

people move on to other topics; that we keep that straitjacket in place so we do those things that are, again, responsible not only to this generation but future generations.

Thirdly, I hope we figure out a way, through some type of amendment, to ensure that, on into the future, we have put something in place at the Federal level which causes us to be fiscally responsible in this country. All of us know what it means to have to make choices. All of us have households. Many of us have led cities and States. Many of us have had businesses. We all understand what happens in the real world, and it is something that certainly needs to happen here. That has been sorely lacking for a long time.

So I thank the Chair for the time on the floor today, and I hope to talk about this many more times. I have been doing it, I assure you, throughout the State of Tennessee and in multiple forums in the Senate.

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

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

Mr. CORKER. Mr. President, I had the opportunity to speak with you in the last several moments, and you had a couple questions about the CAP Act that I was just discussing on the floor. The Presiding Officer had some great questions about what it takes to overcome the CAP Act, in the event we were able to pass it.

It is just a 10-page bill. It is very eloquent. It doesn't have a lot of "whereases." It is just a business document that takes us from where we are to where we need to be. But, in essence, to override it, it would take a two-thirds vote. It would take two-thirds of the House and the Senate to actually override or get out of the straitjacket, if you will. There were previous bills, such as Gramm-Rudman and other types of bills that tried to keep Washington fiscally focused, and those bills required 60 votes. So this would be a higher threshold.

So, yes, if there was some type of national emergency and we needed to move beyond this straitjacket for 1 year or 6 months or something like that, a two-thirds vote could do that. I mean, 67 votes is a pretty tough threshold, and hopefully it is the kind of threshold necessary to keep the kind of discipline in place that we need.

So it is a 10-page bill. Again, it is very eloquent. I think it lays out a solution for us that hopefully will be a part of anything we do over the next several months.

I understand, after talking with the Presiding Officer over the last several

days, while traveling to these various countries, that he, along with many of our other colleagues—I know I did myself—came here to solve problems, not to message. In a body such as this, it is tough to solve these kinds of problems, but the only way to do it is to offer a pragmatic solution.

I know there are some people who are interested, sometimes, in messaging. I have tried to offer something that I think will take us from a place that is very much out of line in spending to a place that is more appropriate.

I might also say I thought the President's deficit reduction commission had some very good points as it relates to tax reform. I think all of us are aware of the \$1.2 trillion in tax expenditures that exist.

I was doing an event over the last several days, and a gentleman raised his hand and asked me: What do you mean by tax expenditures? Isn't the money ours until we give it to the Federal Government? Why would you call it a tax expenditure?

I think people realize in our Tax Code there are all kinds of exclusions and subsidies and favored companies and favored this and favored that. If we did away with all of those, there would be \$1.2 trillion we could use to lower everybody's rate, and we could make our Tax Code much more simple. The deficit reduction commission says we could take our corporate rates from where they are down to a level of about 26 percent—somewhere between 23 and 29 percent—and lower everybody's rates individually. I think most Americans, instead of filling out all these forms to see if they benefit from these various subsidies and credits, would much rather know that everybody is on the same playing field; that some favored company is not in a situation where they are more favored than another; that everybody is on the same basis.

I think there has been some good work done there. I hope we are able to take votes on that over the next several months. But there is a very elegant, pragmatic solution that has been offered that would go hand in hand with these types of measures and would cause us, over the next 10 years, to exercise the kind of fiscal discipline this country needs to confront what I think threatens our national security, even more than the things we saw on the ground in the Middle East last week.

With that, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

Mr. VITTER. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

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

The ACTING PRESIDENT pro tempore. Is there an objection?

Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### PATENT REFORM ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 23, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 23) to amend title 35, United States Code, to provide for patent reform.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patent Reform Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. First inventor to file.
- Sec. 3. Inventor's oath or declaration.
- Sec. 4. Damages.
- Sec. 5. Post-grant review proceedings.
- Sec. 6. Patent Trial and Appeal Board.
- Sec. 7. Preissuance submissions by third parties.
- Sec. 8. Venue.
- Sec. 9. Fee setting authority.
- Sec. 10. Supplemental examination.
- Sec. 11. Residency of Federal Circuit judges.
- Sec. 12. Micro entity defined.
- Sec. 13. Funding agreements.
- Sec. 14. Tax strategies deemed within the prior art.
- Sec. 15. Best mode requirement.
- Sec. 16. Technical amendments.
- Sec. 17. *Clarification of jurisdiction.*
- Sec. [17]18. Effective date; [rule of construction.]

#### SEC. 2. FIRST INVENTOR TO FILE.

(a) DEFINITIONS.—Section 100 of title 35, United States Code, is amended by adding at the end the following:

"(f) The term 'inventor' means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

"(g) The terms 'joint inventor' and 'co-inventor' mean any 1 of the individuals who invented or discovered the subject matter of a joint invention.

"(h) The term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

"(i)(1) The term 'effective filing date' of a claimed invention in a patent or application for patent means—