

hurting others. I will be voting for the Johannis amendment and against the continuing costs and mandates of the Nelson amendment. I urge my colleagues to do the same.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, the Senate will resume consideration of H.R. 5297, which is, as the leader has indicated, the small business jobs bill, with the time until 11 a.m. equally divided and controlled between the two leaders or their designees. At 11 a.m., there will be three votes relating to this bill: cloture on the Johannis amendment relating to 1099 forms. This is a commitment I made—that we would have a vote on his amendment. I think it is appropriate we do that. That will be a cloture vote, a 60-vote margin. We also have a vote that will occur on the Nelson of Florida amendment also relating to 1099 forms. It has changes that affect a number of people, but it is also something that I think is widely supported. I do not support the Johannis amendment, even though I have had conversations with him. He is the one who brought this to the attention of the Senate. I appreciate that. I think the Nelson amendment is better for the reasons Senator NELSON and others have talked about. It is an amendment that certainly gets to the heart of this issue as to who has to report.

Finally, we will have a cloture vote on the substitute amendment to H.R. 5297, which is the small business jobs bill.

This is one of the most important things we have done in recent months. I know we have been away for a month. There were some efforts to get to that before we left, but time constraints would not allow us to do that.

This is an important piece of legislation. It is going to infuse community banks with money. The problem we have in America today is the big banks are doing great. We saw what happened in the stock market yesterday, and all reasons indicate the reason the stock market jumped like it did is because the big financial institutions are doing so well. They are doing well. They are loaning to big businesses. That is good. I am very happy they are doing that.

Eighty percent of the jobs we lost because of this recession were small business jobs. That is where we have to get the jobs back, and we are not giving small businesses the opportunity to borrow money. That is why this bill is so important.

People are estimating this will create from 500,000 to 700,000 new jobs because small business is the engine that

drives our economy, and they need help. During this recess period, I was all over Nevada, of course. I went to a number of other States. It does not matter where you go. You see these little strip malls with "For Lease" signs. The reason is that small businesses that could continue their businesses if they could borrow the bucks for the inventory have not been able to do that. This bill will allow that to take place.

Not only does it do that, but it gives other tax incentives to small businesses. For example, they will be able to write off purchases they make for equipment—not depreciate it but write it off. It is extremely important they are able to do that.

We also have other tax breaks that allow some of these small businesses to do exporting, which they are anxious to do, and they get tax benefits for doing that.

The Small Business Administration will be revitalized. They have programs that are working well, but their resources are gone. I have spoken with the head of the Small Business Administration. She is so anxious for this to pass. She has people waiting in her offices around the country to apply for these loans to get their businesses started or reenergized. This is an important piece of legislation.

Following the vote on that substitute amendment, we will recess from 12:30 p.m. to 2:15 p.m. to allow for our weekly caucus meetings.

Finally, I ask unanimous consent that the filing deadline for second-degree amendments be at 12 noon today.

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

MEASURES PLACED ON THE CALENDAR—S. 3772 AND S. 3773

Mr. REID. Mr. President, there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bills by title for a second time.

The legislative clerk read as follows:

A bill (S. 3772) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

A bill (S. 3773) to permanently extend the 2001 and 2003 tax relief provisions and to provide permanent AMT relief and estate tax relief, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings with respect to these two bills.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

Mr. REID. Mr. President, these two pieces of legislation are important. I am going to do my utmost to see if we can find a way to have a vote on the Paycheck Fairness Act. It is so fair to do that, to do a better job of equalizing pay between men and women when they do the same work. It seems fairly basic and fair.

S. 3773 is Senator MCCONNELL's Tax Hike Prevention Act. I am in conversations with him on how we are going to proceed on the tax issues, relating to the extension of the individual tax benefits. We will have more to say about that at a subsequent time.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SMALL BUSINESS LENDING FUND ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus-Landrieu) amendment No. 4594, in the nature of a substitute.

Reid (for Nelson (FL)) amendment No. 4595 (to amendment No. 4594), to exempt certain amounts subject to other information reporting from the information reporting provisions of the Patient Protection and Affordable Care Act.

Reid (for Johannis) amendment No. 4596 (to amendment No. 4595), to repeal the expansion of information reporting requirements for payments of \$600 or more to corporations.

Reid amendment No. 4597 (to the language proposed to be stricken by amendment No. 4594), to change the enactment date.

Reid amendment No. 4598 (to amendment No. 4597), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4599 (the instructions on the motion to commit), to provide for a study.

Reid amendment No. 4600 (to the instructions (amendment No. 4599) of the motion to commit), of a perfecting nature.

Reid amendment No. 4601 (to amendment No. 4600), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. BAUCUS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is H.R. 5297.

Mr. BAUCUS. That is the Small Business Act.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAUCUS. Am I correct in saying the time is equally divided before the votes?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Mr. President, I see my colleague. I have a statement to make on the bill.

Mr. JOHANNIS. Mr. President, I defer to the Senator from Montana.

Mr. BAUCUS. Mr. President, the Book of Ecclesiastes teaches: "The end of a matter is better than its beginning."

In other words, getting something done is better than starting something new. That is what a lot of folks are telling us these days. They are telling us to get some things done. They are telling us to do something to create jobs. They are telling us to enact legislation such as the small business jobs bill before us today.

In America, the private sector creates the vast majority of jobs, and in the private sector, small businesses are the principal engine of job creation. Over the past 15 years, small businesses generated two-thirds of new jobs. That is about 12 million new jobs. That is even more true in my home State of Montana. In Montana, we have the largest share of workers employed by small businesses of any State in the Nation. Nearly 4 out of 5 employees in Montana work in businesses with fewer than 10 workers, and 3 out of 5 employees in Montana work in businesses with fewer than 5 workers.

The great recession has hit small businesses hard. Over the course of the recession, small firms have incurred two-thirds of the net job losses. We need to focus on small businesses as we seek to create jobs. When we help small businesses, we help get Americans back to work, and that is exactly what this small business jobs bill would do. This bill would help small businesses get capital. This bill would make it easier for small businesses to invest. This bill would promote entrepreneurship. This bill would improve equity in the law. This is exactly the kind of targeted job-creating legislation folks are telling us to enact, and we ought to get it done. But before we can pass this bill, we have to address the pending Johanns and Nelson amendments on information reporting.

I urge my colleagues to oppose the Johanns amendment and support the Nelson amendment, and let me explain why. The Johanns amendment would repeal a tax-reporting provision enacted in the new health care law. No matter what you think of the reporting requirement in the new health care law, the offset in the Johanns amendment is a killer.

The Johanns amendment would go in the wrong direction. It would expand the exemption from the responsibility to buy health insurance. Fewer people would be responsible to buy health insurance. The amendment would raise revenue because it would thus decrease the number of people who receive Federal tax credits. Fewer Americans would get insurance and fewer people would get tax credits to buy the insurance.

According to the nonpartisan Congressional Budget Office, the Johanns amendment would increase premiums by up to 4 percent in the individual market; that is, in the market for those who individually buy health in-

surance. Their premiums would go up 4 percent, according to the Congressional Budget Office, under the Johanns amendment.

The Johanns amendment would increase the number of uninsured by 2 million people—increase by 2 million the number of people who are uninsured. Under the Johanns amendment, much of the cost of caring for the uninsured would therefore continue to be shifted to people with insurance, as it is today, and the premiums would continue to go up for all the rest of us to pay for that.

By reducing the requirement for folks to buy insurance, the Johanns amendment would make it so that the share of folks who buy insurance who are sick would also increase, and that would make insurance premiums go up as well.

We need to resist misguided efforts such as these to weaken the new health care law. What is more, the amendment would also cut money set aside for prevention in the new health care law, and that is a bad idea. The Johanns amendment is a wolf in sheep's clothing. It is dressed up as an attempt to help small businesses, but in reality it is just another partisan effort to undermine the new health care law.

Let me take a few moments to address the information reporting requirement which the Johanns amendment purports to address. Current law, even before health care reform, requires all businesses to send a form 1099 information return to all unincorporated service providers to whom businesses pay \$600 or more during the year. This information also goes to the IRS. That is current law. That is before the health care reform law. The new health care law expands this requirement to include payments to corporations—not just service providers but to unincorporated companies—as well as payments for goods and property beginning in 2012. So this goes into effect, the provision in the health care law, in 2012—not this year, not next year, but 2012. I know it takes time and money for small businesses to comply with information reporting requirements. I am very sympathetic to the record-keeping burdens of small businesses. But the research demonstrates that voluntary compliance doubles when information reporting is in place. The rate rises from 46 percent compliance to 98 percent compliance. Information reporting does not increase taxes. Let me say that again. It does not increase taxes. Rather, it keeps tax rates lower. Why? Because more people pay the taxes they already owe.

Both the Bush administration and the Obama administration included corporate information reporting among their tax compliance proposals. But we do need to address this requirement, and the Nelson amendment is an excellent start. The Nelson amendment directly addresses the concerns small businesses are raising. First, the Nel-

son amendment would completely exempt businesses with 25 or fewer employees from the new reporting requirements for goods and property—a complete exemption for a small business that has 25 or fewer employees. For businesses with more than 25 employees, the Nelson amendment would raise the threshold to report purchases of goods and property from \$600 to \$5,000. The Nelson amendment would also take other steps to reduce the burdens on small businesses.

The bottom line is this: We have heard the concerns of small businesses. We hear it. I hear it. During the last month, I heard it two or three times, and on this particular provision. But when I asked about the Nelson solution, the people I talked to, the small businessmen I talked to, and the accountants I talked to at home said: Well, gee, maybe that might be OK.

We intend to work diligently to address and mitigate the concerns of small businesses, and we are doing so with the Nelson amendment. The Nelson amendment is the first step in that process. So I urge my colleagues to support the Nelson amendment in response to the concerns of small businesses. Those concerns are real, and the Nelson amendment addresses them. But the offset in the Johanns amendment is a killer. The Johanns amendment would raise health insurance premiums—raise them. The Johanns amendment would result in fewer people having health insurance—fewer. And the Johanns amendment would cut funding for prevention—cut it. Those are results no one should want. I therefore urge that the Johanns amendment be opposed, and I urge my colleagues to vote against it.

Let's address these amendments and get something done, as Ecclesiastes, in the Scriptures, suggests to us, let's do something to create jobs, and let's enact this small business jobs bill today.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNES. Mr. President, I rise today to speak on behalf of the amendment I offer, which is called the Johanns amendment. I think and very respectfully I say that the Senator from Montana has really joined the issues here. On one hand, we have this 1099 requirement, which no business in America supports—none. We have this 1099 requirement that every business association in America opposes. On the other hand, we have a health care bill—passed on Christmas Eve, put together with no bipartisan support—for which the President is demanding absolute loyalty of his Members. He doesn't want anything changed. And that is how the issue is joined today.

But I believe today that we in the Senate have an opportunity to take a very clear and very decisive action that shows we mean what we say. A vote to repeal the 1099 paperwork mandate fulfills the promise to clear Federal roadblocks that are stopping small

businesses from expanding and putting Americans to work.

There have been a lot of promises from this administration and even from this Congress to support small businesses, but America is coming to the conclusion that the promises are empty. And this 1099 mandate in the health care bill is a perfect example of why they are giving up hope. You see, our small business owners, our medium-sized business owners, and our large business owners are frustrated with nice speeches that are followed by strangling regulation, new taxes, and really absurd paperwork mandates. Small businesses want to expand, they want to hire workers, and they want more customers. They do not like going to a long-term employee and saying: I have to lay you off. I have had employers talk to me about that literally with tears in their eyes. Yet this tax paperwork mandate—hidden in the health care law, of all things, in section 9006, page 700-something—requires businesses to file a mountain of additional 1099 tax forms. It will consume resources that could otherwise be spent on wages for new employees. It is an undeniable example of the relentless hostility this administration has toward the business community.

The Washington Post accurately summarized it this way:

As small businesses try to plot their recovery, attention is turning to what many owners consider burdensome policies—higher taxes, new accounting procedures and health-care mandates.

That quote goes on to say:

Even as the government tries to help with an array of small business initiatives, many owners say the intervention is as much a hindrance to hiring as is the faltering economy.

You see, this type of uncertainty and fear only leads to a paralyzed job market and, of course, anemic growth. Just look at what we have piled on the backs of businesses in the last 18 months. Is it any wonder they are sitting on capital? A so-called economic stimulus that cost taxpayers \$862 billion but failed to deliver on the promise of keeping unemployment below 8 percent. Passage of a \$2.6 trillion health care bill that, when honestly scored, imposes an employer mandate—an employer mandate—during one of the toughest economic times since the Great Depression. It increases taxes in areas completely unrelated to health care. A financial overhaul that increases small business burdens and cost of compliance. Threats of card check, which the Chamber of Commerce recently estimated will result in 600,000 lost jobs. And, of course, the endless threat of an energy tax. A cap-and-trade proposal that would result in increased production costs, harming America's competitiveness in a global marketplace—shipping jobs to India and China. To make matters worse, the uncertainty about the looming tax increases—the largest in history—only compounds the worries businesses are facing.

All of us traveled during the August break. I traveled across my home State of Nebraska in August, and I heard from hundreds, thousands of constituents. The message was plain and simple. In 14 townhalls across the State, people said over and over again: MIKE, go back there and fight for us. And do you know what they were asking me to do? Protect their businesses from Washington. Protect their businesses from Washington.

We have an opportunity to do just that today by fully repealing the 1099 filing requirements. Our job creators will be able to focus their time and energy on hiring and expanding, not dealing with mounds of paperwork.

As the president of the Nebraska Federation of Independent Business put it, and I am quoting from the chart:

You can't operate and grow your business if you are spending all your time filling out IRS forms and haggling with auditors.

In fact, there has been an outpouring of support from business owners who are hoping that common sense will rule the day. The steady stream of support letters and key vote letters Senate offices have received is absolutely compelling evidence that our job creators feel very strongly about repealing this nonsensical mandate. The U.S. Chamber of Commerce, National Federation of Independent Business, and the National Association of Manufacturers all support full repeal, to name a few. But I could go on and on—the Farm Bureau, the National Restaurant Association, the Public Accountants Association, veterinarians, florists. There is no stopping here.

I think it is time Washington listen to the concerns of constituents and businesses. They sure did not do that with the health care bill. Here is a sampling of what businesses are saying. From the American Rental Association:

The reporting requirement substantially and disproportionately increases compliance burdens on all types of small businesses.

Citizens Against Government Waste says:

With a ballooning \$13.4 trillion federal debt and a national unemployment rate that is around 10 percent, lawmakers should be focused on providing relief to America's businesses, encouraging job creation, and spurring economic growth. The 1099 mandate is a major roadblock, discouraging them from expanding and hiring.

The National Restaurant Association says this:

This new requirement will impose a significant burden on restaurants across the country.

The International Franchise Association says:

The paperwork filing burden associated with this provision will be too great for many small businesses to comply and could lead to inaccurate filings that may trigger audits and penalties.

Finally, the Coalition for Fairness in Tax Compliance says:

The Johans amendment is the only solution that fully protects small businesses.

They go on to speak to the Nelson amendment, and I am quoting again:

The Nelson amendment does not remove the paperwork and administrative burden that is created by this new law. Instead, the Nelson alternative further complicates compliance responsibilities . . . rather than clarify. The Nelson amendment actually creates even greater complexity for those who comply with the law.

Businesses could not be more clear. Today are we going to turn our deaf ear to the job creators in America? Are we going to stand with the President, who does not want anybody fiddling with his health care reform, or are we going to stand with small businesses?

This is a vote to put Americans back to work by freeing up our small businesses to expand and hire. It is as simple as that. Let's not force our job creators to fight the greatest battle they are fighting, which is the battle against Washington and its endless appetite for regulation and spending.

We have talked about support for our small businesses. Let's stand behind them. I want to remind my colleagues that, according to analysis by one business group, this mandate is likely to increase the 1099s that businesses file by a whopping 2000 percent. Let's listen to the loud voices of an endless line of businesses pleading with us to repeal this job-killing mandate.

I hope my colleagues across the aisle will reject the arm twisting that is going on by the White House to preserve at all costs the health care law and every word of it, every dotted i and every crossed t, even at the expense of American jobs. I ask you to vote in favor of the only bipartisan amendment you will vote on today, the Johans-Lincoln amendment, a bipartisan approach, the only real fix to a 1099 nightmare created by the health care law.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will yield 8 minutes to my good friend from Florida, who has come up with a very good idea to resolve this question.

AMENDMENT NO. 4595, AS MODIFIED, AND
AMENDMENT NO. 4596, AS MODIFIED

Mr. NELSON of Florida. If it is OK with the chairman of the committee, we have a unanimous consent that has been agreed to on both sides.

Mr. President, I ask unanimous consent that the pending amendments, No. 4595 and No. 4596, be modified with the changes at the desk.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Nebraska.

Mr. JOHANNIS. Mr. President, reserving the right to object, let me take a moment to analyze what the Senator has proposed.

We have no objection.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

The amendments, as modified, are as follows:

AMENDMENT NO. 4595, AS MODIFIED

At the end of subtitle B of title II, add the following:

PART V—ADDITIONAL PROVISIONS

SEC. _____. CERTAIN EXCEPTIONS TO INFORMATION REPORTING PROVISIONS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986, as amended by section 9006 of the Patient Protection and Affordable Care Act and section 2101 of this Act, is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection:

“(j) COORDINATION WITH RETURNS RELATING TO PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.—This section shall not apply to any amount with respect to which a return is required to be made under section 6050W.”.

(b) INCREASE IN THRESHOLD AMOUNT AND EXEMPTION FOR SMALL EMPLOYERS FOR REPORTING OF CERTAIN PAYMENTS.—Subsection (a) of section 6041 of the Internal Revenue Code of 1986, as amended by the Patient Protection and Affordable Care Act, is amended by adding at the end the following new sentences: “In the case of payments in consideration of property, this subsection shall be applied by substituting ‘\$5,000’ for ‘\$600’ and this subsection shall not apply in the case of any person employing not more than 25 employees at any time during the taxable year. In the case of any payment to a corporation which is not an organization exempt from tax under section 501(a), this subsection shall not apply in the case of any person employing not more than 25 employees at any time during the taxable year. For purposes of the two immediately preceding sentences, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer.”.

(c) REGULATORY AUTHORITY.—Subsection (k) of section 6041 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking “including” and all that follows and inserting “including—“(1) rules to prevent duplicative reporting of transactions, and

“(2) rules which identify, and provide exceptions for, payments which bear minimal risk of noncompliance.”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts with respect to which a return is required to be made in calendar years beginning after December 31, 2010.

(2) PROPERTY THRESHOLD.—The amendment made by subsection (b) shall apply as if included in the amendments made by section 9006 of the Patient Protection and Affordable Care Act.

(e) PUBLIC COMMENTS AND SUGGESTIONS.—In order to minimize the burden on small businesses and to avoid duplicative information reporting by small businesses, the Secretary of the Treasury or the Secretary's designee is directed to request and consider comments and suggestions from the public concerning implementation and administration of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, including—

(1) the appropriate scope of the terms “gross proceeds” and “amounts in consideration for property” in section 6041(a) of the Internal Revenue Code of 1986, as amended by such section 9006,

(2) whether or how the reporting requirements should apply to payments between affiliated corporations, including payments related to intercompany transactions within the same consolidated group,

(3) the appropriate time and manner of reporting to the Internal Revenue Service, and

whether, and what, changes to existing procedures, forms, and software for filing information returns are needed, including electronic filing of information returns to the Internal Revenue Service,

(4) whether, and what, changes to existing procedures and forms to acquire taxpayer identification numbers are needed, and

(5) how back-up withholding requirements should apply.

(f) TIMELY GUIDANCE.—The Secretary of the Treasury is directed to issue timely guidance that will implement and administer the amendments made by section 9006 of the Patient Protection and Affordable Care Act in a manner that minimizes the burden on small businesses and avoids duplicative reporting by small businesses.

(g) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Prior to the effective date of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, the Secretary of the Treasury shall report quarterly to Congress concerning the steps taken to implement such amendments, including ways to limit compliance burdens and to avoid duplicative reporting. Such reports shall include—

(A) a description of actions taken to minimize, reduce or eliminate burdens associated with information reporting by small businesses, and

(B) a description of business transactions exempted from reporting requirements to avoid duplicative reporting or because such transactions represent minimal compliance risk.

(2) COMPARISON.—Not later than 6 months prior to the effective date of the amendments made by section 9006 of the Patient Protection and Affordable Care Act, the Secretary of the Treasury shall report to Congress a comparison of the expected compliance requirements after the implementation of such amendments to the compliance requirements under section 6041 of the Internal Revenue Code of 1986 prior to the effective date of such amendments.

SEC. _____. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of a taxpayer which is a major integrated oil company (as defined in section 167(h)(5)(B)), oil related qualified production activities (within the meaning of subsection (d)(9)(B)).”.

(b) CONFORMING AMENDMENT.—Section 199(d)(9)(A) of the Internal Revenue Code of 1986 is amended by inserting “(other than a major integrated oil company (as defined in section 167(h)(5)(B)))” after “taxpayer”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

AMENDMENT NO. 4596, AS MODIFIED

In lieu of the matter proposed to be inserted, insert the following at the appropriate place insert the following:

PART IV—ADDITIONAL PROVISIONS

SEC. 4271. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SEC. 4272. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “8 percent” and inserting “5 percent”.

SEC. 4273. USE OF PREVENTION AND PUBLIC HEALTH FUND.

(a) USE OF FUNDS AS OFFSET THROUGH FISCAL YEAR 2017.—Section 4002(b) of the Patient Protection and Affordable Care Act is amended by striking “appropriated—” and all that follows and inserting “appropriated, for fiscal year 2018, and each fiscal year thereafter, \$2,000,000,000”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 4002 of the Patient Protection and Affordable Care Act.

SEC. 4274. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.25 percentage points.

Mr. NELSON of Florida. Mr. President, we are down now to passing what we have tried to pass so many times, this small business assistance bill, which is going to create a \$30 billion lending facility that will work through community banks. The small business lending fund will generate \$300 billion of loans that will specifically be targeted to small businesses to help get our country moving again economically. This is huge. But right now we are stuck on this issue of whether businesses are going to have to file these 1099 forms anytime they make purchases of goods.

The Senator from Nebraska wants to eliminate all of the new information reporting rules. That is a salutary result. But how does he propose to do it? He has to come up with a way to pay for it. The underlying law raises about \$17 billion, so he has to come up with a pay-for if he is going to repeal it. Where does he get it? He basically goes directly at the health care bill, the reform bill, and he starts to gut the health care reform bill.

This Senator does not think that is a very good idea, particularly since what the Senator from Nebraska is gutting is the subsidies that allow people to purchase health insurance who presently are uninsured. The amendment of the Senator would reduce the number of people that purchase coverage through the health insurance exchange. These are uninsured people whom we want to have private health insurance, 2 million of them in this country who otherwise would go into their State health insurance exchange and be able to purchase health insurance with some assistance because of their income level.

The amendment of the Senator involves a complicated formula. It actually gets at a provision in the current health reform law that says if your health premiums are going to be above 8 percent of your annual income, you do not have a responsibility to purchase health insurance. The Senator from Nebraska drops that to 5 percent, which means that 2 million people in

this country are not going to go into these health insurance exchanges and purchase health insurance.

By the way, what is going to happen? They are still going to get health care if they do not have health insurance. Where are they going to get it? They are going to get it at the most expensive place at the most expensive time; that is, when they get sick they are going to go to the emergency room. If they do not have health insurance, guess who is going to pay. All the rest of us are going to pay, which was part of the reason for the health reform bill in the first place. It was to get 32 million people in this country who are not insured into the health insurance system so that you spread that health risk over more people. That is 32 million people who are going to come into the health insurance system and pay for their care, instead of just those who currently have health insurance.

The whole idea was to get more people into the system—more people paying insurance, more people with health insurance so they receive preventive care and so they do not wait around until the sniffles have turned into pneumonia and they have to go to the emergency room. If they don't have health insurance, everybody else pays for them.

What the Senator from Nebraska is doing is he is driving a stake into the heart of the health insurance reform bill by taking 2 million people out of that pool, people who are uninsured, who otherwise would be getting health insurance. That is the essence of this; otherwise, the Senator from Nebraska and I agree. We want to stop this nonsense of the harassment of every time you make a purchase of a good, some equipment, et cetera, that you have to file a 1099 because the other guy on the other end who is selling you that good is not going to report the income. We would both prefer to eliminate all of that.

The amendment of this Senator says, first of all, if you are a small business, if you are 25 employees or less, you are not going to have to worry about that requirement at all. Second, this Senator says that if you have 26 or more employees, you are not going to have to file that 1099 form when you purchase equipment unless it is over \$5,000 of value. Third, if it is a credit or debit card transaction, no information reporting by the business would be required, period.

Is that too much to ask in order to help get people to pay the income tax that they owe, people who are now getting out of it to the tune of \$17 billion? If somebody is not paying their income tax, is that fair? No, it is not. So in tightening up the law we are going to get people to pay their income tax, but we are going to do it in a way that is not harassing any business, and particularly small businesses, because we are going to exempt them if there are 25 employees or less.

The long and short of it is if the amendment of the Senator from Ne-

braska, which is going to be voted on first, is not agreed to, then we come to the amendment of this Senator. You may want to eliminate everything. But if his amendment—

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. NELSON of Florida. Oh, goodness. I will conclude by saying if his amendment does not pass, then you have a viable alternative with the Nelson amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. May I inquire how much time on this side is left?

The ACTING PRESIDENT pro tempore. The Senator from Nebraska has 11 minutes 14 seconds.

Mr. JOHANNIS. I will defer to the Senator from Wyoming for 3 minutes, and yield 3 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, I just heard the discussion about this bill. I know in the health care bill we hired 16,000 more IRS agents. If we hired 16,000 more IRS agents, we should not need a whole bunch more paperwork for small businesses to do, to see if they are being honest.

This is going to cost a fortune for small business, even if you go to the \$5,000 level, because you have to keep track of how much you buy from every supplier. You have to see if you hit the \$600 or \$5,000 mark. That is a cost to business with no benefit. I do not think it is going to wind up with the kind of benefit they are talking about in raising revenue to finance health care.

As far as the mandate to buy insurance, I am not in favor of the mandate to begin with. But it mandates that they spend 8 percent of their income on health insurance. This reduces it to 5 percent of their health care. I think that is a pretty big mandate all in itself.

But during the last month, my wife and I traveled around Wyoming. We visited small businesses. We looked to see what their problems were. I do that to get a sense of what Federal legislation is going to do to help or hinder them. I want to see firsthand the struggles they deal with. Every business looks simple until you have to make the decisions that deal with that business.

The last thing we want to do in Washington is hurt those businesses by passing legislation that takes resources away from growing businesses and puts it into more paperwork. We also should not be passing legislation using regulation that stymies new jobs and causes uncertainty about what will come out in the near future.

Unfortunately, I think that is exactly what happened in the health care reform law that was enacted earlier this year. Today, we have a chance to fix it. Although the health care reform battle may be in the rearview mirror

for some of you, it is the small businesspeople in our hometowns who continue to bleed from it.

The provision I am referring to will require business owners to submit onerous and duplicative 1099 forms for every single business-to-business transaction over \$600. Even \$5,000 does not solve the problem. This includes anything from utilities, office supplies, construction materials. There are ways to audit that anyway. This is just trying to do an easy thing and putting a whole burden on businesses. So everybody on Main Street will have to do 200 to 2,000 of these 1099s depending on which one of these forms you go with. Repealing it is the best way to do it.

Something else that is not mentioned is they have to get the taxpayer's ID number. If you are a small businessman, a really small businessman, your taxpayer ID is your Social Security number. How willing are you going to be to give your Social Security number to some kid that bought \$600 worth of gas so he could mow lawns over the summer? If he does not get the taxpayer number, he is supposed to withhold 28 percent of the payment.

Most businesses don't have personal accountants on hand to file these forms so they will need to hire someone just to file paperwork. This is the kind of onerous paperwork burden that will distract small businesses from doing day-to-day business, providing much-needed jobs and stimulating the economy.

Many of my colleagues have joined me in co-sponsoring the Small Business Paperwork Mandate Eliminate Act to fix this problem, and today I urge them to join me in supporting Senator JOHANNIS' amendment. The Johannis amendment eliminates the onerous section of the law and pays for it in a responsible way. While I appreciate the Senator from Florida would like to exempt businesses with under 25 employees, this exemption actually encourages businesses to stop growing so they aren't burdened with onerous bureaucratic regulations, and the method he uses to offset his amendment will lead to increased energy prices and fewer American energy jobs. My biggest surprise over the August recess was the number of businesses that have heard of this requirement. They know and they are mad. One more requirement that doesn't bring in a single dollar and has a huge cost!

I urge all Senators to help the businesses in their State and make sure this section is repealed by supporting the Johannis amendment. You don't have to be a Republican and you don't have to be a Democrat to know that this is something we need to do. To know that, you just have to ask the business people you represent in your home State.

Let's take a sandbag off the backs of the small business people. We know repeal will be better for them, our States and our country. Surely we can find a way together to do this one small thing

that will make such a huge positive impact on those we serve.

The ACTING PRESIDENT pro tempore. The time of the Senator from Wyoming has expired.

Mr. ENZI. I think we can see what a terrible error it is to have this in the bill at all. I hope we will repeal it.

I yield the floor.

Ms. SNOWE. Mr. President, I rise today in support of the Johanns amendment to repeal an onerous mandate included in the health reform bill that would require millions of businesses to send billions of new information reporting forms to the IRS and other businesses. If Senator JOHANN'S amendment is not adopted here in the Senate, every business in America, starting in 2012, must report to the IRS on business purchases that exceed a threshold of only \$600 per vendor or supplier—for purchases of supplies and equipment, and also services ranging from cell phone coverage to window washing to utilities.

This new mandate was imposed in the health reform law, yet it has absolutely nothing to do with health insurance reform. What it does is make the Federal Government a more intrusive and burdensome presence in every aspect of American business—which is the very last thing American business needs during these tumultuous economic times. What small firms are clamoring for is certainty. They need the Federal Government to help foster an entrepreneurial environment under which they can do what they do best—create new jobs—and not saddle them with an incessant and unnecessary paperwork burden like this new 1099 filing requirement.

Most Americans recognize forms 1099 as the statements they get from a financial institution when they earn interest on savings or from their mortgage lender for the deductible interest the borrower pays to a bank or credit union for their home mortgage. The purpose of these 1099s is to accurately report income or deductions for a particular tax year so that income is appropriately taxed that year.

However this new system of 1099s does not have anything to do with a direct tax liability in a given year—instead, this reporting regime will allow the IRS to track business purchases that exceed \$600. Businesses typically have an intense focus on carefully tracking their sales to customers with marketing professionals. Rather than tracking sales to customers, this new government mandate will force a change in business focus to a detailed accounting of purchases from suppliers. While controlling costs is clearly a vital component of business profitability, this new government mandate on cost accounting and reporting to the IRS is an inordinate shift of priorities that will harm competitiveness and profitability because it will shift focus and resources away from customers.

A separate dimension of this new cost accounting mandate is that pur-

chases will also have to be separately tracked by type of payment because only payments made by check and cash would be reported on a 1099 but payments by credit card would be excluded from this mandate and misreporting transactions by including credit card purchases might be subject to penalties. So for each supplier from which aggregate purchase might exceed \$600 per year, purchases would have to be tracked by payment method. For instance, a construction contractor would have to make sure that employees know to use only a credit card at Home Depot but at the local lumber yard to only pay by check or invoice.

The intent of this 1099 provision may have been to track the cash flow of businesses that operate in a cash economy in order to root out those that do not pay taxes. Ensuring that tax cheats pay their taxes is an admirable and necessary function of government. However, instead it has become clear that this provision could simply further expand the cash economy. The very businesses that currently evade taxation are not likely to become compliant with this new burdensome reporting regime. In fact, a predominantly cash-based business will likely further retrench and thrive absent both tax liability and the new reporting regime while tax compliant businesses either muddle through or fail under this new burden. For instance, a small plumbing business or a roofing business would likely thrive by simply working in an all-cash system for residential customers and evading both income taxes and information reporting while a similar business attempting to comply with tax liability and compliance would struggle.

For the small businesses that attempt to comply with this tax reporting mandate, this paperwork burden will be imposed with a crushing effect. New tracking systems will have to be implemented for purchases in order to ensure that aggregated purchases exceeding \$600 are reported to the IRS. In fact, according to an NFIB Small Business Survey, at \$74 an hour, tax paperwork is the most expensive paperwork burden placed on small businesses by the Federal Government. The Small Business Administration has found that the cost of tax compliance is already 67 percent higher in small firms than in large firms. Because this new 1099 reporting burden would be so ubiquitous for firms attempting to be compliant—by requiring new processes of making business purchases and tracking of business purchases—this compliance cost statistic is likely to be woefully outdated and more onerous.

I fully expect the new Chief Counsel for Advocacy at the Small Business Administration, Winslow Sargeant, who President Obama recently recess appointed, to assess this new paperwork mandate and have his office recalibrate that statistic on cost of tax compliance which was last updated in 2005. Dr. Sargeant will also have the oppor-

tunity to fully use his office—the independent, “regulatory watchdog” for small business—to comment, by September 29, to a Treasury Department and IRS request for information on these expanded 1099 filing requirements. I want to quote from the SBA web site about the mission of the Office of Advocacy:

In 1976, the U.S. Congress created the Office of Advocacy within the U.S. Small Business Administration to protect, strengthen and effectively represent the nation's small businesses within the federal government's legislative and rule-making processes. The Office of Advocacy works to reduce the burdens that federal policies impose on small firms and maximize the benefits small businesses receive from the government. Advocacy's mission, simply stated, is to encourage policies that support the development and growth of American small business.

I expect Dr. Sargeant to fulfill his duties as the Chief Counsel for Advocacy by serving as a strong voice in this IRS rulemaking. In voicing the concerns of small businesses, Dr. Sargeant would be standing shoulder to shoulder with the IRS National Taxpayer Advocate, Nina Olson, who has stated that the administrative costs to small businesses of this provision are so high that it “may turn out to be disproportionate as compared with any resulting improvement in tax compliance.”

Separate from the burden of compliance, I fear the onerous and pervasive nature of this mandate, for it will surely change business purchasing decisions and disadvantage small businesses. Should the Johanns amendment to repeal this provision not be adopted, it would incentivize centralized purchasing from large integrated companies and away from smaller specialized ones. Rather than a roofing company putting out a bid to different suppliers for materials, this new government mandate would be another reason to consolidate purchasing in order to ease paperwork burdens of the 1099 process. With fewer businesses willing to put out bids to a wide variety of suppliers, a constricting spiral will take effect resulting in fewer and fewer specialty suppliers. While large big-box retailers serve a critical role, they don't need to have the heavy hand of government pushing customers through their doors instead of through the local building supply business or local office supply businesses. This further consolidation of suppliers is bad for innovation, bad for price competition, and bad for small business.

No wonder a broad coalition of businesses has come together to form the Coalition for Fairness in Tax Compliance. This group includes dozens and dozens of business organizations including Washington mainstays such as the National Federation of Independent Business, the National Association of Manufacturers, the Associated Builders and Contractors, the National Restaurant Association, and the US Chamber of Commerce, to groups as varied

as the Electronic Security Association, the Independent Community Bankers of America and the American Road & Transportation Builders Association.

Finally, I want to turn to an aspect of this issue that has not been discussed widely. The process of tracking business-to-business purchases, aggregating information on purchase prices and then reporting this information to the IRS on those purchases would largely put in place the infrastructure for a value added tax—or VAT—tax system. A typical value added tax is a credit-invoice method system where one business tracks the purchases it makes from others and then when it sells goods, it remits a tax for the increase in value of those goods. The increase in value is through either a manufacturing process or by adding value through a retail sale of goods.

A VAT depends upon reporting the price of goods purchased and sold. Imposing a system whereby virtually every business-to-business sale of goods or services is aggregated and reported to the IRS certainly puts in place all of the infrastructure of a VAT. This provision would be implemented and become effective in 2012. It would certainly take a year to two for taxpayers and the IRS to work through all of the administrative hassles associated with its implementation. By 2014, when the health benefit subsidies become effective, all of the machinery necessary for a VAT would be functioning and the machine would simply have to be turned on to start generating the money necessary to pay for these benefits at a time when our national deficits are likely to continue at atrocious levels.

Early in the debate for health reform, Obama advisers were proponents of a VAT to fund health reform, but were quickly publicly disavowed. Even in the Senate, last April, I joined 84 colleagues on the floor in April to repudiate the concept of a VAT. Putting in place the machinery of a VAT to not expect that machinery to be switched on is a test of faith that millions of small businesses across America are not willing to take.

We cannot tinker with this 1099 provision. We cannot amend this provision. We cannot leave a vestige of it to sprout in the future. We must repeal it. Now. I urge my colleagues to support the Johanns amendment and oppose the Nelson amendment.

Ms. MIKULSKI. Mr. President, I rise today to express my strong support for repealing the 1099 tax form requirement enacted in the Affordable Care Act. This requirement is burdensome for businesses in Maryland, especially small businesses. The 1099 tax provision requires businesses to report information on anyone they pay \$600 or more to for goods in a year. Businesses will also have to send copies of the form to their vendors, suppliers and contractors. This requirement is costly and burdensome to businesses.

Although I agree that we must ease the hassle faced by businesses, we must

be careful about how we pay for this. The Johanns amendment to the Small Business Jobs and Credit Act repeals the new 1099 tax reporting requirement, yet could end up increasing health care costs and cost small businesses even more as a result of higher health expenditures. The Johanns amendment eliminates funding for prevention programs such as providing immunizations and screenings for diseases like cancer, heart disease, and diabetes. By catching diseases earlier and reducing the incidence of chronic disease, prevention programs lead to cost savings which lower the cost of health insurance for small businesses.

That is why I support the Nelson amendment which provides a more affordable alternative. The Nelson amendment reduces the burden faced by businesses by eliminating the 1099 reporting requirement all together for businesses with 25 employees or less. It also raises the reporting threshold to anyone paid \$5,000 or more for purchased goods in a year in a way that is affordable. This will help over 85 percent of businesses in Maryland.

I am also a cosponsor of Senator LANDRIEU's Information Reporting Modernization Act. Senator LANDRIEU chairs the Small Business Committee and her bill would simplify and modernize 1099 reporting requirements so that nothing paid for with credit or debit cards would need to be reported and the \$5,000 threshold amount for reporting established in the bill could be adjusted and increased every year for inflation. I will continue to support lessening the burdens faced by small businesses and help lower their costs.

Mr. FEINGOLD. Mr. President, I am pleased to vote for the motion to invoke cloture on Senator BILL NELSON's amendment to ease reporting requirements on small businesses, which are the engine of our economy. Unlike Senator NELSON's commonsense amendment, which was paid for by taking away a tax break from big oil, Senator JOHANN'S alternative proposal would deny health insurance for roughly 2 million Americans and raise insurance premiums for many more. We can and should help small businesses without making health insurance more expensive and less accessible.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAUCUS. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes 45 seconds remaining.

Mr. BAUCUS. I yield 5 minutes 45 seconds to the Senator from Iowa.

Mr. HARKIN. I thank my friend from Montana for yielding me this time.

Mr. President, the Johanns amendment would kill—would kill—the Prevention and Public Health Fund that we have established for our American citizens. Chronic diseases are one of the main reasons health care costs have increased so dramatically over the past several decades.

This chart shows it. In 2005 we spent \$2 trillion on health care. For every dollar spent, we spent 75 cents treating people who had a chronic disease. But we spent four pennies on prevention—four pennies on prevention—and 75 cents out of the dollar treating them.

This second chart shows what has happened from 1987 to now: a \$314 billion increase in spending on all health care. Two-thirds of the increase went to take care of people who had chronic illnesses.

Most of this is preventable. That is why we know, and we have good data to show, that for every dollar we spend on prevention and wellness we get a great return. For every dollar spent on childhood immunization, we get a \$16.50 return. For every smoking cessation program for pregnant women, \$6; chronic disease prevention overall, \$5.60. Even tuberculosis screening, for every dollar we spend we get more money back in savings because we are not treating people with chronic illnesses.

So, again, why would we want to gut this program? But that is what the Johanns amendment does. It says the Prevention and Public Health Fund that we established in health care, which had support from both sides of the aisle—I think regardless of how anyone felt about the final version of the health care reform bill, I found no one who wanted to go after the Prevention and Public Health Fund because we all recognized this is the path to our future: keeping people healthy in the first place.

So we have this established. We have the fund established. The Johanns amendment guts it. It says no money; no money for prevention, no money for wellness until 2018. Well, we will just let people continue to get chronic illnesses, chronic diseases, and we will take care of them later.

Remember what Benjamin Franklin said: An ounce of prevention is worth a pound of cure. Our mothers were right when they told us that. We finally have realized that in our society. Ask the medical community. Ask the nurses. Ask anyone. They will tell you we need to put more money into prevention and wellness programs across the board.

That is what we designed. That is what we put in the health care bill. It was broadly supported on both sides of the aisle. Yet regardless of whatever benefits the Johanns amendment may have—and, quite frankly, I tend to sympathize with the problems that were raised about paperwork on small businesses—this is not the place to rob the money. This is the worst place from which to take the money. I do not know why my friend from Nebraska saw fit to take money out of something that is going to save us money, save lives, and cut down on needless human suffering in the future. Think of all of the people who will be cut off of smoking, people who will have wellness programs, screening programs for the elderly that will start now. Every senior

citizen can go in and get on Medicare, get an annual free checkup, and a personalized medical plan to keep them healthy. Free mammograms, childhood screenings—all part of getting ahead of the curve rather than just treating people after they get sick.

I have looked at that amendment. I have looked at the Nelson amendment. It seems to me the Nelson amendment does basically do the same thing in terms of helping our small businesses. So I think the Nelson amendment is the way to go because it does eliminate any reporting burden on the great majority of small businesses, those with less than 25 employees at any point in the year. But, most importantly, it does not take money out of the Prevention and Public Health Fund. It does not gut it.

So, as I say, regardless of whatever benefits you may think the Johannis amendment has, it is the wrong place to get the money, absolutely the wrong place. So I ask my colleagues, if you really want to help small businesses and not gut the one thing in health care that is going to bend the cost curve, bend the cost curve, keep people healthy, cut down on all of this money we are spending to take care of people when they get sick, the best way to do that is to support the Nelson amendment which does both: keeps the Prevention and Public Health Fund intact, and yet helps our small businesses. To me, that is the right process to take.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. How much time remains?

The ACTING PRESIDENT pro tempore. There is 7 minutes 45 seconds remaining.

Mr. JOHANNIS. I yield 3 minutes to the Senator from South Dakota, Mr. THUNE.

Mr. THUNE. Mr. President, when the health care reform bill passed, the Speaker of the House famously said: We have to pass this bill so we can figure out what is in it.

Well, what more and more Americans are finding when they look at what is in it are things they do not like. This is becoming increasingly less popular over time, and one of the most egregious provisions in this bill is this 1099 provision.

The Senator from Iowa is worried about making sure more people have access to health care. We all are. Well, the best way for most Americans to get access to health care, because most Americans still get their health care coverage through their employers, the best way to get health care coverage is to get a job. This provision kills jobs.

This is directly targeted at small businesses, the economic engine, the job creators in America today. So what the Senator from Nebraska is trying to do is to correct this by repealing this onerous compliance burden that we are placing on the small businesses of this country. It is not the tax delinquents

who get hurt by this, it is the hard-working small businesses. It is the charities. It is the government agencies who have to deal with this burdensome paperwork.

That, I think, is why we have so many organizations. We have agricultural organizations such as the American Farm Bureau, the Corn Growers, the Soybean Growers, the Cattlemen, and go right down the list. We have small business organizations such as the Chamber of Commerce, the National Federation of Independent Business, the National Association of Manufacturers, the National Association of Home Builders, the International Food Service Distributors, the Restaurant Association, and the Associated General Contractors that support repeal because it would hurt both their employees and their bottom line.

We even have government organizations such as the National Association of Towns and Townships, which represents local governments. They support repeal because it would force cities and communities to keep track of every purchase they make whether it be cement, snowplows, or pencils. This is a ridiculous requirement that we are imposing, in many cases, on small businesses, on small charities, on small organizations, and local governments.

I can tell you from personal experience, in my State this is something they cannot comply with and cannot deal with. So if we are worried about job creation in this country, if we are worried about economic growth, this is absolutely the wrong way to go about promoting it.

What the Johannis amendment does is repeal this provision. It does it in a fiscally responsible way. It is offset, it is paid for, and it makes sense. I hope my colleagues will vote for this common-sense amendment because whether this was an intended consequence or an unintended consequence, this is absolutely disastrous for small businesses across this country, and it is essential that we get this part of the health care reform bill repealed.

There are many others I think we are probably going to be talking about before this is all said and done because, as I said, the more people read the fine print in this legislation, the more they come to the realization of how bad this is for small businesses and for job creation in this country.

So I would urge all of my colleagues to vote for the Johannis amendment and to repeal this onerous provision.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. Mr. President, I yield 3 minutes to the Senator from Missouri, Mr. BOND.

Mr. BOND. Mr. President, the distinguished Senator from Montana, the chairman of the Finance Committee, earlier this morning said small businesses are the engine that drives jobs in the economy. I agree with him. I agree.

As the former chairman of the Small Business Committee, I know how im-

portant small businesses are. I traveled around the State during the past breaks to find out, meeting with small businesses, why they are not creating jobs. We, frankly, have cut off the fuel supply, the profits that drive these jobs.

I asked a group of small businesses: Why is it that you are not creating jobs? Is it because of the uncertainty people are talking about? I was immediately corrected.

They said: It is the certainty. We know what you have done in the health care law, putting unbelievable burdens on us.

They did not even know about this 1099 requirement at the time. But the health care costs are burdening small businesses, and it is making it impossible and unwise for them to try to hire. I talked to a small businessman today, and I asked him about it. I told him what the requirements were. He said: That is nuts. What do you think they are talking about? We are going to have to hire more bookkeepers.

Unfortunately, my colleagues on the other side of the aisle refuse to listen to small businesses in passing this bill. They put burdens on them that are unbelievable. The new health care bill passed and signed into law is a boondoggle that will bury small businesses in higher taxes, new mandates, and more paperwork.

This particular job-killing mandate of the 1099 we are debating today will drown small businesses in paperwork by requiring a small business owner to file two forms, one with the vendor and one with the IRS, for every business-to-business transaction over \$600.

According to the Wall Street Journal this morning, this means more than 30 million small businesses will be hit by the new paperwork mandate beginning in 2013. That is not the worst of it. Even the National Taxpayer Advocate at the Treasury Department, Nina Olson, said the cost of this measure is "disproportionate as compared with any resulting improvements in tax compliance."

That is the problem. That is the problem, and the Johannis amendment is the only solution. We have to correct this job-killing mandate as urged by the NFIB, the Chamber of Commerce, and the National Small Business Association. Democrats are trying to sell a pig in a poke.

The Nelson alternative would leave the same bad provision in place, only making it more complicated for small business owners to comply. It would only exempt small businesses with 25 employees or less. So, in other words, we are telling small businesses not to hire the 26th worker while we are having unemployment up around 10 percent.

If you have small businesses in your State, you better listen to them. They are wanting a repeal, the full repeal of this burdensome mandate.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BOND. Mr. President, I ask unanimous consent that the article from today's Wall Street Journal editorial be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 14, 2010]

REVIEW & OUTLOOK
THE 1099 INSURRECTION

The White House fights an effort to ease a burden on small business. You might not have seen it reported, but the Senate will vote this morning on whether to repeal part of ObamaCare that it passed only months ago. The White House is opposed, but this fight is likely to be the first of many as Americans discover—as Nancy Pelosi once famously predicted—what's in the bill.

The Senate will vote on amendments to the White House small business bill that would rescind an ObamaCare mandate that companies track and submit to the IRS all business-to-business transactions over \$600 annually. Democrats tacked the 1099 reporting footnote into the bill to raise an estimated \$17.1 billion, part of the effort to claim that ObamaCare reduces the deficit by \$100 billion or so.

But this "tax gap" of unreported business income is largely a Beltway myth, and no less than the Treasury Department's National Taxpayer Advocate Nina Olson says the costs will be "disproportionate as compared with any resulting improvements in tax compliance."

Meanwhile, small businesses are staring in horror toward 2013, when the 1099 mandate will hit more than 30 million of them. Currently businesses only have to tell the IRS the value of services they purchase from vendors and the like. Under the new rules, they'll have to report the value of goods and merchandise they purchase as well, adding vast accounting and paperwork costs.

Think about a mid-sized trucking company. The back office would have to collect hundreds of thousands of receipts from every gas station where its drivers filled up and figure out where it spent more than \$600 that year. Then it would also need to match those payments to the stations' corporate parents.

Most Democrats now claim they were blindsided and didn't understand the implications of the 1099 provision—which is typical of the slapdash, destructive way the bill was written and passed. As the critics claimed, most Members had no idea what they were voting on. Some 239 House Democrats voted to dump the 1099 provision in August, and the repeal would have passed except Speaker Pelosi rigged the vote procedurally so it needed a two-thirds majority. She thus gave Democrats the cover of a repeal vote without actually repealing it.

In the Senate today, Nebraska Republican Mike Johanns will offer his amendment to scrap the new 1099 rules altogether. But the White House is opposing this because it fears it would set a precedent for repealing the larger health bill. Over the weekend the Treasury Department pronounced the Johanns amendment "not acceptable in its current form."

Yesterday the White House endorsed a competing proposal from Florida Democrat Bill Nelson that would increase the 1099 threshold to \$5,000 and exempt businesses with fewer than 25 workers. Yet this is little more than a rear-guard action in favor of the status quo; the Nelson amendment leaves the basic architecture unchanged while making the problem more complex.

Businesses would still have to track all purchases, not knowing in advance which

contractors will exceed \$5,000 at the end of the year. It also creates a marginal barrier to job creation—for a smaller firm, hiring a 26th employee would be extremely costly. The Nelson amendment also includes new taxes on domestic oil production, as every Democratic bill now seems to do.

As of yesterday, no one was sure if either amendment would get 60 votes, though Democrat Blanche Lincoln of Arkansas is cosponsoring the Johanns version. Enough Democrats may bend to White House wishes and produce a stalemate, but this issue won't go away. The President's opposition to a clean repeal shows the hollowness of his alleged support for small business, which he expresses at every campaign stop but is less a priority than preserving his health-care legacy.

The larger political story here is that ObamaCare is already under bipartisan siege—and in the same Congress that passed it. The 1099 provision is only one plank, but repealing the law plank by plank may be the right strategy. Sooner or later the whole thing becomes unworkable. Voters should watch this vote to see who's really on the side of small business.

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

Mr. JOHANNS. Mr. President, how much time is on this side?

The ACTING PRESIDENT pro tempore. Forty-five seconds.

Mr. JOHANNS. Let me wrap up with something. If the Nelson amendment passes, this is the effect: These are businesses, real people who are going to be hurt because they are left out. In the State of Iowa, 3,334 businesses are left out; in the State of California, 18,960. Over 40,000 businesses, employing 93 million people, are left out.

This talk about gutting the health care reform bill; are you kidding me? The President himself used \$250 million of the \$500 million this year for purposes other than what was intended by this health care bill.

This is simply a choice between standing with our small businesses or standing with the President on the health care bill against small businesses. I ask my colleagues to vote yes on the Johanns amendment and stand with small businesses.

I yield the floor.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that a letter signed by 228 different organizations in the United States opposing the Johanns amendment be printed in the RECORD.

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

SEPTEMBER 1, 2010.

DEAR SENATOR: As the Senate considers the Small Business Jobs and Credit Act (H.R. 5297), the 228 undersigned organizations listed below strongly urge you to oppose the use of the Prevention and Public Health Fund from the Affordable Care Act (ACA) as an offset for an amendment offered by Senator Johanns (No. 4596). Such an action would virtually eliminate the Fund, and mark a severe blow to this monumental commitment to prevention and public health under the Act. We will also oppose any other such efforts to use the Fund as an offset.

ACA included historic reforms that have the potential to transform our health system. For too long, we have focused spending on treating people once they are sick rather than preventing illness in the first place. The Prevention and Public Health Fund (Fund) is urgently needed to address the many emerging health threats our country faces and the persistent chronic disease rates that we must begin to control. The Fund is intended to ensure a coordinated, comprehensive, sustainable, and accountable approach to improving our country's health outcomes through the most effective prevention and public health programs.

ACA clearly states That the money be used "for programs authorized by the Public Health Service Act, for prevention, wellness, and public health activities." The money would be strategically used to support disease prevention by promoting access to vaccines, building the public health workforce, and investing in community-based prevention. Furthermore, the Act specifically states that community-based prevention funding must only support evidence-based prevention programs which have been shown through scientific research to reduce chronic disease, including behavioral health conditions, and address health disparities. Research has shown that effective community level prevention activities focusing on nutrition, physical activity and smoking cessation can reduce chronic disease rates and have a significant return on investment.

Already in Fiscal Year 2010, we have seen these funds invested for programs to promote tobacco control and implement tobacco cessation services and campaigns, as well as obesity prevention, better nutrition and physical activity. The fund has been invested to support state, local and tribal public health efforts to advance health promotion and disease prevention, and to build state and local capacity to prevent, detect and respond to infectious disease outbreaks. The funds are also being used to support the training of current and next generation public health professionals.

The Fund is a unique opportunity to truly bend the cost curve on health care spending. Seventy-five percent of all health care costs in our country are spent on the treatment of chronic diseases, many of which could be prevented. Further, in a public opinion survey conducted just prior to the passage of the Act, Trust for America's Health and the Robert Wood Johnson Foundation (RWJF) found that 71 percent of Americans favored an increased investment in disease prevention and that disease prevention was one of the most popular components of health reform.

We must ensure that we capitalize on the unprecedented opportunity to transform our public health system by investing in prevention and public health. We urge you to vote NO on the prevention fund offset within the Johanns amendment, or on any other such legislative vehicles.

Sincerely,

AARP; ACCESS Women's Health Justice; Advocates for Better Children's Diets; AIDS Action; AIDS Alabama; All Saints Home Care; American Academy of Pediatrics; American Academy of Physician Assistants; American Association for International Aging; American Association of Colleges of Nursing; American Association of Colleges of Osteopathic Medicine; American Association of Colleges of Pharmacy; American Association of People With Disabilities; American Cancer Society Cancer Action Network; American College of Clinical Pharmacy; American College of Gastroenterology; American Congress of Obstetricians and

Gynecologists; American College of Occupational and Environmental Medicine; American College of Preventive Medicine; American Counseling Association; American Dental Education Association.

American Diabetes Association; American Federation of State, County and Municipal Employees; American Foundation for Suicide Prevention; American Heart Association; American Lung Association; American Medical Student Association; American Nurses Association; American Psychological Association; American Public Health Association; American Social Health Association; American Society for Gastrointestinal Endoscopy; American Thoracic Society; Applied Research Center; Arthritis Foundation; Asian and Pacific Islander American Health Forum; Association of American Medical Colleges; Association of Maternal & Child Health Programs; Association for Prevention Teaching and Research; Association of Public Health Laboratories.

Association of Schools of Public Health; Association of State and Territorial Dental Directors; Association of State and Territorial Directors of Nursing; Association of State and Territorial Health Officials; Association of Women's Health, Obstetric and Neonatal Nurses; Atlanta Regional Health Forum; A World Fit for Kids; Bazelon Center for Mental Health Law; Boston Public Health Commission; Building Healthier America; C3: Colorectal Cancer Coalition; California Association of Alcohol and Drug Abuse Counselors; California Center for Public Health Advocacy; California Food Policy Advocates; California Foundation for the Advancement of Addiction Professionals; California Immigrant Policy Center; California Pan-Ethnic Health Network; California Partnership; California School Health Centers Association; Campaign for Community Change; Campaign for Public Health.

Campaign for Tobacco-Free Kids; CASA de Maryland; C-Change; Center for Biosecurity, University of Pittsburgh Medical Center; Center for Health Improvement; Center for Science in the Public Interest; Cerebral Palsy Association of Ohio; Children and Adults with Attention-Deficit/Hyperactivity Disorder; Children Now; Children's Dental Health Project; City of Philadelphia Department of Public Health; Coalition for Health Services Research; Coalition for Humane Immigrant Rights of LA; Colon Cancer Alliance; Colorado Progressive Coalition; Commissioned Officers Association of the U.S. Public Health Service; CommonHealth ACTION; Community Action Partnership; Community Catalyst; Community Health Councils.

Community Health Partnership; Oregon's Public Health Institute; Comprehensive Health Education Foundation; Connecticut Certification Board; Connecticut Citizen Action Group.

Council of State and Territorial Epidemiologists; County Health Executives Association of California; Crohn's and Colitis Foundation of America; Defeat Diabetes Fund; Digestive Disease National Coalition; Faith Action for Community Equity; Family Voices; Federation of Associations in Behavioral & Brain Sciences; First Five; Friends of AHRQ; Friends of NCHS; Friends of SAMHSA; Georgia AIDS Coalition; Granite State Organizing Project; Grassroots Organizing.

Harlem United Community AIDS Center, Inc.; Having Our Say Coalition; Health Care for America Now; Health Law Advocates of Louisiana, Inc.; Health Promotion Advocates; Health Rights Organizing Project; Hepatitis Foundation International; HIV Medicine Association; Home Safety Council; Idaho Community Action Network; Indian People's Action; Infectious Diseases Society of America;

Institute for Health and Productivity Studies Rollins School of Public Health, Emory University; Institute for Public Health Innovation; International Certification and Reciprocity Consortium (IC&RC); International Health, Racquet & Sportsclub Association; Interstitial Cystitis Association; ISAIHA; Korean Resource Center; Libreria del Pueblo Inc.

Louisiana Public Health Institute; Mahoning Valley Organizing Collaborative; Main Street Alliance; Maine People's Alliance; Make the Road New York; March of Dimes Foundation; Maricopa County Dept of Public Health; Media Policy Center; Mental Health America; Michigan Association for Local Public Health; Montana Organizing Project; National Alliance of State and Territorial AIDS Directors; National Assembly on School-Based Health Care; National Association for Public Health Statistics and Information Systems; National Association of Chain Drug Stores; National Association of Children's Hospitals; National Association of Chronic Disease Directors; National Association of Community Health Centers; National Association of Counties; National Association of County & City Health Officials.

National Association of Local Boards of Health; National Association of Public Hospitals and Health Systems; National Association of School Nurses; National Association of State Alcohol and Drug Abuse Directors; National Association of State Mental Health Program Directors; National Business Coalition on Health; National Coalition for LGBT Health; National Coalition of STD Directors; National Council of Asian Pacific Islander Physicians; National Council of Jewish Women; National Council of La Raza; National Education Association; National Environmental Health Association; National Family Planning & Reproductive Health Association; National Federation of Families for Children's Mental Health; National Forum for Heart Disease and Stroke Prevention; National Health Council; National Indian Project Center; Northeast Ohio Alliance for Hope; National Korean American Service and Education Consortium.

National Network of Public Health Institutes; National Nursing Centers Consortium; National Recreation and Park Association; National Rural Health Association; National WIC Association; Nebraska Appleseed; Nebraska Urban Indian Health Coalition; Nemours; New Hampshire Public Health Association; NYC Department of Health and Mental Hygiene; New York Immigration Coalition; New York Society for Gastrointestinal Endoscopy; North Carolina Fair Share; Northern Illinois Public Health Consortium; Northwest Federation of Community Organizations; Novo Nordisk; NYU Langone Medical Center; Ocean State Action; Ohio Alliance for Retired Americans; Oregon Action; Out of Many, One.

Papa Ola Lokahi; Partners for a Healthy Nevada; Partnership for Prevention; Physician Assistant Education Association; Planned Parenthood Federation of America; Prevention Institute; Progress Ohio; Progressive Leadership Association of Nevada; Project Inform; Public Health Association of Nebraska; Public Health Foundation; Public Health Institute; Public Health Law and Policy; Public Health-Monroe County (MI); Public Health—Seattle and King County; Public Health Solutions; Pulmonary Hypertension Association; Rails-to-Trails Conservancy; REACH U.S. SouthEastern African American Center of Excellence for Elimination of Disparities (REACH U.S. SEA-CEED).

RiverStone Health; Safe States Alliance; Service Employees International Union; Sexuality Information and Education Council of the U.S.; Society for Adolescent Health and Medicine; Society for Healthcare Epidemi-

ology of America; Society for Public Health Education; South Carolina Fair Share; Summit Health Institute for Research and Education, Inc.; TakeAction Minnesota; Tenants and Workers United; The AIDS Institute; The Amos Project; The Greenlining Institute; The MetroHealth System; The National Alliance to Advance Adolescent Health; Toledo Area Jobs with Justice; Trust for America's Health; UHCAN Ohio; United Action Connecticut.

United Ostomy Associations of America; Urban Coalition for HIV/AIDS Prevention Services; U.S. PIRG; Virginia Organizing Project; Washington Health Foundation; West South Dakota Native American Organizing Project; WomenHeart; The National Coalition for Women with Heart Disease; YMCA of the USA.

Mr. HARKIN. Here is what it says. They found that 71 percent of Americans favored an increased investment in disease prevention. The letter is signed by organizations from the American Academy of Pediatrics to—

The ACTING PRESIDENT pro tempore. All time has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Johanns amendment No. 4596, as modified.

Harry Reid, Patrick J. Leahy, Dianne Feinstein, Charles E. Schumer, Herb Kohl, Joseph I. Lieberman, Jeff Bingaman, Barbara A. Mikulski, Richard J. Durbin, Al Franken, Byron L. Dorgan, Mark Begich, Benjamin L. Cardin, Amy Klobuchar, Kirsten E. Gillibrand, Jeanne Shaheen, Kay R. Hagan.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that all votes after the first vote this morning in this series be 10 minute votes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4596, as modified, to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: The Senator from Alaska (Ms. MURKOWSKI) and the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—46

Alexander	Crapo	McConnell
Barrasso	DeMint	Nelson (NE)
Bayh	Ensign	Pryor
Bennet	Enzi	Risch
Bennett	Graham	Roberts
Bond	Grassley	Sessions
Brown (MA)	Hatch	Shelby
Brownback	Hutchison	Snowe
Bunning	Inhofe	Thune
Burr	Isakson	Vitter
Chambliss	Johanns	Voinovich
Coburn	Kyl	Warner
Cochran	LeMieux	Webb
Collins	Lincoln	Wicker
Corker	Lugar	
Cornyn	McCain	

NAYS—52

Akaka	Gillibrand	Mikulski
Baucus	Goodwin	Murray
Begich	Hagan	Nelson (FL)
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson	Rockefeller
Burris	Kaufman	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Specter
Casey	Landrieu	Stabenow
Conrad	Lautenberg	Tester
Dodd	Leahy	Udall (CO)
Dorgan	Levin	Udall (NM)
Durbin	Lieberman	Whitehouse
Feingold	McCaskill	Wyden
Feinstein	Menendez	
Franken	Merkley	

NOT VOTING—2

Gregg Murkowski

The PRESIDING OFFICER. On this question, the yeas are 46, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 4595, as modified.

Harry Reid, Tim Johnson, Richard J. Durbin, Barbara Boxer, Al Franken, Byron L. Dorgan, Patty Murray, Robert P. Casey, Jr., Jon Tester, Jack Reed, Kay R. Hagan, Jeanne Shaheen, Patrick J. Leahy, Christopher J. Dodd, Bill Nelson, Tom Harkin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the amendment No. 4595, as modified, to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alaska (Ms. MURKOWSKI) and the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—56

Akaka	Gillibrand	Nelson (NE)
Baucus	Goodwin	Nelson (FL)
Bayh	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	McCaskill	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—42

Alexander	Cornyn	LeMieux
Barrasso	Crapo	Lincoln
Begich	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	Landrieu	Wicker

NOT VOTING—2

Gregg Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

AMENDMENT NO. 4594

Ms. LANDRIEU. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, could you acknowledge the vote we are about ready to take?

The PRESIDING OFFICER. The vote is on invoking cloture on the substitute amendment No. 4594 to H.R. 5297, the Small Business Lending Fund Act of 2010.

Ms. LANDRIEU. Parliamentary inquiry: If we get 60 votes, we move forward with the bill; is that correct?

The PRESIDING OFFICER. That is correct. Cloture is invoked on the substitute.

CLOTURE MOTION

By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid substitute amendment No. 4594.

Mary L. Landrieu, Max Baucus, Dianne Feinstein, Patty Murray, Charles E. Schumer, Christopher J. Dodd, Al Franken, Robert P. Casey, Jr., Maria Cantwell, Sheldon Whitehouse, Byron L. Dorgan, Benjamin L. Cardin, Ron Wyden, Kent Conrad, Roland W. Burris, Jeff Merkley, Debbie Stabenow.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on amendment No. 4594 to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alaska (Ms. MURKOWSKI) and the Senator from New Hampshire (Mr. GREGG).

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

They yeas and nays resulted—yeas 61, nays 37, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—61

Akaka	Goodwin	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burris	Kohl	Shaheen
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	LeMieux	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lieberman	Voinovich
Dorgan	Lincoln	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	
Gillibrand	Murray	

NAYS—37

Alexander	Cornyn	Lugar
Barrasso	Crapo	McCain
Bennett	DeMint	McConnell
Bond	Ensign	Risch
Brown (MA)	Enzi	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Hatch	Snowe
Chambliss	Hutchison	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Wicker
Collins	Johanns	
Corker	Kyl	

NOT VOTING—2

Gregg Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader is recognized.

Mr. REID. Mr. President, we hope we can finish this very quickly. The votes are in. There are a number of technical things that could be done by those who oppose this legislation, but it would just waste a lot of the Senate's time, which we do not have a lot of, so I hope we can move through this very expeditiously.

This is an important piece of legislation. It is the most significant thing we have done since the stimulus bill was passed to create jobs. It is estimated this will create from 500,000 to 700,000 jobs. It will give community banks the ability now to compete with the big banks and loan money to small businesses.

As I said this morning, big banks are doing great. The stock market jumped up yesterday because they looked at the financials of the big banks and they are doing terrific. Big business is doing just fine. But in this recession we have the jobs that have been lost in the small business sector. Eighty percent of the jobs lost are from small businesses. This legislation will allow community banks to start loaning money.

As you drive across the country, you see these strip malls with "For Lease" signs up. That will be ending in the near future. People will be able to borrow money to keep inventory for these little businesses that create thousands and thousands of jobs. It will allow Karen Mills at the SBA, who has begged us for this legislation, to have the SBA part of stimulating our economy. There are programs there that are under-resourced. This will allow her to have the resources to do good things. There are tax incentives the Finance Committee has come up with that will give tax breaks to small businesses. The chairman of the committee will talk about that at a subsequent time.

I want to acknowledge the hard work of many people. Of course, the person who has been out front has been the chairman of the Small Business Committee, Senator LANDRIEU. She has done a remarkably good job. She has been diligent, persistent, and she never gives up. I am very grateful to her for what she has done for the American people with this legislation. She has had some help. The ability to give these tax breaks to small businesses came from the Finance Committee, which is chaired by Senator BAUCUS of Montana. That is significant, for small businesses to get billions and billions of dollars of tax cuts.

Remember, everything in this bill is paid for. There is not a penny that is deficit spending. In fact, we have a little extra money on this bill.

I would also say the breakthrough we had came with a seasoned politician, someone who will go down in the history of Ohio as one of its great statespersons, the mayor of a big city, Governor of a State, and a Senator who has decided not to run for reelection, which is unfortunate in the minds of many. Senator GEORGE VOINOVICH in effect said: We have had enough of posturing on both sides, and I am going to vote for this bill because it is going to help the economy of Ohio and the people of this country.

I admire and respect GEORGE VOINOVICH for what he has done, not only on this legislation but what he has done in the past. This is not the first time he has decided that party is not as important as the American people. I will always be an admirer of GEORGE VOINOVICH. There is no one more studious in the entire Senate than GEORGE VOINOVICH. He is known for studying legislation. He is someone who is very concerned and has been from the day he came here about the

deficits this country has. So I am not going to belabor the point other than to say I am very grateful to GEORGE VOINOVICH for, in fact, breaking the logjam and saying: I am going to vote for this legislation. He didn't do it secretly, and he came out publicly and said what he was going to do.

I also want to express my appreciation to GEORGE LEMIEUX, who has been working on this legislation with Senator LANDRIEU for several months now. I appreciate his willingness to work with us in this regard.

On the Democratic side, Senator LANDRIEU, of course, and Senator BAUCUS led the charge. But we have had BOXER, MERKLEY, CANTWELL, STABENOW, WARNER, LINCOLN—a number of Senators who have worked very hard.

I spread across the record, this is not a victory for the Democratic Party. This is not a loss for the Republican Party. This is a win for the American people. This is going to help small business, which has always been the driver of jobs in our country.

The PRESIDING OFFICER. Cloture having been invoked, the motion to commit fails.

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank the leader for his kind words, but the fact is we would not have gotten to this point this morning where 61 Senators raised their hands or their voices to vote yes for this important and substantial piece of legislation had it not been for the leadership of HARRY REID.

The majority leader knows not only what Nevada needs but what America needs. What America and Nevada both need right now is to get back to work. The entities that are going to put Americans back to work are not found on Wall Street; they are found on Main Street. They are not big businesses; they are small businesses. They are not the businesses that have been around for 50 or 100 or 200 years; they are the businesses that started up last year or that want to start up today.

Majority Leader REID knows and understands that. We would not be here this morning without his leadership. He is right to acknowledge Chairman BAUCUS. I said he is a long-suffering chairman of the Finance Committee and has also the patience of Job to put up with all he puts up with. Trying to pay for every idea that comes from all 100 of these desks ends up on his desk. They say: You have a great idea, Senator; now we need to pay for it. That is what MAX BAUCUS does every day. I hope people appreciate it, not only in Montana but around the country. He found a way not only to pay for this bill but for it to generate for the taxpayer earnings of \$1.1 billion. That is good work. It does not happen here every day, and it would not have happened without Senator BAUCUS and the many cosponsors Senator REID pointed out: Senator BOXER, Senator MERKLEY, Senator CANTWELL, Senator WARNER,

Senator LEVIN, Senator LINCOLN—particularly helpful and supportive.

I also want to say this vote today to end debate was the vote on this bill. Make no mistake about it, if 60 or 61 Senators had not said yes this morning, this bill would have gone into this trash can right here not to be seen again. The \$12 billion in tax cuts would not be a reality. The substantial improvement of the core small business programs would not be a reality, and the \$30 billion lending fund that is going to leverage \$300 billion in lending would not be a reality. It would be in the trash can right now. But it is not. It is alive. It is a living bill we are going to pass later today because 61 Senators in this Chamber said yes to the country and no to party politics.

Particularly, I wish to point out Senator VOINOVICH. His statement was so poignant in the paper today or yesterday when he said, or it was reported: I have run across small businesspeople in Ohio who went to 40 banks to try to get a loan, he said, and were turned down every time.

This is happening all over America today. Senator VOINOVICH is a Senator who governs with his heart as well as his head, and he is not led around by the nose like some people here, by their party politics. He said: No, the debate has to come to an end. If you want to debate the George Bush tax cuts, do it on somebody else's back, not on the backs of small businesses in Ohio or Louisiana or Virginia. They have taken too much weight.

When Wall Street collapsed because of their greed and their recklessness and because of our failure to regulate them, do you know who got hurt? Small businesses that did not have anything to do with derivatives or international investment. All these people do every day is wake up before the Sun comes up and they stay up when it is dark and they work hard, sometimes by themselves once they send their workers home, and keep that business going. They did nothing and they deserve help and they are getting it this morning.

One more word before I turn it over to my colleague from Virginia. This whole debate this morning was a joke on JOHANNIS. I want to talk about that. If the Republicans were serious about repealing something that needs to be repealed, they would have put an offset on this floor that we could vote for. They knew very few Democrats would vote for a provision that would harm one of the underlying principles of health care reform. So that was all theater—all theater. I have had about enough of it, and I think many Americans have had enough of it as well.

Senator JOHANNIS is right that the 1099 section needs to be repealed. He is absolutely correct. It was the wrong thing to do. Even our side acknowledges that.

I am going to file a bill right now to take care of it. We are going to repeal

1099. We are not only going to repeal the portion that was put in by health care—which was not done intentionally, but there are sometimes unintended consequences. Anybody around here who thinks they can write perfect pieces of legislation—they cannot. When you do something wrong, you should correct it. We are going to correct it.

But in addition, my bill that I am going to file right now is going to repeal the \$600 requirement that has been in the law for 62 years, and we are going to raise that threshold to \$5,000, clean up the way small businesses have to report, and do something good for small business in America.

It is going to be a Landrieu bill. Lots of other people have indicated an interest in the past. It is not theater, it is real. We are going to find a way to pay for it that both sides can agree to.

I want to tell the Chamber of Commerce that I know is listening right now: We have heard you. I have heard the NFIB. I have heard small businesses in my State, and I know we made a mistake on this 1099 and we are going to fix it. But it does not have to be fixed this morning. It doesn't even go into effect for a year and a half.

Hear me, it doesn't go into effect for a year and a half. We have time to fix 1099. But we don't have 1 minute to wait to send money to small businesses that are putting "Closed" signs on their businesses this morning. If the Republican Party thinks they can keep saying no to small business and keep saying no to Main Street and keep saying no to the middle class—they cannot. I hope when we vote on final passage there will be a few more yeses.

We have a year and a half to fix 1099. We don't have any more time to help small businesses.

I yield the floor for the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first, I commend my friend and colleague, the Senator from Louisiana, who I know the Senate has heard repeatedly over the last few weeks, relentlessly over the last few weeks, come back time and again and again on this issue around small business. I think many Americans are getting a chance to see what those of us who have the privilege of serving with MARY LANDRIEU see regularly: This is somebody who does not take no. This is someone I know we sometimes need to prod to come out of her shell. But this is someone who is so passionate about the people of Louisiana and, in her role as Chair of the Small Business Committee, has been a tireless voice for small businesses, not just in Louisiana but in Virginia, New Mexico, all across the country. I want to join the majority leader and others in commending her for her "stick-to-it-iveness" on this critical piece of legislation.

I want to add a couple of other comments. I concur as well with the Sen-

ator from Louisiana on the issue of 1099s. We do need to have an accurate way to ensure that the standing law that has been the law of the land for 62 years is enforced. But this process of filing a 1099 at a \$600 threshold at this moment in time is way overburdensome. I, like the Senator from Louisiana, and I think most Members, heard that loudly and clearly, and we do need to fix that.

I look forward to working with Senator LANDRIEU. I know Senator BEGICH and others have been involved in those efforts. I look forward to joining them in this effort.

I want to take a moment or two—our time is about up before we break for our caucus lunches—I think it is important that the pieces of this bill have been emphasized time and again, the lending facility, small businesses that can take capital in if they increase their percentage of lending, this is particularly helpful to small banks that might be in challenging financial times at this point.

The SBA, the replenishment of funding for the SBA, the one message I brought out everywhere across Virginia over the last month and a half was that the SBA today is not your grandfather's or even your daddy's SBA. It is not even 5 years ago's SBA. The SBA, under Administrator Karen Mills, is much less bureaucratic, much more streamlined.

With the work the Small Business Committee has done in terms of upping the guarantees, the SBA's role and the type of businesses the SBA has served during this crisis has expanded dramatically. Look at the number of banks that participate now with the SBA today versus 18 months ago. That remarkably successful effort ground to an immediate halt in June when funding ran out. Why in the heck it has taken us this long simply to replenish that proven program that does not add to the deficit is one of the things that gets a lot of folks in Virginia, Louisiana, and New Mexico scratching their heads.

There is another piece of this bill, one that the chairman was kind enough to work with me and others on, that builds upon an existing initiative in the private sector and I believe in about 26 States, a Capital Access Program, that helps those marginal small business loans become more bankable. I hear the same concerns the Chair of the Small Business Committee hears: A small business cannot get their loans, although I have got to say it is not only the bankers' fault, because, let's face it, a lot of small businesses today are not as financially healthy as they were 2 years ago. If they have real estate as collateral, it has decreased in value. If they are lending on cashflow, that has decreased as well. So how do we take that otherwise healthy small business, in good times and in normal recessions, and not let it fall off the cliff in this deepest recession since the Great Depression?

The Capital Access Program is one place where a borrower will be charged a couple of extra points, we will go in from the government and match those points, and we can create a first-dollar loss, a separate loss reserve pool, for a whole series of loans; another \$30- to \$60 billion of capacity in that aspect. Finally, what is not to like about the series of small business tax credits that have also been built into this legislation? So I commend the chairperson of the Small Business Committee. I am glad the Senate has come to its senses on this issue. Candidly, I wish we would have passed this legislation last spring, but better late than never.

I want to add two other points that I think are important. One other piece of legislation, a bipartisan piece of legislation that we passed recently—and I would be curious to hear the response of the Chair of the Small Business Committee on this with the financial reform bill, a very important piece of legislation. We set, appropriately, in that financial reform bill the requirement for banks to set higher capital standards. The challenge we have right now is starting to implement those higher capital standards in the trough of the recession. That sends a very mixed message to our bankers and to our regulators. I hope the Chair of the Small Business Committee and I and others can think about how we work with our regulators at the FDIC and the OCC and the Fed to ensure that while we want to build up the capital reserves and make our banks healthier, that some level of forbearance for those small business performing loans that may not meet every covenant in their loan document, because their real estate has depreciated in value, somehow we have to have some flex. Because what we are doing by having the regulators come down so hard on the banks at this point is we are, in many ways, even with this very good program that Senator LANDRIEU has put out, strangling that recovery because of this mixed message.

The final point I want to make is, with this piece of small business legislation, I think it may be—again, it is not going to be a single silver bullet, but one piece of good news that I do not think we have come back to enough in these discussions is that not only have large banks recovered nicely since the decline, but large cap companies, the Fortune 1,000 companies, their balance sheets are healthier today than they have ever been. There is north of \$2 trillion in cash sitting on Fortune 1,000 balance sheets. One of the things I am looking forward to working with my colleagues on is how we get that cash off the sidelines and invested back in the market. When they invest in the market, and the large companies go to their supply chains, which is the small businesses, those small businesses have to get the credit as well to keep functioning. So this piece of legislation is important not only to small businesses, but as

large cap companies start to spend out as well, it is important to the overall economic recovery.

I would ask my friend and my colleague, the leader on this important piece of legislation, if she might have some ideas as well about how we meet that appropriate long-term financial goal of making our financial standards appropriate, but not send this mixed message to regulators so that those small business loans that are still performing have the appropriate forbearance to get through this trough in the recession.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, the Senator from Virginia is absolutely correct. He has put his finger on two pending and very serious problems. One is the regulation direction being driven by some of the new legislation we have passed. Of course, he would know this, because as a member of the Banking Committee, he has been such a strong advocate for commonsense regulation and supporting community banks. So he is absolutely correct. And you do have my commitment, through the Small Business Committee, to keep this issue alive and in view so that we can find some appropriate solution. I think the Senator raises an absolutely very key point.

The second point the Senator from Virginia has put his finger on is the \$2 trillion in capital sitting there. One thing that makes further interest is the zero capital gains rate in this bill, should they take some of that \$2 trillion in capital and invest in some small businesses that have a capitalization level below \$50 million. That is one thing that could help encourage them. They will pay no tax, none, on the money they earn through that investment, which should be an incentive.

But there are some additional things I think we can do. I want to work with the Senator from Virginia because his leadership is very much needed at this time, with his particular background as a successful business person, as a Governor. So the Senator is right, this bill is not a silver bullet. It is a good first step. But there are some other things we need to do as quickly as we can. I look forward to working with the Senator on those two and others in the weeks to come.

Mr. WARNER. Mr. President, again I will close my comments and thank the chairman of the Small Business Committee for her leadership on this bill. We would not be here today but for her relentlessness on this legislation.

This legislation has had more hurdles, many of them false hurdles, put in its face, and Senator LANDRIEU does not know how to say no when it affects the well-being of small businesses, which are the lifeblood of job creation coming out of a recession.

I thank her for her leadership.

I yield the floor.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the time in re-

cess for the caucus luncheons count postcloture.

The PRESIDING OFFICER. 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, at 12:40 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).)

SMALL BUSINESS LENDING FUND ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask for the regular order.

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

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized as in morning business for such time as I may consume.

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

DON'T ASK, DON'T TELL

Mr. INHOFE. Mr. President, with all the talk about the small business bill and about the fact that we have an administration, with a majority in the House and the Senate, that has amassed unbelievable debts, raising it up to \$13 trillion, and a deficit of \$1.4 trillion in just 1 year, the first year, people have forgotten other things that are going on.

I am very much concerned, being the second-ranking member of the Senate Armed Services Committee, about the national defense authorization bill, which we have passed every year in all the years I have been here. Generally speaking, it is one we can bring out on the floor, Members can offer amendments, and normally it takes 2, 3, sometimes 4 weeks, and longer, to pass it. But certainly, particularly during times of war, it is the most important piece of legislation we have.

I do not know what the majority is going to do. I just keep hearing rumors that they may very well not be wanting to bring it up or may bring it up by "filling the tree," a little technical term, so Republicans would not be able to have amendments on the bill.

Well, this is very much a concern of mine. I think it puts them in a position where they can say: Oh, Republicans certainly are going to vote for the Defense authorization bill. In times of war, we have to do it. Well, we do. But there is a limit as to what they can put in there that is purely right down party lines.

There are a couple issues I wish to talk about in the Defense authorization bill that ended up being right down party lines. One is the issue of don't ask, don't tell. But before doing that, I would like to suggest that in May, in the final meeting we had of the

Senate Armed Services Committee, we passed this out, and two amendments were added on the very last day by the Democrats, and they were passed virtually by all the Democrats right down party lines. One was opening our military hospitals for abortions, and that is something we need to talk about, but the other one was one we need to talk about more right now because this is the issue that so many people are not aware of. That is the repeal of don't ask, don't tell.

I remember back in 1994, I was in the House, running for the Senate, and one of the three issues that was very prominent in that race, which I won, concerned gays in the military. At that time, there were some efforts saying: Well, we want to acknowledge gays in the military so they can be open in their practices and all that. Well, a compromise was reached that I did not think at the time was all that good of an idea. But that was 1993, I guess, the latter part of 1993. It has worked for what—17 years. It was called don't ask, don't tell; that is, if someone wants to serve who is a gay person, a man or a woman, in the military, that person can do it if that person is not out in the open. The whole idea of this thing was so they could not use the military as a forum to advance very liberal causes.

I am a veteran. I can remember when I was in the U.S. Army, and anyone who is a veteran knows the problems that would be associated with the practice of repealing don't ask, don't tell so people are openly gay in the military. You are going to have all kinds of billeting and other problems.

So I think when the discussion came up that we were considering doing this, the Secretary of Defense, Secretary Gates, did the right thing on February 2 of 2010. He said: Let's go ahead and have a study. Let's have an independent study as to how unit cohesion and readiness would be impacted if we repealed don't ask, don't tell.

In addition to the study, this is also going to conduct a survey of military members, people who are out there, in asking: Well, what is your feeling? You are out there in the fields, in many cases, out in the foxholes. What is your feeling about having open gays in the military?

So they were all getting ready to respond to this when a surprise took place, when the Democrats, almost straight down party lines, came out and said: Well, we are going to go ahead and repeal it anyway. They worded it in such a way that we will repeal it, but, of course, that will not take place until after the study is complete. The study was to be completed in December of this year. It was going to be a 12-month study. All the Members of the military were going to participate in that.

I can remember as recently as April 28 Secretary Gates and the Chairman of the Joint Chiefs of Staff, Admiral Mullen, said—and this is a joint statement: