

# CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## COMPREHENSIVE 1099 TAXPAYER PROTECTION AND REPAYMENT OF EXCHANGE SUBSIDY OVERPAYMENTS ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 4, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4) to repeal the expansion of information reporting requirements for payments of \$600 or more to corporations, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

AMENDMENT NO. 284

Mr. MENENDEZ. Madam President, I rise to call up amendment No. 284, co-sponsored by Senators KERRY and ROCKEFELLER, which is at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. KERRY, and Mr. ROCKEFELLER, proposes an amendment numbered 284.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect small businesses from health insurance premium increases or losses of health insurance coverage)

On page 4, after line 3, insert the following:

(C) STUDY OF THE EFFECTS ON SMALL BUSINESSES OF INCREASES IN THE AMOUNTS OF HEALTH CARE CREDIT OVERPAYMENTS REQUIRED TO BE RECAPTURED.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine if the amendments made by this section—

(A) will result in an increase in health insurance premiums within the Exchanges created by the Patient Protection and Affordable Care Act for employees or owners of small businesses; or

(B) will result in an increase in the number of individuals who do not have health insurance coverage, a disproportionate share of which are employees and owners of small businesses.

(2) EFFECT OF INCREASES.—If the Secretary determines under paragraph (1) that there will be an increase described in subparagraph (A) or (B), or both, then, notwithstanding subsection (b), the amendments made by this section shall not apply to taxable years ending after the date of such determination and the Internal Revenue Code of 1986 shall be applied and administered to such taxable years as if such amendments had never been enacted.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes of debate equal-

ly divided and controlled between the two leaders or their designees.

The Senator from New Jersey.

Mr. MENENDEZ. Thank you, Madam President. I understand Senator BAUCUS is on his way from a meeting, and in the interim I will start off and recognize myself.

I offer this amendment on behalf of middle-class families and on behalf of small businesses. I support repealing the 1099 reporting requirement and have, in fact, voted no less than six times on this floor to repeal 1099 in this body. However, I strongly believe we must do so in a manner that does not increase the burden on our small businesses and their employees, and that is exactly what I fear H.R. 4 does.

The broad bipartisan support for 1099 repeal comes from the fact that it provides relief to small businesses, but the only problem with this version of the repeal is that while it provides relief on the one hand, it may very well take it away with the other. It repeals the 1099 reporting requirements but, at the same time, I am concerned it increases the health care burden on the very same people to whom we are seeking to provide relief.

Some have argued we have already used this very same offset before. We have. Therefore, there is no reason to be concerned now.

The difference is, however, H.R. 4 is very different than what we did 4 months ago, and it risks driving up health insurance costs and cutting health insurance coverage for small businesses and middle-class families. It increases tax penalties—tax penalties. As we approach April 15, I know we are all very tax sensitive. It increases tax penalties on middle-class families, leaving some with a potential tax burden of \$10,000 or more.

How would most middle-class families deal with a tax bill of \$10,000 or more just because their income may have increased \$1 above the eligibility limit during the year for which they got a subsidy?

Some have also argued my amendment will block implementation of the 1099 repeal. That is just factually incorrect. It is an outright misstatement of the facts. My amendment simply directs the Secretary of Health and Human Services after—emphasize “after”—the 1099 repeal passes into law to study the offset in H.R. 4 and determine its effect on small businesses. If the study finds the offset increases health care costs or decreases coverage for small businesses, then current law on the repayment remains in effect. If the study says, no, it didn’t do any of those things, then there is no harm.

Let me be clear. We all want 1099 repeal. My amendment does not in any way affect the repeal of 1099. My colleagues can vote for this amendment and for H.R. 4 because this would repeal 1099. The only potential change my amendment makes would be to the risky offset in the underlying amendment, and only if the study finds that

it hurts small businesses after the repeal has taken place.

My colleagues on the other side of the aisle are trying to frame this debate as either for or against small business, but they are, in my mind, both helping and harming them at the same time under H.R. 4. With this amendment, we can have not only the ability to help small businesses and repeal the 1099 provision, but we can also ensure that small businesses and their employees will not get hurt at the end of the day.

For those who may consider opposing my amendment, think of this: On the one hand, if you do not believe this offset will hurt small businesses and their employees, there is no harm in voting for it because you are saying the study will not show an impact and the offset will remain in place.

However, if you believe my amendment would have a revenue score, you are assuming that the offset hurts small businesses and their employees. Either option would argue for supporting my amendment. Either it has no impact, in which case there should be no problem supporting it, or it provides protections for small businesses and their workers, in which case you should want to support it.

I realize what I am concerned about is the harmful effect of this offset provision won’t hit small businesses until 2015, and I know the voices for 1099 repeal are much louder than those against the payback tax. But I also know this is an issue that we will hear about when our constituents get those tax bills at that time, when this provision goes into effect and taxpayers get that first big \$10,000, or more, surprise on their tax bill.

Do you want to be on the record as having given them the tax bill or do you want to be on the record as trying to have saved them from it and saved rising costs for small businesses in their health insurance? I think you want to be on the side of this amendment and having saved them from it.

In closing, I ask, why in the world—especially during these fragile economic times—would we want to do anything that could raise the costs on small businesses? That is why my amendment is supported by entities such as the Main Street Alliance, a probusiness organization; Families USA; the American Cancer Society; Cancer Action Network; Health Care for America Now, to mention a few.

With my amendment, we can protect those who earn a living making our Nation’s small businesses run and repeal 1099 without delay. To me, that is the ultimate show of support for small business.

Madam President, I urge support of my amendment. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I am going to defer my remarks until after

the Senator from Nebraska speaks. I want to defer to this wonderful Senator because he has done more than any other person in trying to repeal this awful tax provision, this 1099 tax increase provision, and he deserves the credit. I want him to lead off in our debate. Then I will probably speak after that. I yield for the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. JOHANNIS. Madam President, I wish to start today by thanking the distinguished Senator from Utah for his courtesy. I appreciate it immensely. It has been a bit of a long and tortured process to get here today. I appreciate the opportunity to speak first.

All of us work across our States. In communities such as Kearney and Scottsbluff, NE—and I walk those streets often, whether it is in a parade or calling on people—I am struck by the number of small businesses that fill the storefronts.

These businesses are the heart and soul of the community. They contribute to the Little League, they give high school students their first jobs, and they ask “how are the kids doing?” when you stop in to see them. They symbolize what it truly means to be a community. They also symbolize the single most powerful job creating force in our Nation.

Sixty-four percent of the new jobs in our Nation are created by small businesses as they expand and grow. So when their livelihood is threatened by an ill-advised policy, we all in the Senate agree that something must be done.

Shortly after the health care bill was passed, I, like my colleagues, began hearing from small business owners who were very concerned about a provision that was put into the health care bill on page 737. As the number of concerned job creators continued to mount, I knew, and others in the Senate knew, we had to do something about it.

Passing 1099 repeal exemplifies why I came to the Senate—taking an issue that is important to our State and our country and literally building support in this body to do the right thing.

I won't deny there have been some frustrations along the way. I certainly didn't expect to have to present the legislation seven times to get to the finish line. But it has been well worth the effort. I could not be more pleased by the bipartisan support that has built this effort.

Today presents an opportunity for Members of both parties to unite behind doing the right thing for our job creators.

If we pass H.R. 4 and send it on to the President's desk today, it won't be a victory for Republicans or Democrats. I certainly won't report it that way. It is not going to be a victory for a single Senator. It will be a victory for millions of small business owners who

have been begging us to do something about this provision for a long time now, and it will be a victory for common sense.

That is why today is such an important day in the Senate. In a few short minutes, we will have an opportunity to put to an end the looming 1099 paperwork mandate once and for all. Small businesses in my State and all across the country are depending upon us today to act.

One real-life example came from a Nebraska company called Hayneedle. It is an online retailer of home furnishings and other home products. With the new 1099 requirement, Hayneedle estimates that the annual cost of compliance is literally going to exceed \$100,000 for them—\$100,000. That would go a long way to hiring more people.

Adding insult to injury, the 1099 reporting requirement creates a perverse incentive to consolidate suppliers. Fewer suppliers means less 1099 paperwork. This leaves Main Street small suppliers—those businesses I was talking about—out in the cold as big suppliers win more and more business.

Dale Black, a Kentucky Fried Chicken franchise owner from Grand Island, told me:

... want to be a good corporate citizen in the communities I have restaurants, but the 1099 forces me not to hire local vendors and tradesmen in my community, instead giving work to a single regional contractor.

With 40 million businesses, non-profits, churches, and local governments bracing for the 1099 avalanche of paperwork, every Senator could come to the floor today and tell similar stories.

With all these Main Street businesses and their workers hanging in the balance, there is just one clear choice for our businesses: We must advance the House-passed version and, in all due respect to my colleague from New Jersey, reject the Menendez alternative, the Menendez amendment.

You see, only the House-passed version will quickly reach the President's desk and provide immediate relief to our job creators. Adding anything on, passing anything else will cause our job creators to wait on the sidelines yet again, because then, of course, we will have different versions—the House version and the Senate version—and I fear we will go off into never-never land. But you see, time has run out on our job creators.

When this debate began, the mandate seemed a long way away. It was out there on the horizon. We had a long time to work through these issues. But now 8 months has passed. We voted over and over again, and we never could quite get to the finish line.

It is decision time for businesses. They are feeling the pressure to set up the accounting systems they will need to comply with this tangled mess of tax forms that even the IRS doesn't support.

This mandate forces many to set aside money for software that could in-

stead be spent on those new workers, and that is why it is so important that the Senate pass the House bill today.

Put simply, a vote for the House bill is a vote to actually solve the problem. Again, in all due respect to my colleague from New Jersey, the amendment tells our small businesses that they will have to wait longer. Our path actually gives our job creators some certainty they need to grow their businesses. But the other path, as I said, is a guaranteed sidetrack back into never-never land.

While one approach tells small businesses we are with them, the other says we are going to continue to work through this and wrangle back and forth, instead of enacting a bipartisan solution today.

The House of Representatives has already led by example. It is important to recognize that. They passed their 1099 repeal on March 3—more than a month ago—and it got great bipartisan support—314 to 112, and 76 Democrats voted for that repeal.

Not only does this legislation pay for the repeal of the 1099 mandate, it actually reduces the deficit by \$166 million over the next 10 years.

It requires repayment of improper health exchange subsidies—a concept the Senate passed unanimously in December to pay for the doc fix legislation.

If we fail to pass the House version today, well, the job creators are being told that they have to divert more of their resources to managing unnecessary paperwork.

Let's not vote for another alternative that is going to stall this out again. Let's cast a vote today that sends a clear message. Let's defeat the pending Menendez amendment, and then let's pass the bill so we can get it to the President and get it signed. I am hoping this gets strong bipartisan support. I want to say again that the victory today is not for either party or for a single Senator; it is for the job creators who are depending upon our action today.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Montana.

Mr. BAUCUS. Mr. President, my colleague from New Jersey proposed what I think is a very reasonable amendment to the revenue provision of the repeal of this 1099 provision. I plan to support that. It is a good amendment.

One of the key provisions in the Affordable Care Act is the tax credit that will be available to millions of low- and middle-income Americans to purchase health insurance if their employer doesn't make coverage available. That is a credit. It goes to middle- and low-income Americans. The provision that will pay for 1099 repeal will increase the amount that many Americans will have to pay at the end of the year if they receive a credit to purchase their health insurance and their income ends up being higher than the income on which their credit was based.

I share Senator MENENDEZ's concern that this will cause an undue burden.

This could increase premiums that people pay under health insurance, or reduce the benefits of their health insurance coverage, especially in the small business community, and he believes his amendment would reverse the provision—and it does in fact do that—if the HHS Secretary determines it will increase premiums or if it will reduce coverage, that is on health insurance coverage for small businesses.

The 1099 repeal is all about small businesses. That is primarily why we are going to repeal 1099. We don't want to turn around and hurt small businesses in the same bill. There is a real possibility that that would happen with a straight repeal, without the Menendez perfecting amendment.

I urge my colleagues to join me in supporting the Menendez amendment. In effect, that amendment would repeal 1099, which virtually every Member of the body wants to do, but also will make sure the consequences do not hurt small businesses, which will otherwise find their premiums increased or their coverage diminished.

Senator MENENDEZ very wisely anticipates that potential problem with his amendment by essentially providing that the increase would not occur as a premium—that is, the 1099 repeal would not occur if the HHS Secretary determines that it will increase premiums or also reduce coverage for small businesses. I urge my colleagues to support the Menendez amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, today we will vote on the Menendez amendment and then on Senator JOHANN'S amendment to repeal the 1099 tax increase provisions of the health spending law and the small business law. As you know, the health spending law was enacted a little over a year ago, and we are already here trying to undo some of the damage that this massive law has imposed on small businesses. We have heard from small business owner after small business owner who was shocked and frustrated to learn the 1099 provision in the health spending law would require small businesses to send out a much larger number of IRS Form 1099s.

This provision was a counterproductive assault on businesses, and it was unleashed for one reason: to provide the dollars to pay for ObamaCare's \$2.6 trillion in new spending; in other words, to try and back up that spending.

Just to be clear, this is what this provision requires: Starting on January 1, 2012, if a business pays at least \$600 in total in 1 year to a single payee, that business must send an IRS Form 1099 to the IRS as well as to that payee. Since businesses frequently pay at least \$600 in 1 year to all kinds of different payees, this means the health spending law has created an enormous paperwork burden on our businesses, including many small businesses. This is exactly the kind of burden small businesses do not need to face at this

time, when we are still facing unemployment at 8.8 percent, and small businesses create 70 percent of new jobs in this country.

The National Federation of Independent Business, whose membership is made up of small businesses, hit the nail on the head in its April 4, 2011, letter about this provision. This is what they had to say:

We are writing to urge you to support H.R. 4, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, and to oppose the Menendez amendment. Passing H.R. 4 without any amendments is the best way to finally repeal the expanded Form 1099 requirements included in the Patient Protection and Affordable Care Act. Tax paperwork and compliance are already major expenses for small businesses, and the new reporting requirements included in PPACA will substantially increase these costs.

The new paperwork mandate will require businesses to track and report to the IRS most business-to-business transactions above \$600 in a calendar year. For many businesses this could amount to hundreds of new reportable transactions, which involves sending a 1099 to both the IRS and the reportable business.

That is a pretty strong statement, and the message is clear. This provision will impose considerable hardship on American businesses. The result of this provision will be much more paperwork and much less job creation. I spoke this morning to the Tax Executives Institute, which is one of the most prestigious institutes in our country, especially on taxes. What I announced to them was that I think we are going to get rid of this provision, and I almost got a standing ovation. They went wild down there this morning.

This provision will impose considerable hardship on American businesses, especially small businesses. The result of this provision will be much more paperwork but a lot less job creation.

In addition, Monday, April 4, 2011, the U.S. Chamber of Commerce weighed in on this provision with a similar diagnosis. This is how the chamber put it:

The 1099 reporting mandate, if not repealed, will force more than 40 million entities, including governments, nonprofits, and small and large businesses, to comply with onerous data collection and IRS information filing burdens on virtually all non-credit card purchases totaling \$600 or more with any vendor in a tax year. At a time when they can least afford it, entities will have to institute new, complex recordkeeping, data collection, and reporting requirements to track every purchase by vendor and payment method. This provision will dramatically increase accounting costs and could expose businesses to costly and unjustified audits by the IRS. The Chamber strongly supports H.R. 4, which would repeal the 1099 mandate, and strongly opposes the Menendez amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters from both the NFIB, the representative of small businesses in this country, and the Chamber of Congress.

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

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
Washington, DC, April 4, 2011.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, strongly supports H.R. 4, the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011" and strongly opposes an amendment by Sen. Menendez, which could leave intact the 1099 requirement.

The 1099 reporting mandate, if not repealed, will force more than 40 million entities, including governments, nonprofits, and small and large businesses, to comply with onerous data collection and IRS information filing burdens on virtually all noncredit card purchases totaling \$600 or more with any vendor in a tax year. At a time when they can least afford it, entities will have to institute new complex record-keeping, data collection and reporting requirements to track every purchase by vendor and payment method. This provision will dramatically increase accounting costs and could expose businesses to costly and unjustified audits by the IRS.

The Chamber strongly supports H.R. 4, which would repeal the 1099 mandate, and strongly opposes the Menendez amendment. The Chamber may consider including votes on, or in relation to, these issues in our annual How They Voted scorecard.

Sincerely,

R. BRUCE JOSTEN,  
Executive Vice President,  
Government Affairs.

APRIL 4, 2011.

DEAR SENATOR: On behalf of the undersigned organizations, we are writing to urge you to support H.R. 4, the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011," and to oppose the Menendez Amendment. Passing H.R. 4, without any amendments, is the best way to finally repeal the expanded Form 1099 requirements included in the Patient Protection and Affordable Care Act (PPACA).

Tax paperwork and compliance are already major expenses for small businesses and the new reporting requirements included in PPACA will substantially increase these costs. The new paperwork mandate will require businesses to track and report to the IRS most business-to-business transactions above \$600 in a calendar year. For many businesses, this could amount to hundreds of new reportable transactions, which involves sending a 1099 to both the IRS and the reportable business.

According to an SBA study, the cost of complying with the tax code is 66 percent higher for small business as compared to a large business. Small businesses lack the compliance capabilities to track and report each new transaction, and in order to comply with this new requirement they will have to pull capital out of the business that could be better used to reinvest in the business and create jobs.

Passage of H.R. 4, without amendments, is the best way to remove the costly impact the 1099 requirement would have on millions of businesses.

Sincerely,

Aeronautical Repair Station Association;  
Agricultural Retailers Association; Air  
Conditioning Contractors of America;

Alabama Nursery & Landscape Association; Alliance for Affordable Services; Alliance of Independent Store Owners and Professionals; American Association for Laboratory Accreditation; American Bakers Association; American Council of Engineering Companies; American Council of Independent Laboratories; American Farm Bureau Federation; American Foundry Society; American Hotel & Lodging Association; American Institute of Architects; American Nursery & Landscape Association; American Petroleum Institute; American Rental Association; American Road & Transportation Builders Association; American Society of Interior Designers; American Subcontractors Association, Inc.; American Supply Association; American Veterinary Distributors Association.

American Veterinary Medical Association; AMT—The Association For Manufacturing Technology; Arizona Nursery Association; Associated Builders and Contractors; Associated Equipment Distributors; Associated General Contractors of America; Associated Landscape Contractors of Colorado; Association of Free Community Papers; Association of Ship Brokers & Agents; Association of Small Business Development Centers; Automotive Aftermarket Industry Association; Automotive Recyclers Association; Bowling Proprietors Association of America; California Association of Nurseries and Garden Centers; California Landscape Contractors Association; Commercial Photographers International; Community Papers of Florida; Community Papers of Michigan; Community Papers of Ohio and West Virginia; Connecticut Nursery & Landscape Association; Direct Selling Association; Door and Hardware Institute.

Electronic Security Association; Electronics Representatives Association (ERA); Florida Nursery, Growers & Landscape Association; Free Community Papers of New York; Georgia Green Industry Association; Healthcare Distribution Management Association; Hearth, Patio & Barbecue Association; Idaho Nursery & Landscape Association; Illinois Green Industry Association; Illinois Landscape Contractors Association (ILCA); Independent Community Bankers of America; Independent Electrical Contractors, Inc.; Independent Office Products & Furniture Dealers Association; Indiana Nursery and Landscape Association; Industrial Supply Association; Industry Council for Tangible Assets; International Association of Refrigerated Warehouses; International Foodservice Distributors Association; International Franchise Association; International Housewares Association; International Sleep Products Association; Kentucky Nursery and Landscape Association.

Louisiana Nursery and Landscape Association; Maine Landscape and Nursery Association; Manufacturers' Agents Association for the Foodservice Industry; Manufacturers' Agents National Association; Manufacturing Jewelers and Suppliers of America; Maryland Nursery and Landscape Association; Massachusetts Nursery & Landscape Association, Inc.; Michigan Nursery and Landscape Association; Mid-Atlantic Community Papers Association; Midwest Free Community Papers; Minnesota Nursery & Landscape Association;

Motor & Equipment Manufacturers Association; NAMM, National Association of Music Merchants; National Apartment Association; National Association for Printing Leadership; National Association for the Self-Employed; National Association of Home Builders; National Association of Manufacturers; National Association of Mortgage Brokers; National Association of Mutual Insurance Companies; National Association of RV Parks & Campgrounds; National Association of Theatre Owners; National Association of Wholesaler-Distributors.

National Christmas Tree Association; National Club Association; National Community Pharmacists Association; National Council of Chain Restaurants; National Council of Farmer Cooperatives; National Electrical Contractors Association; National Electrical Manufacturers Representatives Association; National Federation of Independent Business; National Home Furnishings Association; National Lumber and Building Material Dealers Association; National Multi Housing Council; National Newspaper Association; National Office Products Alliance; National Restaurant Association; National Retail Federation; National Roofing Contractors Association; National Small Business Association; National Tooling and Machining Association; National Utility Contractors Association; Nationwide Insurance Independent Contractors Association; Nebraska Nursery and Landscape Association; New Mexico Family Business Alliance; New Mexico Nursery & Landscape Association.

New York State Nursery and Landscape Association; North American Die Casting Association; North Carolina Green Industry Council; North Carolina Nursery and Landscape Association; Northeastern Retail Lumber Association; NPES The Association for Suppliers of Printing, Publishing & Converting Technologies; OFA—An Association of Floriculture Professionals; Office Furniture Dealers Alliance; Ohio Nursery and Landscape Association; Oregon Association of Nurseries; Outdoor Power Equipment Institute; Pennsylvania Landscape and Nursery Association; Pet Industry Distributors Association; Petroleum Marketers Association of America; Plumbing-Heating-Cooling Contractors Association; Precision Machined Products Association; Precision Metalforming Association; Printing Industries of America; Professional Golfers Association of America; Professional Landscape Network; Professional Photographers of America; Promotional Products Association International.

S Corp Association; Safety Equipment Distributors Association; Saturation Mailers Coalition; SBE Council; Secondary Materials and Recycled Textiles Association; Self-Insurance Institute of America (SIIA); Service Station Dealers of America and Allied Trades; SIGMA, the Society for Independent Gasoline Marketers of America; Small Business Council of America; Small Business Legislative Council; SMC Business Councils; Society of American Florists; Society of Independent Gasoline Marketers of America; Society of Sport & Event Photographers; South Carolina Nursery & Landscape Association; Southeastern Advertising Publishers Association; Specialty Equipment Market Association; Specialty

Tools & Fasteners Distributors Association; SPI: The Plastics Industry Trade Association; Stock Artists Alliance; TechServe Alliance; Tennessee Nursery & Landscape Association.

Texas Community Newspaper Association; Texas Nursery & Landscape Association; Textile Care Allied Trades Association; Textile Rental Services Association of America; Tire Industry Association; Toy Industry Association, Inc.; Turfgrass Producers International; U.S. Black Chamber Inc.; U.S. Chamber of Commerce; Utah Nursery & Landscape Association; Virginia Christmas Tree Growers Association; Virginia Green Industry Council; Virginia Nursery & Landscape Association; Washington State Nursery & Landscape Association; Western Growers Association; Window and Door Manufacturers Association; Wisconsin Community Papers; Women Construction Owners & Executives; Women Impacting Public Policy; Wood Machinery Manufacturers of America.

Mr. HATCH. Mr. President, President Obama and congressional Democrats tried to sell the American people on their clunker of a health care law by saying it would bring down Federal health care spending. That would have been a miracle if it were true. But even the Obama administration's own actuary at the Centers for Medicare and Medicaid Services has confirmed that claim was false and that Federal spending on health care would actually increase as the result of the health spending law. Some estimate as much as \$2,100 per policy.

The Cash for Clunkers Program was bad enough, but Democrats managed to outdo themselves spending \$2.6 trillion in cash for this clunker of a health care law. This reminds me of a scene from the movie "Vacation." At the beginning of that film, Clark Griswold goes into a dealership to buy a new car before setting off with his family for a cross-country trip to Wally World. Yet instead of getting the new car he had ordered as part of a trade-in, the dealer gave him a pea green Family Truckster, as we can see in this beautiful photograph. Chevy Chase was, of course, Griswold. One only had to look at the Family Truckster to know that it was a lemon.

Clark told the dealer he wanted his old car back. Unfortunately for Clark—or the actor, in this case—his old car was crushed before he could get it back. You can imagine the consternation Chevy Chase faced. You can see the Family Truckster in this picture behind me. There it is, with Chevy standing on top as Clark Griswold.

Clark's experience with the Family Truckster is a metaphor for Americans' experience with ObamaCare. Our Nation's health care system might have needed some work—there is no question about that—but the vast majority of Americans were satisfied with their health care. Yet Democrats gave Americans ObamaCare which, like the Family Truckster, is a true jalopy, and they did their best to crush our former health care system before we could stop them.

I also add that Americans, such as Clark Griswold, eventually reached their wits' end. The tea party, the gubernatorial elections in New Jersey and Virginia, the election of my colleague, the junior Senator from Massachusetts—all of these actions were the result of Americans standing up and letting it be known that they were sick and tired of Washington recklessly spending their money and recklessly regulating, and they were not going to take it anymore.

To borrow from Robert Daltrey, Americans made it clear that they are not going to get fooled again, but that did not stop the Democrats from trying.

At the time the health spending bill was being enacted, President Obama and congressional Democrats were raising taxes to make it appear they were partially paying for the \$2.6 trillion in new spending contained in the partisan health spending law. When the Democrats say this health law saved money, ask yourself this: If the law was actually going to reduce Federal spending on health care, would these massive tax increases have been necessary?

In the end, ObamaCare was more of the same—a tax-and-spend law that vastly increased the size of an already-bloated Federal Government.

President Obama and congressional Democrats should not have raised taxes and cut Medicare to fund a new entitlement program—an unsustainable entitlement program. After all, the three largest entitlement programs—Social Security, Medicare, and Medicaid—are already headed for a fiscal crisis. To create a fourth massive entitlement program when these three entitlement programs were already going broke was fiscal insanity. That is one reason we need to repeal the health spending bill in its entirety and start over.

Senator JOHANN'S amendment to repeal the 1099 provisions in the health spending law and small business law is a good first step in getting rid of the partisan health spending bill entirely.

I think a lot of people, including Members of Congress who voted for the small business bill last year, were surprised to learn that Congress enacted a second 1099 provision last year. This is separate and apart from the 1099 provision enacted in the partisan health spending law. This new 1099 provision was enacted as part of the small business law last year. I voted against it. By the way, this provision is already in effect since it applies to payments made on or after January 1 of this year.

This 1099 provision causes landlords who are not even actively engaged in the rental real estate business to send in a Form 1099 to the IRS. It is required when they pay more than \$600 in 1 year to a vendor for goods or services. For example, suppose a landlord spends more than \$600 over the course of a year at a home improvement store. That landlord must send out a Form

1099 and send it to the IRS, as well as the provider of goods or services. In addition, that landlord must track down the vendor's taxpayer identification number, which is not necessarily an easy task to do.

This law creates a large and unexpected paperwork burden on these landlords. With the real estate market struggling, we should not impose new paperwork burdens on landlords which only hurt the real estate industry even more.

I urge my colleagues to vote yes on the Senator JOHANN'S amendment and vote no on the Menendez amendment. As I said, Senator JOHANN'S amendment is a downpayment on a total repeal of the onerous health care law that over time will wreck our Nation's health care system and lead to an explosion of new Federal spending.

I ask my colleagues to vote no on Senator MENENDEZ's amendment.

I personally wish to pay tribute to my colleague from Nebraska for his indefatigable efforts in trying to repeal these terrible paperwork burdens that nobody is going to look at anyway, that really are not going to make any difference and are just going to cost an arm and a leg over time. I thank him for the hard work he has done. He deserves credit for continuing to fight these battles.

I hope all of us on the Senate floor will get rid of this monstrosity today and hopefully work together to try and straighten out what is a very bad bill in ObamaCare.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The majority controls 19½ minutes; the minority controls 8 minutes.

Mr. BAUCUS. Mr. President, I first wish to correct the record. I stated earlier that if the Menendez provision is triggered, the 1099 repeal will not go into effect. That is not correct. What I meant to say is if the Menendez provision is triggered, then the new true-up rules in H.R. 4 will not go into effect. That is an important distinction. No matter what the result, 1099 will, in fact, be repealed. That is the main point.

I commend all Senators, including Senator JOHANN and others, who want to repeal 1099. It is very much the view of this body—I, myself, want to repeal 1099, but I also think the provision offered by Senator MENENDEZ is an improvement on repeal, even though repeal will actually go into effect.

I will also say that there are a lot of statistics bandied about regarding health care reform. The Fidelity company does an analysis of how much it costs people age 65 and older to pay for their health care. That is their premium cost as well as their insurance costs or out-of-pocket costs. Fidelity company has just concluded in the last week or so that as a consequence of

health care reform, the number of dollars that seniors will have to pay for health care will actually be lower—not higher, but lower—than what it otherwise would be on account of passage of that bill.

#### BUDGET PROPOSAL

I want to say a couple words about the budget proposal offered by the House, the Ryan budget proposal. It is important for people to know what is in that budget. What is in it basically? Let me tell you. That budget cuts \$2.2 trillion in health care costs over 10 years—\$2.2 trillion in cuts in health care costs over 2 years. It repeals health care reform. That is what the Ryan resolution does. His budget resolution repeals health care reform.

What else does it do? It dismantles Medicare. It dismantles Medicare as we know it. Health care reform extends the life of the Medicare trust fund by another 12 years. The Ryan House Republican budget proposal repeals Medicare as we know it. It turns into a voucher program. Basically, it says this: There have been reports that it costs about \$15,000 to pay for seniors under Medicare for 1 year. There are reports that the Ryan proposal says we are just going to give people \$6,000 and give it to a health insurance company. First, that is a big cut, 15 down to 6 and, second, it is to a health insurance company. So the net effect of the Ryan proposal is very simple. It transfers wealth from seniors, from children—because of Medicaid and people in nursing homes—it transfers wealth from them to whom? Health insurance companies. The Medicare proposal is a transfer of wealth from seniors to health insurance companies.

Health care reform did the opposite. We extended the life of Medicare. How did we do it? In part, by cutting health insurance payments. So we helped seniors in health care reform and we cut health insurance companies. The Ryan House Republican budget proposal does the opposite; it cuts benefits to seniors by a whopping amount and it takes that wealth and transfers it over to health insurance companies that will get higher premiums, higher bonus payments, their stock returns will go up, and their administrative expenses will go up. I don't think that is what we want to do. But make no mistake, that is the effect of the Ryan proposal.

Also, I might say, it reduces income taxes by about \$1.2 trillion. So the real net of the effect of the Ryan proposal is, take money away from people and give it to the health insurance companies and the wealthy. That is what the Ryan proposal does. That is exactly what it does. The Ryan proposal takes money, about \$5.8 trillion roughly, over 10 years—takes it away from people, especially seniors and kids on Medicaid, elderly who happen to be on Medicaid—there are big reductions further in discretionary spending—and lowers income taxes by about \$1.2 trillion. It lowers them. That is how it achieves budget savings of \$5.8 trillion. He cuts,

cuts to the bone, and then cuts about \$1.2 trillion more than he has to because \$1.2 trillion is reductions in income tax.

I want the public to know what is in the Ryan budget. That is what it is. Let me say it one more time, clearly, simply. It is a transfer of money away from seniors and from kids on Medicaid and elderly on Medicaid over to health insurance companies—higher bonuses, higher salaries, stock goes up, and in addition it transfers money away from people to pay for tax cuts for the wealthy—not tax cuts for the unwealthy but tax cuts for the wealthy.

How did he do that? He lowers the top rate to 25 percent so the wealthy pay less taxes. He lowers the corporate down to 25 percent, so the bigger companies pay less taxes. That is how he does it. While we are talking about a short-term CR around here, and we are talking about a longer term CR around here, when we start talking about budgets, let's look closely at what is actually in that Ryan proposal.

Of course, we have to lower our budget deficits. Of course, we have to significantly lower our budget deficits. But, of course, we have to do it fairly, so all Americans are part of the solution, so health insurance companies are also part of the solution, so the most wealthy are also part of the solution. All Americans have to be part of the solution. The Ryan budget does not do that. It says only the seniors—we get the budget deficit reduction on the backs of seniors, on the backs of people who otherwise receive medical care under Medicaid and some other things, but also we shift income to the most wealthy by lowering their taxes.

I hope when we are voting on the Menendez amendment, which is important to do, also in the background we understand what is going on in the other body. They may bring this up and try to pass it this week. They may try to pass it on the floor next week—I don't know. But we should recognize it for what it is and come up with a deficit reduction proposal that is fair, fair to all Americans, not on the backs of the seniors for the benefit of health insurance and not on the backs of average Americans for the benefit of the most wealthy, by lowering their income taxes by \$1.2 trillion over 10 years. That is not fair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are headed toward \$20 trillion in spending. The President's program, the Democrat's program, is maybe one-half of 1 percent, which is almost nothing. This is their program, a blank sheet of paper. That is what it is. At least Congressman RYAN, the Budget Committee chairman over in the House, is trying to do something that is worthwhile. By the way, just so everybody knows, the rich are not going to be treated tremendously respectfully in this matter.

They are going to lose, on the top level, on entitlement programs. There is a cutback for those who reach a certain level of income. This is not as simple as it sounds, nor is it a desire to take anything away from senior citizens. It is trying to get our country's budget under control and it is out of control.

Mr. President, I yield up to 5 minutes to the distinguished Senator from Maine, if I can.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in support of H.R. 4, to repeal the mandate on small businesses throughout this country. The failure to repeal this onerous mandate of the 1099 requirement would have a profound impact on millions of businesses across this country and on the already stressed job market, as employers have to grapple with the enormity of this cost, not to mention the compliance with this regulation.

I certainly commend the author of this legislation, the Senator from Nebraska, Mr. JOHANNES, for his tenacity, his perseverance, his relentlessness in bringing this to the forefront not only of the Senate but to the Congress and to the country. I hope we can join with our counterparts in the House of Representatives in an impressive, bipartisan vote because we do need to bring this to a conclusion.

I also appreciate that the Senator from Nebraska included in this repeal the provision I recommended, which was to repeal the provision that the mandate would be extended to rental property owners. This was a requirement that was included in the Small Business Jobs Tax Relief Act that became law last fall—inexplicably, given the fact that the 1099 quagmire was already well known to everyone. Yet it was included in that legislation that became law—so those who are rental property owners will have to comply with this mandate as well. The big difference is, this requirement takes effect in January of this year so unsuspecting owners will already be subject to the burden of reporting to the Internal Revenue Service any business expenditures for goods and services that exceed \$600 per vendor, similar to all the other requirements under the law that will begin for 2012 for all small business owners.

As we all know, this new mandate on small businesses was imposed in the health care reform law. Yet it had nothing to do with reforming the health insurance industry. It had everything to do with raising revenues and placing inordinate burdens on small businesses. The rental real estate was added to this paperwork morass, and what is disconcerting is the fact that it directly affects those States that depend on tourism, such as my State of Maine, with respect to rental property.

I think it is going to be very important to make sure people understand

this requirement will be repealed as part of this legislation. Failure to repeal this mandate will raise the compliance costs for small businesses astronomically. Already, as estimated by the NFIB, the major voice for small businesses in this country—they have estimated that small business compliance costs with respect to tax compliance alone is \$74 an hour. Tax compliance is the most expensive form of paperwork. So the burden on small businesses will be strenuous and inordinate. It is already disproportionate. Their costs are 67 percent higher than larger firms.

There is no question, given the ubiquitous nature of this requirement, that small businesses all across this country will come under the weight of these very stringent regulations, having to submit 1099 forms. In fact, I was talking to an individual the other day who heads up an organization which has 1,650 members and what did he say? He said every one of these members will have to file anywhere from 200 to 600 forms every day. That is 200 to 600 forms on a daily basis.

They didn't want to talk about taxes. They didn't want to talk about anything else. They wanted to talk about whether we were going to repeal the 1099 requirement. That is why there is so much support for this repeal. It is so important, during these difficult economic times, that we avoid imposing any tough regulations on our small business owners.

The other point to be made is, this 1099 requirement is vastly different from what is familiar to most Americans. For most Americans, 1099 forms generally come from their financial institutions to report the interest they have earned on their savings accounts or to report the interest they pay on their mortgage to their lenders. That requirement is specific, to make sure they report directly their tax liability on the income earned in that specific tax year. Now we are reverting to a very different form by requiring businesses to report in the aggregate all their expenditures for goods and services to any vendor. That is a very different requirement.

My concern is one that has not been widely discussed. The fact is, by doing so, by making this conversion how we use the 1099 form, it is essentially putting in place an infrastructure, a system for a value-added tax, by requiring businesses to report all this information. So we could essentially have a system in place, where we could have a functioning value-added tax by taking the next step based on the information that is already required to be submitted by this requirement.

It is urgent we repeal this mandate. It is important to send that message. It is important to repeal this mandate in its entirety.

I yield the floor.

Mr. LEVIN. Mr. President, today we vote on a bill that would repeal the 1099 reporting expansion that was made

into law under the Affordable Care Act. This reporting requirement was designed to improve tax compliance. However, many businesses fear this expansion could end up burdening not those who seek to evade their taxes, but those who innocently do business with those who do. This is why I support the repeal of this reporting requirement in the Affordable Care Act.

Unfortunately, I do not agree with how this bill would pay for this repeal. This bill would hurt individuals who receive modest pay increases or bonuses during the course of a year. The Affordable Care Act subsidizes insurance coverage for middle-class families making under 400 percent of the Federal poverty level who don't have access to employer provided coverage. Under current law, people close to 400 percent line are protected from substantial tax penalties if they receive a modest raise or bonus that bumps them into a higher income bracket. This bill would eliminate that protection and impose a retroactive penalty on those families that could amount to thousands of dollars. Those families, even if they end up over the line by \$1, would have to pay back the entire amount of their subsidies. For a family of four, for instance, this could mean owing more than \$5,900 on their taxes because of an unexpected increase in income from \$89,000 a year—398 percent of the FPL—to \$89,500—\$100 above the 400 percent FPL.

I support the amendment offered by Senator MENENDEZ that directs the Secretary of the Department of Health and Human Services to study the impact of this bill on health care premiums and coverage for small businesses and their employees. If the HHS Secretary finds that the changes in repayment amounts under this bill would increase health insurance premiums for small businesses or their employees or increase the number of uninsured, the repayment amounts would revert to current law.

I look forward to continuing to improve the Affordable Care Act and will continue to fight for affordable and available health care for all Americans.

Mr. BINGAMAN. Mr. President, I rise today to raise serious concerns about the offset proposed for H.R. 4.

I am very supportive of the underlying intent of H.R. 4—repeal of the 1099 reporting requirements, which were created in Affordable Care Act. In fact, I have voted to repeal these requirements over the last few months.

However, I have deep concerns about the offset proposed in H.R. 4. The offset represents harmful policy and has been strongly objected to by President Obama in a Statement of Administrative Policy or “SAP” issued on March 1.

Specifically, H.R. 4 would increase the tax burden on American families seeking health insurance coverage in the new health insurance exchanges. The legislation does so by increasing

the amount of repayment that must be made by families who receive health insurance premium subsidies. Note that these taxpayers could be reporting their income correctly to the exchange throughout the year but still owe substantial payment or “true-up” when they file their taxes simply because the look-back period for subsidy eligibility encompasses an entire year. For example, under H.R. 4, families that have no income for part of the year—for example because of the loss of a job—could owe \$12,000 in true-up payments because they secure employment midway through the year.

I am strongly supportive of ensuring that taxpayers receive accurate subsidies to help offset the cost of health insurance in the new State exchanges. Many experts throughout the Nation have told us, however, that it is critical to provide reasonable hold harmless levels for taxpayers given that subsidies are paid on a monthly basis and the look back period to determine income eligibility encompasses a year. These experts tell us that without such a hold harmless, taxpayers' willingness to participate in the new exchanges will be chilled resulting in only sicker, more costly populations coming to the exchange. This in turn, will drive up costs for individuals, families, and businesses purchasing coverage in the exchange. In fact, the Joint Committee on Taxation has confirmed to me that they project hundreds of thousands of Americans will forgo the receipt of health insurance as a result of H.R. 4 and that a majority of the offsetting revenue from the amendment is generated by forgone health insurance coverage and subsidies, not the recouping of overpayments.

I ask unanimous consent that President Obama's March 1 SAP be printed in the RECORD.

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

#### STATEMENT OF ADMINISTRATION POLICY

##### H.R. 4—COMPREHENSIVE 1099 TAXPAYER PROTECTION AND REPAYMENT OF EXCHANGE SUBSIDY OVERPAYMENTS ACT OF 2011

The Administration strongly supports efforts to repeal the provision in the Affordable Care Act that established information reporting requirements for tax purposes that place an unnecessary bookkeeping burden on small businesses. The Administration is committed to reducing the gap between taxes legally owed and taxes paid, but believes that the burden created on businesses by the new information reporting requirement on purchases of goods that exceed \$600, as included in Section 6041 of the Internal Revenue Code as modified by Section 9006 of the Affordable Care Act, is too great.

However, the Administration has serious concerns about the approach the Congress has taken to paying for the repeal. The Administration strongly opposes the House's offset to pay for this repeal in H.R. 4, which would undo an improvement enacted with nearly unanimous support in the Medicare and Medicaid Extenders Act that eliminated an egregious “cliff” in the tax system affecting middle income taxpayers. Specifically, H.R. 4 would result in tax increases on cer-

tain middle-class families that incur unexpected tax liabilities, in many cases totaling thousands of dollars, notwithstanding that they followed the rules. The Administration also notes that a provision repealing the same information reporting requirements in the FAA Air Transportation Modernization and Safety Improvement Act would pay for the repeal with an unspecified rescission of \$44 billion that, in combination with other proposals currently under consideration in Congress, could cause serious disruption in a wide range of services provided by the Federal government.

The Administration looks forward to continuing to work with the Congress on the repeal of the information reporting requirements in the course of the legislative process, including finding an acceptable offset for the cost of the repeal.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, how much time remains to both sides?

The PRESIDING OFFICER. The Senator from Utah has 1 minute 20 seconds, the majority has 3½ minutes.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I know we often read that Democrats and Republicans cannot agree. Here is a news flash: We agree on repealing 1099. I have listened to my three distinguished colleagues spend a lot of their time talking about repeal of 1099. We absolutely agree. I have voted six times to do that. That is not an issue.

What is an issue, and my distinguished colleague from Nebraska—with whom I have worked with before in passing some important legislation, and I have a great deal of respect for him—talked about a victory for small business. I agree. But I want a total victory for small business, and a total victory for small business is not repealing 1099 and then giving them a bigger tax bill for their employees or raising the cost of insurance for that small business. A real victory is an opportunity to make sure we repeal 1099—my amendment clearly has 1099 repeal going forward—but then does a study that says if small businesses are going to face higher costs or their employees are going to face a \$10,000 tax bill, then that part of it should not proceed.

If I am wrong, nothing will happen. The study will come. They will say: No, small business is not going to have an increase; no, taxpayers are not going get a surprise tax bill. Then the repeal will have already gone through and there is no foul, no harm. But if I am right, then voting against my amendment is voting for a tax bill for middle-class families, voting to increase insurance on small businesses.

The issue about going quickly to the President, first of all, is a priority. So if we pass this, this is not, as has been suggested, an alternative; it is just a single amendment to the existing bill on a provision that allows for the repeal to go through but makes sure small businesses and individuals do not get higher costs. That can go to the

House. The House can pass it and send it to the President—away we go; we do not have a problem. Helping small businesses by reducing their paperwork while at the same time driving up health care costs and forcing coverage cuts for small businesses is simply not good policy.

In all fairness, I did not hear voices rise up when this bill was being delayed over the last week by some of my Republican colleagues trying to get their amendments considered, and those amendments were extraneous to small business. So we either have a double standard here or a desperate attempt to defeat what I think is a good amendment.

The House could have taken up the amendment, H.R. 4, and passed it into law by now. So I think it is somewhat disingenuous to have an argument that says we can't afford one amendment to proceed on this bill when our colleagues, at the beginning of this Congress, made a big production about a full debate and an open amendment process on all things considered on the Senate floor, but when there is one amendment that is meant to protect taxpayers and small businesses, oh, no, that is going to create an inordinate delay, after we had well over a week of delays by Republican colleagues seeking extraneous amendments to a small business bill. Please.

Now, I love Senator HATCH's jalopy. I remember that movie, took my family to see it. But the worst jalopy would be taking away 1099 and then going ahead and giving small businesses higher costs and a higher tax bill for individuals. That is a real jalopy. That is a lemon.

So we have an opportunity to take away and undo and repeal the 1099. My amendment permits that to go forward but at the same time makes sure small businesses do not get hurt.

How will they get hurt? How may they get hurt? Well, a lot of States, for example, are considering whether to combine their small business and individual pools. For States that combine their pools, small businesses could see an increase in premium costs. The healthiest people with little to no health care costs will have the most flexibility to decide whether to purchase coverage, and they may simply pay the mandate penalty versus the potential for a \$10,000 to \$12,000 tax bill. With more healthy people opting out of buying insurance, the pool of people who ultimately enroll in the exchanges that would consist of, on average, less healthy individuals—that is going to push up the premiums for everybody else buying insurance in the exchanges, including small businesses and employees. That is only one example.

The other problem is, when you are facing your constituents, I hope you are ready to tell them that through no fault of their own—when they had a job, they lost their job, you know, 6 months into the year, and they face the fact that they are still over the

amount, and now they are going to get a \$10,000 tax bill or, on the contrary, they didn't have a job when they got the subsidy, and then they got a job in the middle of the year and they are a dollar over the amount, and they are going to face a \$10,000 tax bill. Is that what we want to do, send that type of bill to families?

Finally, I appreciate hearing Senator HATCH say this is a downpayment on total repeal of the health care law. Well, you know, if we are going to do that, if that is what this is really all about, this is not helping small businesses. Helping small businesses means we repeal 1099 and don't increase their costs and don't send their employees a \$10,000 or higher tax bill.

So this is about, in my mind, making sure there is a win-win for small businesses because if we want to repeal the health care law, then that is about making sure we go back to preexisting conditions where a husband who had a heart attack on the job can no longer get insurance; where a child born at birth with a defect cannot get insurance; where a woman was facing 150-percent higher premiums than a man simply because she was a woman; where, in fact, you couldn't keep your child, up to age 26, on your insurance as they are going through school; where, in fact, we could close the prescription drug coverage for seniors. If that is what we are talking about, that is a different subject, and we can have that debate. But this debate is about making sure we repeal 1099 and making sure small businesses do not get higher costs and their employees do not get a tax penalty. I think everybody should want to be for that. We can send it straight to the House. The House can pass this version and send it to the President. That is ultimately the opportunity here.

I urge my colleagues to support my amendment. That is why the Main Street Alliance, which also supports businesses, says: Our small business owners are very supportive of efforts to remove the imposition of the new 1099 reporting requirements. We cannot, however, accept a pay-for that undermines other important provisions of the law that helps small businesses and contains costs.

My amendment ensures that we do both—repeal 1099 and not put the burden on small businesses in terms of higher health insurance costs, and their employees. I urge passage of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 20 seconds, and the majority has 3½ minutes remaining.

Mr. HATCH. I ask unanimous consent that I give a minute to the distinguished Senator from Nebraska and then, if there is not enough time remaining, that I be given sufficient

time, up to 2 minutes, with an equivalent amount of time given to the other side, to make my closing remarks.

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

The Senator from Nebraska.

Mr. JOHANNES. Mr. President, again with all due respect to my colleague from New Jersey, there have been over 200 business groups that have expressed opposition to the Menendez amendment, and that would include the NFIB, the National Association of Manufacturers, the Franchise Association, and the chamber of commerce. You see, requiring people to pay back what they should not have received in the first place is regarded as good government, not bad policy. That is what should be happening.

The second thing I would say about this is that this becomes a roadblock because we end up with a different House bill and a different Senate bill. If this is such a great idea, attach the amendment to some other bill that is coming along, and we can get the study done.

So, again, I appreciate the opportunity to work with Senator MENENDEZ, but I do believe very strongly that we need to defeat this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if you say you are for fiscal responsibility, you need to oppose the amendment of my friend from New Jersey. Here is why. The nonpartisan scorekeeper for tax legislation, the Joint Committee on Taxation, tells us that the Menendez amendment puts the savings on the House bill in doubt. That means that if the Menendez amendment is adopted, the House bill will add to the deficit by perhaps as much as \$25 billion. The Menendez amendment would maintain the risk of payment of billions in fraudulent, improper, or excessive health insurance exchange subsidies. What is more, the Senate unanimously agreed to a similar offset on the doc fix bill.

My friends, if you were against fraudulent, improper, or excessive health insurance payments before, stick to your guns—oppose the Menendez amendment.

I yield the floor, and I am prepared to yield back any time we have.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I am compelled to answer because now I hear about fraud and \$25 billion. You cannot have it both ways. You cannot say this amendment costs money—what the Joint Committee on Taxation said is it could not determine a revenue score. And it is important to point out that this amendment does not spend an additional dime. And the only reason—the only reason—this amendment would have a revenue effect would be if the offset increases health insurance costs or cuts coverage for small businesses. Otherwise, there is no issue. So you can't have it both ways. Either

there is an admission that it is going to cost small businesses more, cost taxpayers more, or it is not. That is No. 1.

No. 2, this is not about fraud. This is not about someone seeking something they did not have the right to receive. Fraud is individuals who are deliberately underreporting their income or fraudulently trying to get extra support. That is not what we do. Those enforcement provisions in the law to combat fraud and abuse are untouched by my amendment. This is simply about someone who honestly got a subsidy. And we have a provision in the law that deals with how they pay back, but it doesn't throw them over the cliff and send them a surprise \$10,000 tax bill. So that is simply not exactly quite the same thing.

Yes, the doc fix—we did use a provision to deal with the SGR with the doc fix, but we did not put small businesses and families at harm, as H.R. 4 does.

So the reality is that this amendment permits repeal to move forward. After the repeal, a study is done. If there is no harm, if it supposedly does not cost small businesses any more money, does not drive up insurance costs, does not cost the taxpayer maybe \$10,000 or \$12,000, fine. But if it does, then we would ultimately not have that harm come upon small businesses, come upon individual taxpayers with a surprise bill. And we could, of course, if that is the end result, which we don't know—that is why the Joint Tax Committee could not come up with a determination. We will not know until the study is done. Instead of having a risky venture, let's have the actual facts. Repeal will have gone through. We can protect small businesses and those taxpayers, and, if necessary, we can find a different offset. If they are wrong and I am right, that this concern about taxpayers getting a surprise bill and small businesses having greater insurance costs is true, then we will protect them and we can look for a different offset at the time. Repeal will have taken place no matter what.

Why would you not want to protect small businesses and taxpayers from getting a surprise bill? That is all my amendment does, and that is why I urge its passage.

Mr. HATCH. Mr. President, I would like to briefly respond to my friend from New Jersey's comments about the Joint Committee on Taxation's analysis of his amendment.

The Joint Committee on Taxation corresponded with Senator MCCONNELL's office on Senator MENENDEZ's amendment. I ask unanimous consent to have printed in the RECORD relevant portions of that e-mail discussion.

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

CORRESPONDENCE TO STAFF OF SENATOR MCCONNELL FROM TOM BARTHOLD, CHIEF OF STAFF, JOINT COMMITTEE ON TAXATION, DATED APRIL 5, 2011

You requested an estimate of the Menendez amendment (FRA11028).

The Johanns amendment (which is essentially H.R. 4) increases maximum repayment caps for overpayment of health insurance exchange subsidies for taxpayers in certain income categories below 400 percent of the federal poverty level ("FPL"), and removes the caps for taxpayers above 400 percent FPL. We estimate that this portion of H.R. 4 raises \$24.9 billion relative to present law. The Menendez amendment (FRA11028) would amend this amendment to require that the Secretary of Health and Human Services conduct a study to determine if the new repayment caps in H.R. 4 will (A) increase health insurance premiums within Exchanges for employees or owners of small business, or (B) result in an increase in the number of individuals who do not have health insurance, a disproportionate share of which are employees or owners of small businesses. If the study determines that one or both of (A) or (B) would occur, the changes to the caps in H.R. 4 would not be implemented.

We do not project an increase in health insurance premiums in the Exchanges for employees or owners of small businesses as a result of H.R. 4. We project that there would be an increase in the number of people who are uninsured as a result of the new caps in H.R. 4, because some people would avoid purchasing insurance through the Exchanges in order to avoid possible future increases in tax liability.

We would expect that about 1/3 of the adults who fail to enroll in the exchanges for this reason would be unemployed. Of those who are employed, we would expect that they would be roughly equally divided between being employees or owners of firms less than 50, and employees or owners of firms greater than 50. Thus, a larger share of small business employees would be affected than of large business employees, although small business employees and owners would comprise less than half of the newly uninsured.

Because it is unclear how the Secretary will interpret the terms "disproportionate share" and "small business," we cannot predict the findings of this study. If the study conducted by the Secretary reaches a similar conclusion to our estimate, and the Secretary deems that this would meet the criteria of a disproportionate share of employees or owners of small businesses among the newly uninsured, this amendment would result in failure to implement the new caps under H.R. 4, thus losing \$24.9 billion relative to the Johanns amendment.

TOM BARTHOLD.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the Menendez amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Idaho (Mr. RISCH).

Further, if present and voting, the Senator from Idaho (Mr. RISCH) would have voted: "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 48 Leg.]

#### YEAS—41

Akaka	Durbin	Mikulski
Baucus	Feinstein	Murray
Begich	Franken	Reed
Bennet	Gillibrand	Reid
Bingaman	Harkin	Rockefeller
Blumenthal	Inouye	Sanders
Boxer	Johnson (SD)	Schumer
Brown (OH)	Kerry	Shaheen
Cantwell	Kohl	Stabenow
Cardin	Lautenberg	Udall (CO)
Carper	Leahy	Udall (NM)
Casey	Levin	Whitehouse
Conrad	Menendez	Wyden
Coons	Merkley	

#### NAYS—58

Alexander	Hagan	Murkowski
Ayotte	Hatch	Nelson (NE)
Barrasso	Hoeven	Nelson (FL)
Blunt	Hutchison	Paul
Boozman	Inhofe	Portman
Brown (MA)	Isakson	Pryor
Burr	Johanns	Roberts
Chambliss	Johnson (WI)	Rubio
Coats	Kirk	Sessions
Coburn	Klobuchar	Shelby
Cochran	Kyl	Snowe
Collins	Landrieu	Tester
Corker	Lee	Thune
Cornyn	Lieberman	Toomey
Crapo	Lugar	Vitter
DeMint	Manchin	Warner
Ensign	McCain	Webb
Enzi	McCaskey	Wicker
Graham	McConnell	
Grassley	Moran	

#### NOT VOTING—1

Risch

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 58. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Idaho (Mr. RISCH).

Further, if present and voting, the Senator from Idaho (Mr. RISCH) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 12, as follows:

[Rollcall Vote No. 49 Leg.]

#### YEAS—87

Alexander	Burr	Cornyn
Ayotte	Cantwell	Crapo
Barrasso	Cardin	DeMint
Baucus	Carper	Ensign
Begich	Casey	Enzi
Bennet	Chambliss	Feinstein
Bingaman	Coats	Franken
Blumenthal	Coburn	Gillibrand
Blunt	Cochran	Graham
Boozman	Collins	Grassley
Boxer	Conrad	Hagan
Brown (MA)	Coons	Hatch
Brown (OH)	Corker	Hoeven

Hutchison	McCain	Sessions
Inhofe	McCaskill	Shaheen
Isakson	McConnell	Shelby
Johanns	Menendez	Snowe
Johnson (SD)	Merkley	Stabenow
Johnson (WI)	Moran	Tester
Kerry	Murkowski	Thune
Kirk	Nelson (NE)	Toomey
Klobuchar	Nelson (FL)	Udall (CO)
Kohl	Paul	Udall (NM)
Kyl	Portman	Vitter
Landrieu	Pryor	Warner
Lee	Reed	Webb
Lieberman	Roberts	Whitehouse
Lugar	Rockefeller	Wicker
Manchin	Rubio	Wyden

#### NAYS—12

Akaka	Lautenberg	Murray
Durbin	Leahy	Reid
Harkin	Levin	Sanders
Inouye	Mikulski	Schumer

#### NOT VOTING—1

Risch

The PRESIDING OFFICER. Under the previous order requiring 60 votes for passage, the bill is passed.

The Senator from Colorado is recognized.

#### ORDER OF PROCEDURE

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that at 2:15 p.m. the Senate proceed to a period of morning business with Senator COBURN being recognized for up to 20 minutes; that following Senator COBURN, Senator MIKULSKI be recognized for up to 15 minutes; and that following Senator MIKULSKI's remarks, the majority leader be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1 p.m., recessed and reassembled at 2:15 p.m. when called to order by the Presiding Officer (Mr. WEBB).

#### MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I understand that I have 20 minutes.

The PRESIDING OFFICER. The Senator is correct.

#### STATUTORY DEBT LIMIT

Mr. COBURN. Mr. President, I want to speak on two or three topics, the first of which is the statutory debt limit.

We heard the Treasury Secretary today say that essentially early, late July would be the last time at which we could manipulate things to not surpass our debt limit. I wanted to ask the rhetorical question: What does the statutory debt limit mean? What it means is we put into law a limitation on ourselves on the amount of money we can borrow.

President Bush—I believe my facts are correct—asked for the debt limit to be extended seven times. This will be the second under President Obama's leadership. It has been extended multitudes of times prior to that. As a physician I am querying myself to ask the question: Why do we put a limit on our debt when every time it comes up, we raise the limit again? The answer to that question is the limit does not mean anything because we continue to disregard the difficulty we are in. If a debt limit meant something, we would make changes and take actions to limit the amount of money we are spending so we would not break the debt limit or have to raise the debt limit.

As a physician, when I think about the debt limit, the debt limit is a symptom of simply another problem. That other problem is that we in Congress—this Congress, the Congress before this, and the 10, 20 Congresses before that—have not taken seriously the idea that this country has to live within its means. In fact, we are not living within our means. We were not living within our means before the housing crisis of 2008. We were not living within our means except one short period of time when we had a true net surplus of about \$36 billion, thanks to the tech bubble and the fact that in 1995, the 104th Congress did a rescission package of a significant amount, under \$30 billion, but the accumulated benefit of that allowed us to run those surpluses.

The question before our country today is: Is the Congress going to pass another debt limit? Are we going to raise the debt limit again and not do what every other family, every other business, and every other organization in this country has to do and, in fact, the rest of the world? And that is, they do not have the liberty of spending money they do not have on things they do not absolutely need.

I believe the question the American people ought to be asking of Congress and this President is: How dare you even consider raising the debt limit until you have done a thorough job of finding out whether the programs—the multitudes, hundreds of thousands of programs—we have actually function efficiently, actually do their intended purpose and, in fact, are a legitimate role for the Federal Government to be doing in the first place?

We are always going to have the partisan debate on whether taxes are not high enough or spending is not low enough. But all of those belie the real problem, which is this country cannot continue to live beyond its means.

In point of fact that this Congress does not want to do that, we have a small business bill on the floor about which we are all tied up in knots because we do not want to make votes that actually will cut \$20 billion worth of spending this year. We do not want to have those votes. We have had all these shenanigans to try to keep from coming to the floor amendments that actually do something.

The American people ought to look at us and say: What is going on? Do you not get it? Do you not understand that the country as a whole is now experiencing what a large number of our families did over the last 2 years, that the amount coming in is less than the amount going out and adjustments in how we spend and what we spend have to be made?

We have an ethanol amendment that I understand is controversial. The fact is, it will be voted on after cloture is filed on this bill. But it is an amendment that will save a true \$4.9 billion this year alone. The money for that tax credit that goes to the international and national oil companies in this country to blend ethanol with fuel—they sent a letter and said they do not want the money. How does one justify voting to send money, \$4.9 billion, to ExxonMobil and Chevron and ConocoPhillips and all the rest of the big ones that are going to show tremendous profits with oil prices where they are today? When they say they do not want it, how does one justify continuing to send money to them? How does one vote against not sending that money back to the Treasury, not borrowing the money from the Chinese to pay the large oil companies to blend ethanol?

It is not a justification. The reason we are not having a vote is because they know it will be adopted. That amendment will be adopted. That is why we are not having a vote.

America ought to look at the Senate and say: You are not having a vote on something that will save America almost \$5 billion this year, before the end of this year that the people who are getting that money do not want and have written to the Congress and said, We do not want the money, and yet we are not going to be allowed to take that amendment up in regular order and not be able to have a vote on it because a small special interest group does not want that to happen?

Talk about dysfunctional. Talk about having our heads in the sand. Talk about not addressing the real problem with the debt limit when we cannot even do something that simple, of saving the American people \$5 billion on one amendment and we will not do it? Some real change has to happen, and not enough change has happened yet.

The Government Accountability Office issued a report a month ago outlining massive duplication throughout our government, the first third of it with massive amounts of duplication. The question on the other side is: Are these legitimate roles for the Federal Government? We are not even going to debate that issue. The fact is, they showed massive amounts of duplication in large areas across the government in which we have multiple programs to do the exact same thing.

We have an amendment that will save \$5 billion this year if we will vote on the amendment and say, Let's cut \$5 billion out of at least \$50 billion to \$100