

of Columbia, to be U.S. District Judge for the District of Columbia?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. UDALL) is necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. UDALL) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Nevada (Mr. ENSIGN).

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 45 Ex.]

YEAS—97

Akaka	Franken	Moran
Alexander	Gillibrand	Murkowski
Ayotte	Graham	Murray
Barrasso	Grassley	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Paul
Bennet	Hatch	Portman
Bingaman	Hoeben	Pryor
Blumenthal	Hutchison	Reed
Blunt	Inouye	Reid
Boozman	Isakson	Risch
Boxer	Johanns	Roberts
Brown (MA)	Johnson (SD)	Rockefeller
Brown (OH)	Johnson (WI)	Rubio
Burr	Kerry	Sanders
Cantwell	Kirk	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Shelby
Chambliss	Landrieu	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Lee	Thune
Collins	Levin	Toomey
Conrad	Lieberman	Lugar
Coons	Lugar	Udall (CO)
Corker	Manchin	Vitter
Cornyn	McCain	Warner
Crapo	McCaskill	Webb
DeMint	McConnell	Whitehouse
Durbin	Menendez	Wicker
Enzi	Merkley	Wyden
Feinstein	Mikulski	

NOT VOTING—3

Ensign	Inhofe	Udall (NM)
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Massachusetts.

MORNING BUSINESS

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each.

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

SBIR/STTR

Mr. BROWN of Massachusetts. Mr. President, I rise in support, strong sup-

port of the SBIR bill. As many of you know, the SBIR bill and the STTR Programs provide vital resources to small businesses, not only in Massachusetts but throughout the country. This reauthorization is incredibly important to not only businesses in my State but businesses in everybody's State.

This compromise bill has been under development and negotiation long before I got here. I applaud Senators LANDRIEU and SNOWE, our chair and ranking member on the Small Business Committee, for their persistence in pushing this bill through. As a matter of fact, I have two amendments that are in the bill that is before us now. I will be offering, not today but in the near future, an amendment which I am about to talk about.

As a small business owner myself for many years, and a longstanding member of many Chambers of Commerce, I believe the Massachusetts small businesses and businesses throughout this country are the economic engine that will help get us out of this economic slowdown we are in. They have the potential to grow, to expand and hire, unlike many businesses throughout the country. Massachusetts is widely regarded as the center for innovation in biotechnology. We are a small State but we have received the most SBIR awards, only after California. That goes to show how important our State is when it comes to creating small businesses. The success of the SBIR Program serves as a reminder that government can play a role in the business community. But it also needs to know when to step out of the way and allow businesses to grow and actually create jobs.

I want to speak about an amendment I filed, amendment No. 212. It is based on S. 164, the Withholding Tax Relief Act of 2011, which enjoys bipartisan support and is critically needed now. The ranking member of the Small Business Committee, Senator SNOWE, is a cosponsor. I am looking forward to getting many other cosponsors and working very closely with the chair on this timely piece of legislation.

We need once and for all to repeal an onerous and costly unfunded mandate that directly affects businesses, not only in my State but throughout the country. This is a jobs amendment, plain and simple. It would repeal part of our Tax Code that absolutely promises to kill jobs, jobs that these young people up here could someday have. If we do not act soon, section 3042(t) would require, beginning January 12, Federal, State, and local governments to withhold 3 percent of nearly all contract payments made to private companies as well as Medicare payments, farm payments, and certain grants. It is an arbitrary tax and it is nearly impossible to actually implement it. It is one of the things we have done that makes absolutely no sense. It has been delayed many times.

The Government Withholding Relief Coalition, a coalition of more than 100

members encompassing a cross section of America, has estimated the combined total 5-year cost to the State and Federal Government of implementing this legislation could be as high as \$75 billion.

That makes a lot of sense? That \$75 billion is coming out of those coffers at a time we can least afford it, and it is estimated only to bring in about \$7 billion over that same time period. It makes absolutely no sense. It is absurd. Any tax that costs more to implement than it actually brings in makes no sense at all. I hope with your leadership and many other Senators' leadership on this issue we can attack these bad laws that are about to click in. It should be repealed immediately. As a matter of fact, last week I received a letter from Massachusetts State Secretary of Finance Jay Gonzalez, warning Congress of the inevitable threat to small businesses' ability to survive in this tough economic climate if we allow the continuation of what I consider a stealth tax. We cannot discuss the health of small businesses on the floor without acknowledging that these very same small businesses we aim to help with the SBIR Program, the bill before us now, will be suffocated by this 3-percent withholding tax. For some businesses it may be the entire net profit of what they make per year.

I ask unanimous consent to have the letter from Secretary Gonzales printed in the RECORD.

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

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE,

Boston, MA, March 11, 2011.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, U.S. Senate,
Washington, DC.

HON. ORRIN G. HATCH,
Ranking Member, Committee on Finance, U.S.
Senate, Washington, DC.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Hon. SANDER LEVIN,
Ranking Member, Committee on Ways and
Means, House of Representatives, Wash-
ington, DC.

CHAIRMAN BAUCUS, RANKING MEMBER HATCH, CHAIRMAN CAMP, AND RANKING MEMBER LEVIN: As Secretary for the Executive Office of Administration and Finance for the Commonwealth of Massachusetts, I am writing to express my strong support for legislation to repeal Section 511 of the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2006. Section 511 amends the Internal Revenue Code by adding a provision mandating that government entities with greater than \$100 million in annual spending withhold three percent on payments made for most goods and services, including Medicare payments and certain grants. That three percent is allocated toward the vendor's tax liability. S. 89 and S. 164, currently pending in the Senate, and H.R. 674, currently pending in the House, would eliminate Section 511.

As a state finance official, I strongly support enhanced transparency and tax compliance; however, I am very concerned about the impact of Section 511 on the Commonwealth of Massachusetts' accounting and