

figures, the number of unexamined patents has ballooned to over 750,000. Moreover, the pendency time for a final disposition is 35 months—not counting appeals. Yet, despite it taking longer for the USPTO to do examination, many experts believe that the quality of patents has actually declined in recent years. Increased backlogs and poor patent quality affect not only the agency, they hurt American innovation, and delay our economic and jobs recovery.

While I support the current patent reform negotiations between the House and Senate, this bill will help to immediately begin to address the fiscal problems of the USPTO. I am still fully supportive of a larger patent reform effort and look forward to working with our Senate colleagues to bridge the gaps between the current House and Senate versions of reform. We are working with the Senate and have been engaged in discussions to make changes to their bill to improve patent quality and decrease the backlog. We want to continue to work with the Senate on the patent reform bill to get the best proposal. Our members in the House and their staffs have been working to resolve the differences between the House and Senate bills to address the needs of the innovation community. We remain open and willing to have a continuing dialogue with our colleagues in the Senate.

The USPTO does not take money from taxpayers. It is fully funded by user fees and generates revenues from those fees. Unfortunately, fees have been diverted to other uses, and this has made it difficult for the USPTO to hire and retain qualified examiners and address patent backlog issues.

Acknowledging these challenges, the USPTO has developed a number of initiatives to address its backlog and quality issues. These initiatives include giving patent examiners more time to do a quality examination of patent applications, targeted hiring of experienced professionals to become patent examiners, restructuring the incentives framework for examiners, and upgrading and improving the agency's information technology resources.

Together, these initiatives are expected to substantially improve quality and lower the backlog. However, these programs cannot be achieved without adequate funding, which the USPTO currently does not have.

Most of the fees the USPTO currently collects are statutorily set, and the fees are collected by the USPTO and deposited in the federal treasury. According to the Intellectual Properties Owners Association, IPO, \$737 million in fees collected between 1991 and 2004 were never transferred back to the USPTO and instead remained in the general treasury fund for purposes unrelated to intellectual property. As an agency within the Department of Commerce, the USPTO is subject to the appropriations process and collected fees must be transferred back to the USPTO through a yearly appropriation.

It is time for Congress to stop the bleeding and step in. I have worked in a bipartisan manner in the past to solve the problem of fee diversion. The USPTO's problems are not out there on Wall Street or in the Gulf of Mexico, they are right here on our doorstep. People lose jobs when technology does not make it to the market. These are problems that are in our power to fix, and that we must fix, and that can be traced directly to the current fee struc-

ture which is cumbersome, reactionary, and at times arbitrary.

This bill requires the USPTO to consult with its stakeholder Public Advisory Committees before publishing a proposed fee change. It also requires a 45-day public comment period. And, to ensure continued close congressional oversight, it also includes a separate 45-day congressional comment period before fee changes can be implemented. Lastly, the bill will sunset this new authority in 10 years, giving Congress an opportunity to evaluate how well this grant of authority worked and whether it should be continued.

The anti-diversion and 15 percent surcharge language in the bill will help the Patent and Trademark Office address its pressing short-term budgetary needs. The provisions in this bill will go a long way to correct the USPTO's fiscal and infrastructure problems. Without stability the USPTO cannot hire examiners, upgrade IT systems, or institute important operational initiatives that are critical to the PTO's vitality. To remain strong in the increasingly competitive global market, the U.S. must have an efficient and effective patent office. This bill is one step to ensure the U.S. remains a technological leader now and going forward into the future.

Under the current system, fees often do not correspond to the realities of the USPTO's operations or needs. For example, under the current structure, patent applicants pay only about one-third of the costs associated with examination, regardless of whether the patent is granted. Fees are thus out of alignment in terms of what applicants pay and what they cost the office. Not only is this arguably not fair to successful patentees, it is inefficient.

Back-end fees are notoriously hard to predict, especially in an economic downturn. Thus, the agency gets stuck with budgets that do not correspond to its front-end services. The result is that the USPTO's hands are tied, and the agency cannot pursue much-needed modernization and improvements. Accordingly, pendency and quality worsen.

For those who wish to wait for a more comprehensive patent reform bill, I say this: we cannot afford to wait. The provisions of this bill are necessary to make sure that the USPTO has adequate funding, and we recognize the hurdles that lie ahead as we advance these provisions. We plan to work with the Appropriations Committee and the Congressional Budget Office to address any concerns they may have with this legislation. Without action USPTO fees are likely to be diverted, and we must pass this bill to correct this problem that has been going on for far too long. Nothing is more critical to the health of the USPTO than to have the sort of long-term budget stability that this bill will provide.

TRIBUTE TO HAYWOOD HILLYER  
III, LOUISIANA REPUBLICAN  
PARTY PIONEER

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. BONNER. Madam Speaker, it is with great sadness that I rise to note the recent quieting of a beloved and tireless conservative voice in Louisiana, Mr. Haywood H. Hillyer III.

Mr. Hillyer was a passionate public servant and a man of action. He was a Republican in Louisiana when Republicans were as rare in that state as a July snowfall. His dedication to conservative principles and his boundless enthusiasm played a pivotal role in transforming the Republican Party into a viable political force in Louisiana.

While in college, Haywood Hillyer was among a group of students who interacted with conservative icon William F. Buckley, Jr. His passion for ideas led him to found and edit a conservative college newspaper, *The Liberator*.

When Mr. Hillyer helped take on the monumental task of growing the Republican Party in the Pelican State, there were a mere 10,000 followers statewide. Today, there are over 750,000 Republicans in Louisiana. Haywood Hillyer served on the Republican State Central Committee of Louisiana for 25 years, and ran for governor.

Mr. Hillyer was also a great patron of New Orleans jazz music, and was featured as a commentator in several jazz documentaries, recalling listening to local jazz pioneers in their youth, and he continued to support local jazz organizations throughout the rest of his life.

Haywood Hillyer graduated from Tulane University and Tulane Law School. He served as an attorney for many years for what is now the Milling Benson Woodward law firm. Haywood was elected to several positions within the Louisiana State Bar Association and the Federal Bar Association. He was also an amateur sailor and racer, and a civic leader.

On behalf of conservatives throughout the country, I wish to pay tribute to Mr. Hillyer for his distinguished leadership and exemplary life. Mr. Hillyer is survived by two sons, Haywood Hillyer IV and Richard Quin Hillyer; a stepson, Tyler Wood Duncan; and a stepdaughter, Halley Randolph Rash, as well as countless other friends and family.

They are all in our thoughts and prayers at this difficult time.

TRIBUTE TO MR. WALDESTRUDIS  
"WALTER" TORRES

**HON. JOSÉ E. SERRANO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. SERRANO. Madam Speaker, I rise today to offer tribute to Mr. Waldestrudis "Walter" Torres, a Puerto Rican Vietnam War hero from my district who recently passed away at the age of 62. Walter was a brave and committed man. He honored himself and his country on the battlefields of Vietnam before returning home to lead a quiet life of civil service. He spent nearly four decades in service to others, as both soldier and civilian.

Walter was born in Coamo, Puerto Rico, on April 10, 1947. In 1967, at the age of 20, Walter joined the U.S. Marine Corps and was soon sent to Vietnam. Like so many of the more than 48,000 Puerto Ricans who served during Vietnam, Walter distinguished himself in combat. For courage and bravery, Walter received the Battle Star Medal, the National Defense Medal, the Vietnam Campaign Medal and the Vietnam Services Medal with Three Stars.

After leaving the service, Walter was gainfully employed and hardworking his entire life.