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, cosponsored 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 equally 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