

(The remarks of Mr. CARDIN pertaining to the introduction of S. 657 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

---

#### OBAMACARE

Mr. KYL. Mr. President, last Wednesday marked the 1-year anniversary of the deeply flawed health care bill. The worst aspect of that bill is that it will lead to health care rationing by the Federal Government. That is the delay and denial of care in order to control costs. The words "ration," "withhold coverage" and "delay access to care" of course are not found anywhere in the bill. But new Federal rules that aim to reduce health care costs will inevitably result in delayed or denied tests, treatments, and procedures deemed too expensive and in less innovation in the development of drugs, devices, and treatments. Many of the decisions will be based on information provided by a new entity called the Patient-Centered Outcomes Research Institute, sometimes referred to as the PCORI. That will conduct comparative effectiveness research.

Comparative effectiveness research weighs the effectiveness of two or more health care services or treatments. The goal is to provide patients and doctors with better information regarding the risks and benefits of, for example, a drug versus a surgery for a particular situation. The problem is not with the merits of the research but whether the research should be used by the government to determine treatments and services covered by one's insurance. The health care law actually empowers the Secretary of Health and Human Services to do just that, to use this comparative effectiveness research when making coverage determinations.

Section 6301 of ObamaCare states:

The Secretary may [ . . . ] use evidence and findings from research conducted [ . . . ] by the Patient-Centered Outcomes Research Institute.

That means the government, not patients and doctors, has the power to make health care decisions that affect you. A bureaucrat decides if your health care is an effective use of government resources without regard to the patient's individual needs and medical history. The end result is the government inevitably interferes with access to care. That is rationing, and it is wrong.

While ObamaCare includes limited safeguards for how this research may

be used—appreciating the dangers involved—there is nothing that prohibits the government from taking it into account when, for example, making Medicare coverage decisions.

In fact, when asked whether the Federal CER agency should be involved in cost determinations, Donald Berwick, the President's recess-appointed head of the Centers for Medicare and Medicaid, responded:

The social budget is limited.

Ask citizens in Britain how well the system is working in their country. Britain's National Institute for Health and Clinical Excellence—called NICE—routinely uses comparative effectiveness research to make cost-benefit calculations.

Last year, NICE rejected a cutting-edge drug, Avastin, used to treat bowel cancer because it said the drug's limited effectiveness for extending life—they said 6 weeks; but up to 5 months according to the chief executive of the organization, Beating Bowel Cancer—they said it did not justify the cost. As Mike Hobday, head of policy at the charity, Macmillan Cancer Support, told Britain's Daily Telegraph:

We think this is devastating news for cancer patients with metastatic colorectal cancer, especially as this drug could have a significant impact on peoples' quality of life. Although a few extra weeks or months might not sound much to some people it can mean an awful lot to a family affected by cancer.

Likewise, in August 2008, NICE recommended against coverage of four expensive drugs for advanced kidney cancer. NICE considered the drugs clinically beneficial in specific situations but concluded they "were not cost-effective within their licensed indications."

Health care in Britain is also routinely delayed. Several years ago, the country's National Health Service launched an "End Waiting, Change Lives" campaign—"End Waiting, Change Lives." The campaign's goal was to reduce a patient's wait time to 18 weeks from referral to treatment. That is 4½ months, and that is an improvement.

Government-run health care systems that ration care are the reason many Europeans and Canadians come to the United States each year to get treatments denied to them in their own countries.

Access to the highest quality care and the sacred doctor-patient relationship are the cornerstones of U.S. health care—the very things Americans value most and that the health care law jeopardizes.

So I will join Senators COBURN, BARRASSO, ROBERTS, and CRAPO in introducing the Preserving Access to Targeted, Individualized, and Effective New Treatments and Services Act of 2011. That is also known as the PATIENTS Act.

The PATIENTS Act does not prohibit comparative effectiveness research; rather, it is a propatient firewall that protects patients' access to high-quality

care by prohibiting the Federal Government from using comparative effectiveness research to delay or deny care.

Additionally, the bill would require comparative effectiveness research to account for differences in the treatment response and preferences of patients, genomics and personalized medicine and the unique needs of health disparity populations and it would clarify that nothing shall be construed as affecting the FDA Commissioner's authority to respond to drug safety concerns.

All Americans deserve personalized treatment and should be able to get the care they and their doctors decide is best for them. No Washington bureaucrat should interfere with that right by substituting the government's judgment for that of a physician.

The administration has repeatedly promised that the health care law will not result in rationing. Well, if that promise is true, they should have no problem supporting the PATIENTS Act.

I urge my colleagues to join us in cosponsoring this important legislation.

I 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.

Ms. LANDRIEU. Mr. 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.

---

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

---

#### SBIR/STTR REAUTHORIZATION ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 493, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 493) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Pending:

McConnell amendment No. 183, to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change.

Vitter amendment No. 178, to require the Federal Government to sell off unused Federal real property.

Inhofe (for Johanns) amendment No. 161, to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments.

Cornyn amendment No. 186, to establish a bipartisan commission for the purpose of improving oversight and eliminating wasteful government spending.

Paul amendment No. 199, to cut \$200,000,000,000 in spending in fiscal year 2011.

Sanders amendment No. 207, to establish a point of order against any efforts to reduce benefits paid to Social Security recipients, raise the retirement age, or create private retirement accounts under title II of the Social Security Act.

Hutchison amendment No. 197, to delay the implementation of the health reform law in the United States until there is final resolution in pending lawsuits.

Coburn amendment No. 184, to provide a list of programs administered by every Federal department and agency.

Pryor amendment No. 229, to establish the Patriot Express Loan Program under which the Small Business Administration may make loans to members of the military community wanting to start or expand small business concerns.

Landrieu amendment No. 244 (to amendment No. 183), to change the enactment date.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I appreciate the opportunity the leadership has provided for Senator SNOWE and me to present S. 493 and continue to discuss this important bill. It is a very important program that has actually existed at the Federal level for 20 years. It is not a household word, but it is known very well in the small business community. It is supported by groups such as the Small Business Association, the Chamber of Commerce, and many high-tech organizations because they know the same thing we know, which is this is a very important Federal program that actually works and is accomplishing its mission.

It is a government/public-private partnership—a government-business partnership—with the largest Federal agencies that actually set aside a small portion of their research and development dollars. The amount is actually relatively small; 2.5 to 3 percent of all of their development and research dollars is set aside, and they aggressively look for small businesses that are able to provide new services, cutting-edge technology, new methodology, new software, to solve problems the government is having.

In the process of these small businesses solving problems for the government—i.e., the taxpayer—the great news is some new businesses are developed, and they can then be commercialized into the private market, which is how this program works, which is why it is so beneficial not only to taxpayers but to the market generally.

I am excited because we have great evidence from the studies and the surveys of this program that it is meeting and exceeding its expectations. It is creating thousands of jobs. It is providing an opportunity for small businesses to compete on a level playing field with large businesses, and it is providing the taxpayer with some cutting-edge technology and innovation.

Let me give one example which is close to my heart because we ran into this problem specifically and directly trying to deal with the aftermath of Katrina. This is just one example of

the kinds of new technologies that are being developed through this program. This bill, which we hope will get passed this week if we can negotiate wisely and smartly on the amendments pending, will reauthorize this program for 8 years. This is a long-term reauthorization, and it is important to send a signal out to the market and to small businesses and to these coalitions: We believe in this partnership. We know it can work. We want to give a long lead time and an 8-year runway to lift off some of these businesses and launch them and to create the kind of jobs and entrepreneurial opportunity we know is out there.

This is just one example. A Huntsville, AL, company, GATR Technologies, inflatable antenna—an inflatable antenna provides emergency access, cell phone coverage and phone lines over satellite networks. It was first used by responders in Haiti and Hurricane Ike. It provides communication support to our Special Operations Forces, to U.S. Navy, and U.S. Air Force. It so far has created 30 jobs but has tremendous opportunity; last year, \$7 million in sales and this year approximately \$10 million. This technology was launched with a \$148,000 grant.

What happened to us in the aftermath of Katrina—and the Presiding Officer may remember this—is that even the government's best satellite phones failed to work. So even with a great evacuation plan in place, with a great medical plan in place, with a great response plan in place, it is not worth the paper it is written on if you can't communicate it.

So what we found was when people landed with satellite phones, there wasn't enough reception base on the ground to be able to communicate. The technology has advanced significantly since then, but the same thing happens when you are trying to get communications in a war-torn place or a catastrophically destroyed place. This technology allows basically a balloon to be put down onsite, substantially increasing the communications capabilities.

This is just one example. So an agency had a problem. It couldn't communicate. It didn't have the right kind of communication technology. It puts out a small grant. Small business responds. This technology is created. Potentially, this could go on to develop into quite a large company. It might morph several times before it goes commercial, but that is what this program does.

These jobs are being created in Huntsville, AL. We are thrilled for Alabama. Jobs are created through this program in every State in the Union.

Here is another example. This is a small business from Watertown, MA. It is the A123 lithium-ion battery. The advanced lithium-ion battery is used widely for transportation power grid and commercial and industrial products. It opened the largest lithium-ion

battery manufacturing plant in North America, in Michigan, a place where we need to be creating jobs. This program is doing exactly that. It has created more than 400 jobs across the State of Michigan.

I think this grant initially came out of the Energy Department. The technology was initially developed at MIT, but the road to commercial success was paved in 2002 when this company was awarded \$100,000 for a small business innovation research grant. So this successfully leveraged this SBIR grant to take this lab and its product to the market. It employs now more than 2,000 people globally and has facilities around the world.

So this is creating jobs for America, new technology for America, but the world is benefiting from this. In fact, Senator SNOWE has joined me on the Senate floor, and she will remember when we had testimony from our consultant, Dr. Weissman, who testified that actually as the chief reviewer of this program, he has been asked to speak in many different countries about its success.

So while people are trying to eliminate government programs that aren't working, let's make sure this week in the Senate we take the opportunity to reauthorize programs that are working and that are creating jobs at home and serving as a model for entrepreneurship development all over the world.

I see Senator SNOWE is on the floor, so I am going to wrap up my opening remarks soon. I do want to review briefly. As I said, this program was designed in 1982 to harness the innovative capacity of America's small businesses to meet the needs of our Federal agencies. Senator Warren Rudman from New Hampshire had a great part to play as a lead sponsor of this bill.

To date, the Small Business Innovation Research Program and the Small Business Technology Transfer Program have produced more than 85,000 patents and have generated tens of thousands of well-paying jobs across all the 50 States, in addition to creating jobs overseas that are a benefit to America as well. This is a good return on the investment we make for our economy. As I said, it has garnered high praise from well-respected sources and governments around the world. It is an 8-year authorization.

In this bill, we update the award sizes, which have not been changed since 1994. Phase I awards will be increased from \$100,000 to \$150,000; phase II, from \$750,000 to \$1 million. We adopted the House measure that allows the SBA to update these award guidelines annually instead of every 5 years. We also put certain amounts of caps on some of the awards to make sure as many businesses as possible get access to these awards. This is merit-based. This is not a formula distributed based on applications. These are based on the quality of the application, the promise of the technology, and also on the level of need the agency has for this kind of new technology.

As I said, it creates a Federal-State technology partnership program. It improves the SBA's ability to oversee and coordinate these programs. It provides some administrative funding, which we thought was lacking, to make sure the agencies themselves have the wherewithal and the expertise to really get this program maximized in its job-creation potential. The reason I think this is so important—and Senator SNOWE and I have been almost singly focused on doing everything we can, leading this Small Business Committee, across party lines and together, Democrats and Republicans—is to try to put this recession behind us. This is a fight. This is not something that will happen naturally. It is going to be by this government in Washington and at the State and local levels creating atmosphere for businesses to prosper and jobs to be created.

I have to say I was very pleased to get a copy of the "Kaufman Index on Entrepreneurial Activity," which I will submit a portion of for the record. I think people will be pleased to hear its opening paragraph, as follows:

In 2010, .34 percent of the adult population, which is 340 out of 100,000 adults, created a new business each month.

That means that in America, 565,000 new businesses were created each month in 2010, approximately. That is pretty extraordinary. Every month, 565,000 new businesses were launched. We know all of them don't succeed, but some of them do, and some of them grow to be huge, extraordinary companies. QualComm comes to mind, and Microsoft comes to mind. They started as small businesses and grew. The 2010 entrepreneurial activity rate was the same as 2009, but it represents a substantial increase from 2007 and, most significantly, represents the highest level over the past decade and a half.

I wish I could say this particular program was responsible for all of this, but obviously it is not. But it is one of the tools the Federal Government has, along with our contracting and procurement tools, along with our Tax Code, along with our other incentives that we passed in our last small business bill—the new \$30 billion lending program, which is leveraged up to 300 and potentially could leverage up to \$300 billion in lending to small businesses on Main Street, not Wall Street—getting money to small businesses, these 565,000 small businesses that are started every month by great Americans who are trying to provide a livelihood for themselves, opportunities for their families, and strength for their communities. So for innovation and jobs, fighting hard for them, we are trying to pass this reauthorization that can contribute to this substantial growth. Things are looking better. Trendlines are in a positive direction.

Let me show you some other growth lines that are very important. We had a terribly substantial loss of jobs, as you know, in 2008 and 2009. The President largely inherited this situation.

He did not even take office until half of this job loss was completed. But I think we have been working together and the President has been leading a great effort to turn this situation around and start creating jobs as opposed to losing them. You can see this is a pretty dramatic turnaround. After losing 3.6 million in 2008 and 5.5 million in 2009, we have had a net increase of 1.3 million in 2010, with things looking promising in the first quarter of 2011—still moving in a very positive direction. I don't know what these projections are, but I think it will be greater than 1.3 million, which was last year's increase, which would be encouraging.

We have a long way to go to make up for the job loss of the great recession. When Wall Street collapsed, the housing market, the real estate market was terribly wounded. That is a story for another day. But the good news is that it looks as if we are recovering.

The unemployment rate is still too high in too many places in this country. That is why Senator SNOWE and I are on the floor again this week. That is why we are asking our colleagues to be as cooperative as possible. We know there are so many issues people want to talk about, and time is limited on the floor. In our minds, we should be almost singularly focused on job creation and reducing the debt and closing this deficit. By creating jobs and building businesses in the private sector—and this is one program that absolutely hits this mark—we can do all three. We can create jobs and expand economic opportunity. We are making a dent in the debt, and we are closing the deficit gap by creating new tax dollars that come in from hard-working Americans in the private sector.

Mr. President, I am excited to present this bill again. We will have a lot more information as the day unfolds. I understand we have a vote on a different matter at around 5 or 5:30 today. Senator SNOWE and I will be on the floor to answer any questions Members might have. We are not encouraging additional amendments. We already have 89 that have been filed on this bill. We are hoping to get some of them withdrawn that are not germane to the bill.

We will be working throughout the week, and hopefully together we can give a very strong vote of confidence to entrepreneurs who are taking extraordinary risks in very challenging times. The least we can do is get the government programs that are there for them to support them up and running and as strong as possible to help them in their quest to be successful.

I yield the floor.

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

Ms. SNOWE. Mr. President, I am very pleased to join the chair of the Small Business Committee to address the pending legislation before the Senate, which is so essential to helping to revitalize our economy and most especially

the small business sector that is central to the job-creation abilities in this country.

The programs that would be reauthorized in the legislation pending before the Senate are extremely important to the ability of small businesses to be engaged in innovation and advancement in our economy and the businesses they are in. It helps to assist in the technology and the entrepreneurial spirit that is so essential for America, which has obviously been an innovative nation throughout our history.

The two pending programs before the Senate are very crucial. I hope, like the chair, that we will be able to get to a point to consider the remaining amendments the Senators may have to offer so that we can move quickly and expeditiously to vote on the bill, so it can move forward and ultimately become law. The SBIR and STTR programs have had a longstanding history, most specifically with the SBIR Program, regarding innovative research, which has been in law since 1982 because it has been extremely worthwhile and beneficial. It has been the subject of numerous reports essentially because it has been able to produce jobs and the innovation that has advanced this Nation.

In fact, there are two assessments—one by the National Academy of Sciences and another report from the Information Technology and Innovation Foundation—both underscoring that it is imperative to reauthorize these programs but also demonstrating their essential value to our Nation's economy—most especially from the standpoint that, of course, small businesses are the job creators.

Two-thirds of all new jobs in America come from small businesses. Obviously, they represent more than 99.7 percent of the employers in America. It is absolutely critical that we do everything we can to buoy this segment of the economy. The more we procrastinate in moving this legislation forward, the less likely we are going to see jobs created in our economy and get this economy to move forward. Frankly, it is critical, given the fact that we need to create more than 285,000 new jobs per month for 5 years just to return to the unemployment levels we were experiencing in 2007 at prerecession levels. We could be 10 years away from normal unemployment and full recovery if we do not make substantial strides in creating at least 285,000 jobs every month for 5 consecutive years and, most possibly, 8 consecutive years to achieve 5.5 percent unemployment rate. To achieve a 7-percent unemployment rate would require us to create 300,000 jobs per month.

We experienced an uptick in job creation numbers last month of a 192,000, but that has been the exception, not the norm, over the last 2½ years. In fact, there are only 3 months in 2½ years in which we have achieved those levels.

I am just underscoring how difficult it is going to be to create the jobs we need in order to return to normal pre-recession levels of unemployment. That is why the pending legislation is so critical and vital to this endeavor.

I wish to reiterate some of the anecdotal information that came to the committee that, again, emphasizes the value of these programs.

Roland Tibbetts, the father of the SBIR Program, summed up its purpose most vividly when he said that “SBIR addresses a paradox at the heart of innovation funding: capital is always short until the test result are in. At the idea stage, and even the early development stage, the risks are too great for all but a few investors. But innovations can’t get beyond that stage without funding.”

SBIR provides the funding for promising small firms, by directing critical research and development funding within 11 critical agencies within the Federal Government to perform the necessary testing and assess the validity of an idea and subsequently commercialize the product. As we know, small businesses are looking for the kinds of initiatives that can provide the catalyst for creating that innovation.

It is all about taking risks. Risk means investment. There are few opportunities in America now with respect to having access to early-stage capital. The programs before us represent just that. It is important for creating the middle-class jobs we need, and the fact is that small and medium-size businesses really do the majority of the hiring and firing, as Thomas Friedman noted in his book, *The World is Flat*. When they are hiring people, the economy is robust. When they are not, it is in recession, which is precisely what we are recovering from currently.

We have to move these programs forward, and hopefully that opportunity is going to come sooner rather than later. Hopefully, we can accomplish that at the end of this week because I think it is important to send the right message and a signal to give certainty and stability that small businesses and medium-sized businesses are desperately searching for.

Dr. Jacobs, cofounder of Qualcomm, who testified before our committee in February, revolutionized the wireless communication industry. As we both have noted earlier when we began debating this legislation, they applied for \$1.5 million in SBIR funding almost 25 years ago. Today they have 17,500 employees. They paid approximately \$1.4 billion in taxes in fiscal year 2010, more than half the cost of the SBIR and STTR programs annually.

Dr. Jacobs noted in his testimony that SBIR funding “allowed us to pursue several innovative programs that otherwise would not have been possible.” He went on to note that:

Cutting-edge research leads to breakthrough discoveries, but in order for compa-

nies to attract private funding, they need support to prove the feasibility of new and often risky and unproven technologies. For Qualcomm, SBIR provided one source of that critical start-up funding. . . . it was one of the critical “stamps of approval” that allowed us to successfully pursue sources of private capital.

Dr. Matt Silver, the cofounder of Cambrian Innovation, an environmental product development firm from Massachusetts, informed the committee that six SBIR awards—or, in his words, “relatively small grants”—enabled his company to attract angel and direct investment, hire seven employees, file several provisional patents, and develop relationships with the Massachusetts Institute of Technology and Penn State for collaborative R&D, among other opportunities. His company’s story is a remarkable example of the success that can be garnered from a relatively modest investment by Federal agencies in new and promising technologies.

Additionally, 2 weeks ago, the House Small Business Committee also held a hearings on these programs. I would like to briefly share some quotes from the testimony of several witnesses.

Professor David Audretsch noted that the United States “. . . is no doubt more innovative, more competitive in the global economy and has generated more and better jobs as a result of the SBIR” Program. Additionally, he summarized that “The evidence accumulated from a broad spectrum of studies utilizing divergent methodologies all comes to the same result—the SBIR program has unequivocally made an invaluable contribution to the innovative performance of the United States.”

There are a number of specific examples of how the SBIR Program has contributed to the vitality of our economy and how it has advanced the technological developments that have occurred in America.

Furthermore, the Government Accountability Office has reviewed different aspects of the SBIR Program over the course of its history and has come to a number of positive conclusions. Specifically, the 2005 GAO report on the program summarized that, one:

SBIR is achieving its goals to enhance the role of small businesses in federal R&D, stimulate commercialization of research results. . . .

. . . more than three-quarters of the research conducted with SBIR funding was as good as or better than any agency-funded research. Agency officials also rated the research as more likely than other research they oversaw to result in the invention and commercialization of new products—

And—

The SBIR program successfully attracts many qualified companies, has had a high level of competition, and consistently has had a high number of first-time participants.

Combining those assessments that I have just cited with the National Academy of Sciences’s landmark 2008 study, which I have spoken about earlier, SBIR and STTR clearly provide re-

markable benefits to the American people. But also there is a larger picture for the Nation’s entrepreneurs and job creators.

Small businesses are facing a veritable confluence of challenges from all sides these days, whether it is exorbitant costs through more taxes or crippling tax burden and regulations. There are a number of amendments pending before the Senate that I think would be vital to enhancing that dimension of helping our small businesses with respect to fighting burdensome regulations.

That is why Senator COBURN and I have introduced a regulatory reform bill we hope we will offer as an amendment to the pending legislation because we think it is important to address the numerous regulations that have imposed significant burdens on a number of businesses across this country.

If we just look at the average cost to small businesses in America, a business with 20 or fewer employees pays \$10,585 per employee in annual regulatory costs. That is 36 percent higher than larger firms. Additionally, our Tax Code is so complex that taxpayers and businesses spent 7.6 billion hours and about \$140 billion trying to comply with tax-filing requirements in 2008.

I do believe it is important we make strides in the regulatory arena because it is clear that small businesses cannot move forward having to comply with not only the additional costs but also the burden because there are so few employees in a small business. They are saddled with incessant and unnecessary paperwork, as we saw demonstrated with the 1099 filing requirement that was included in the overall health care law.

As we all know—and we are almost in unanimous agreement that we should repeal that onerous provision, but we have not reached that point. Hopefully, we will with respect to our legislation. We know Senator JOHANNIS has filed an amendment to the pending bill, but we want to address that issue because it has provided a burdensome impact on small businesses across the country, even though it has yet to be enforced because it is not required until 2012.

The point is, businesses are already calculating the cost of having to comply with that paperwork. Because of the additional costs, because they do not know the extent to which it is going to add to the cost of their bottom lines, they are hesitant about hiring new individuals or making investments in capital equipment.

The sooner we can address this issue, the sooner we can repeal it and resolve the outstanding issues in terms of how we are going to pay for it, the sooner small businesses can understand the certainty with respect to this individual provision.

As I have conducted numerous street tours in my State, I can tell you this is the one issue that comes up repeatedly because, for every small business, they

are starting to calculate how many forms they will have to submit to the IRS for every \$600 in business transactions. Not only is that paperwork burdensome but also it is going to add additional costs, not to mention, obviously, the fact that we are going to hire thousands more in Internal Revenue Service agents just to comply with this particular mandate.

I hope we can tackle this major problem and bring it to a final conclusion with respect to resolving this issue and to repeal it once and for all. It is regrettable it has taken so much time to get to this point. I know we worked mightily to address this issue, but clearly it is not sustainable for small businesses. I am hopeful we can move forward with this effort to repeal this provision and this requirement that clearly will represent, I think, a major step forward in understanding the dimensions small businesses are facing in today's environment.

As I stand here with my colleague, the chair of the Small Business Committee, I hope we can proceed to passing this legislation. I urge Members to come to the floor if they have amendments to begin to address those issues so we can advance this legislation at the conclusion of this week because I do think it is in the best interest of the small business community but, more importantly, it is also in the best interest of our Nation's economy, given the fact that we have to create jobs, and that obviously is not happening to the degree people deserve in this country.

There are a number of agencies that will be part of the scope of this legislation that will be setting aside the research and development dollars that play a critical role in innovation. It does not require additional funding. It is based on existing research and development dollars that are already appropriated to these agencies. But it is saying: Let's set it aside for small businesses to make sure they can have one piece of the pie when it comes to research and development because that is where we derive most of the innovation and the entrepreneurship—from the small business sector of our economy. Not only can it add jobs in America but, ultimately, as we saw with the example of Qualcomm, we can add to the dimensions of growth exponentially for decades to come.

This is a generational issue as well because we know we have to take the small steps to ultimately reach the large developments that can occur with the initial investments that are taken even with a modest sum of money. We know that is true in biotechnology, for example, which takes 10 to 15 years to bring a drug online. It can require millions, if not billions, for pharmaceuticals to do that.

Again, the SBIR Program has been essential and central to that effort. That is why the Biotechnology Industry Organization and the National Venture Capital Association also support

this legislation because it can provide the initial boost that is a catalyst for the development of major drug therapies in this country.

Dr. Charles Wessner, who authored the landmark National Academy of Sciences report, underscored in his testimony to our committee about the SBIR Program and highlighted the work the SBIR Program created as a result of these investments. He said:

The program brings in over a third new companies every year. This is really extraordinary. It is not captured by a small group. Twenty percent of the companies are created because of the awards, bringing things out of the research community into the market, its core function. It encourages partnership with the university community. . . . Almost 50 percent of the firms that get awards reach the market.

These numbers, again, demonstrate the incredible role the SBIR Program plays in our Nation's capacity to innovate. That is essentially why it was created at the outset. If we look historically as to when the SBIR Program was created, it was in 1982. I was an original cosponsor of that legislation when I was serving in the U.S. House of Representatives. But it coincided as well during a similarly difficult economy. In fact, at that time, we were in the midst of a recession. Now we are struggling to emerge from a recession and trying to create jobs. The same was true at that point in time. In fact, we were at the height of it.

Dr. Jere Glover, who has served as the chief counsel at the SBA's Office of Advocacy, testified before our committee. He concluded:

Twice before, we have seen the President and Congress look at the situation where we are coming out of severe recessions and decide that the SBIR program was important. President Reagan in the early Congress in 1982 decided that this was an important thing to do to create jobs, to help grow innovation and technology. Again in 1992, Congress doubled the SBIR program, with the support of President Bush. So we have seen recognition in the past, when you are in a severe economic time, it is time to call on small business innovation.

He urged us to do that now. I concur with his call for us to use this opportunity to reauthorize these critical programs that will jump-start our Nation's economy through small business and talents they bring to bear when it comes to innovation. It is something we certainly need in our economy today and our country. More important, it is just not reauthorizing a program simply for reauthorizing it or because it has been on the books but because it works, and it has demonstrated it has worked repeatedly throughout the history of both these programs. That is why I urge the Senate to move as quickly as possible to adopt these bills so they can become law.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I will follow up with a few brief comments. The transition is important and worth

noting. I am so glad Ranking Member SNOWE made reference to the fact that the two of us are on the floor not just to reauthorize because it is the time for reauthorization but because this program works, because it is cost-effective, and because it actually is a job creator. It creates jobs in the private sector, not necessarily the public sector, although there are some public sector jobs associated with it that are crucial and important—people in the agencies working on identifying this new technology. But the lion's share of these jobs by far is being created in the private sector.

I wish to show what our challenge is.

Here you can see both President Bush and President Obama faced extraordinary challenges. This is the Monthly Changes in Private Payrolls, Seasonally Adjusted from January 2008, when this recession began, until today. You can see it is absolutely a dramatic loss of private payroll, reductions in private payroll. This represents substantial job losses.

But as you can see, it is just now, in April 2010–July 2010, and now to the present, to February of 2011—I know we are into March but this doesn't have the final month or two on here—we are making tremendous progress in turning this around. Again, this is the Monthly Changes in Private Payrolls. This represents the teeth of the great recession that caught so many businesses, large and small, off guard.

There are many reasons why this recession happened, and the collapse of our financial markets, but that is not the subject of this debate. What is the subject of this debate is how we get out of it, how we create jobs in the private sector. Senator SNOWE and I are proud to have brought several bills to the floor, this being the latest, that we believe can contribute to the increase in private payroll.

I want to be clear, because many of our colleagues have been challenging, and I think appropriately, why we can't eliminate some government programs; why do we have to keep them all. Senator SNOWE and I have jointly recommended the elimination of two, though relatively small, programs within the SBA, and we will be reviewing just this week with the Administrator of the SBA the efficiency of their whole budget. If we can find other places and other programs to eliminate that are not hitting their marks, not meeting their goals, we are committed to working together to do that. But this program we have reshaped, we have modified, we have improved, and we are strongly and passionately recommending its reauthorization for 8 years.

We have together reviewed nine studies of the National Research Council, studies by the Government Accountability Office to help guide our committee in the drafting of this bill. We have included many additional policy goals and some former goals and appropriate interest to balance. We wanted

to improve the diversity of the programs geographically and otherwise so more States and individuals could participate. We also wanted to maintain a fair playing field so true small businesses could continue to compete for this very small but important percentage of overall R&D. We wanted to encourage exploration of high-risk, cutting-edge research.

As Dr. Charles Wessner said—the lead assessment adviser on this program—if every program you give money to is working, or every business you are awarding grants to works, you are not running your program correctly, Senators. Because this is high-risk early funding, where it is the most difficult funding for these businesses to receive. Obviously, once they show promise, there are any number of investors and capital out there looking right now for good investments, particularly right here in the United States. So at a certain point, at a certain level, with certain proven technologies, there is enough venture capital out there to take these programs to the next level. But what is not there right now is that first dollar, that early \$150,000 grant that says: We think you have something of promise. Go ahead and try it. They try it for a year or two, they come back, and they can get another \$150,000, up to \$1.5 million.

Eventually, it may collapse because it wasn't what people thought, and that money is lost. But the great news is that collectively, cumulatively, this program makes money for the taxpayer—it does not lose money—although not every grant is successful. We wouldn't want that. This is a fairly high-risk, early form of capital, but it is a smart use of taxpayer dollars, and that is why Senator SNOWE and I enthusiastically recommend it.

This program has been supported by every President. President Reagan was supportive, President Bush was supportive, President Clinton has been supportive, and now President Obama has signaled his support as well. So we are very proud to be able to present this.

Mr. President, I ask unanimous consent to have printed in the RECORD another report regarding the state of small business—not the entire report but some parts of it that are central to this debate, sponsored by Network Solutions, the University of Maryland, Robert H. Smith School of Business.

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

#### INTRODUCTION

The competitive health of America's small businesses is as low as it has been since the Small Business Success Survey began tracking at the onset of the recession. There continues to be a struggle to provide capital and find new customers, while there is an unprecedented lack of confidence in competing with big business. Yet, small businesses are starting to grow and return to the black. After reaching a low point in the summer, technology investment is on the rise and social media adoption continues to grow. Despite

poor competitive health now, owners are becoming increasingly optimistic about the economy and their future business success. Over a quarter plan to add staff in 2011, and if they carry out their plans, will create 3.8 million jobs.

Ms. LANDRIEU. Mr. President, this portion of the report says, interestingly enough:

After having reached a low point in the summer, technology investment is on the rise and social media adoption continues to grow. Despite poor competitive health now, owners are becoming increasingly optimistic about the economy and their future business success.

They have been taking this survey of small businesses since the recession started, and the report continues:

Over a quarter plan to add staff in 2011, and if they carry out their plans, will create 3.8 million jobs.

Again, it is the magic of small business. We have 27 million small businesses in America. If every one of them, obviously, created one additional job, that would be 27 million more jobs. And we could use it. That is not going to happen, but if even a portion of them added one job to their bottom line, we know they could have an impact. It is important for programs such as this and getting capital at their local bank, being able to access credit from credit cards, that have reasonable charges and transparent charges—which I am proud to have been a part of helping on—and it is getting access for new technologies to find a friend at the Federal Government who will step up and help them grow their business. We strongly recommend this program.

I am going to yield the floor at this time, but we do have several amendments that are pending, and we will have to organize those votes sometime this week. We have over 89 amendments that have been filed, but we are hoping some of the Members, if they do not feel they have to offer those amendments, will withdraw them. Some of them are not germane to this bill and we wish to keep this bill very focused on small business.

I do want to join Senator SNOWE in support of the repeal of 1099, which is represented by the Johanns amendment, and Senator MENENDEZ may have a perfecting amendment to that, I understand, and I look forward to working with Senators JOHANNNS and MENENDEZ to get that regulatory burden lifted off the back of small business. It doesn't go into effect until 2012, but small businesses around the country are quietly alarmed, as they should be, in my view, regarding that additional paperwork that would be required. There is a fair amount of across-the-board support on both sides of the aisle for that repeal, and I hope we can get that done sometime this week as well, either specifically attached to this bill or parallel to this effort, because it is a very important effort for small businesses to get that new 1099 requirement repealed, as well as getting this bill passed.

Mr. President, with that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

NOMINATION OF MAE A. D'AGOSTINO TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Mae A. D'Agostino, of New York, to be United States District Judge for the Northern District of New York.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

Mr. LEAHY. Mr. President, I thank the majority leader for scheduling this confirmation vote today. Mae D'Agostino has the distinction of being the first newly considered judicial nominee this year. Every judicial confirmation thus far this year was of a nominee who had been unanimously reported by the Judiciary Committee last year. Each of those nominations could, and in my view should, have been considered and confirmed last year before the Senate adjourned in December. Ms. D'Agostino appeared at a hearing in February, and her nomination to fill a judicial emergency vacancy on the Northern District of New York was reported unanimously earlier this month. Now she is being considered by the Senate. This is an example of what we can do. It should not take weeks and months for the Senate to consider nominees reported by the Judiciary Committee, particularly those who are consensus nominees.

Ms. D'Agostino is a native of Albany, New York, and has spent her career in private practice in the Albany area. In addition to her legal practice, Ms. D'Agostino has taught at Albany Law School and the Junior College of Albany. Once confirmed, Ms. D'Agostino will be the only woman currently serving, and only the second woman ever to serve, on the Northern District of New York Federal bench. I thank Senator SCHUMER and Senator GILLIBRAND for working with the President on this nomination. They have worked hard throughout the process. In addition to Ms. D'Agostino, there remain nine other judicial nominees awaiting final Senate consideration after having been