

of judges in our State, and they have come from different backgrounds. They have come from the practice of corporate law. They have come from being a former Federal attorney. They have come from being a significant and principal attorney for a major insurance company. They have come from a vast array of legal backgrounds and professions. One thing they have had in common, and which is shared by Jack McConnell, is integrity and commitment to the law. And that we insist upon.

We have long recognized that these district judges serve a critical role, and I think we all recognize, too, here as Senators that this is a special role of the home State Senator. We understand that at the circuit level, when judges have to consider issues of constitutionality, where major policies issues could be resolved—in fact, finally resolved, at least for that circuit—we understand there is another added dimension. But with district courts, we have traditionally recognized the judgment of not only the local Senators but the judgment of the local legal community. And once again, here, both the legal community in Rhode Island and, I cannot emphasize enough, two former Republican Attorneys General, who know him well, who have observed him closely, have come forward of their own volition and enthusiastically supported his candidacy. They know him as a lawyer. They know him as a man of integrity and honor and decency.

There are a number of my colleagues on the other side who recognize this, and they have been very forthright in making the point about the precipice that we are on and how that is not a precedent we want to establish. I thank them for that. I thank them for their consideration. They have literally adhered to consistently—not just in the past but now—the notion that when a judge is given a qualified approval by the ABA, when a nominee goes through the committee, comes to this floor at the district level, that is when a vote should take place. And how you vote on final passage is a function of many things—your judicial philosophy versus their judicial philosophy, your view of the judgment they have and the responsibility a district judge has.

Now, I think we have again been engaged in difficult debates, and they have been particularly difficult when it has come to the circuit court. I do think we recognize collectively that because of the nature of the circuit court, there is a difference. This is the gateway, and many times, the cases never go beyond the circuit court. Constitutional law, principles that apply to whole circuits are affirmed by these panels of judges, and there is a different standard. But we have never really applied that standard to the district court. We have relied—all my colleagues have—on the ability of home State Senators, together with their local lawyers, together with their local

communities, to make recommendations to serve on the district court.

Let me point out how extraordinarily unusual the vote tomorrow will be. From our reference, talking to the Congressional Research Service and the Senate Library, as far as we can consider, there have been only three cloture votes on Senate nominees for district courts in the history of the Senate—three times. Tomorrow will be the fourth. Oh, by the way, all three of those individuals ultimately received confirmation. It appears from our reconstruction that they were caught up in a procedural discussion of who should go first; this person should not go first until others had been considered. All three, after the procedural votes on cloture, were confirmed.

But it is quite clear that at least on the part of some, this cloture vote tomorrow is designed to stop and end the confirmation of Mr. McConnell. That would be a first as far as we know in our reconstruction of the history of the Senate.

So we are facing this question, the question of whether we want to establish this precedent, whether we want to disregard the record of this individual, who is a man of integrity and honor, who is strongly supported by our local business community, who is strongly supported by Republican officeholders as well as Democratic officeholders, who has gained the trust and the respect of those who know him best, and who will serve with distinction and integrity on the District Court for the District of Rhode Island.

That is the big issue we face tomorrow. Later, we will come down and we will respond to those issues of specific detail. But I can recall not too long ago when there was a group of Republicans and Democrats who came together and decided that these types of decisions should not be subject to procedural defeats, but they should be based on the merits. That was the Gang of 14's work on trying to pull together a consensus on judges. I also know that both Senator REID and Senator McConnell are working with a group of people on a bipartisan understanding regarding executive nominations—not judicial nominations but executive nominations. These are very hopeful and positive signs. I hope we can build on that process and not tomorrow take a step which I think historically is atypical, unique, in fact, a step in the very wrong direction.

We will come back again, and we will talk about the specifics of Mr. McConnell's nomination and these assertions. But all of these allegations cast, again, not only a cloud upon Mr. McConnell but on the ABA process which looks very carefully at a candidate in terms of their judicial skill but also their character, their integrity, their ability to serve, and the process here in the Senate through the committee process.

So I would hope that we can favorably consider—in fact, I would hope, as is typical, that we would move quickly

to a final passage vote, as we do with 99 out of 100 district court nominees.

But this is a serious issue. I fear we are on the precipice of taking a step that will come back repeatedly to haunt us and undercut a custom and a tradition and a sense of this Senate which is necessary to maintain, not to abandon.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I know I am in Senator LANDRIEU's time. I appreciate my friend's willingness to allow me just a moment to associate myself with the eloquent and thoughtful remarks of my senior Senator and to urge all of my colleagues, before we steer this body off the precipice to which he referred, to give his words their very careful and objective consideration.

I thank the distinguished Senator from Louisiana.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

#### SBIR/STTR

Ms. LANDRIEU. Madam President, I would like to speak for the next few minutes as in morning business about the subject that has been before the Senate now for 5 weeks. In some ways, it is unprecedented that a bill of only 100 pages would actually take up 5 weeks of the Senate's time. And you know as a member of the Small Business Committee, Madam President, how important, although only 100 pages and although only in the law since 1982, this program is not just to the Federal Government but to the taxpayers who are relying on this to spend their money wisely on their behalf, and they are looking to us to promote and extend the life of programs that actually work and return a great investment to them, particularly in these challenging budget times and economic times.

This program, which was created by Senator Warren Rudman for the specific purpose of stimulating technological innovation, encouraging greater utilization of small businesses to meet Federal research and development needs, and to increase private sector commercialization of innovations derived from Federal research and development, is a law that we must find a way to reauthorize. We are well overdue. We have now passed the authorization point by 3 years.

We have been unable to reauthorize this important program. It looks as if we may be stuck again although the major arguments about this bill have been resolved. We are actually not arguing over the nuts and bolts of this bill. Is that not sad, that all of the arguments about what percentage venture capitalists should get, by what amount we should increase the allocation—we have worked through all of those because we have worked in good

faith. We have compromised, Democrats and Republicans.

The bill passed out of our committee I believe 18 to 1. Authoring this piece of legislation is myself, the chairperson, Senator SNOWE, a strong supporter of the underlying bill—let me get the other cosponsors. Senator LEVIN is a cosponsor. Senator BROWN of Massachusetts is a cosponsor. Senator KERRY, the former chair, is a cosponsor. The Presiding Officer is an original cosponsor. I thank you. The new Senator, your junior Senator from New Hampshire, is an original cosponsor. Senator CARDIN. Senator PRYOR. So we have a good number of Republican and Democratic Senators.

This is the bill. It is 100 pages. The sad thing is that in 5 weeks, we have had over 150 amendments filed on this bill. Very few of them have anything to do with this bill. That is more amendments than there are pages of the original bill. And you can understand why the majority leader, Senator REID, cannot allow a vote on all 150 amendments. We might be here for another year, which is not fair to the Senate, it is not fair to Congress. There are other important issues we have to get to. So we are trying to compromise. Senator REID has been extremely patient trying to work with Republicans and Democrats. And I think the last offer that was being considered would have made both sides even—with 12 amendments, an equal amount, for both sides, most of which have nothing to do with this bill but that we will accept votes on.

Actually, one big amendment, significant amendment that had nothing to do with this bill has already been voted on, agreed to, detached from this bill, and sent to the President, and he has already signed it. And we are still on this bill. That was the repeal of 1099, which was almost unanimously supported to repeal a very onerous provision of paperwork and regulation that was not proper to put on the backs of small businesses. And I am proud that I led, with others, the effort to repeal that. That has been done. Yet we find ourselves still not in complete agreement that it is time to move on.

I just wish to say a few more things. No. 1, every State will benefit when this program is reauthorized. Most important, taxpayers will see significant results. Let me just tell you one that is quite startling but true and I want it to be in the RECORD.

One company that participated in this program and received a small grant many years ago and then received another grant to help them get started, Qualcomm, is now one of the most successful businesses in the world. That one company pays more taxes to the Federal Government every year than the entire budget of the Small Business Administration. Let me repeat: One company, started in large measure—not solely, but they testified on the record in large measure—because of this program, was created. It grew and grew and grew and now pays

more in taxes annually to the Federal Government than the entire budget of the SBA.

You would ask yourself: So what is the problem? Why can't we get this bill passed? I can only say we have Members who think they need to have votes or discussion on 187 amendments that have nothing to do with this bill, and they think the majority leader is being unreasonable when he tries to bring this to an end.

As chair of this committee, I have to say again—and I am going to end with this—this recession we are in will never end—never end—and the budget deficit that is crushing the economic potential of this Nation will never be eliminated if we do not create jobs in America.

This program is a job-creating machine that is being shut down by this inability of us to come to terms over this debate. It is a shame because everyone is counting on us—not just my committee, but the Small Business Committee is one of the important committees here—to put this recession in the rearview mirror. I cannot do it if I cannot pass legislation.

If we want jobs, if we want innovation, if we want to create the kind of jobs the SBIR Program—you can see here: SBIR-awarded firms add five times as many employees. These are kind of our supercompanies. These are companies, the smartest. They are on the edge. They are the best. They have gotten the attention of many smart people in the government. Yes, we do have smart people who work for the Federal Government. These companies and their technology have become known, and they say: Gee, this is the kind of technology that could change this situation, save taxpayer money, and it has such commercial application. Let's give it an award. We might not be able to give it an award because we are stuck talking about 150 amendments that have nothing to do with this program, and the extension to operate this program expires on May 31st.

I am sorry I cannot solve all the problems of the world in the Small Business Committee. I am very sorry. I cannot solve all the health care problems. I cannot resolve the debt situations. I cannot talk about sunset commissions and the Gang of 6 and put every piece of legislation in this bill. We have to stay focused. We have been moving some very good legislation out of this committee, completely with bipartisan support, with a few little bumps here and there.

The small business lending program was not supported by the Republicans. We only had two Senators who crossed the aisle to give us the 60 votes to do it. I understand it is controversial. Not everything here is done in such perfect precision, but we still have high hopes for that program. Six hundred banks have applied. We believe billions of dollars will be lent out and that debate is still going on as the administrators come up. But other than that, every-

thing we have passed in our committee has been with bipartisan support. The same with this bill: It comes out 18 to 1.

I will finally say for the record—and will submit this letter for the RECORD—I was asked by Senator COBURN, who has been cooperative actually—although he has had quite a few amendments, he has been very open to negotiation—but he sent me a letter on January 26, and it basically says: I would like to help you pass your SBIR bill, but would you please get it out of your committee clean because I do not want other extraneous things attached to it because there are “less-er” programs—he said—that I do not support. But I support this one.

He is not a member of the committee. He said: Senator, if you can get it out clean, then maybe I can support it on the floor.

So what do I do? I tell all my Members: I am sorry. You cannot have the amendments in committee. I am sorry. We cannot attach anything to this bill because I am trying to move a clean bill to the floor—only to get to the floor and have more than 150 amendments, most of which have nothing to do with this bill put on this bill under the guise of: Well, we have to do it. We need time on the floor to debate our issue.

Madam President, I ask unanimous consent that the letter I referenced from Senator COBURN be printed in the RECORD.

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

U.S. SENATE,  
RUSSELL SENATE OFFICE BUILDING,  
Washington, DC, January 26, 2011.

Hon. MARY LANDRIEU,  
*Small Business Committee Chairman, U.S. Senate, Washington, DC.*

DEAR SENATOR LANDRIEU: I wanted to thank you for your letter regarding passage of the SBIR/STTR reauthorization bill and oversight of the Small Business Administration (SBA). I appreciate your commitment to review and eliminate fraud within programs such as 8(a) and HUBZone, to streamline federal regulations and their burden on small businesses, and to eliminate wasteful and duplicative SBA programs that increase our debt and limit expenditures to more worthy SBA programs.

Thank you also for your letters, co-signed by Senator Olympia Snow, Ranking Member of the Committee, to SBA Administrator Karen Mills and SBA Inspector General Peggy Gustafson regarding possible terminations of wasteful and duplicative SBA programs. I applaud your oversight and look forward to working with you and Senator Snowe to eliminate waste, fraud and duplication within SBA and to help small businesses excel.

I believe that should there be another broad extension of SBA programs such as H.R. 366 in four months, any programs that are not fulfilling their purpose, fail to consistently encourage sustainable private growth, or have significant overhead costs should be eliminated. I do not believe long-standing and popular SBA programs like SBIR/STTR should be lumped with lesser SBA programs. It is my hope that we can come to an agreement before another temporary extension bill is considered on what programs at SBA should be terminated.

Again, thank you for your oversight and for your consideration of my concerns. I look forward to working with you this Congress.

Sincerely,

TOM A. COBURN, M.D.,  
U.S. Senator.

Ms. LANDRIEU. I have tried to be patient. I understand that. But I am asking one last time—I am asking my ranking member, I am asking the other members of my committee, I am asking my Democratic colleagues and Republican colleagues—please, in the next few hours, please, let your voice be heard to your leaders—the minority leader and the majority leader—and please try to come to some reasonable agreement.

I think the cloture motion is quite reasonable, the cloture motion Senator REID has put down. If we could agree to that, get 60 votes or more, we could move on and pass this reauthorization, which is so important for job creation in America.

We are 3 years behind schedule—not 6 months, not 8 months, but 3 years behind schedule. We have been operating this program—a very good program, one of the best—every 3 months, sometimes one month, sometimes a bit longer, but people have to guess whether we are going to extend it. That is no way to run an airline or a train or a bus or even a two-seated car, for that matter. You have to have a long runway here to get good things done and to stop wasting taxpayer money and their time.

So I am going to ask, please, let's try to get cloture.

Finally, the States that are most affected—the Senators who represent these States might want to be heads up—but Colorado, Maryland, Virginia, California, Ohio, Pennsylvania, New York, Florida, Texas and Alabama are among the States that benefit the most from this program. All our States benefit. Companies in my own State of Louisiana have received some of these awards and have gone on to hire hundreds, if not thousands, of people. But these other States have managed to actually get themselves to the front of the line.

I thank Senator BROWN for his co-sponsorship of this bill. I thank other Senators from these States. But the Texas and Florida and Alabama Senators, the New York Senators, the Senators from Ohio and Pennsylvania, particularly, Massachusetts and California—the top of the list—have a lot to lose if we cannot get this program reauthorized.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SHELBY. Madam President, I ask unanimous consent to proceed in morning business for 8 minutes.

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

#### TORNADO SYSTEM DISASTER IN ALABAMA

Mr. SHELBY. Madam President, I rise to thank my colleagues in the Senate and countless others across the country for their outpouring of support and offers of assistance to my State of Alabama in this time of need.

On April 27—this last week—an unprecedented tornado system struck the State of Alabama, claiming hundreds of lives and destroying thousands of homes and businesses. At last count, 236 people in Alabama alone were dead, with thousands more injured and a lot missing. It will take many years and potentially billions of dollars for my State to fully recover from this catastrophic disaster.

We have received calls from my fellow Senators, many of whom recently experienced destruction in their own States due to floods and deadly storms, with offers of help. To those who have reached out, I wish to offer my sincere gratitude on behalf of the people of Alabama. I also wish to thank President Obama and FEMA Administrator Craig Fugate for their swift response and commitment to restoring our State.

Their words of encouragement to disaster victims during their visit to Alabama helped ease the grief burdening local families, and their work with Gov. Robert Bentley and Alabama Emergency Management Agency Director Art Faulkner has provided vital assistance during these difficult times. This continued level of Federal coordination is critical to ensuring that Alabama gets back on its feet as quickly as possible.

I have never in my life seen such devastation to the extent I saw during my visit to my home State of Alabama recently. Giant oaks lie flattened and splintered. Homes throughout the State were demolished, leaving thousands homeless and reliant on the Red Cross, the Salvation Army, and others for shelter. At one point last week, over 1 million Alabama residents were without power—almost one-quarter of the State's population. It was gut-wrenching to walk through scattered rubble and realize it was once the site of someone's home or someone's business. The scale and the magnitude of destruction can only be described as hell on Earth.

In our State, while larger cities such as Birmingham and Tuscaloosa—my hometown—suffered extensive damage, so did other rural areas. Communities such as Pratt City, Pleasant Grove, Concord, Rainsville, Hackleburg, Cullman, and many others also incurred the wrath of the storm system and are now trying to assess the extent of their damage.

In DeKalb, Marion and Franklin Counties alone, we have seen nearly 100 deaths. Virtually every part of the State was touched by storms, and all of us were affected. The pain and loss that families are experiencing are still fresh. Many remain in shock.

However, we must also recognize that Alabama was not the lone victim of the storm. As we continue our cleanup and recovery efforts, so do the people of Tennessee, Mississippi, Georgia, Virginia, Louisiana, and Kentucky. Our thoughts and prayers are with all of the affected States. We stand willing and able to assist you, as you have offered similar support to us.

I want to reassure the people of Alabama and all the affected States that we will do everything we can on the Federal level to restore life as it was before. My staff and I are working with the State, FEMA, and the other Federal agencies to ensure as quick and efficient a recovery as possible.

Thousands of Alabamians have opened their homes, donated supplies, made contributions, and rushed to help in any way they could. After witnessing the selfless generosity of complete strangers and the sheer resilience of those affected by the storms, I have never been more proud to call Alabama my home.

It will take a lot of work and help from volunteers, but I am convinced that, together, we can overcome this terrible tragedy.

Madam President, I yield the floor.

#### CONFIRMATION OF KEVIN HUNTER SHARP AND SKIP DALTON

Mr. NELSON of Florida. Madam President, yesterday the Senate confirmed the nominations of Kevin Hunter Sharp to fill a judicial emergency vacancy on the U.S. District Court for the Middle District of Tennessee and Roy "Skip" Dalton to fill a judicial emergency vacancy on the U.S. District Court for the Middle District of Florida. Though I was necessarily absent from the vote, if present and voting I would have voted "yea." I fully support the nomination of Mr. Sharp to fill a vacancy in Tennessee, and I am pleased that Mr. Dalton was confirmed by unanimous consent.

Roy Dalton, nominee for the Middle District of Florida, is currently a partner at Dalton & Carpenter. Mr. Dalton previously worked as a counsel to my friend, Senator Mel Martinez of Florida, and had a long career in private practice in Orlando, FL. I have known Mr. Dalton for many years, and I am pleased that the Senate has acted on his nomination.

Madam President, the high level of judicial vacancies puts at serious risk the ability of all Americans to have a fair hearing in court. I congratulate Senator LEAHY and Senator GRASSLEY on their leadership and hope that we can all continue to work together to address the backlog of judicial nominations.