headaches. The IRS's National Taxpayer Advocate projects high costs to businesses and the IRS, along with a mess of erroneous tax penalties.

To my left is a quote from the IRS. This is what they say: The IRS ''will face challenges making productive use of this new volume of information.''

It goes on:

. . . it is highly likely that the IRS will improperly assess penalties that it must abate later, after great expenditure of taxpayer and IRS time and effort.

Not even the IRS wants this information. Simply put, it is an expensive mess without a lot of tax dollars to show for it.

So we are going to stifle job creation. We are going to hammer businesses and ultimately increase incorrect tax penalties, according to the IRS. Now we begin to understand why business owners are spitting mad. It makes no sense whatsoever. That is why my amendment is so terribly important. It fully repeals this section of the law. It is paid for. Countless small businesses have advocated for a full repeal of this language.

According to the National Federation of Independent Business:

It is clear there is bipartisan agreement that the 1099 provision contained in the health care law will have a direct negative impact on small businesses.

The House Democratic leadership recognized the job-stifling, job-killing provision and proposed a full repeal of this new 1099 requirement. Of 239 House Democrats, all those voting except one supported a full repeal of this portion of the new health care law. House Democrats recognize that the 1099 mandate is absolutely misguided and downright damaging to job creation.

Unfortunately, in the Senate, there is a Democratic-proposed alternative that only partially repeals the mandate, and all it does is add confusion to try to accomplish political cover. Instead of actually solving the problem, it picks winners and losers with thousands of businesses still subject to the job-killing mandate.

Businesses with 26 or more employees are still subject to the mandate—I might ask, what is the wisdom of 26? Why not 25, 24?—for transactions totaling $5,000 or more. So what does that mean? According to the Census Bureau, the Democratic amendment will still subject 415,391 businesses in the United States to a job-killing paperwork mandate that not even the IRS wants, and over 93 million workers are employed by these businesses.

Now, what does that mean to individual States?

Let's take a look. In the State of California, 18,960 businesses would still be subject to the mandate under the side-by-side amendment. Does anybody want to go to these businesses in California and say: We are burying you in paperwork for no useful purpose to try to pay for the health care bill? In Florida, more than 11,000 businesses have more than 25 employers; Texas, 14,208 businesses. I could go on and on. Furthermore, it will continue the paperwork nightmare.

Governments, nonprofits, and businesses will still have to track everything and collect the tax information from their vendors because they do not know if they have made the first purchase going to $5,000 or the last purchase that will not tangle them up in this requirement.

It will also discourage businesses from expanding and hiring. Why would we want to say to businesses: You are OK if you are at 25; but if you get to 26, we hammer you? It makes no sense whatsoever.

One of the most discouraging aspects of the alternative by my friends on the other side is that it favors Wall Street over Main Street. It exempts certain payments from big businesses that have fancy systems to comply with tax laws, but it severely hurts the mom-and-pop enterprises on Main Street.

Businesses that are not exempt will find ways to limit the number of 1099s. They might buy some supplies from the big box retailers and avoid the mom-and-pop retailer on Main Street to avoid the government-imposed 1099 mandate.

As our Chamber of Commerce said:

Governments, nonprofits and businesses would have a choice, to buy supplies from Joe's Stationary and report to the IRS or buy from the national chain and not have to report at all . . . small businesses will become second class citizens since they will be the ones that will lose out.

You see, with all due respect to my colleague, this side-by-side amendment brings a patchwork of exemptions for businesses to sort through.

Under this amendment, property is exempted. Yet there is no definition of ''property.'' It leaves business owners in the lurch, crossing their fingers, hoping the IRS will exempt transactions. This is not certainty. It is utter confusion.

All businesses will have to track their transactions until the IRS figures out what ''property'' is. Even after ''property'' is defined, it will lead to a patchwork of exemptions. Every time a business owner wants to buy something, they have to call their accountant.

This amendment also claims to soften the blow by exempting credit card transactions.

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

Mr. JOHANNS. Mr. President, I ask unanimous consent for another minute.

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

Mr. JOHANNS. But the truth is, the IRS has already announced steps to implement that exact same policy. The unfortunate thing about this exemption is that it will cause more problems, not fewer: pay by check, pay by credit card; property, nonproperty; 24 employees versus 26 employers; and on and on. It was all done to finance the health care bill on the backs of American businesses.

I ask my colleagues to support my effort to repeal this job-killing mandate in its entirety when we have an opportunity to vote tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask unanimous consent to speak for up to 10 minutes in morning business.

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

## NEW START TREATY

Mr. CARDIN. Mr. President, I rise today to express my support for START, the nuclear arms reduction treaty pending before the Senate.

This week, the Senate Foreign Relations Committee, on which I have the privilege of serving, will convene to vote on this New START Treaty. Since the treaty was signed by the United States and Russia in April, both the Foreign Relations and the Armed Services Committees have conducted more than a dozen hearings, both open and classified, to examine the essential goal of this treaty: to advance the national security of the United States.

After hours of testimony from some of the most knowledgeable people in and out of government, as well as public statements of support from countless experts, we can say with great confidence that the Senate's ratification of the START Treaty is in our national interest.

Witnesses who testified before the committee come from wide backgrounds of the government, academia, and private industry. Former government officials, both civilian and military, who have held positions of the highest responsibility for our national defense and nuclear security—including former Republican administration officials who had negotiated and implemented previous START treaties—were among those who testified and called for the treaty's speedy ratification.

All have been experts, with years, if not decades, of experience in the field of national security and arms control, and all have strongly endorsed ratification of the treaty.

In addition to its contribution to America's security, one of the most compelling reasons for the full Senate to ratify this treaty, and move quickly to do so, is to regain our insight into Russia's strategic offensive arms. Since START I expired last December, we have had no comprehensive verification regime in place to help us understand Russia's strategic nuclear forces.

We need the transparency to know what Russia is doing to provide confidence and stability, and we need that confidence and stability to contribute to a safer world. We will only regain that transparency by ratifying this treaty, and we are in dangerous territory without it.

Previous arms control treaties have been ratified with overwhelming bipartisan support. START I was passed 93 to 6 in 1994, and the Moscow Treaty passed 95 to 0 in 2003. Legislators recognized then that an arms control agreement between Russia and the United States is not just good for the security of our two nations but can lead the way for the rest of the world to reduce the proliferation of nuclear weapons. The ratification of this treaty reconfirms U.S. leadership on nuclear arms reduction and nonproliferation.

Over the past several months we have had ample time to review the documents and reports related to the treaty. I am sure my colleagues will join me in recognizing the necessity of ratifying New START. Not only will this treaty enhance the national security of the United States, it will serve as a significant step forward in our relationship with Russia, a key partner in the overall U.S. strategy to reduce the spread of nuclear weapons worldwide. I am glad to offer my support in the Foreign Relations Committee and look forward to the full Senate's ratification of this treaty as soon as possible.

Mr. President, with that, I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## EXECUTIVE SESSION

### NOMINATION OF JANE BRANSTETTER STRANCH TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Jane Branstetter Stranch, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate with respect to the nomination, with the time equally divided between the Senator from Vermont and the Senator from Alabama or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, parliamentary inquiry: I think the leadership and others were expecting a vote at 5:30. If the Democratic and Republican sides yield back any time to bring the vote at 5:30, that would be permissible; would it not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. LEAHY. I thank the distinguished Acting President pro tempore.

This afternoon, the Senate is going to finally consider and finally vote on the nomination of Jane Stranch of Tennessee to the Sixth Circuit. She is a native of Nashville, TN. She has practiced law in that community for 32 years. She has often appeared before the Sixth Circuit, the court to which she is now nominated. Ms. Stranch has decades of experience in labor and employment law. Actually, that is an expertise she made useful when she taught a class on labor law at Nashville's Belmont University.

Ms. Stranch also has an active appellate practice, as well as significant experience with alternative forms of dispute resolution, such as mediation and arbitration. She is a leader in her community. She dedicates significant time to pro bono work, and that is something I always look for in a nominee. She dedicates significant time also to civic matters and her church. She has impressive academic credentials. She earned both her JD, Order of the Coif, and her BA, summa cum laude and Phi Beta Kappa, from Vanderbilt University.

Her nomination is supported by her home State Senators, both Republicans. Her nomination was reported by a bipartisan majority of the Judiciary Committee last November. That was nearly 10 months ago. Since then, every single Democratic Senator has said—actually they did right from the time she was reported—they were prepared to debate and vote on this nomination. I have spoken many times about the Democrats' willingness and the need to consider this nomination.

In mid-July, I came before the Senate to take the extraordinary step of propounding a unanimous consent request to consider this nomination because at that time we had waited months and months and months and months, and I felt she should be given a chance to have a vote.

The senior Senator from Tennessee, who I see on the floor now, supported that request. I made very clear at that time—and I will make very clear again today—that in no way do I fault the senior Senator from Tennessee for the delay. In fact, he has supported this nomination from the outset. He spoke to me in favor of the nomination at the time it came before the committee. He spoke to me in favor of the nomination when it was before the committee and immediately after it came out of the committee. He has been most supportive all the way through.

Indeed, I think this nomination is an example of how President Obama has reached out and worked with Senators from both sides of the aisle. But I made that request after she had been waiting 8 months for just a vote—for a vote up or down. But after being pending on the Executive Calendar for those 8 months, there was an objection to my request to at least let us go ahead and vote.

Now, I thank the Senate majority leader and the Republican leader for facilitating the agreement that finally allows her consideration this evening. I hope now the Senate will be allowed to turn to the other judicial nominations that have been stalled before the Senate.

One nomination is that of Albert Diaz from North Carolina to the Fourth Circuit, for example. It was reported unanimously by the Judiciary Committee, but it has been stalled since January—since the snows of January.

Others include Scott Matheson of Utah, nominated to the Tenth Circuit, and Janet Murguia of Arizona, nominated to the Ninth Circuit. I mention these because they are all supported by their Republican home State Senators, and they were reported by the Judiciary Committee unanimously, with no objections. It is hard to see how, when they are supported by Republicans in their State—the President has reached out to them, gotten their support—and they go out of the Judiciary Committee with no objections, they then sit here forever.

Another is Ray Lohier of New York, whose nomination to the Second Circuit was reported without objection. In addition, there are 12 district court nominations on the Senate Calendar that should be considered and confirmed without further delay. They were reported as long as 7 months ago.

A number of recent newspaper articles have discussed the judicial vacancy crisis that has been created by the Republican strategy of slow-walking the Senate's consideration of noncontroversial nominations. Remember, these are all people who, when they finally get a vote after waiting months and months and months, usually get a unanimous vote. These include district court nominations, which are traditionally considered without delays, and they have never been targeted for obstruction by Democrats or Republicans when they have been supported by their home State Senators. Last year, the Senate was allowed to confirm only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. So far this year, we have confirmed only 28 more and achieved what one recent news story noted is the lowest number of confirmations in more than 40 years.

I took serious note of the remarks of Justice Anthony Kennedy—a Justice nominated by a Republican President—