program is critical for meeting that goal. But we also need to remember that SBIR also enhances our national security.

I encourage my colleagues to join me in supporting this important program.

Ms. LANDRIEU. Mr. President, I thank the Senator for answering my question.

I would like to submit many more things for the RECORD. But, again, I wish to close, because we are 10 minutes extended from the vote, by asking the Senate to please consider voting for the SBIR Program. If we don't it will expire on May 31 this year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF JOHN MCCONNELL

Mr. MCCONNELL. Mr. President, the Senate will shortly vote on the cloture motion on the Jack McConnell nomination. We have been working in good faith with our Democratic colleagues to confirm consensus judicial nominees in general and to fill judicial emergencies in particular. So it is disappointing that our Democratic friends have chosen to depart from this bipartisan practice and to press the McConnell nomination which would not fill a judicial emergency and is about as far from a consensus nomination as one could imagine.

Mr. McConnell has described his judicial philosophy in this way:

There are wrongs that need to be righted, and that's how I see the law.

In Mr. McConnell's eyes, the wrongdoers in America are invariably its job creators.

His legal career has been marked by a pervasive and persistent hostility to American job creators. This bias against one part of American society is fundamentally antithetical to the rule of law, and it has led him to take a series of troubling actions that show his unfitness for a lifetime position as a fair and impartial judicial officer.

For example, he has filed what his hometown newspaper described as a ''ludicrous'' lawsuit against businesses. This case ended up costing not just the companies but Rhode Island taxpayers as well. After the State's supreme court unanimously rejected his frivolous legal theory, his clients—the taxpayers—had to pay a quarter of a million dollars in lawyers' fees.

Rather than be contrite about the damage he had done, he lashed out at his State's supreme court, saying it let ''wrongdoers off the hook.'' He has made other intemperate statements as well that underscore his bias, such as when he insisted that one American industry only does ''the right thing'' when it is ''sued and forced to by a jury.''

After such a long record of hostility toward one segment of American society, it is difficult to believe Mr. McConnell can now turn on a dime and ''administer justice without respect to persons,'' as the judicial oath requires. The business community does not think so, and it is easy to see why.

In fact, the U.S. Chamber of Commerce has never before opposed a district court nominee in its 100-year history—not once. Yet it is so troubled by Mr. McConnell's clear disdain for the business community that it has taken the extraordinary step of opposing this nomination.

Senator CORNYN pointed out yesterday that there are also serious ethical issues with Mr. McConnell's nomination. He pioneered the practice of ''pay to play'' lawsuits, where he solicited lucrative no-bid, contingency fee contracts from public officials.

He has given statements to the Judiciary Committee that are misleading at best and untrue at worst about his familiarity with a case involving stolen litigation documents. There is the outstanding matter of the stolen litigation documents themselves, over which his law firm and several unnamed ''John Doe'' defendants are being sued.

In light of all the problems with the McConnell nomination, I have listened with interest to the admonishments by the chairman of the Judiciary Committee and other Democratic colleagues against opposing cloture on his nomination. I know my record of supporting up-and-down votes for controversial judicial nominees during the administration of President Clinton, and I am equally aware of the determined efforts by my Democratic colleagues ''to change the ground rules'' in the Senate confirmation process once there was a Republican President.

My Democratic colleagues ultimately succeeded in their efforts by repeatedly filibustering President Bush's judicial nominees. I wish our friends had not succeeded and not set up that precedent. But they did. And the precedent is the precedent, and their buyer's remorse now that there is again a Democrat in the Oval Office will not change it.

Over the years, there have been bipartisan concerns with judicial nominees, and cloture has been needed to end debate. Abe Fortas is a famous case. He was opposed by Senators from both sides of the aisle because of ethical issues, and his nomination did not even have majority support, let alone the votes needed to invoke cloture.

But the partisan filibuster is a more recent development, and our Democratic colleagues have been the proud pioneers in this area. In 1986, they mounted the first partisan filibuster against a judicial nominee. That nominee, by the way, was a district court nominee, Sidney Fitzwater.

Also in 1986, they mounted the first partisan filibuster against a nominee to be Chief Justice. That was Chief Justice Rehnquist's nomination.

In 1999, they mounted the first successful partisan filibuster of a judicial nominee. That too involved a district court nominee, Brian Stewart. Both the chairman of the Judiciary Committee and the senior Senator from Rhode Island voted to filibuster Mr. Stewart. I, and all Republicans, voted actually against filibustering him.

Our friends' successful filibuster of this nominee is now inconvenient to their narrative about filibuster norms and propriety. They claim that filibuster does not count. I guess they are saying they only filibustered him to leverage floor votes on other judicial nominees, and once they got what they wanted, he was confirmed. I gather this is the ''coercion exception'' to the body of filibuster precedent they have created.

In 2003, our friends mounted the first successful filibuster of a circuit court nomination. That would be Miguel Estrada's nomination. He was filibustered seven times, in fact. Our Democratic colleagues added to this record by filibustering nine other circuit court nominees, a total of 21 times. That is a record, too. The chairman of the Judiciary Committee and the senior Senator from Rhode Island participated in all of those filibusters as well.

In 2006, led by President Obama himself, our Democratic colleagues mounted the first partisan filibuster of a nominee to be an Associate Justice of the U.S. Supreme Court. That would be the Justice Alito nomination. Our Democratic friends from Vermont and Rhode Island joined in that filibuster, too.

I agree that filibusters of judicial nominees should be used sparingly. Unfortunately, our friends on the other side of the aisle have filibustered judicial nominees whenever it suited their purposes to do so, whether it was to defeat nominees such as Miguel Estrada or to leverage other nominees as with the Stewart nomination. Given their persistent enthusiasm for the judicial filibuster, I do not view our Democratic friends as the arbiters of filibuster propriety.

In this case, I believe the McConnell nomination is an extraordinary one. He should not be confirmed to a lifetime position on the bench. I will oppose cloture, and I urge my colleagues to do the same.

I yield the floor.

Mr. MCCAIN. Mr. President, during my 24 years in the U.S. Senate I have not once voted against cloture for a nominee to the district court, and I will not do so today. As a member of the ''Gang of 14'' in 2005, I agreed that ''Nominees should be filibustered only under extraordinary circumstances.'' The nomination of Mr. McConnell does not rise to a level of ''extraordinary circumstances.''

However, I am deeply troubled by Mr. McConnell's less than candid responses

to the Senate Judiciary Committee, his liberal judicial philosophy, including his public antipathy toward private enterprise, and his strong political activism. For these reasons, I will not support his nomination.

Shaping the judiciary through the appointment power is one of the most important and solemn responsibilities a President has and certainly one that has a profound and lasting impact. The President is entitled to nominate those whom he sees fit to serve on the Federal bench, and unless the nominee rises to ''extraordinary circumstances,'' I have provided my constitutional duty of ''consent'' for most nominees.

While I would not have chosen Mr. McConnell as a nominee to the Federal bench if I were in a position to nominate, I respect the President's ability to do so and therefore will vote for the cloture motion on Mr. McConnell's nomination, but will strongly oppose his nomination to the Federal bench.

SBIR/STTR REAUTHORIZATION ACT OF 2011

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill 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 Calendar No. 17, S. 493, the SBIR and STTR Reauthorization Act of 2011.

Harry Reid, Mary L. Landrieu, John F. Kerry, Robert P. Casey, Jr., Michael F. Bennet, Al Franken, Jon Tester, Patrick J. Leahy, Carl Levin, Tom Harkin, Charles E. Schumer, Jack Reed, Maria Cantwell, Kirsten E. Gillibrand, Benjamin L. Cardin, Bill Nelson, Sheldon Whitehouse, Ron Wyden.

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 S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Kentucky (Mr. PAUL).

Further, if present and voting, the Senator from Kentucky (Mr. PAUL) would have voted ''nay.''

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

The yeas and nays resulted—yeas 52, nays 44, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—52

Baucus	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Conrad	Manchin	Udall (NM)
Coons	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	
Hagan	Nelson (NE)	

NAYS—44

Alexander	Enzi	McConnell
Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Blunt	Hatch	Portman
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NOT VOTING—3

Akaka	Coburn	Paul

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

EXECUTIVE CALENDAR

CLOTURE MOTION

The PRESIDING OFFICER. 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 nomination of John J. McConnell, Jr., of Rhode Island, to be United States District Judge for the District of Rhode Island.

Harry Reid, Patrick J. Leahy, John F. Kerry, Dianne Feinstein, Frank R. Lautenberg, Jack Reed, Sheldon Whitehouse, Robert Menendez, Amy Klobuchar, Barbara Boxer, Daniel K. Inouye, Mark Begich, Mark R. Warner, Kent Conrad, John D. Rockefeller, IV, Richard J. Durbin, Ron Wyden.

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

The question is, Is it the sense of the Senate that debate on the nomination of John J. McConnell, Jr., to be U.S. District Judge for the District of Rhode Island, 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. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

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

The yeas and nays resulted—yeas 63, nays 33, as follows:

[Rollcall Vote No. 65 Ex.]

YEAS—63

Alexander	Graham	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Inouye	Nelson (FL)
Bingaman	Isakson	Pryor
Blumenthal	Johnson (SD)	Reed
Boxer	Kerry	Reid
Brown (MA)	Kirk	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Snowe
Casey	Leahy	Stabenow
Chambliss	Levin	Tester
Collins	Lieberman	Thune
Conrad	Manchin	Udall (CO)
Coons	McCain	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Webb
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden

NAYS—33

Ayotte	Enzi	Moran
Barrasso	Grassley	Paul
Blunt	Hoeven	Portman
Boozman	Hutchison	Risch
Burr	Inhofe	Roberts
Coats	Johanns	Rubio
Cochran	Johnson (WI)	Sessions
Corker	Kyl	Shelby
Cornyn	Lee	Toomey
Crapo	Lugar	Vitter
DeMint	McConnell	Wicker

ANSWERED ''PRESENT''—1

Hatch

NOT VOTING—2

Akaka	Coburn

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 33, with one Senator responding present. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF JOHN J. McCONNELL, JR., TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I wish to express my appreciation to my friends on the other side of the aisle for allowing cloture to be invoked on this nomination. It is so important that we not get into a position where we have to file cloture on all these district court judges. If there are real problems, there is the hearing process. That is where, when problems arise, it comes out in the committee, and there is ample time to make a case if you don't like them personally for whatever reason. But this is a good man. The biggest problem he had is he is a trial lawyer—a very fine trial lawyer.

But I express my appreciation to those on the other side of the aisle who