and leave our country healthy and vigorous and prosperous for the future. I truly believe that is the kind of thing we need to be doing now.

I am baffled that we don't know why the President is not leading more. He is not talking directly to the American people about why this is important. Is it just a political squabble to be ignored, with the President going to Rio and talking about Libya? Or is it true, as Mr. Bernanke says, we are on an unsustainable path? Or is it true that Mr. Erskine Bowles, the President's own director of the fiscal commission, says that we are facing the most predictable economic crisis in this country's history, and he said it could happen within 2 years? Are we making this up?

The American people get it. They say, What is going on in Washington? You have to get your house in order. That is what this past election was about. People understand we need some action and some leadership, but we are not getting it. I truly believe if we could get together and if we could get a bipartisan effort to look at this \$61 billion—we could disagree on how to reduce that spending; maybe the Republicans have this idea and the Democrats have this idea—let's work all of that out. But let's reach an agreement that actually reduces spending by enough to make a difference. Then the world would say, Wow, now the Congress is beginning to take some steps. That was a nice, good, strong first step. Now if they will stay on that path, maybe the United States is going to get on the road to prosperity again and stay out of this dangerous debt crisis area we are in today and get on the right path to prosperity. This country is ready to grow. It is ready to rebound. It just needs a clear signal from Washington, in my opinion.

America's leaders, those of us in this Congress, have no higher duty, no greater moral responsibility, than to take all appropriate steps to protect the good people we serve from the clear and present danger we face.

It is time to get busy about it, Madam President. I believe if we act strongly and with clarity the American people will not only support it but they will be happy with it, and it will make a positive difference for our country.

I yield the floor and suggest 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. MENENDEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak as in morning business.

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

REPEAL OF 1099

Mr. MENENDEZ. Mr. President, later, as we move to the bill on small business, I will be offering, I hope, a second-degree amendment to the amendment offered by Senator JOHANNIS, and I speak today on behalf of middle-class families and on behalf of small businesses.

I wish to start by saying that I fully support—as I have already done in a series of votes—repealing the 1099 reporting requirement, but I strongly believe we have to do so in a manner that does not—does not—increase the burden on our small businesses and employees. The amendment of Senator JOHANNIS certainly helps only small businesses through the repeal of the 1099 provision, but—and this is less well-known—I believe it actually hurts small business employees. It is a double-edged sword. The JOHANNIS amendment risks driving up health insurance costs and cutting health insurance coverage for small businesses.

As you know, the affordable care act provides tax credits to families who earn under \$74,000 per year to help them purchase health insurance. Those tax credits are set at the start of the year. At tax time, when families actually report their annual income, the tax credits are reconciled with their annual household income to ensure they receive the correct amount of assistance. But because income and other family circumstances can change during the course of a year, individuals might end up getting excess tax credits even though the amount of the payment was correct at the time.

For example, a family with an unemployed worker who secures a job at a small business midway through the year—and, hopefully, can do so, as we continue to work on this economy to have it grow—has rightfully received a tax credit while unemployed but could face a stiff tax hike to repay the amount of the subsidy because the family's annual income ends up higher for the second half of the year. This family received the correct amount and did nothing wrong. Let me say that again. These individuals did nothing wrong. While unemployed, these individuals needed those tax credits to be able to get health insurance. That is why we passed this reform, to help those very same middle-class working families in need.

Now, under current law, we provide a reasonable repayment requirement if the tax credit an individual receives exceeds the amount they should have received because of unexpected changes in income or family status. We don't give them a pass, but we don't expect all families with an annual income of \$70,000 to have \$10,000 in savings to pay the surprise tax bill they will get in April, either. So we set caps on what they would have to pay back depending on what they earn. The JOHANNIS amendment makes harmful changes to these repayments for middle-class families. Under the JOHANNIS amendment, some families could have to pay back as much as \$12,000 in some cases, and that is too high a price. We shouldn't ask small business employees to take that much of a hit. They are the ones who are going to the exchanges to purchase coverage. They are the ones working for the mom-and-pop shop that doesn't offer coverage.

My amendment isn't about these families alone, however, as difficult a situation as they may be in. This amendment is about what the JOHANNIS offset could do to health care costs and coverage for small businesses and for those who make their living from small businesses. This risky offset could drive up premiums and force more individuals to refuse coverage. We are not talking about paying back tax credits; we are talking about driving up the costs on families and small businesses, many who have never even taken a tax credit to begin with.

My amendment would simply direct the Secretary of Health and Human Services to decide the offset in the JOHANNIS amendment and determine its effect on small business. What is so wrong about that—determining its effect on small business? We are trying to help small businesses by eliminating the 1099 provision. Let's make sure we continue to help them and not put extra costs on them. Specifically, we want to determine whether there is an increase in health insurance costs or a decrease in health coverage for small businesses. If the study finds either, then current safe harbor provisions would remain in effect—the same safe harbors we supported in the SGR bill, or the doc fix, in December.

Passing 1099 would not be affected. That would move forward. So the claim that somehow, ultimately, 1099 wouldn't be eliminated is false. The 1099 would not be affected. That would move forward. We would eliminate that responsibility from small businesses. So you can be both for my amendment and the JOHANNIS amendment because it would still repeal 1099.

Let me make it clear. We all want 1099 repealed, and I have voted in a series of ways to do exactly that. My amendment does not in any way affect or delay the repeal of 1099. The only potential change my amendment makes would be to the risky offset in the underlying amendment and only if this study finds that it actually hurts small businesses.