United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, MARCH 1, 2011 No. 29

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God of time and eternity, we come to You not because we are perfect but because we trust Your mercy and kindness. By Your grace, we are able to triumph over evil, living no longer for ourselves alone but for You. Give our Senators a vision of the goals that produce righteousness, honor, justice, understanding, and peace. Empower them to serve the less fortunate, to bear the burdens of freedom, and to labor for Your glory. Lord, help them to know the constancy of Your presence, to give primacy to prayer as they work. Give them the gifts of Your light and love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 1, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following any leader remarks, there will be a period of morning business for an hour. Senators will be permitted to speak for up to 10 minutes each during that period of time. The majority will control the first 30 minutes and the Republicans will control the final 30 minutes. Following morning business, the Senate will resume consideration of S. 23, the patent reform bill. The Senate will recess from 12:30 until 2:15 to allow for our weekly caucus meetings. Senators should expect rollcall votes in relation to amendments to the patent reform bill throughout the day.

ORDER OF PROCEDURE

I ask unanimous consent that Senator TOOMEY of Pennsylvania be permitted to speak as in morning business at 2:15 p.m. today for up to 15 minutes in order to deliver his maiden speech in the Senate.

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

MEASURE PLACED ON THE CALENDAR—H.R. 1

Mr. REID. Madam President, I understand that H.R. 1 is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

Mr. REID. I object to any further proceedings on H.R. 1 at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

ISSUES OF THE DAY

Mr. REID. Madam President, we have before us today an extremely important piece of legislation. It is called the America Invents Act of 2011. The reason I emphasize 2011 is because it has been almost 60 years since we had the last meaningful reforms of the Nation's patent system. We have tried on many occasions in recent years to get this bill on the Senate floor. The Judiciary Committee has reported out a number of bills over the years, and we have taken no action here on the Senate floor for a number of reasons. But it is now on the floor. There are a couple of issues to which our attention will be directed.

I have received calls from a number of Senators who have amendments they want to offer that are in relation to this bill, only two of which I think are really meaningful, but I am sure there are others. I hope we can move through this. One of the first amendments filed is one that has nothing to do with patent reform, and we will dispose of that.

I think it is important to understand that this bill, if we do it right, will create millions of jobs. Some estimates suggest literally millions of new jobs could be created through this reform. Not every patent creates a job or generates economic value. Some are worth

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

thousands of jobs. Jack Kilby's 1959 patent for the semiconductor is an example of that, as well as Steve Wozniak's patent for a personal computer in 1979. So it is impossible to predict how many new jobs or even industries may lie buried within the Patent Office backlog, but there are thousands of backlogged patent applications there that we have to dispose of. I hope we can work toward getting this done.

We have issues the Republican leader and I have worked on to move forward, and the first issue at hand that deals with funding the government is the CR. We are looking to try to figure out a way to do the short-term CR. The President has said—and we will hear this from him rather than from us—that we can't continue to have these short-term CRs, so we are working to see if we can find a way of funding the government in the foreseeable future. The way that is going to be done is on a bipartisan basis. We hope that will be the case. No one benefits from a shutdown of the government, partial or otherwise.

I look forward to our work on this bill. Until we have something to work on—the House is going to pass a short-term CR today. Until we actually have something to work on, we need to focus our attention on this patent bill which is so very important. I have introduced a revenue measure that we could work off of. We also have—and I just rule XIV'd—a second reading on a matter for the continuing resolution. It is H.R. 1, the one that comes from the House. I think it is pretty clear that won't pass, but it shows we are trying to move forward. The House is going to act on something today. I have placed my revenue measure on the floor, indicating to the Republican leader my intentions of moving forward on that. So it is important that we work together to get this done. The current funding for the government runs out this Friday.

I look forward to everyone working hard on the patent bill. When we are in a position to move forward on funding the government past March 4, we will move forward on that just as rapidly as we can, and we know we have to do it this week.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

PLAYING BY THE RULES

Mr. MCCONNELL. Madam President, later today the House of Representatives will take an important vote. At bottom, it is a vote on whether lawmakers in Washington should continue to be exempt from the rules.

Over the past 2 years, millions of Americans have lost jobs and homes. Tragically, many have stopped looking for work altogether. They think the situation won't improve. When one considers how Democrats in Washington have responded to this historic jobs crisis, it is no wonder. For 2 years, Democrats in Washington have pushed one proposal after another that has kept the economy from growing and stifled the creation of good private sector jobs. They have tried to tax energy consumption. They have picked winners and losers in industry. They have handcuffed small business owners with a mountain of stifling regulations, including a health care bill that nonpartisan experts predict could lead to hundreds of thousands of more lost jobs. Earlier this month, at a time when economists say rising gas prices could delay an economic recovery even longer, Democrats proposed—get this—a change in the current tax laws that would amount to a new tax on everyone who drives a car or truck in America—a minivan tax.

While the American people have been begging lawmakers to remove the burdens of government so they can do the work of growing the economy and creating private sector jobs, Democrats in Washington have been focused single-mindedly on growing government instead. In order to do it, they have basically exempted themselves from the rules. They have said that while the rest of the country has had to tighten its belt in a down economy, Washington can continue on its spending binge in order to grow the government. They have said that while American families have had to pay off their credit cards, Washington can continue to rack up debt. They have said that while most Americans struggle to make ends meet, they don't have to. That is what this afternoon's vote in the House is all about.

This bill should not be controversial. It has only become controversial because Democratic leaders in Congress have resisted every effort—every effort—to rein in their spending bills. This bill proposes to cut spending for the next 2 weeks by $4 billion, and they have fought it tooth and nail. They refuse to admit that Washington has a spending problem. But the verdict is in. For 2 years, Democrats in Washington have spent trillions more than we had in the Treasury. And if expanding the size and scope of government was the goal, it was a big success. But if helping the economy and helping people find jobs was the goal, it has been a disaster. What has $3 trillion more in debt gotten us? Three million more lost jobs.

Tonight's vote is an opportunity for House Democrats to admit the status quo isn't working. It is a chance to take a small first step toward growing the economy and helping create jobs. Then, later this week, Democrats in the Senate will have the same opportunity to show that they get it. Americans are watching. They want us to acknowledge that we need to play by the same rules they do. They want us to tighten our belts, too, and show we are in this together.

Madam President, 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.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Madam 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.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from California.

ECONOMIC RECOVERY

Mrs. BOXER. Thank you very much. Senator REID has told me I have 30 minutes, so I will start that at this time.

We are in a very difficult time right now because we are getting out of the deepest recession since the Great Depression. If we go back and look at the headlines when our President was inaugurated, we see the pace of job loss and we see what happened to credit and we see what happened to the auto industry and we see what happened to the stock market—we eventually lost about 50 percent from its highs. We are now in a situation where we have this economic recovery starting, but the jobs are not coming as fast as we want.

We don't want to do anything which threatens that economic recovery, which threatens our families and threatens the middle class. This is not the time to hurt the middle class. What we see in Wisconsin is the middle class finally saying to the Governor there: Look, be fair to us. We are willing to give up pay, we are willing to pay more for our benefits, but don't destroy our ability to have a say in our lives.

So as this economic recovery plays out, we have to deal with deficits that have come about because of this terrible recession, fewer revenues coming in to the Federal Government, more people calling on programs to help them with unemployment insurance and food stamps and things they need to stay alive. We have to deal with our deficit, there is no question about that. We have to do it like grownups. We

have to do it with common sense. We don't want to take a meat ax to this recovery and wind up losing jobs, jobs, jobs.

This last election was all about jobs. I was out there, so I can tell you. My Republican opponent, every day, said: Senator BOXER, where are the jobs? Where are the jobs? That was a legitimate question. I answered it this way: It is taking too long to get these jobs back where they should be, but I am going to fight every day for jobs. When I see a proposal that will threaten jobs, I am going to talk about it.

I am going to get to the Republican proposal for the rest of this year, the 2011 budget proposal, which experts such as Mark Zandi, a Republican expert who advised Republican candidates—he advised JOHN MCCAIN. He said, as well as Goldman Sachs, that if you pass the Republican budget plan, you endanger 700,000 jobs. So what do we do? We have to cut spending, yes. We have to do it wisely. We have to sit together and discuss it, not say: My way or the highway; here is the bill, don't talk to me.

I think it is important, as we hear the majority leader address his comments to the Democratic side, to address some comments to the Republican side. When George Bush was elected President, President Bill Clinton handed him a $236 billion budget surplus. I am proud to say I served at that time, and I voted for the Democratic budget, the Clinton budget. What did it accomplish? Quite a bit. Not only a balanced budget but a surplus. There were those on the other side calling for an amendment to the Constitution for a balanced budget. We said: We don't need an amendment; we just need to balance the budget in a wise way, and we did it. We cut out unnecessary spending, but we invested where it created jobs. Guess what. We said to the upper income people of $1 million or more: You have to pay your fair share. They were willing and able to do it, and we created not only surpluses in the Federal Government but 23 million new jobs.

Let me say that again. We created a surplus—not only a balanced budget surplus but 23 million new jobs. Now the Republicans take over, and when George Bush leaves office, he created 1 million jobs in 8 years, compared to 23 million. Guess what. He left us a $1.3 trillion deficit. I say to my friends here, he left the wars off budget, so it was even way higher than that. He didn't put the two wars on the budget.

President Obama, last year, created more jobs than George Bush did. President Obama created, in 2010, 1.1 million new jobs. So the new jobs under President Obama in 2010 equal the net jobs of George Bush after 8 years. President Obama inherited a $1.3 trillion deficit from George Bush, who created that from a surplus. It is important we follow this. George Bush created 1 million jobs net compared to 23 million jobs under Bill Clinton, and President Obama inherited the worst recession since the Great Depression—700,000 jobs a month lost, panic on Wall Street, you name it, the auto industry going out. We would have been the only leader in the industrialized world not to have an auto industry.

It is fair to say things have stabilized. The auto industry had the best year in a long time. The money we loaned to the banks has been paid back. But we have more to do. The deficit is up to $1.6 trillion now because the wars are now on the budget, because we still haven't made up for the revenues we lost, and the jobs are coming back too slowly.

This is where we stand. We have to pass a budget for the remainder of this year, and Democrats are saying let's do it wisely. We will cut, cut, cut, and we have a list of cuts we can go over. We cut $40 billion from the President's 2011 budget. The Republicans cut $100 billion from the President's budget. So, surely, between the 40 we cut and the $100 billion they cut, we can meet and solve this problem. I would like us to do it right now—sit down in good faith and get it done and scratch any of the cuts that hurt our children, scratch the cuts that hurt our women's health, scratch the cuts that are essentially political—I will go into those later—and come up with the cuts that don't threaten hundreds of thousands of jobs.

Here is the deal. There is still talk and fear about a government shutdown. Every time we think we have passed the point, there comes another article. Today in the Washington Post there is this article. I ask unanimous consent to have this printed in the RECORD.

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

[From the Washington Post, Mar. 1, 2011]

WITH GOVERNMENT SHUTDOWN LOOMING, FRESHMEN ARE THE WILD CARDS

(By David A. Fahrenthold and Philip Rucker)

In just two months, a freshman class of Republicans has found a way to run the House.

These 87 new members—who otherwise might have become foot soldiers for party bosses, or jittery pawns of their home-town tea party groups—have instead coalesced into a bloc with its own ideas and a headstrong sense of its muscle.

As Republicans and Democrats try to cut a short-term budget deal this week—and a more permanent one in coming weeks—the freshmen are the wild card. They have the power to derail the whole process. Again.

But even their own leaders don't know if they will.

The freshmen's willingness to do things their way stems from their hyper-confident vision of themselves, revealed in interviews in recent days with more than 30 members of the group. Many described their job as a ''calling,'' a sense that their grandchildren, their country or their God needed them to make hard decisions to right the government's finances.

''We may be the last opportunity,'' said Rep. Michael G. Grimm (N.Y.), a former FBI agent.

But now, the difficult part.

In the escalating budget fight—and other battles to come—the freshmen will face the capital's hardest kind of decision: how to compromise on the issue they care about the most.

How much ground will the freshmen give before they defy the Senate and risk a government shutdown?

''I don't know,'' Rep. Joe Walsh (Ill.) said when asked how the newcomers would react if the Democratic-controlled Senate offered a spending bill with fewer cuts than theirs. 'I don't know. I don't know. And I think most freshmen don't know.''

This class of Republican freshmen—the largest for either party in at least six decades—includes nine women and 78 men. Their views are not all the same: Some have called for a more nuanced approach to spending cuts, while others have insisted that the House's bare-bones budget was not bare enough.

Many can recount the moment they realized they were mad enough to run for Congress.

Rep. Alan Nunnelee (Miss.) said that he was happy as a state legislator, and that he had resisted previous efforts to draft him as a candidate. Then, on March 27, 2009, he learned he was going to be a grandfather.

''What I saw happening in Washington really was endangering the freedom'' his new grandson would have,Nunnelee said. ''I had a moral obligation to do something about it.''

Rep. Blake Farenthold (Tex.) was a talk-radio host, one of more than three dozen freshmen who had never held an elected office.

''I really feel like I was called to run for office at this time,'' he said. ''A whole bunch of things all came together at once. . . . I can't credit that to anything but divine intervention.''

With that kind of back story, the freshmen said they wouldn't play the role of Congress's rookies. Instead of being taught by longtime lawmakers, many said, they wanted to teach.

''When you say, 'We need to listen to the American people,' that's us,'' said Rep. Kevin Yoder (Kan.), a former state legislator.

This group—which represents about one-third of the Republicans in the House—showed its muscle last month, in a series of private meetings with House Speaker John A. Boehner (Ohio) and other GOP leaders.

At issue was how deep to cut spending in a ''continuing resolution'' to fund the government for the remaining seven months of this fiscal year. During the midterm campaign, Republicans had pledged to cut $100 billion over a year.

But the leadership presented a number equal to seven-twelfths of $100 billion.

The math worked. But, freshmen say, the politics didn't.

''We felt like we told the people that we would do $100 billion,'' said Rep. Trey Gowdy (S.C.), a former prosecutor. ''And when you start using the words 'pro-rata' or 'There's seven months left in the budget'—as a prosecutor, when you're explaining, you're losing.''

The leadership agreed, without much of a fight, and went back to make additional reductions. In Congress's world of tradition and seniority, the tail had officially wagged the dog.

But from here on out, it will be harder to be Congress's heroes.

Many of the freshmen say they want to consider changes to Medicare, Social Security and other entitlement programs, which have been political land mines in the past. And Senate Democrats and the White House probably will stop many of their proposals cold.

''We may not make it. Honestly. It may blow up in our face as well,'' said Rep. James

Lankford (Okla.), who previously directed a Christian youth camp. ''At some point, somebody's going to stand up and say, 'We cannot keep doing this.' ''

This is a key part of the story the freshmen tell about themselves: that they don't mind turning some people off, or even losing reelection.

''I cannot tell you how liberating it is,'' Gowdy said. ''The job just doesn't mean that much to me. I'm loyal to my word, and in the end I think that's what I'll be judged on.''

But the election is still 21 months away. In that time, historians say, the freshmen will find it more and more difficult to hold on to their sense of exceptionalism—that they can be in Washington, but not of it.

''Their principal vulnerability is that—having been elected—they will be seen as politicians. No matter what. By definition, they are politicians,'' said Ross K. Baker of Rutgers University. Baker said that means making complicated decisions that are hard to explain to voters.

''The alternative, of course, is to be voices in the wilderness,'' Baker said—uncompromised, but also irrelevant.

But the fallout from their hard decisions will not come just at the election.

Last week, as freshmen went home to their districts for town hall meetings, Rep. Robert T. Schilling (Ill.) could already feel it in the pit of his stomach.

''He who turns a blind eye will get many a curse,'' said an angry Clara Caldwell, 81, quoting Proverbs at Schilling's town hall meeting in Moline, Ill. She was criticizing him for voting to cut funding for Head Start programs.

Last year, Schilling was making pies at Saint Giuseppe's Heavenly Pizza, the restaurant he owns just a few blocks away. On this night, he received applause and criticism from a standing-room crowd. Schilling tried reasoning with the critics: ''Lots of people say, 'We need cuts.' But everybody in the room says, 'Don't cut my stuff.' ''

He tried conciliation, on the subject of an Amtrak project in the district, which he'd voted to cut. ''The Amtrak will probably end up happening someday,'' Schilling said.

And he tried, in a quiet way, to ask for sympathy. ''The stress that's out there is just unbelievable,'' he said, meaning in Washington.

It isn't just in Washington. ''Your stomach kind of knots. Your mouth's dry. I went through a whole bottle of water in there,'' Schilling said after the town hall meeting, walking to his car. Good to get used to it, he said. ''It's not going to get any better. We're on a mission.''

Mrs. BOXER. It says this on the front page: ''With shutdown looming, GOP freshmen are wild cards.'' When you ask the Republican Members of the House where this is going, they say they don't know. The government could shut down; we don't know. Later, I will go into what happened the last time the government shut down. I will not do that at this moment.

I talked to Senator CASEY, my good colleague and a great leader in the Senate, about an anomaly in the law that protects Members of Congress from getting their pay shut down in the case of a government shutdown, when the vast majority of Federal workers will not get paid. He and I agree there is something wrong with this system. It is not fair. If we fail to keep this government operating, which is our basic responsibility, to keep the checks flowing to Social Security recipients, to veterans with disabilities, to make sure we don't harm the private sector contractors and workers—if we don't do that, we don't deserve to get our pay.

We put together a bill that says, in the case of a government shutdown, Members of Congress and the President must be treated the same way as other Federal employees—and, by the way, not get back our pay retroactively. It touched a chord with several colleagues. We have the bill written, and we have sent it to the Republican side and the Democratic side. My understanding is, it has passed the Democratic side via hotline, and the Republicans are looking at it now. The cosponsors are Senators BOXER, CASEY, MANCHIN, TESTER, NELSON of Nebraska, BENNET, WARNER, WYDEN, COONS, HARKIN, HAGAN, MENENDEZ, STABENOW, MERKLEY, and ROCKEFELLER.

We feel we have the support of the people. We are hopeful we will avert a government shutdown because it is bad for our country, bad for our families, bad for our States, and there is no need to have one. But if we do have one, we don't want to have Members of Congress go home, get their pay, and not even have to pay a price or sacrifice or anything else while other families are sacrificing. We hope our Republican friends will agree with us and, if they do, we are going to send it over tonight. We are not asking unanimous consent now, but we will at 4 o'clock. If they can go forward, we will send this over to Speaker BOEHNER in the hopes it will breeze through the House.

In case of a government shutdown, which we hope will be averted, we hope we are treated the same as Federal employees and that we are not getting our paychecks when others are not.

With that, I will yield the floor to Senator CASEY for as long as he would like.

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

Mr. CASEY. Madam President, I wish to take a couple moments to express my gratitude, and I think people across the country—if we can get this done—will express their gratitude as well. At a time when the economy is still recovering—and there is good news that the recovery is moving at a faster rate than it was 1 year ago or certainly than 6 months ago. I wish to talk about that for a moment.

I express my gratitude to Senator BOXER for her leadership on this issue. All we are saying together—as she did in the mid-1990s, when this came up at the time of that shutdown—is, Members of Congress have to play by the same rules as everyone else who depends upon the Federal Government for a program or their pay; that we will play by the same rules. I commend Senator BOXER for her leadership, as she demonstrated all those years ago, when at the time it passed, but it was taken out in a conference committee. I believe, if Members of Congress are going to be deciding whether the government continues to operate or whether it shuts down, they have to play by the same set of rules.

I mentioned the economy because this has a direct connection to why we are discussing this today. We have, as I said, a recovering economy. In Pennsylvania, there is data to show that. I know in California the unemployment rate has been high. It was high for a long period of time in Pennsylvania. It is still high but, in a relative sense, lower than a lot of places. We are at 8.5 percent in our State. That translates into 538,000 people out of work, which is an incredibly high number. I will say this. That number was higher this past summer. We were approaching 600,000 people out of work. We were below 540,000 at last count. I hope we are still moving in that direction when we see the monthly numbers again.

We have a recovering economy. We also have very high deficits and debt. The American people are worried about that, justifiably. I have no doubt that when we continue to work together in the Senate—and I hope it happens in the House as well—we can come to a consensus about the 2011 budget, which is where most of the attention is now, and the 2012 budget but also, longer term, about how we pay for essential services, create jobs, and reduce deficit and debt.

Along the way, if Members of Congress are going to vote for a shutdown, they should not be paid their salary while that shutdown is in effect. It is about basic values such as accountability, not having one set of rules for Members of Congress and another set of rules for the American people. It is also about playing by the rules. We have to play by the same rules that we vote to attach to what happens in the Federal Government. Finally, I think it is about restoring or beginning to restore some of the basic trust we hope the American people will have in their government. That trust, that faith that keeps our democracy together, can be badly broken if we have Members of Congress who vote for a shutdown but are still getting their pay after the shutdown is in effect.

Finally, it is about a basic value called fairness. People expect us to be fair. We cannot say to the American people that a Member of Congress is voting to shut down the government, with all the implications of that and the instability that would create, but then in the same breath say we still want to get the pay we have as Federal employees. So it is good accountability, trust, and fairness.

I commend Senator BOXER for, once again, showing the leadership she demonstrated in the mid-1990s on this issue and again making it very clear we are going to do everything we can to live by the same rules. If there is a shutdown, our pay should be shut down.

With that, I yield the floor.

Mrs. BOXER. Madam President, how much time remains?

The ACTING PRESIDENT pro tempore. Twelve minutes 45 seconds remain.

Mrs. BOXER. I thank the Senator from Pennsylvania for working hard on this piece of legislation. It is very simple.

No budget, no pay. That is it. We cannot have no function of government more important than passing a budget and keeping us going. The people have a right to expect that we will do our work.

Social Security checks, if there is a shutdown, may not arrive on time. Veterans may not receive the benefits they have earned. Passports may not be issued. Superfund sites will not be cleaned up, and those are dangerous. Oil wells should be inspected. We see what happens when we do not do the functions of government; we pay, our people pay. Export licenses must be granted. Troops must be paid. Failing to keep the government open because of politics or because no one wants to listen to the other side and meet in the middle is a failure. All we are saying is treat Members of Congress and the President the same as other Federal employees. And no retroactive, back pay either.

The bigger issue is the one I touched on; that is, what is the right way to approach this deficit problem. Clearly, we have to do it responsibly. Clearly, the American people want us to reduce this deficit. I want to reduce it. I have to say very proudly, not only did we reduce it under Bill Clinton but we had surpluses. This is the only time we ever had a surplus—a Democratic administration. OK? That is it. I do not need lectures from the other side of the aisle. Show me a time when they balanced the budget. They do not have one to show me.

They can show me the record under George W. Bush and George Herbert Walker Bush: deficits, deficits, deficits, deficits. And under George Bush, job losses. Over the entire 8 years, there were 1 million net new jobs compared to 23 million under Bill Clinton. What a record.

Let's do this the way we know it should be done, which is a balanced approach. Cut spending where it is wasteful, where it is useless, where it is dumb to spend money. Spend it where it makes sense—on our kids.

The things my colleagues in the House did without one Democratic vote are shocking. The experts tell us we could lose between 700,000 and 1 million jobs—between 700,000 and 1 million jobs—if we go with their package. They need to sit and talk with us. Let's reason together.

They cut $100 billion off the President's budget. We have already cut $40 billion. Let's meet in the middle. But let's not threaten as many as 1 million jobs.

Moody's estimates their budget would destroy 700,000 jobs. Goldman Sachs says their plan would cut economic growth by as much as 2 percent by the end of the year. It is inconceivable, after they ran around in this last election saying: Where are the jobs? Where are the jobs?—that is all I heard. And it was a good point. But it is inconceivable they would turn their backs on jobs and now focus on the deficit as if that is the only issue we have to worry about.

Again, when President Obama took office, the economy was heading off a cliff. I will never forget the Republican Secretary of the Treasury, Hank Paulson, looking straight in my eyes—and that was hard because he is 7 feet tall and I am a little under 5 feet; he is not 7 feet tall, but to me he looks like 7 feet tall—and saying: Senator, capitalism is on the brink of collapse. We may see the collapse of capitalism.

I remember back to the debates when one of my Republican colleagues suggested nationalizing the banks. President Obama said: No, we are not going there. We are going to have to figure out a way. Yes, we did lend them money and it was an awful vote and I hated every minute of it. The banks paid back every penny.

The auto industry—oh, my colleagues said, we cannot help the auto industry. Oh, yes, we did. We did not want to be the only Western Power that did not have an automobile industry. It is important to our national defense. We stabilized the auto industry, we have stabilized the financial industry, we approved tax cuts for the middle class, and we made investments in infrastructure.

Yes, it is true, George Bush took a big surplus and turned it into a $1.3 trillion deficit. The deficit now is $1.6 trillion as we struggle out of this economic mire and put the wars on the budget.

By the way, ending the wars in Afghanistan and Iraq over 10 years could get us $1.1 trillion. I have not heard any of my Republican friends go there at all with that. We need to do that. They are just looking at one small part of the budget.

I have to tell you from my heart what I think they did over there. They cut $100 billion off the President's budget. We cut $41 billion off the President's budget. This is what they did: I believe they used deficit reduction as an excuse to carry out political vendettas against the Environmental Protection Agency. They not only took a meat axe to that budget, but they ordered the EPA—they said they cannot protect families from pollution from cement plants. They cannot do that. That means our people will be exposed to mercury. They said they cannot enforce the Clean Air Act when it comes to carbon pollution. Imagine, they do not dare just come here and say: Let's repeal the Clean Air Act. They go around the back door using the budget as a political vendetta tool.

They said: Let's stop our improvements in food safety. I have to say, not one person in my home State ever came up to me—I do not care if they are Republican, Independent, or Democrat—and said: Senator, the two things I want when you get back is to give me dirty air and give me poisoned food. I need more contamination in my food.

I cannot believe this. We just did a great bill, and they slashed the money for food safety. Tell me how that makes America stronger. Tell me, when we know how many people die of illness from contaminated food.

They did a political vendetta against family planning, which is going to lead to more abortions if it goes through. It is not going to go through because we are not going to let them stop ensuring that American women in this day and age—they are not going to tell my people in California they cannot have access to contraception. Yet they cut every penny from Planned Parenthood in a clear, I believe, unconstitutional political vendetta.

Madam President, 5 million men and women get the services of Planned Parenthood. They get tested for STDs, AIDS, cancer screenings—all of that. And a lot of women use Planned Parenthood clinics as their first line of health care. This is 2011. We are not going back to the dark days when women died because they did not have health care. We cannot. We cannot do it.

Drop the political vendettas. Come to the table and let's find the cuts that make sense. Put a little more faith in your Democratic colleagues since we are the only ones who balanced the budget and created a surplus and 23 million jobs. I do not need to hear lectures about that. They can talk all they want. The last balanced budget was under Bill Clinton. The last surplus was under Bill Clinton. The last great economic growth was under Bill Clinton.

Our President gets it. That is why he tackles this deficit over a period of time and gets it down to $600 billion by 2015. Maybe we can do more. I am ready to do more, and we will do more if we have an economic recovery. We will not if we lose another 1 million jobs and have another 1 million people getting help from us rather than having jobs and keeping their homes.

What other vendettas? This one, the Corporation for Public Broadcasting. Somebody said that 4 hours of the war in Afghanistan would be equal to the cut they made to public broadcasting—4 hours of the war in Afghanistan. America should be proud of the Corporation for Public Broadcasting. We go toe to toe with the BBC. Great Britain funds 100 percent of the BBC. We fund 15 percent of public broadcasting. But now they want to zero it out. A vendetta against Elmo.

They have a vendetta against health reform. The President is right. In our bill we say the States can do another plan. Let's push that up to 2014. Do not go back to the days when 62 percent of all bankruptcies were linked to a health care crisis.

Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. There is 1 minute 45 seconds remaining.

Mrs. BOXER. Madam President, they have a vendetta against clean energy. I guess they want to keep dependence on foreign oil. I do not and my people do not. We do not enjoy $5-a-gallon gas, which is where it is heading maybe because of the unrest in the Middle East. We need alternatives—clean cars, cars that go 50, 60 miles a gallon or do not need any gas at all. Oh, they cut that.

They cut Head Start. Our little kids will not have Head Start. What are they doing? It makes no sense. Every dollar we put into early childhood education saves $10. What are they doing? And Pell grants.

There are so many other ways to proceed. Do you know, if we just looked at the tax loopholes given to corporations who ship jobs overseas, it is over $140 billion over 10 years? Let's take a look at that. Let's take a look at the billionaires. Why do we have to ask little kids to give up a slot in Head Start and get that Head Start they need? Why do we have to ask our teenagers to give up on going to college? That is what their budget does for no reason at all.

Let's avert a government shutdown by coming together. I am willing to move in their direction. They have to be willing to move to mine. Again, they cut $100 billion off the President's budget. We cut $40 billion. Let's meet in the middle.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. Madam President, I ask unanimous consent for 30 more seconds, and then I will yield to my friend.

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

Mrs. BOXER. Madam President, in conclusion, let's meet in the middle. Let's put this 2011 budget issue behind us quickly. Let's move on to long-term deficit reduction and job creation. If we fail, let's not get paid for our work here.

This afternoon I will be back to ask unanimous consent: No budget, no pay.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I appreciate the comments of my friend, the Senator from California. We have to be serious about the country's debt. Admiral Mullen, the Chairman of the Joint Chiefs of Staff, says the debt is our biggest national security threat.

Anyone in my State who looks at what we are spending in Washington is astonished. We are spending, this year, $3.7 trillion. We are collecting $2.2 trillion. The House of Representatives has said: Let's take a step—a serious step—toward dealing with that debt. I applaud them for that. That number is a number that we on the Republican side try to support in the Senate. We might have our own priorities within that reduced number, but we need to get serious about the entire problem of America's debt.

It also goes directly to the problem of jobs we have in our country today. The last Democratic Congress and the President's policies have thrown a big wet blanket on private sector job creation in America. One of the biggest parts of the wet blanket is the big debt. According to economists, it costs us 1 million jobs a year. The big debt creates the potential for higher interest rates. That makes it harder to create jobs. It soaks up capital. It could be used to create jobs. It creates uncertainty. It creates a lack of confidence.

There is a lot of spirit in this Senate to find a consensus on how to deal with the debt. I want to be one who does that. I look forward to a serious discussion of those efforts.

A NEW MARSHALL PLAN FOR THE MIDDLE EAST

Mr. ALEXANDER. Madam President, in Jerusalem last week during a private meeting with U.S. Senators, the Prime Minister of Israel suggested creating a new Marshall Plan to help the people of Middle Eastern countries who are struggling to gain more freedom. I was one of the Senators in that meeting.

In one important way, Prime Minister Benjamin Netanyahu's proposal is different from the plan that helped rebuild Western Europe after World War II. Its funding would not come from the U.S. Government but from private gifts and foundations worldwide. Instead of the money going for rebuilding bombed out industrial plants and roads as it did after World War II, it would more likely be spent in the Middle East now on schools, on health clinics, and on clean water.

Fundamentally, though, the plans are very similar. Both GEN George C. Marshall in 1947 and Prime Minister Netanyahu today proposed helping adversaries as well as allies. Both aim to relieve hunger, poverty, desperation, and chaos. Both proposals are based squarely on self-interest, as antidotes to the spread of philosophies unfriendly to democracy: communism in the case of postwar Europe and militant Islam in the Middle East today.

In both cases, applicants for the money would write their own plans. In 1948, 16 nations met in Paris to develop the Marshall plan. President Truman then submitted it for approval to the Congress. Most of the money was distributed by grants that did not have to be repaid.

The first Marshall plan was short term, from 1948 to 1952, and so should be this new Marshall plan. The goal is not to create dependencies but to help people stand on their own.

There are some important differences between the idea of the Marshall plan after World War II and Prime Minister Netanyahu's proposal for the Middle East. The new Middle East Marshall plan would cost much less. The original Marshall plan spent between $115 billion and $130 billion in today's dollars over those 4 years. If a Middle Eastern plan carefully distributed a few billion dollars over 5 years it could have an enormous impact.

The Marshall plan started out after World War II buying food and fuel and ended up rebuilding bombed-out industrial plants, roads, and other infrastructure. In addition to schools and clinics, a Middle Eastern Marshall plan is more likely to spend money on, for example, a corps of young people who are paid a subsistence wage to strengthen their own country.

Marshall plan money went to 16 European governments. Money for a Middle Eastern plan should probably be distributed through non-governmental organizations.

After World War II, there was a clear effort to impose on Europe and Japan the American model. We should have learned by now that the path to democracy in the Middle East is more likely to be uniquely Middle Eastern. The original Marshall plan was paid for mostly by United States taxpayers. Money for this new plan should come from around the world, mostly from private gifts.

The first Marshall plan was used mostly for purchase of goods from the United States. Today, those goods would be purchased from around the world.

What are the next steps? First, a coalition of foundations should step forward and announce its willingness to consider proposals from Egypt and other Middle Eastern countries that would assist a transition to a more democratic form of government.

Second, the first grants should be quickly approved, probably to non-governmental organizations already in place. The original Marshall plan moved slowly. In this age of instant communication, freedom fighters expect immediate results. Some evidence of improvement in their lives could help sustain a movement toward democracy against the lure of militant Islam.

An early State Department memorandum compared General Marshall's proposal to a flying saucer: ''Nobody knows what it looks like, how big it is, or whether it really exists.'' Prime Minister Netanyahu's proposal also is usefully vague, with details to be filled in later by applicants for grants. But shouldn't it be enough simply to propose helping people struggling for freedom based upon the hard-eyed belief that their success will benefit other Democratic countries, including the United States and Israel?

TRIBUTE TO DAVID KEARNS

Mr. ALEXANDER. Madam President, in Rochester, NY, today and tomorrow, family and friends are celebrating the life of David Kearns, who died a few days ago at age 80.

David Kearns was the former chief executive officer of the Xerox Corporation who, during the 1980s, led that corporation to win back the copying market from the Japanese. Along the way, he found time to become America's most effective business leader who was a champion of education reform, especially for pushing new technology into schools. He served as Deputy Education Secretary under the first President Bush while I was the Secretary of Education in 1991, 1992 and 1993.

I remember first meeting David Kearns in 1990, when I was president of the University of Tennessee and had my office in Knoxville. He came into my office, and on the way he said hello to every single person in the outer office, and every single other person he met while I was there. And he remembered every single one of their names. I didn't forget that, and they didn't forget him. When David Kearns left the University of Tennessee from that visit I bought his book about education reform and read it.

Later that year, President Bush called me and asked me to become his Education Secretary. I asked the President if I could put together my own team, subject to his approval, and then if we could put together our own plan, subject to his approval. Those were two of the smartest questions I ever asked, because that meant I didn't have to go through the White House staff to get the team cleared or the policy cleared. I could go directly to the President. And as soon as I had that permission, I called David Kearns and asked him if he would be willing to be the Deputy Secretary of Education in the U.S. Department of Education.

I knew it would be hard to persuade him to do so. He was at the peak of his career. He had just retired as one of America's best known business leaders. His friends said: Why in the world would you go into the government and subject yourself to all that abuse and take a secondary position in a minor department? I asked President Bush to call David Kearns and recruit him, and he did, appealing to his patriotism. They both served in World War II.

David had such a passion for education, he came on board, and it was terrific that he did. It was a privilege to work with such an accomplished executive. Employees in the Department of Education loved having him around. Having him there helped recruit a distinguished team of leaders for the Department and we put together what we thought, over 2 years, was a pretty impressive program working with President Bush.

Some of the ideas sound very familiar today, especially to former Governors. One idea was break-the-mold schools. Today we call them charter schools, or start-from-scratch schools. The thought was to have one in each congressional district—535 of them—funded by $1 million of seed money from the Federal Government.

To support those schools, we created a new American Schools Development Corporation, and with David's leadership raised $70 million in private capital for that. That attracted hundreds of design teams from around the country with ideas for how to create better schools. President Bush hosted a number of America's business leaders at Camp David to help make that happen.

We worked with Diane Ravitch to create an effort to implement standards for the national education goals that President Bush had helped to set in 1987 with the Nation's Governors. These were the goals for math, science, history, English, and geography, and we took important steps toward that. Today, the common standards States are adopting owe some of their beginnings to those efforts.

We established commissions to look at extending the school day. We pushed for technology in the schools. The President proposed in 1992 a GI bill for kids, which would give scholarships to poor kids so they could choose any school, public or private or religious, so they could have more of the same choices of good schools that kids with money had.

By the time we left in 1993, every State in America had their own version of America 2000—it was Tennessee 2000 or New Hampshire 2000 or Kansas 2000—moving toward the educational goals community by community. None of that would have happened without David Kearns' enthusiasm, skill, and leadership.

In 1992, during a riot over Rodney King in Los Angeles, President Bush sent David to represent him. David had a strong background in civil rights. While he was there, he telephoned me and said: This is the hardest phone call I have ever had to make. I have cancer. He had just discovered he had cancer of the sinus. When he came back, he had an operation and the operation gradually destroyed his eyesight.

That was 20 years ago, but it didn't stop David Kearns. During that time, he created the Kearns Center for Leadership at the University of Rochester, where he graduated and served as trustee for many years. Then to help him get around, because he couldn't see, or could barely see, he invited a young man each year to go with him and help him see and do what he needed to do. For those young men—nearly 20 over the last 20 years—that has been a remarkable opportunity to be in the presence of one of America's great mentors at an early stage in their lives.

Everyone who knew David Kearns admired him and loved him. A few days ago, I spoke with Shirley Kearns, David's wife of 56 years, and reminded her of what she already knows: how much David's friendship meant to me. Honey and I will be thinking of them today and tomorrow in Rochester. We will be thinking about Shirley, their 4 daughters, 2 sons, and 18 grandchildren.

For me, one story sums up David Kearns' life better than others. I think back to 1995, when I was in Utah. I was trying to persuade Republicans that I was their natural nominee for President of the United States. I wasn't successful in that, but I was enthusiastic about it. I had made to a Republican group what I thought was an especially good speech. During the speech, I talked about my work in the U.S. Department of Education and I talked about David Kearns—about his leadership and about how he helped do all the things I have just mentioned. After the speech, an enthusiastic Republican lady came up to me and said: That was a wonderful speech. Thank you very much, I said. Now I know who should be President, she said. Well, thank you, I said. She smiled and said: David Kearns. That was the opinion that she and I and almost everyone who met him had of David Kearns, whose 80 years in this country have been very special.

I thank the Presiding Officer, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. BURR. Madam President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are.

Mr. BURR. I thank the Presiding Officer.

REMEMBERING FRANK BUCKLES

Mr. BURR. Madam President, I wish to take a moment in this Chamber to honor the passing of the last doughboy, Mr. Frank Buckles, the last of those World War I veterans. Mr. Buckles was America's last living World War I veteran and he died Sunday in West Virginia. His death came 1 month after his 110th birthday, which he celebrated on February 1 with his family.

Frank Buckles was dedicated to serving his country at all cost. He enlisted in the U.S. Army when he was only 16 years old. Throughout the Great War, Mr. Buckles proved himself to be a brave soldier. He served on the RMS *Carpathia*, drove ambulances and motorcycles in France and England, and escorted prisoners of war back to Germany.

Mr. Buckles lived to see our country at war several more times in his life. He even survived as a prisoner of war during World War II. He had been captured while working for a shipping company in the Philippines.

As a soldier and as a civilian, Mr. Buckles lived a life defined by hard work, love of country, and a sense of duty to his fellow citizens. His passing marks the loss of a generation that shared those same values, a generation that built America into the country it is today. My thoughts go out to his family.

It is also important we recognize that Mr. Buckles' death is an important moment for all of America. Our country should come together to honor Mr. Buckles and an entire generation that has done so much to build a world where democracy and freedom are celebrated values. This is the reason that I

cosponsor, with my colleague from West Virginia, Senator ROCKEFELLER, a resolution I hope our colleagues will support unanimously, to allow this last in a generation of heroes to be recognized by the Congress of the United States, either in a service or by lying in honor in the Rotunda, a privilege that is held for very few but one that I think rises to the occasion of the last hero of a generation, an individual and a generation that played such a part in the values of this country. We will have an opportunity to celebrate the life of this man, but, more importantly, to cherish the fruits of his commitment to those freedoms and those liberties that are protected still today.

I yield the floor.

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. Madam 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.

PATENT REFORM ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 23, which the clerk will report by title.

The assistant legislative clerk read as follows:

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

Pending:

Leahy amendment No. 114, to improve the bill.

Vitter/Toomey amendment No. 112, to require that the government prioritize all obligations on the debt held by the public in the event that the debt limit is reached.

Bennet amendment No. 116, to reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination.

Bennet amendment No. 117, to establish additional USPTO satellite offices.

Lee amendment No. 115, to express the sense of the Senate in support of a balanced budget amendment to the Constitution.

Mr. LEAHY. Madam President, yesterday the Senate began debating the America Invents Act. We adopted the committee amendments, and we proceeded to have five additional amendments offered to the bill. This morning I will be offering a managers' amendment, along with the distinguished Senator from Iowa, Mr. GRASSLEY, that incorporates additional improvements being made at the suggestions of Senator COBURN, Senator SCHUMER, Senator COONS, Senator BENNET, and others.

When we adopt this managers' amendment, I believe we will move very close to a consensus bill the Senate can and should pass to help create good jobs, encourage innovation, and strengthen our recovery and economy.

I ask unanimous consent to have printed in the RECORD the Statement of Administration Policy from the Obama administration and the Edward Wyatt article.

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

STATEMENT OF ADMINISTRATION POLICY

S. 23—PATENT REFORM ACT OF 2011

(Sen. Leahy, D–Vermont, and 11 cosponsors, Feb. 28, 2011)

The Administration supports Senate passage of S. 23. As a whole, this bill represents a fair, balanced, and necessary effort to improve patent quality, enable greater work sharing between the United States Patent and Trademark Office (USPTO) and other countries, improve service to patent applicants and the public at the USPTO, and offer productive alternatives to costly and complex litigation.

By moving the United States to a first-to-file system, the bill simplifies the process of acquiring rights. This essential provision will reduce legal costs, improve fairness, and support U.S. innovators seeking to market their products and services in a global marketplace. Further, by providing authority for the USPTO to establish and adjust its fees to reflect changes in costs, demand, and workload, the bill would enhance productivity—reducing delay in the patent application process—and ensure full cost recovery at no taxpayer expense. Senate passage of this bill is consistent with the Administration's commitment to support and encourage innovation that leads to improved competiveness, economic prosperity, and job growth—without adding a penny to the deficit.

Finally, the Administration understands that several stakeholders have suggested that the provisions on damages and venue are no longer needed in the legislation in light of recent court decisions in these areas. The Administration would not object to removal of these provisions from the final version of the legislation.

The Administration looks forward to continuing to work with the Congress to craft patent reform legislation that reflects sound policy and meets the needs of the Nation's innovators.

U.S. SETS 21ST-CENTURY GOAL: BUILDING A BETTER PATENT OFFICE

(By Edward Wyatt, Feb. 20, 2011)

WASHINGTON.—President Obama, who emphasizes American innovation, says modernizing the federal Patent and Trademark Office is crucial to ''winning the future.'' So at a time when a quarter of patent applications come from California, and many of those from Silicon Valley, the patent office is opening its first satellite office—in Detroit.

That is only one of the signs that have many critics saying that the office has its head firmly in the 20th century, if not the 19th.

Only in the last three years has the office begun to accept a majority of its applications in digital form. Mr. Obama astonished a group of technology executives last year when he described how the office has to print some applications filed by computer and scan them into another, incompatible computer system.

''There is no company I know of that would have permitted its information technology to get into the state we're in,'' David J. Kappos, who 18 months ago became director of the Patent and Trademark Office and undersecretary of commerce for intellectual property, said in a recent interview. ''If it had, the C.E.O. would have been fired, the board would have been thrown out, and you would have had shareholder lawsuits.''

Once patent applications are in the system, they sit—for years. The patent office's pipeline is so clogged it takes two years for an inventor to get an initial ruling, and an additional year or more before a patent is finally issued.

The delays and inefficiencies are more than a nuisance for inventors. Patentable ideas are the basis for many start-up companies and small businesses. Venture capitalists often require start-ups to have a patent before offering financing. That means that patent delays cost jobs, slow the economy and threaten the ability of American companies to compete with foreign businesses.

Much of the patent office's decline has occurred in the last 13 years, as the Internet age created a surge in applications. In 1997, 2.25 patents were pending for every one issued. By 2008, that rate had nearly tripled, to 6.6 patents pending for every one issued. The figure fell below six last year.

Though the office's ranks of patent examiners and its budget have increased by about 25 percent in the last five years, that has not been enough to keep up with a flood of applications—which grew to more than 2,000 a day last year, for a total of 509,000, from 950 a day in 1997.

The office, like a few other corners of the government, has long paid its way, thanks to application and maintenance fees. That income—$2.1 billion last year—has made it an inviting target for Congress, which over the last 20 years has diverted a total of $800 million to other uses, rather than letting the office invest the money in its operations.

Applications have also become far more complex, said Douglas K. Norman, president of the Intellectual Property Owners Association, a trade group mainly of large technology and manufacturing companies.

''When I was a young patent lawyer, a patent application would be 20 to 25 pages and have 10 to 15 claims,'' Mr. Norman said. A claim is the part of the patent that defines what is protected. ''Now they run hundreds of pages, with hundreds, and sometimes thousands, of claims.''

Lost in the scrutiny of the office's logjam, however, was the fact that the number of patents issued reached a record last year—more than 209,000, or 29 percent more than the average of 162,000 a year over the previous four years. Rejections also hit a high of 258,000—not a measure of quality, Mr. Kappos said, but a sign of greater efficiency.

Between the backlog of 700,000 patents awaiting their first action by an examiner and the 500,000 patents that are in process, a total of 1.2 million applications are pending.

Sitting in his suburban Virginia office, not far from a model of the light bulb Edison presented for patent in November 1879 (which was approved two and a half months later), Mr. Kappos proudly ticked off figures that he said proved the agency was heading in the right direction.

The backlog has actually declined about 10 percent from a peak of 770,000 at the end of 2008.

''We were able to work a 13-month year last year,'' he said, referring to the productivity increase in 2010 over 2009. ''We are processing a far larger workload with the same number of examiners.''

Still, Mr. Kappos wants to add more than 1,000 examiners in each of the next two years, a 30 percent increase. Mr. Obama's 2012 budget calls for a 28 percent increase in spending, to $2.7 billion, over 2010. In two consecutive sessions, Congress has defeated a

bill that would allow the patent office to keep all of the fees it collects. While another similar effort is under way, a big staffing increase will not be easy in a climate of cuts.

Mr. Kappos, a former electrical engineer and lawyer who joined the patent office in 2009 after 27 years at I.B.M., has improved relations with the union representing patent examiners. He and the union agreed on performance evaluation measures last year, the first time in 5o years that the yardsticks had been revised.

''I give David Kappos a good deal of credit for seeing where the problems have been and being willing to address them,'' said Robert D. Budens, president of the union, the Patent Office Professional Association. ''I think it's a little early to see the full extent of the changes. But we have seen an increase in morale and a decrease in attrition, which is now almost the lowest it's been since I came here'' in 1990.

Patent applications come from all over the United States, and the office has forgone satellite offices—until now. Last year, the office announced it would put about 100 examiners in Detroit. Some prominent lawmakers from Michigan have worked on patent issues, including Representative John Conyers Jr., a Detroit Democrat who, when the decision was made, was chairman of the House Judiciary Committee, which oversees patents.

Mr. Kappos said he chose Detroit because it had large communities of patent lawyers and agents, nearby universities and transportation centers, and relatively low costs of living and real estate. ''Detroit has long been an innovation center,'' he said. ''It's undervalued, and that is where we want to invest.'' He said it would also attract a work force with more varied skills.

Mr. Kappos is also pushing an initiative that would charge patent applicants a higher fee to guarantee that their applications will receive a ruling within a year. But that initiative and others are not enough, said Paul R. Michel, who recently retired as chief judge for the United States Court of Appeals for the Federal Circuit in Washington, the main forum for patent appeals.

''The office can't be made efficient in 18 months without a vast increase in finances,'' said Mr. Michel, who has made evangelizing for an overhaul of the office a pet cause. ''Small efficiency improvements will only make a small difference in the problem.''

Mr. LEAHY. I thank all of those with the administration who worked on the matter, and particularly Secretary Locke, Director Kappos of the Patent and Trademark Office, and former Secretary Daley, now Chief of Staff at the White House.

The statement describes the bill as representing a fair, balanced, and necessary effort to improve patent quality. It concludes: ''Senate passage of this bill is consistent with the Administration's commitment to support and encourage innovation that leads to improved competitiveness, economic prosperity, and job growth—without adding a penny to the deficit.''

It also notes that transition to a first-to-file system simplifies the process of acquiring rights and describes it as an ''essential provision [to] reduce legal costs, improve fairness, and support U.S. innovators seeking to market their products and services in a global marketplace.''

I agree. I believe it should help small and independent inventors. On President's Day, just over a week ago, the New York Times included an article on its front page entitled ''U.S. Sets 21st-Century Goal: Building a Better Patent Office.''

That is what we are trying to do with our bill, the bipartisan Leahy-Grassley-Hatch Patent Reform Act or, as it has become known, the America Invents Act. We have to reform our patent office and our patent laws. They have not been updated for 60 years. We have to help to create good jobs, encourage innovation, and strengthen our economy.

The reporter notes the growth in patent applications to more than 2,000 a day last year. That is not a typographical error—2,000 a day last year. A record 209,000 patents were issued in 2010. But there remains a backlog of 700,000 patents awaiting initial action at the U.S. Patent and Trademark Office, and another 500,000 being processed. That is 1.2 million applications in the pipeline. Among them could be the next medical miracle, the next energy breakthrough, the next leap in computing ability, the next killer app. We should all do what we can to help PTO Director Kappos and the dedicated women and men of the PTO to modernize and reform.

It makes no sense that it takes 2 years for an inventor to get an initial ruling on his or her patent application, then another year or more to get the patent.

As New York Times reporter Edward Wyatt notes:

> The delays and inefficiencies are more than a nuisance for inventors. . . . [P]atent delays cost jobs, slow the economy, and threaten the ability of American companies to compete with foreign businesses.

We are not going to be the leader we are today if we allow that to continue. But the Senate has before it bipartisan legislation that can lead to long-needed improvements in our patent laws and system. We should be focused on it and moving ahead to pass it without delay. It is a measure that can help facilitate invention, innovation, and job creation, and do so in the private sector. This can help everyone from startups and small businesses to our largest cutting-edge companies.

This is the time for the Senate to serve the interests of the American people by concentrating on the important legislation before us. We should not be distracted. It is a bipartisan bill. We should not be diverted into extraneous issues but focus our debate on those few amendments that Senators feel need to be debated to perfect this bill and which are germane to this bill.

I mentioned in my opening statement the anticipated amendment on fee diversion. I appreciate the efforts of the Senator from Oklahoma to end patent fee diversion. It is a reform that Senator HATCH and I have long supported. I appreciated him working with me and withholding his amendment during committee consideration. So we are incorporating his amendment in the managers' amendment.

We also incorporate in the managers' amendment an amendment from Senator SCHUMER that concerns business method patents. We provide a process for their reexamination by the Patent and Trademark Office. This would also improve patent quality.

We incorporate suggestions from Senator BENNET and Senator COONS to remove certain damages and venue provisions that are no longer necessary in light of recent court decisions. The administration noted in its statement that it would not object to the removal of these provisions.

Senator BENNET came forward last night with sound amendments that he explained. They are included in this amendment, along with the change to the definition of a ''microentity'' made at the suggestion of the majority leader, and my amendment to conform the name of the legislation to the America Invents Act. I hope we adopt this amendment without delay.

I understand there may be Senators who do not agree with the first-to-file reform to update and simplify our system. If they intend to bring an amendment, they should do so without delay. We should be able to complete action on this bill today or tomorrow. Then the Senate can turn its full attention to another important matter, the funding resolution needed to be enacted this week by Congress. What we should not do is delay or sacrifice the job-creating potential of this bill to a side debate about the debt limit or whether we amend the Constitution of the United States. Those are debates I will be happy to have in their own right. We must not allow other countries around the world to have such a competitive advantage because we are too slow in moving on this bill.

The bipartisan American Invents Act is too important to be turned into a mere vehicle to launch speeches and debates about pet causes. It is not the bill to have debates about whether if the United States were to reach its debt ceiling, the government should favor paying creditors such as China before meeting its other obligations to the American people.

That theoretical debate has nothing to do with the patent reforms in this bill, and there will be a bill that you can have the debate on if you want. In fact, this bill is one that does not spend taxpayers' money or raise the debt one dollar. Accordingly, I will ask the support of our lead Republican sponsors and the bipartisan Senate leadership to promptly table extraneous amendments so we can complete our work on this legislation and serve the interests of the American people.

I have a managers' amendment. I described part of it already. I will send it to the desk and ask unanimous consent that the pending amendments be set aside and this be considered.

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

The clerk will report.

AMENDMENT NO. 121

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. GRASSLEY and Mr. KYL, proposes an amendment numbered 121.

Mr. LEAHY. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LEAHY. I ask for agreement on the managers' amendment.

Madam President, 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.

The PRESIDING OFFICER (Mr. TESTER.) The Senator from South Carolina.

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

The PRESIDING OFFICER. Without objection——

Mr. LEAHY. Reserving the right to object—I would ask if the distinguished Senator could hold off——

The PRESIDING OFFICER. The Senator cannot reserve.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. 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.

Mr. LEAHY. Madam President, I understand Senator DEMINT will be offering an amendment in the first degree which will require setting aside the managers' amendment. My understanding is, once he has done that, we will then set aside his amendment and go back to the managers' amendment.

I yield to the distinguished Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 113, AS MODIFIED

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can call up amendment No. 113, as modified.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT], for Mr. VITTER, proposes an amendment numbered 113, as modified.

Mr. DEMINT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require that the Government give equal priority to payment of social security benefits and payment of all obligations on the debt held by the public in the event that the debt limit is reached)

At the appropriate place add the following:

(c) PRIORITIZE PAYMENT OF SOCIAL SECURITY BENEFITS.—Notwithstanding subsection (b), in the event that the debt of the United States Government, as so defined, reaches the statutory limit, the authority described in subsection (b) and the authority of the Commissioner of Social Security to pay monthly old-age, survivors', and disability insurance benefits under title II of the Social Security Act shall be given equal priority over all other obligations incurred by the Government of the United States.

Mr. DEMINT. I yield the floor.

Mr. LEAHY. Mr. President, I ask unanimous consent that the pending amendment now be set aside and that the managers' amendment be the pending amendment.

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

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COONS. Mr. President, I rise today to speak to the America Invents Act. To put it simply, this bill, the America Invents Act, is about creating jobs. It is about protecting and promoting American ingenuity and giving American ideas the opportunity to become American products. The America Invents Act is about restoring American competitiveness and leadership in our global economy.

America has been at the forefront of global innovation throughout our Nation's great history. We invented the lightning rod, the cotton gin, the mechanical reaper and thresher. Thomas Edison, perhaps the most noted American inventer, invented the electric light, electric power transmission, the motion picture camera, the phonograph, and x-ray photography. The transistor, carbon fiber, GPS, Kevlar, recombinant DNA, the personal computer, and the Internet are all American inventions as well. Even more recently, American companies have invented the iPod and the iPhone and the Segway.

Inventors in Delaware and across America are right now working on critical advances in wind turbines, fuel cell technology, and electric cars. These technical innovations and so many others have improved our standard of living and spurred job growth, giving rise to entire industries that would not have been possible without the advancements of applied science.

I believe innovation will be key to reigniting the American manufacturing sector as well.

As low-skilled jobs have moved offshore, the only solution is to create highly skilled jobs here to replace them. These jobs will be founded on American ideas and advancements.

In today's high tech world, however, the cost of innovation can be high. In my home State of Delaware, DuPont invests about $1.3 billion annually in research and development. Nationwide, according to the Organization for Economic Cooperation and Development, U.S. companies invest over $370 billion in R&D each year. In the pharmaceutical industry, which is also important to my home State, experts estimate that each new drug requires an initial investment of between $800 million and $2 billion.

Innovation is absolutely critical to the continued growth of our Nation.

Our Founding Fathers recognized that investment in innovation will not occur without a system of patent rights to allow inventors to reap the fruits of their labor, and they placed with the Congress the authority to provide for the issuance of patent rights.

Article 1, section 8, clause 8 states that Congress shall have the power:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

However complicated applied sciences were in 1836, when Congress established the forerunner to the U.S. Patent and Trademark Office, they are infinitely more complicated today. Never has PTO been more central to ensuring that the system of nationwide patents contemplated by our Founding Fathers is possible today. PTO must have clear, objective guidelines that enable an applicant to predict whether his or her application will be approved. That application process must move expeditiously. At the end of that process, when PTO issues a patent, the inventor and the industry must have confidence that the patent is of good quality and will provide good defense against future challenges.

In recent years, however, PTO has fallen short of these objectives. Today, a patent applicant must wait over 2 years before an examiner first picks up that application. Two years. At this moment, more than 700,000 applications simply sit at PTO awaiting consideration. Each one of those applications represents an idea that could create a job or 10 jobs or 100 or 1,000. If you file a patent application at PTO today, you can expect to wait just over 3½ years for an initial disposition. Should PTO make an error in their examination, it would take about 3 more years to appeal it.

In a world in which startup companies depend on patents to secure venture capital and other funding, these times are just too long. While PTO Director Kappos has achieved some success and has begun to right the ship at PTO, he simply cannot accomplish acceptable reform without our action.

The America Invents Act takes a number of steps to improve the efficiency with which this country handles

patents, all of them designed to make the U.S. more competitive in the global economy.

First, the America Invents Act will give PTO the tools it needs to address the unacceptably long backlog of patent applications. In February 2009, despite an increasing need for qualified patent examiners, PTO instituted a hiring freeze. PTO is a user-fee supported organization and so it should be able to pass through the costs of staffing needs to patent applicants. This bill would finally give the PTO the authority to set its own fees rather than having to wait for an act of Congress to do so.

Another source of the backlog is the issue of patent fee diversion. Currently, the fees paid by applicants for the purpose of funding the costs of patent examination can be diverted away from PTO to the Treasury without justification. Patent fee diversion cripples the ability of PTO to do its job and is essentially a tax on innovation. In the past 20 years, more than $800 million have been diverted from PTO and though in recent years almost no money has been diverted thanks to the determined leadership of my colleague, Senator MIKULSKI, PTO funding should never depend on shifting political fortunes. Even in times of political favor, the mere possibility of fee diversion is harmful because it robs PTO of the ability to plan with confidence that a varying workload will be matched by funding.

This bill does not currently address the issue of patent fee diversion, but that is something that I and others are working to change. Ending fee diversion is perhaps the single most effective thing that we can do to empower PTO to reduce the patent backlog over the long term. That is why I look forward to supporting Dr. COBURN's amendment, which would ensure that PTO has access to the fees that it charges, subject to continuing congressional oversight, of course.

The second thing the America Invents Act does to make the United States more competitive is to improve the predictability and accuracy of the patent examination process. By transitioning to a ''first to file'' system, this bill brings the U.S. into line with the rest of the world. Under ''first to file,'' PTO's task of determining the priority of a patent application will be more straightforward because patent priority will depend on objective, public facts, rather than on secret files. To smaller inventors who are concerned that ''first to file'' will allow large companies to beat them out in a race to the patent office, this bill contains important protections for all inventors. Even under ''first to file,'' an inventor's patent priority is protected for a year if he or she is the first to publicly disclose an invention.

Not only does the America Invents Act make the patent process fairer to inventors, but it will actually improve the quality of patents issued by the PTO by leveraging the knowledge of outside parties. This bill permits third parties to provide submissions regarding prior art before a patent is issued, enhancing the ability of examiners to determine whether an application is for a truly innovative idea worthy of the protection of a patent.

The bill takes another step toward improving patent quality by changing the way the issuance of patents can be challenged. The America Invents Act introduces a 9-month post-grant review process during which third parties can challenge a patent on any grounds. When you combine the new pre-issuance submission process and the new post-grant review process, what you get is a more rigorous and more thorough vetting of patent applications.

We will get stronger, higher quality patents because of the America Invents Act.

Chairman LEAHY, along with his Republican cosponsors Senators HATCH, KYL and SESSIONS, deserve enormous credit for the bill that was reported unanimously by the Judiciary committee just 4 weeks ago. The America Invents Act reflects years of hard-fought negotiations between the affected stakeholders.

At a time when bipartisanship is too frequently a platitude than actual process, it should be noted that the America Invents Act shares wide bipartisan support. Senators from both parties worked together on the bill we consider today, and both sides of the aisle should be proud of what we accomplished.

I applaud Leaders REID and MCCONNELL for their commitment to the open amendment process. Despite the broad agreements that have been reached so far, the Senate can and should consider suggestions to change the bill. I know that I will support Dr. COBURN'S amendment on fee diversion. I also hope that the Senate will accept an amendment that I have filed which would remove the section of the bill dealing with venue.

While venue-shopping is a serious problem, the current language in the bill risks stunting the development of case law, which has begun to address the problem of plaintiffs' manufacturing venue in districts that have a reputation of being hospitable for patent suits. In fact, companies such as Oracle and HP, while they initially supported legislative reform of venue, now fear that this provision will do more harm than good. I look forward to debating all of these amendments in the future.

Let me conclude my remarks on S. 23 by renewing my call to my fellow Senators to carefully consider and support this legislation. The America Invents Act is complicated and the subject matter may seem daunting, but I believe it is critical to protecting American innovation and defending American competitiveness.

The playing field for economic innovation has never been more crowded. The United States faces rivals growing in strength and number, which is why our government should be encouraging innovation, not stifling it.

The America Invents Act will create jobs in Delaware and throughout the United States by removing some of the administrative roadblocks currently preventing inventors from becoming successful entrepreneurs. This bill will improve the speed, quality and reliability of the Patent and Trademark Office and it will ensure that America retains its place in the world as the leader of invention and innovative thinking.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 123

Mr. KIRK. Mr. President, I ask unanimous consent to set aside the pending amendment and call up the Kirk-Pryor amendment No. 123.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I do not intend to object, my understanding is the Senator from Illinois will offer his amendment and then will not object to his amendment then being set aside and we go back to the managers' amendment; is that correct?

Mr. KIRK. That is correct.

Mr. LEAHY. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. KIRK], for himself and Mr. PRYOR, proposes an amendment numbered 123.

Mr. KIRK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a fast lane for small businesses within the U.S. Patent and Trademark Office to receive information and support regarding patent filing issues)

On page 104, between lines 22 and 23, insert the following:

SEC. 18. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

Subject to available resources, the Director may establish in the United States Patent and Trademark Office a Patent Ombudsman Program. The duties of the Program's staff shall include providing support and services relating to patent filings to small business concerns.

Mr. KIRK. Mr. President, the Kirk-Pryor amendment seeks to assist some of our greatest innovators by providing a fast lane within the U.S. Patent and Trademark Office for small businesses to receive information and assistance regarding their patent applications.

Small businesses are the economic engine of the American economy. According to the Small Business Administration, small businesses employ just over half of all private sector employees and create over 50 percent of our nonfarm GDP. Illinois alone is home to 258,000 small employers and more than 885,000 self-employers.

Small businesses are helping to lead the way on American innovation. These firms produce 13 times more patents per employee than large patenting firms, and their patents are twice as likely to be among the most cited among all patents. Small business breakthroughs led to the development of airplanes, FM radio, and the personal computer. Unfortunately, the share of small-entity patents is declining, according to a New York University researcher.

While S. 23 takes great strides in reforming our patent system, it can still be daunting for a small business owner or inventor to obtain a patent. In many instances, the value of a patent is what keeps that new small business afloat.

It is vital for America's future competitiveness, her economic growth, and her job creation that these innovators spend their time developing new products and processes that will build our future, not wading through government redtape. Our amendment would help small firms navigate the bureaucracy by establishing the U.S. Patent and Trademark Office Ombudsman Program to assist small businesses with their patent filing issues. The provision was first conceived as part of the Small Business Bill of Rights, which I introduced in the House, to expand employment and help small businesses grow. The Small Business Bill of Rights and this amendment are endorsed by the National Federation of Independent Business. I am proud to have this as part of a 10-point plan to be considered here in the Senate.

I wish to thank Senator MARK PRYOR of Arkansas, who is the lead Democratic cosponsor of this amendment. He is a strong and consistent supporter of small business, and I appreciate his partnership on this important program. I also thank Chairman LEAHY and Ranking Member GRASSLEY and their staffs for working with us on this amendment and for preserving this critical legislation.

Our Founding Fathers recognized the importance of a strong patent system that protects and incentivizes innovators. I look forward to supporting S. 23, which will provide strong intellectual property rights to further our technological advancement.

In sum, we should help foster innovation by protecting innovators, especially small business men and women, and I urge adoption of the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 121

Mr. LEAHY. Mr. President, I thank the Senator from Illinois for his contribution to this effort.

I ask unanimous consent that we set aside the Kirk-Pryor amendment and go back to the pending business, which is the managers' amendment.

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

Mr. LEAHY. Mr. President, I understand there will be another Senator who will come down and speak, and in the meantime I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished Senator from Michigan, Ms. STABENOW, be recognized as though in morning business.

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

The Senator from Michigan.

(The remarks of Ms. STABENOW are printed in today's RECORD under "Morning Business.")

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

PATENT REFORM ACT OF 2011—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, it is a great privilege and honor for me to be able to represent the big, wonderful, diverse Commonwealth of Pennsylvania in the Senate. Pennsylvania is a wonderful State. It has a terrific range of great attributes. It has big, bustling cities such as Philadelphia and Pittsburgh at opposite ends; has all throughout the Commonwealth beautiful, historical boroughs such as Emmaus and Gettysburg. We go from the banks of the Delaware all the way to the shores of Lake Erie.

In a State this big, of course, we have a wide range of very vital industries. We have old industries that we have had for a long time and are still very important employers: agriculture, coal, steel, and many others. We are a big manufacturing State, manufacturing goods of all kinds. We have a huge service sector, especially in the fields of education, medicine, finance, tourism, and many others. We have some relatively new and very exciting industries in our Commonwealth that I am very hopeful will lead to an acceleration of job growth soon. I am thinking in particular of the natural gas and the Marcellus shale. I am thinking of the life sciences, all across the Commonwealth, especially in greater Philadelphia and greater Pittsburgh as well as in points in between. The medical device sector and pharmaceutical industries are offering some of the most exciting opportunities for economic growth anywhere in the Commonwealth.

So when I think about the diversity and the strength of our Commonwealth, I am convinced that Pennsylvania's best days are ahead of us.

That said, despite all of the underlying strengths and advantages we have, we have an economy that is struggling. We have job creation that is far too slow. As I said repeatedly throughout my campaign for the Senate seat and as I have said since then, I think there are two vital priorities that we need to focus on first and foremost here in Washington. The first is economic growth and the job creation that comes with it, and the second is restoring fiscal discipline to a government that has lost all sense of fiscal discipline. These two, of course, are closely related. We will never have the kind of job growth we need and we deserve until we get our fiscal house in order.

But I look at them as separate issues. I think they should be at the top of our priority list. I am absolutely convinced we can have terrific economic growth, terrific job growth. We can have the prosperity we have been looking for.

In fact, it is actually inevitable if the Federal Government follows the right policies, remembering first and foremost that prosperity comes from the private sector, it does not come from government itself, but that government creates an environment in which the private sector can thrive and create the jobs we so badly need. I would argue that the government does that by doing four things and doing them well.

The first is to make sure we have a legal system that respects property rights, because the clear title and ownership and ability to use private property is the cornerstone of a free enterprise system.

It requires, second, that the government establish sensible regulations that are not excessive, because excessive regulation—and frankly we have seen a lot of excessive regulation recently—too much regulation always has unintended consequences that curb our ability to create the jobs we need.

A third thing a government always needs to do is provide a stable currency, sound money, because debasing one's currency is the way to ruin, not the way to prosperity.

Fourth, governments need to live within their means. They cannot be spending too much money and they cannot have taxes at too high a level.

It is so important that government spending remain limited and, frankly,

much less than we have today, for several reasons. One, of course, government spending is the political allocation of capital rather than the allocation of free people and a free economy. The political allocation is always less efficient than that of men and women engaging in free enterprise.

Secondly, the reason too much spending is problematic is because it ultimately always has to be paid for with higher taxes. Higher taxes clearly impede economic growth and prevent job creation. They do that in many ways, not the least of which is diminishing the incentives to make investments, to take risks, to launch new enterprises, to hire new workers.

I would argue that of these four priorities, the government is not doing such a great job. The failure is most egregious when it comes to the level of spending that has recently developed in this town. The recent surge in spending amounts to about a 25-percent increase in the size of the government virtually overnight.

The government is now spending—this Federal Government alone—fully 25 percent of our entire economic output. Frankly, this huge surge in spending has not worked. The unemployment rate has stayed near to 10 percent, our deficits are now over $1½ trillion in a single year. That is more than 10 percent of our entire economy.

Of course, when you run annual deficits where you are spending more than you bring in, that shortfall is made up for with new borrowings. So we have been adding to our debt at what I think is an alarming pace. I would argue that this mounting debt is already today costing us job growth. It is costing us jobs because it creates a tremendous uncertainty in our economic future when we are not on a sustainable fiscal path. That uncertainty itself discourages entrepreneurs and job creators from doing the kinds of things we need.

The risks are very real. History is replete with examples of countries that have accumulated too much debt. Frankly, it never ends well. Very often it leads to very high rates of inflation. It can lead to much higher interest rates, which can have a crippling effect on job growth. It can even lead to financial disruptions which can be very harmful, as we have recently seen.

With the recent acceleration in the size of our deficits and the increase in our debts, we are now rapidly closing in on the statutory limit to the amount of money that the Federal Government is permitted to borrow under law. That is an amount of over $14 trillion, but the truth is we are rapidly closing in on that limit. We will get there fairly soon.

The administration has suggested that we ought to, here in Congress, vote to raise that limit with no conditions attached. I have to tell you I think it is a very bad idea. This brings to mind the case of a family that is routinely living beyond their means. They routinely are spending more than their income and making up for the difference by running up to the limit on their credit cards. When this family reaches the limit on all of the credit cards they have, who thinks it is a good idea to give them another credit card?

I think most folks in Pennsylvania think it is probably time to reexamine the spending and look at the real problem that has gotten the family in this situation. I think that is where we are as a government. I think we need to fundamentally reexamine the spending we have been engaged in.

I will say clearly, I think failure to raise the debt limit promptly upon reaching it is not optimal and it would be very disruptive. I hope that does not come to pass. But I happen to think the most irresponsible thing we could do is simply raise this debt limit and run up even more debt without making changes to the problems that got us into this fix.

Specifically what I think we need to do is have real cuts in spending—now, not later, not at some distant hypothetical point in time in the future but now. That is one.

Second, I think we need real reform in the spending process, reform in the way Congress goes about its business, because the process is part of what has gotten us here.

I wish to see a balanced budget amendment, one with real teeth, one that requires our books to be balanced, one that limits the total spending to a reasonable percentage of our economy, and one that makes it harder to raise taxes. I think that would be a very good development. But that will take several years, at best, if we can get that implemented. Of course, all of the States have to agree.

In the meantime, I would hope we could have statutory spending caps, limits to how much the Federal Government can spend, and a mechanism that would redress the problem if for some reason we exceeded those limits.

As we have had this debate over whether we should attach these conditions to raising the debt limit, some have suggested this is a very dangerous discussion to have, because failure to immediately raise the debt limit, some have suggested, amounts to a default on our Treasury securities, on the borrowings we have already incurred.

That is not true. I think it is irresponsible to suggest that. The fact is the ongoing revenue from taxes that will be collected whether or not we immediately raise the debt limit—the ongoing revenue is more than 10 times all the money needed to stay current on our debt service. In fact, in the last 20 years, there have been four occasions when we have reached the debt limit without immediately raising it, and we never defaulted on our debt. This country never will. So I do not think we should have a discussion about something that is not going to happen. But since some in the administration have raised the specter of a default, I have introduced legislation that would clearly take that risk off the table entirely. My bill is called the Full Faith and Credit Act. It simply says, in the event we reach the debt limit without having raised it, it instructs the Treasury to make sure the debt service is the top priority. This guarantees that we would not default on our Treasuries, we would not create a financial crisis of any kind, and maybe, more importantly, it would be a great reassurance to the millions of Americans who have lent this government their money, the millions of Americans who hold Treasury bonds in their IRAs, their 401(k)s, their pension plans.

The retirees who live in Allentown, PA, who have lived modestly, saved money, and with their retirement savings have invested in the U.S. Treasury, I think those folks deserve the peace of mind of knowing that the first priority is going to make sure we honor the obligations and stay current on our debts.

I want to take a moment to thank Senator VITTER, because yesterday he came down to the floor and introduced my legislation as an amendment to the current patent reform bill. I hope we will be able to soon pass my amendment. I hope we will soon get to a vote here on the Senate floor. The real reason is, I want to remove this false specter of a default on our debt, so we can have an honest debate over how we are going to get spending under control—what kind of spending cuts we are going to have right now, and what kind of reforms we are going to make to the process going forward.

I do not think we can kick this can down the road anymore. We have been doing that for a long time. As I said earlier, it never ends well when governments continue taking on too much debt. Nobody here that I know wants to see a government shutdown. Nobody wants to see the disruption that would come from failing to raise the debt limit at some point. But nor can we proceed with business as usual.

All across Pennsylvania I hear every day when I am back home how important it is that this government learn to live within its means as Pennsylvania businesses and families have done.

Let me close by saying I still remain absolutely convinced we can have a terrific economic recovery. We can have a booming economic growth and the tremendous job creation that goes with it. It is overdue, but it can still arrive if we pass the kind of policies that create the right environment.

I am convinced the 21st century will be another great American century and Pennsylvania will be at the forefront.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I want to extend my congratulations to the Senator from Pennsylvania for his initial speech, including his comments about his important amendment, which is actually pending to the patent bill

which hopefully we will have an opportunity to vote on in the very near future.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I am soon going to ask for a vote on the Leahy-Grassley-Kyl managers' amendment. It resolves a number of issues in the bill, including fee diversion and business method patents damages, venue issues. Senators COBURN, SCHUMER, BENNET, WHITEHOUSE, COONS, and others worked with us on those issues. I would like to vote on that and then go to the amendment offered yesterday by Senator BENNET on satellite patent offices, with a modification, as well as the modified amendment offered by Senator KIRK and Senator PRYOR on ombudsman. If we can do that, we can get much of this finished. But while I am waiting for the—just so everybody will know, I am going to ask for a vote on that very soon. But I am waiting for the ranking member to come back.

I see the distinguished senior Senator from Minnesota, and I yield to her.

Ms. KLOBUCHAR. Mr. President, first, I commend Chairman LEAHY and the entire Judiciary Committee for their work on this bill. The chairman has endured so many ups and downs and different versions, and we would not be here today if not for him.

I rise to speak in support of the America Invents Act, a bill to overhaul our patent system, which plays such a critical role in our economy. It is one of the main reasons America has been able to maintain its competitive edge.

The Commerce Department estimates that up to 75 percent of the economic growth in our Nation since World War II is due to technological innovation—innovation made possible by a patent system that protects the rights to that innovation.

I have seen the importance and success of the patent system firsthand in Minnesota, which has brought the world everything from the pacemaker to the Post-it note. In Minnesota, we know how important the patent system is to our economy. We rank sixth in the Nation in patents per capita and have the second highest number of medical device patents over the last 5 years. Companies such as 3M, Ecolab, and Medtronic are well-known leaders in innovation, but Minnesota also supports innovative small businesses such as NVE Corporation and Arizant Healthcare. We are now first per capita, in fact, for Fortune 500 companies in our State, and that is in large part because of innovation. So many of these companies started small, invented products, and got patents which were protected. People weren't copying their products, and they were able to grow and produce jobs in our country.

Having a patent system that works for small business is particularly critical to creating jobs in America. But our patent laws haven't had a major update since 1952. The system is outdated and has become a burden on our innovators and entrepreneurs. Because of these outdated laws, the Patent and Trademark Office faces a backlog of over 700,000 patent applications and too often issues low-quality patents. One of these 700,000 patents may be the next implantable pacemaker or new therapy for fighting cancer, but it just sits in that backlog.

Our current system also seems stacked against small entrepreneurs. I have spoken to small business owners and entrepreneurs across our State of Minnesota who are concerned with the high cost and uncertainty of protecting their inventions. For example, under the current system, when two patents are filed around the same time for the same invention, the applicants must go through an arduous and expensive process called an interference to determine which applicant will be awarded the patent. Small inventors rarely, if ever, win interference proceedings because the rules for interference are often stacked in favor of companies with deep pockets. This needs to change.

Our current patent system also ignores the realities of the information age in which we live.

In 1952, back when the patent bill came about, the world wasn't as interconnected as it is today. There was no Internet. People didn't share information the way they do in this modern age. They had party telephone lines then. In 1952, most publicly available information about technology could be found in either patents or scientific publications. So patent examiners only had to look to a few sources to determine if the technology described in a patent application was both novel and nonobvious.

Today, as we all know, there is a vast amount of information readily available everywhere you look.

It is unrealistic to believe a patent examiner would know all of the places to look for this information, and even if the examiner knew where to look, it is unlikely he or she would have the time to search all of these nooks and crannies. The people who know where to look are the other scientists and innovators who also work in the field. But current law doesn't allow participation by third parties in the patent application process despite the fact that third parties are often in the best position to challenge a patent application. Without the benefit of this outside expertise, an examiner might grant a patent for technology that simply isn't a true invention—it is simply not an actual invention—and these low-quality patents clog the system and hinder true innovation.

Our Nation can't afford to slow innovation anymore. While China is investing billions in its medical technology sector, we are still bickering about regulations. While India encourages invention and entrepreneurship, we are still giving our innovators the runaround, playing a game of red light/green light with the R&D tax credit.

America can no longer afford to be a country that churns money and shuffles paper, a country that consumes, imports, and spends its way through huge trade deficits. We need to be a nation that makes things again, that invents stuff, that exports to the world, a country where you can walk into any store on any street in any neighborhood, purchase the best goods, and be able to turn it over and see the words ''Made in the USA.''

In the words of New York Times columnist and Minnesota native Tom Friedman, we need to be focusing on ''nation building in our own Nation.'' Well, as innovators and entrepreneurs across Minnesota have told me, our country needs to spawn more of them. The America Invents Act would do just that.

First, the American Invents Act increases the speed and certainty of the patent application process by transitioning our patent system from a first-to-invent system to a first-inventor-to-file system. This change to a first-inventor-to-file system will increase predictability by creating brighter lines to guide patent applicants and Patent Office examiners. By simply using the filing date of an application to determine the true inventor, the bill increases the speed of the patent application process, while rewarding novel, cutting-edge innovations.

To help guide investors and inventors, this bill allows them to search the public record to discover with more certainty whether their idea is patentable, helping eliminate duplication and streamlining the system. At the same time, the bill still provides a safe harbor of a year for inventors to go out and market their inventions before having to file for their patents. This grace period is one of the reasons our Nation's top research universities, such as the University of Minnesota, support this bill. The grace period protects professors who discuss their inventions with colleagues or publish them in journals before filing their patent application. The grace period will encourage cross-pollination of ideas and eliminate concerns about discussing inventions with others before a patent application is actually filed.

Moreover, this legislation helps to ensure that only true inventions receive protection under our laws. By allowing third parties to provide information to the patent examiner, the America Invents Act helps bridge the information gap between the patent application and existing knowledge.

The legislation also provides a modernized, streamlined mechanism for third parties who want to challenge recently issued, low-quality patents that

should never have been issued in the first place. Eliminating these potentially trivial patents will help the entire patent system by improving certainty for both users and inventors.

The legislation will also improve the patent system by granting the U.S. Patent and Trademark Office the authority to set and adjust its own fees. Allowing the Office to set its own fees will give it the resources to reduce the current backlog and devote greater resources to each patent that is reviewed to ensure higher quality patents.

The fee-setting authority is why IBM, one of the most innovative companies around—by the way, the host of the ''Jeopardy''-winning Watson—well, the IBM facility there that actually developed Watson was in Rochester, MN. In fact, IBM, which has its facilities in Rochester and the Twin Cities, as well as many other places in this country, was granted a record 5,896 patents in 2010. IBM supports this bill. It allows the Patent Office to set its own fees and run itself like a business, and that is good for companies such as IBM, as well as for small entrepreneurs.

Mr. President, as chair of the Subcommittee on Competitiveness, Innovation, and Export Promotion, I have been focused on ways to promote innovation and growth in the 21st century. Stakeholders from across the spectrum agree that this bill is a necessary step to ensure that the United States remains a world leader in developing innovative products that bring prosperity and happiness to those in our country. Globalization and technological advancement have changed our economy. This legislation will ensure that our patent system truly rewards innovation in the 21st century. Our patent system has to be as sophisticated as those who are inventing these products and those who at times are trying to steal their ideas. That is what this is about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 121, AS MODIFIED

Mr. LEAHY. Mr. President, we have the Leahy-Grassley managers' amendment at the desk. I have a modification to it. I ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 1, strike line 5, and insert the following: '''America Invents Act' ''.

On page 9, line 8, strike ''1 year'' and insert ''18 months''.

On page 32, strike line 12 and all that follows through page 35, line 2, and insert the following:

SEC. 4. VIRTUAL MARKING AND ADVICE OF COUNSEL.

On page 37, line 1, strike ''(b)'' and insert ''(a)''.

On page 37, line 20, strike ''(c)'' and insert ''(b)''.

On page 38, line 3, strike ''(d)'' and insert ''(c)''.

On page 38, line 13, strike ''(e)'' and insert ''(d)''.

On page 57, strike lines 17 through 23, and insert the following:

''(b) PRELIMINARY INJUNCTIONS.—If a civil action alleging infringement of a patent is filed within 3 months of the grant of the patent, the court may not stay its consideration of the patent owner's motion for a preliminary injunction against infringement of the patent on the basis that a petition for post-grant review has been filed or that such a proceeding has been instituted.''.

On page 59, strike lines 13 through 19.

On page 59, line 20, strike ''(g)'' and insert ''(f)''.

On page 65, line 21, strike ''18 months'' and insert ''1 year''.

On page 66, line 3, strike ''18 months'' and insert ''1 year''.

On page 66, lines 4 and 5, strike ''and shall apply only to patents issued on or after that date.'' and insert ''and, except as provided in section 18 and in paragraph (3), shall apply only to patents that are described in section 2(o)(1).''.

On page 66, line 8, after the period insert the following: ''During the 4 year period following the effective date of subsections (a) and (d), the Director may, in his discretion, continue to apply the provisions of chapter 31 of title 35, United States Code, as amended by paragraph (3), as if subsection (a) had not been enacted to such proceedings instituted under section 314 (as amended by subsection (a)) or under section 324 as are instituted only on the basis of prior art consisting of patents and printed publications.''.

On page 69, line 2, strike ''18 months'' and insert ''1 year''.

On page 69, line 14, strike ''18 months'' and insert ''1 year''.

On page 74, line 22, strike ''18 months'' and insert ''1 year''.

On page 75, line 16, strike ''18 months'' and insert ''1 year''.

On page 75, line 22, strike ''18 months'' and insert ''1 year''.

On page 76, line 5, strike ''18 months'' and insert ''1 year''.

On page 77, strike line 23 and all that follows through page 78, line 6.

On page 78, line 7, strike ''(b)'' and insert ''(a)''.

On page 78, line 20, strike ''(c)'' and insert ''(b)''.

On page 79, strike lines 1 through 17, and insert the following:

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established, authorized, or charged under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.), notwithstanding the fee amounts established, authorized, or charged thereunder, for all services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to recover the estimated cost to the Office for processing, activities, services, and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

On page 79, lines 19–21, strike ''filing, processing, issuing, and maintaining patent applications and patents'' and insert: ''filing, searching, examining, issuing, appealing, and maintaining patent applications and patents''.

On page 86, between lines 8 and 9, insert the following:

(i) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

On page 86, line 9, strike ''(i)'' and insert ''(j)''.

On page 91, between lines 14 and 15, insert the following:

(b) NO PROVISION OF FACILITIES AUTHORIZED.—The repeal made by the amendment in subsection (a)(1) shall not be construed to authorize the provision of any court facilities or administrative support services outside of the District of Columbia.

On page 91, line 15, strike ''(b)'' and insert ''(c)''.

On page 91, line 23, strike ''under either subsection'' and all that follows through ''shall certify'' on page 92, line 2.

On page 92, line 7, before the semicolon insert the following: '', not including applications filed in another country, provisional applications under section 111(b), or international applications filed under the treaty defined in section 351(a) for which the basic national fee under section 41(a) was not paid''.

On page 92, between lines 7 and 8, insert the following:

''(3) did not in the prior calendar year have a gross income, as defined in section 61(a) of the Internal Revenue Code (26 U.S.C. 61(a)), exceeding 3 times the most recently reported median household income, as reported by the Bureau of Census; and''.

On page 92, strike lines 8 through 25.

On page 93, line 1, strike ''(3) has not assigned, granted, conveyed, or is'' and insert ''(4) has not assigned, granted, conveyed, and is not''.

On page 93, lines 4 and 5, strike ''has 5 or fewer employees and that such entity has'' and insert ''had''.

On page 93, line 7, strike ''that does'' and all that follows through line 11, and insert the following: ''exceeding 3 times the most recently reported median household income, as reported by the Bureau of the Census, in the calendar year preceding the calendar year in which the fee is being paid, other than an entity of higher education where the applicant is not an employee, a relative of an employee, or have any affiliation with the entity of higher education.''.

On page 93, strike lines 12 through 17, and insert the following:

''(b) APPLICATIONS RESULTING FROM PRIOR EMPLOYMENT.—An applicant is not considered to be named on a previously filed application for purposes of subsection (a)(2) if the applicant has assigned, or is under an obligation by contract or law to assign, all ownership rights in the application as the result of the applicant's previous employment.

''(c) FOREIGN CURRENCY EXCHANGE RATE.—If an applicant's or entity's gross income in the preceding year is not in United States dollars, the average currency exchange rate, as reported by the Internal Revenue Service, during the preceding year shall be used to determine whether the applicant's or entity's gross income exceeds the threshold specified in paragraphs (3) or (4) of subsection (a).''.

On page 94, between lines 18 and 19, insert the following:

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that other business methods are patentable or that other business-method patents are valid.

On page 94, line 19, strike ''(c)'' and insert ''(d)''.

On page 103, between lines 11 and 12, insert the following:

''(c) DERIVATIVE JURISDICTION NOT REQUIRED.—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.''.

On page 103, line 12, strike ''(c)'' and insert ''(d)''.

On page 105, between lines 22 and 23, insert the following:

SEC. 18. TRANSITIONAL PROGRAM FOR COVERED BUSINESS-METHOD PATENTS.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this section language is expressed in terms of a section or chapter, the reference shall be considered to be made to that section or chapter in title 35, United States Code.

(b) TRANSITIONAL PROGRAM.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall issue regulations establishing and implementing a transitional post-grant review proceeding for review of the validity of covered business-method patents. The transitional proceeding implemented pursuant to this subsection shall be regarded as, and shall employ the standards and procedures of, a post-grant review under chapter 32, subject to the following exceptions and qualifications:

(A) Section 321(c) and subsections (e)(2), (f), and (g) of section 325 shall not apply to a transitional proceeding.

(B) A person may not file a petition for a transitional proceeding with respect to a covered business-method patent unless the person or his real party in interest has been sued for infringement of the patent or has been charged with infringement under that patent.

(C) A petitioner in a transitional proceeding who challenges the validity of 1 or more claims in a covered business-method patent on a ground raised under section 102 or 103 as in effect on the day prior to the date of enactment of this Act may support such ground only on the basis of—

(i) prior art that is described by section 102(a) (as in effect on the day prior to the date of enactment of this Act); or

(ii) prior art that—

(I) discloses the invention more than 1 year prior to the date of the application for patent in the United States; and

(II) would be described by section 102(a) (as in effect on the day prior to the date of enactment of this Act) if the disclosure had been made by another before the invention thereof by the applicant for patent.

(D) The petitioner in a transitional proceeding, or his real party in interest, may not assert either in a civil action arising in whole or in part under section 1338 of title 28, United States Code, or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised during a transitional proceeding that resulted in a final written decision.

(E) The Director may institute a transitional proceeding only for a patent that is a covered business-method patent.

(2) EFFECTIVE DATE.—The regulations issued pursuant to paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all covered business-method patents issued before, on, or after such date of enactment, except that the regulations shall not apply to a patent described in the first sentence of section 5(f)(2) of this Act during the period that a petition for post-grant review of that patent would satisfy the requirements of section 321(c).

(3) SUNSET.—

(A) IN GENERAL.—This subsection, and the regulations issued pursuant to this subsection, are repealed effective on the date that is 4 years after the date that the regulations issued pursuant to paragraph (1) take effect.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), this subsection and the regulations implemented pursuant to this subsection shall continue to apply to any petition for a transitional proceeding that is filed prior to the date that this subsection is repealed pursuant to subparagraph (A).

(c) REQUEST FOR STAY.—

(1) IN GENERAL.—If a party seeks a stay of a civil action alleging infringement of a patent under section 281 in relation to a transitional proceeding for that patent, the court shall decide whether to enter a stay based on—

(A) whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial;

(B) whether discovery is complete and whether a trial date has been set;

(C) whether a stay, or the denial thereof, would unduly prejudice the nonmoving party or present a clear tactical advantage for the moving party; and

(D) whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court.

(2) REVIEW.—A party may take an immediate interlocutory appeal from a district court's decision under paragraph (1). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedent, and such review may be de novo.

(d) DEFINITION.—For purposes of this section, the term ''covered business method patent'' means a patent that claims a method or corresponding apparatus for performing data processing operations utilized in the practice, administration, or management of a financial product or service, except that the term shall not include patents for technological inventions. Solely for the purpose of implementing the transitional proceeding authorized by this subsection, the Director shall prescribe regulations for determining whether a patent is for a technological invention.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as amending or interpreting categories of patent-eligible subject matter set forth under section 101.

SEC. 19. TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.

(a) AUTHORITY TO COVER CERTAIN TRAVEL RELATED EXPENSES.—Section 2(b)(11) of title 35, United States Code, is amended by inserting '', and the Office is authorized to expend funds to cover the subsistence expenses and travel-related expenses, including per diem, lodging costs ,and transportation costs, of non-federal employees attending such programs'' after ''world''.

(b) PAYMENT OF ADMINISTRATIVE JUDGES.—Section 3(b) of title 35, United States Code, is amended by adding at the end the following:

''(6) ADMINISTRATIVE PATENT JUDGES AND ADMINISTRATIVE TRADEMARK JUDGES.—The Director has the authority to fix the rate of basic pay for the administrative patent judges appointed pursuant to section 6 of this title and the administrative trademark judges appointed pursuant to section 17 of the Trademark Act of 1946 (15 U.S.C. 1067) at not greater than the rate of basic pay payable for Level III of the Executive Schedule. The payment of a rate of basic pay under this paragraph shall not be subject to the pay limitation of section 5306(e) or 5373 of title 5.''.

SEC. 20. PATENT AND TRADEMARK OFFICE FUNDING.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Patent and Trademark Office.

(2) FUND.—The term ''Fund'' means the public enterprise revolving fund established under subsection (c).

(3) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(4) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means an Act entitled ''Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'').

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for Intellectual Property.

(b) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund''; and

(B) in subsection (c), in the first sentence—

(i) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(ii) by striking ''shall be collected by and shall be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the later of—

(A) October 1, 2011; or

(B) the first day of the first fiscal year that begins after the date of the enactment of this Act.

(c) USPTO REVOLVING FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(2) DERIVATION OF RESOURCES.—There shall be deposited into the Fund on or after the effective date of subsection (b)(1)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund, provided, however, that no funds collected pursuant to section 9(h) of this Act or section 1(a)(2) of Public Law 111-45 shall be deposited in the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(d) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (f).

(e) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(f) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(g) BUDGET.—The Fund shall prepare and submit each year to the President a business-type budget in a manner, and before a date, as the President prescribes by regulation for the budget program.

On page 105, line 23, strike ''**SEC. 18.**'' and insert ''**SEC. 21.**''.

At the end, add the following:

SEC. 22. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Mr. LEAHY. Mr. President, we are prepared to go to a rollcall vote on this right now. I don't see the ranking member. As a courtesy, I am willing to wait a few more minutes before calling for the vote. While we are waiting for my friend, the distinguished Senator from Iowa, I will note that what we are talking about is bipartisan legislation; it is supported by both business and labor.

People ask whether Congress can work together and whether, with all the problems facing America, Republicans and Democrats can come together to get work done, make things work, and do things that can make America stronger and more competitive in the world. This is a bill that does that. That is why we have a broad group of cosponsors in both parties across the political spectrum. It enables us to actually do something.

We have a decades-old patent system, which may have made sense in the time when you had patents that might not be superseded by new inventions for years. Now they can be superseded the day they come in. That is why we have 700,000 patents applications waiting to be processed. It is also why countries such as China and others are beginning to surpass us in their innovation, because we have been slow to catch up. We are in a situation where we are unable to compete with the rest of the industrialized nations. Their patent laws are ahead of ours. So this is a case where we in America have a chance to catch up. We do it without adding a cent to the deficit, but we also create jobs. Every major manufacturer in this country and inventors have said this is where we will create jobs.

I look at it, of course, with the point of view that my little State of Vermont on a per capita basis has more patents than any other State. We even had more than some States larger than ours. The distinguished Presiding Officer comes from a State that has spent a great deal of time and effort on innovation and is one of the leaders in the number of patents, especially in the high-tech area, in this country. But the patents don't help us compete unless we are able to move with them. We in Vermont have a long history of innovation and invention. The first patent in the United States was signed by George Washington after being cleared by Thomas Jefferson and granted to a Vermonter.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

Mr. LEE. Mr. President, I rise to speak on an issue that is very important to me. The immediate subject I am going to address is an amendment I am going to propose to our pending patent reform legislation. This amendment calls upon the Senate to get the sense of the Senate that we need a balanced budget amendment to the U.S. Constitution.

As I prepared for this day, I reviewed the maiden speeches of a number of Senators who served in this august body, and I have seen a consistent theme in the speeches that have been given over the course of the last 50 or 60 years. Over and over, they address spending. These issues have spilled over, Congress after Congress, until the point we have reached today, the point at which our national debt stands at an astounding figure, close to $15 trillion.

As I like to say, $15 trillion is a lot of money. A lot of people do not make $15 trillion in a whole year. Even when you divide $15 trillion by 300 million Americans, you are left with a figure of about $50,000 a head. This is not an inconsequential number.

This is not a problem any of us created. It is a problem each of us inherited. Yet it is a problem I think none of us wants to leave to our successors. It is a problem that requires us to do something different than we have done in the past, and by this I mean I think we need procedural, structural, and indeed constitutional reform. We need to put Congress in a straitjacket because we have been unwilling or unable in the past to make the difficult spending decisions that have to be made.

In the past, there has been a great debate between, on the one hand, some Republicans who have been unwilling to cut some programs, to consider in any context cuts in the area of, say, national defense; you have had others, perhaps from the other party, who have been unwilling to consider any cuts to any entitlement program. But we are now faced with a scenario in which both sides of the aisle can understand that our perpetual deficit spending habit places in jeopardy every single aspect of the operations of the Federal Government.

To paint one scenario, I would like to point out that the budget projections produced by the White House just a couple weeks ago predicted, based on a fairly optimistic set of projections, that over the next 10 years we will acquire enough new debt that, when added to our existing debt, will cause us to be spending almost $1 trillion every single year just on interest on our national debt. To put that in perspective, $1 trillion is more than we currently spend on Social Security in an entire year. It is more than we currently spend on Medicare and Medicaid combined in an entire year. It is significantly more than we spend on national defense in any year. This $1 trillion number is one that could actually be much larger if some of these projections turn out not to be correct.

We now face a moment when both liberals and conservatives, Republicans and Democrats, regardless of what they most want to protect in their Federal Government, have to realize that what we most want to protect is placed in grave jeopardy by our current spending practices.

I am troubled by the fact that as we approach debate surrounding a continuing resolution this week, a continuing resolution that is likely to operate for just a few weeks to keep the Government funded, we are still talking about adding, on an annualized basis, to our national debt at a rate exceeding $1.5 trillion a year. I think the American people deserve better. I know they demand better.

Some of the things we saw in the 2010 election cycle portend something much greater for what we are going to see in the 2012 election cycle. The polls support the fact that what we can see from the 2010 election cycle is that Americans want Congress to balance its budget. They want us to do something more than just talking about it. They want us to put ourselves in a straitjacket.

Benjamin Franklin used to say: He will cheat without scruple who can without fear. I think the congressional corollary to that might be that Congress, which can continue to engage in perpetual deficit spending, will continue to do so unless or until they are held accountable by the people or required by that Congress to put itself in a straightjacket. That is the straightjacket we need. That is why I am proposing this amendment so, at a minimum, before this patent reform legislation, which I support wholeheartedly, moves forward, we can all agree as Members of this body that we need a constitutional amendment to keep us from doing what is slowly killing the economy of the United States and gradually mounting a severe challenge, an existential threat to every Federal program that currently exists.

I invite each of my colleagues to vote for and support this amendment and to support S.J. Res. 5, a constitutional amendment I have proposed that would put Congress in this type of straitjacket.

Here is, in essence, what S.J. Res. 5 says: If adopted by Congress by the requisite two-thirds margins in both Houses and approved by the States, three-fourths of them as required by article V of the Constitution, it would tell Congress it may not spend more than it receives in a given year, it may not spend more than 18 percent of GDP in a year, it may not raise taxes, and it may not raise the national debt ceiling without a two-thirds supermajority vote in both Houses of Congress. That is the kind of permanent binding constitutional measure I think we need in order to protect the government programs we value so highly and upon which 300 million Americans have come to depend, in one way or another.

I urge each of my colleagues to support this amendment and to support S.J. Res. 5.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I rise today to speak on the Patent Reform Act of 2011, which I understand will be retitled as the ''America Invents Act.''

When this bill was marked up in the Judiciary Committee in 2007 and again in 2009, I voted against it, and I submitted minority views to the committee report for the bill. In the 2009 committee report, Senators Russ Feingold and TOM COBURN joined me in identifying a set of issues that we felt needed to be addressed before the bill was ready for consideration by the full Senate. Chief among these were concerns about the bill's system of postissuance administrative review of patents. Senior career staff at the Patent Office had expressed deep misgivings about the office's ability to administer this system. In response, at the conclusion of the 2009 mark up, Chairman LEAHY pledged to invite the Patent Office to work with the committee to address these concerns and to try to develop a system that the office would be able to administer.

Chairman LEAHY carried through on his pledge and held those meetings later that year. As a result, important changes were made to the bill, eventually resulting in a managers' amendment that was announced in 2010 by Chairman LEAHY and then-Ranking Member SESSIONS. The 2010 managers' amendment, which is also the basis of the present bill, substantially addressed all of the concerns that Senators Feingold and COBURN and I raised in the 2009 Minority Report. As a result, I became a cosponsor of that amendment, and am proud to cosponsor and support the bill that is before us today.

I will take a few moments today to describe the key changes that led to the 2010 breakthrough on this bill. But first, I would like to address an important aspect of the bill that has recently become the subject of some controversy. This is the bill's change to a first-inventor-to-file patent system.

About two-thirds of the present bill has never been controversial and has been included in all of the various iterations of this bill ever since the first patent reform act was introduced in 2005 by Mr. LAMAR SMITH, who was then the chairman of the House Intellectual Property Subcommittee. Mr. SMITH's 2005 bill, H.R. 2795, included the following proposals: it switched the United States from a first-to-invent patent system to a first-inventor-to-file system. The Smith bill enacted chapter 32 of title 35, creating a first-window, post-grant opposition procedure. It authorized third parties to submit and explain relevant prior art to the Patent Office with respect to an application before a patent is issued. The Smith bill amended the inventor's oath, and expanded the rights of assignees to prosecute a patent application under section 118. And it also eliminated subjective elements from the patent code, and included the first proposal for creating derivation proceedings. All of these elements of Mr. SMITH's original 2005 bill are retained in the bill that is before us today, and are, in fact, the most important parts of the bill. And, until recently, these provisions had not proven controversial.

After the announcement of the 2010 managers' amendment, however, members of the Judiciary Committee began to hear more from critics of the bill's move to a first-to-file system. Under current law's first-to-invent system, a patent applicant or owner has priority against other patents or applications, or against invalidating prior art, if he conceived of his invention before the other inventor conceived of his invention or before the prior art was disclosed. Under the first-to-file system, by contrast, the same priority is determined by when the application for patent was filed. Whichever inventor files first has priority, and third-party prior art is measured against the filing date, and is invalidating if it disclosed the invention before the date when the application was filed, rather than the date when the invention was conceived.

In commentary that was published on Sunday, February 27, Mr. Gene Quinn, the writer of the IP Watchdog Web site, made some worthy points about the present bill's proposed move to a first-to-file system. Responding to critics of first to file, Mr. Quinn first noted that: in practical effect, we already have a first inventor to file system. For example, since the start of fiscal year 2005 on October 1, 2004, there have been over 2.9 million patent applications filed and only 502 Interferences decided. An Interference Proceeding occurs when multiple inventors file an application claiming the same invention, and is the hallmark of a first to invent system . . . . On top of the paltry 502 Interferences over nearly 7 years, a grand total of 1 independent inventor managed to demonstrate they were the first to invent, and a grand total of 35 small entities were even involved in an Interference.

In other words, as Mr. Quinn notes, although the first-to-invent system is supposed to help the little guy, over the last seven years, only one independent inventor has managed to win an interference contest and secure the benefits of the first to invent system. And again, this is out of nearly 3 million patent applications filed over this period.

Mr. Quinn's comments also debunk the notion that an interference proceeding is a viable means of securing first-to-invent rights for independent and other small inventors. He notes that:

> On top of this, the independent inventors and small entities, those typically viewed as benefiting from the current first to invent system, realistically could never benefit from such a system. To prevail as the first to invent and second to file, you must prevail in an Interference proceeding, and according to 2005 data from the AIPLA, the average cost through an interference is over $600,000. So let's not kid ourselves, the first to invent system cannot be used by independent inventors in any real, logical or intellectually honest way, as supported by the reality of the numbers above. . . . [F]irst to invent is largely a ''feel good'' approach to patents where the underdog at least has a chance, if they happen to have $600,000 in disposable income to invest on the crap-shoot that is an Interference proceeding.

Obviously, the parties that are likely to take advantage of a system that costs more than half a million dollars to utilize are not likely to be small and independent inventors. Indeed, it is typically major corporations that invoke and prevail in interference proceedings. The very cost of the proceeding alone effectively ensures that

it is these larger parties that benefit from this system. In many cases, small inventors such as start ups and universities simply cannot afford to participate in an interference, and they surrender their rights once a well-funded party starts such a proceeding.

Mr. Quinn's article also responded to critics who allege that the present bill eliminates the grace period for patent applications. The grace period is the one-year period prior to filing when the inventor may disclose his invention without giving up his right to patent. Mr. Quinn quotes the very language of this bill, and draws the obvious conclusion:

> Regardless of the disinformation that is widespread, the currently proposed S. 23 does, in fact, have a grace period. The grace period would be quite different than what we have now and would not extend to all third party activities, but many of the horror stories say that if someone learns of your invention from you and beats you to the Patent Office, they will get the patent. That is simply flat wrong.

Mr. Quinn is, of course, referring to the bill's proposed section 102(b). Under paragraph (1)(A) of that section, disclosures made by the inventor, or someone who got the information from the inventor, less than 1 year before the application is filed do not count as prior art. And under paragraph (1)(B), during the 1-year period before the application is filed, if the inventor publicly discloses his invention, no subsequently disclosed prior art, regardless of whether it is derived from the inventor, can count as prior art and invalidate the patent. This effectively creates a ''first to publish'' rule that protects those inventors who choose to disclose their invention. An inventor who publishes his invention, or discloses it at a trade show or academic conference, or otherwise makes it publicly available, has an absolute right to priority if he files an application within one year of his disclosure. No application effectively filed after his disclosure, and no prior art disclosed after his disclosure, can defeat his application for patent.

These rules are highly protective of inventors, especially those who share their inventions with the interested public but still file a patent application within a year. These rules are also clear, objective, and transparent. They create unambiguous guidelines for inventors. An inventor who wishes to keep his invention secret must file an application promptly, before another person discloses the invention to the public. And an inventor can also share his invention with others. If his activities make the invention publicly available, he must file an application within a year, but his disclosures also prevents any subsequently disclosed prior art from taking away his right to patent. The bill's proposed section 102 also creates clear guidelines for those who practice in a technology. To figure out if a patent is valid against prior art, all that a manufacturer needs to do is look at the patent's filing date and figure out whether the inventor publicly disclosed the invention. If prior art disclosed the invention to the public before the filing date, or if the inventor disclosed the invention within a year of filing but the prior art predates that disclosure, then the invention is invalid. And if not, the patent is valid against a prior-art challenge.

Some critics of the first-to-file system also argue that it will be expensive for inventors because they will be forced to rush to file a completed application, rather than being able to rely on their invention date and take their time to complete an application. These critics generally ignore the possibility of filing a provisional application, which requires only a written description of the invention and how to make it. Once a provisional application is filed, the inventor has a year to file a completed application. Currently, filing a provisional application costs $220 for a large entity, and $110 for a small entity.

One of Mr. Quinn's earlier columns, on November 7, 2009, effectively rebuts the notion that relying on invention dates offers inventors any substantial advantage over simply filing a provisional application. As he notes:

> If you rely on first to invent and are operating at all responsibly you are keeping an invention notebook that will meet evidentiary burdens if and when it is necessary to demonstrate conception prior to the conception of the party who was first to file. . . .
>
> [Y]our invention notebook or invention record will detail, describe, identify and date conception so that others skilled in the art will be able to look at the notebook/record and understand what you did, what you knew, and come to the believe that you did in fact appreciate what you had. If you have this, you have provable conception. If you have provable and identifiable conception, you also have a disclosure that informs and supports the invention. . . . [And] [i]f the notebook provably demonstrates conception, then it can be filed as a provisional patent application at least for the purpose of staking a claim to the conception that is detailed with enough specificity to later support an argument in a first to invent regime.

In other words, the showing that an inventor must make in a provisional application is effectively the same showing that he would have to make to prove his invention date under the first-to-invent system. A small inventor operating under first-to-invent rules already must keep independently-validated notebooks that show when he conceived of his invention. Under first-to-file rules, the only additional steps that the same inventor must take are writing down the same things that his notebooks are supposed to prove filing that writing with the Patent Office, and paying a $110 fee.

Once the possibility of filing a provisional application is considered, along with this bill's enhanced grace period, it should be clear that the first-to-file system will not be at all onerous for small inventors. And once one considers the bill's clean, clear rules for prior art and priority dates, its elimination of subjective elements in patent law, its new proceeding to correct patents, and its elimination of current patent-forfeiture pitfalls that trap legally unwary inventors, it is clear that this bill will benefit inventors both large and small.

Allow me to also take a moment to briefly describe the concerns that Senators Feingold and COBURN and I raised in our 2009 Minority Report, and how the present bill addresses those concerns.

Senators Feingold and COBURN and I proposed that the bill impose a higher threshold showing for instituting an inter partes, or post-grant review. This had long been a top priority for the Patent Office, both under the previous administration and under the current one. The Patent Office made clear that a higher threshold is necessary to weed out marginal challenges and preserve the office's own resources, and that a higher threshold would also force parties to front-load their cases, allowing these proceedings to be resolved more quickly. The present bill imposes higher thresholds, requiring a reasonable likelihood of invalidity for inter partes review, and more-likely-than-not invalidity for post-grant review.

Senators Feingold and COBURN and I also recommended that the Patent Office be allowed to operate inter partes reexamination as an adjudicative proceeding, where the burden of proof is on the challenger and the office simply decides whether the challenger has met his burden. The present bill makes this change, repealing requirements that inter partes be run on an examinational model and allowing the PTO to adopt an adjudicative model.

The 2009 Minority Report also recommended that the bill restrict serial administrative challenges to patents and require coordination of these proceedings with litigation. We also called for limiting use of ex parte reexamination to patent owners, noting that allowing three different avenues for administrative attack on patents invites serial challenges. The present bill does coordinate inter partes and post-grant review with litigation, barring use of these proceedings if the challenger seeks a declaratory judgment that a patent is invalid, and setting a time limit for seeking inter partes review if the petitioner or related parties is sued for infringement of the patent. The present bill does not, however, bar the use of ex parte reexamination by third parties. The Patent Office and others persuaded me that these proceedings operate reasonably well in most cases and are not an undue burden on patent owners. The present bill does, however, impose limits on serial challenges that will also restrict the use of ex parte reexamination. The bill's enhanced administrative estoppel will effectively bar a third party or related parties from invoking ex parte reexamination against a patent if that third party has already employed post-grant or inter partes review against that patent.

Also, the bill allows the Patent Office to reject any request for a proceeding, including a request for ex parte reexamination, if the same or substantially the same prior art or arguments previously were presented to the Office with respect to that patent.

Senators Feingold and COBURN and I also recommended that the PTO be allowed to delay implementation of post-grant review if the office lacks the resources to implement that new proceeding. The present bill includes a number of safeguards that are the product of discussions with the PTO. Among other things, the present bill authorizes a ramp-up period, allowing the office to limit the number of proceedings that can be implemented during the first 4 years after the new proceeding becomes effective.

The 2009 Minority Report also recommended that treble damages be preserved as a meaningful deterrent to willful or calculated infringement of a patent. The present bill does so, eliminating the restrictive three-buckets approach and broad safe harbors that appeared in the bill in 2009. The report also recommended that the bill remove subjective elements from patent law, such as the various deceptive-intent elements throughout the code and the patent-forfeiture doctrines. The present bill effectively makes both changes. In fact, the 2007 bill had already been modified in mark up to eliminate the patent forfeiture doctrines, a point elucidated in that year's committee report and confirmed by a review of the relevant caselaw.

This last point should also help address a question that Mr. Quinn raised in his column on Sunday regarding proposed section 102(b)'s use of the word ''disclosure,'' and whether it covers public use or sale activities of the inventor. I would have thought that the meaning of the word would be clear: a disclosure is something that makes the invention available to the public—the same test applied by section 102(a) to define the scope of relevant prior art. And ''available to the public'' means the same thing that ''publicly accessible'' does in the context of a publication. Subject matter makes an invention publicly accessible or available if an interested person who is skilled in the field could, through reasonable diligence, find the subject matter and understand the invention from it. Obviously, Congress would not create a grace period that is narrower in scope than the relevant prior art. Thus for example, under this bill, any activity by the inventor that would constitute prior art under section 102(a)(1) would also invoke the grace period under section 102(b)(1). As a result, the inventor would be protected against his own activities so long as he files within a year, and under the bill's ''first to publish'' provisions, he would also be protected by any other person's disclosure of the invention, regardless of whether he could prove that the other person derived the invention from him.

The present bill is the product of almost a decade of hard work, including three Judiciary Committee mark ups, and the untold hours of work by Mr. SMITH and other members of the House of Representatives that led to the introduction of the Patent Reform Act of 2005, the foundation of today's bill. This is a bill that will protect our heritage of innovation while updating the patent system for the current century. It will fix problems with current administrative proceedings, create new means for improving patent quality, and will generally move us toward a patent system that is objective, transparent, clear, and fair to all parties. I look forward to the Senate's passage of this bill and its enactment into law.

I ask unanimous consent that Mr. Gene Quinn's columns of February 27, 2011, and November 7, 2009, with corrections of a few typos and enhancements of punctuation, be printed in the RECORD.

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

SENATE TO VOTE ON PATENT REFORM, FIRST TO FILE FIGHT LOOMS

(By Gene Quinn, President & Founder of IPWatchdog, Inc., Feb. 27, 2011)

It appears as if the time has finally arrived for an up or down vote on patent reform in the United States Senate. It has been widely reported that the full Senate will take up patent reform upon returning from recess this week, and it is now believed by many on the inside that the Senate will take up patent reform on Monday, February 28, 2011, the first day back. Some are even anticipating that the Senate will vote on patent reform bill S. 23 late in the day on Monday, February 28, 2011. See ''Crunch Time: Call Your Senators on Patent Reform.'' That would seem exceptionally quick, particularly given the rancorous issues and Amendments still to be presented, but nothing will surprise me.

As we get closer to a vote in the Senate the rhetoric of those for and against patent reform is heating up to a fever pitch. The big fight, once again, is over first to file, with battle lines drawn that run extremely deep. Senator Diane Feinstein (D–CA) is expected to file an Amendment stripping the first to file provisions, which could be supported by Senate Majority Leader Harry Reid (D–NV).

Before tackling the first to file issue I would like to point out that regardless of whether first to file is supported or opposed, everyone, and I do mean everyone, unanimously agrees that the USPTO should be allowed to keep the fees it collects to reinvest in the agency and to do the work promised. An overwhelming majority also seem to support giving the USPTO fee setting authority. Fee setting authority is present in S. 23 (see Section 9) and Senator Tom Coburn plans to introduce an Amendment that would once and for all eliminate fee diversion and let the USPTO keep the fees it collects. So while there is argument about first to file, hopefully we won't lose sight of the fact that most everyone is on the same team relating to fixing the USPTO.

With respect to first to file, in practical effect, we already have a first inventor to file system. For example, since the start of fiscal year 2005 on October 1, 2004, there have been over 2.9 million patent applications filed and only 502 Interferences decided. An Interference Proceeding occurs when multiple inventors file an application claiming the same invention, and is the hallmark of a first to invent system because it is possible in the United States to file a patent application second and then be awarded the patent if the second to file can demonstrate they were the first to invent. On top of the paltry 502 Interferences over nearly 7 years a grand total of 1 independent inventor managed to demonstrate they were the first to invent, and a grand total of 35 small entities were even involved in an Interference. A small entity can be an independent inventor, university, non-profit or a company with 500 or fewer employees. Thus, we have a de facto first to file system and the ''first to invent'' system that supposedly favors independent inventors is overwhelmingly dominated by large companies with over 500 employees. See chart below.

	2005	2006	2007	2008	2009	2010	2011*	Total
Filings	381797	417453	468330	496886	486499	509367	153997	2914329
Allowances	151077	162509	184376	182556	190122	233127	93390	1197157
Interferences decided	96	107	95	74	63	50	17	502
Junior party winners	18	15	21	25	14	17	3	113
Small entity winners	7	2	3	6	1	5	1	25
Independent Inventor winners	0	0	1	0	0	0	0	1
Small Entity losers	1	2	2	2	1	2	0	10

On top of this, the independent inventors and small entities, those typically viewed as benefiting from the current first to invent system, realistically could never benefit from such a system. To prevail as the first to invent and second to file you must prevail in an Interference proceeding, and according to 2005 data from the AIPLA the average cost through an interference is over $600,000. So let's not kid ourselves, the first to invent system cannot be used by independent inventors in any real, logical or intellectually honest way, as supported by the reality of the numbers above. So first to invent is largely a ''feel good'' approach to patents where the underdog at least has a chance, if they happen to have $600,000 in disposable income to invest on the crap-shoot that is an Interference proceeding.

I will acknowledge, however, that one of the best arguments I have seen against first to file was prepared by Hank Nothhaft, President & CEO of Tessera and a frequent contributor to IPWatchdog.com. In his op-ed in The Hill Hank concludes by asking: ''Why risk that by weakening the incentives for startups?'' As I can point to the fact that we have a de facto first to file system already, Hank and others can say—so why the need for change? I readily acknowledge that the small ''c'' conservative thing to do, which I normally promote, would be to do nothing

and keep the status quo. That is a fine argument, but it would keep the USPTO devoting precious resources on a complex Interference system that really mirrors a first to file system anyway. Of course, if patent reform gives the USPTO fee setting authority and an end to fee diversion, then the resources problem isn't nearly the concern and Congress could layer on responsibilities for the Patent Office and Team Kappos could deliver and still reduce the backlog.

Some others who challenge the first to file changes in the patent reform bill say the Interference analysis above is misplaced because first to file is not about whether the first to invent will obtain the patent. As illogical as that sounds, they have a point. Notice, however, that the Interference data does clearly demonstrate there is no need whatsoever for a first to invent system in the United States. Thus, many who challenge the first to file system don't seem to question that first to file is acceptable, but they do not like the loss of the familiar 12 month grace period.

The truth is, however, that relying on a 12 month grace period is extremely dangerous, but it does have its place. As Bryan Lord correctly explains in ''Crunch Time: Call Your Senators on Patent Reform,'' many start-up companies rely on the grace period, which is critical ''to companies that rely upon external collaborations or have comparatively limited resources.'' There is absolutely no argument with the fact that a grace period does factor into the equation for small businesses and start-up companies that are strapped for cash and already need to make choices about how much, and which, innovations to protect. I also like Lord's questioning the rush to harmonize. I always like to point out that harmonization is fine, but why can't we do what makes for a good system and not just what everyone else does. Let's harmonize what the world does better and let's lobby the world to adopt what our system clearly gets right.

Having said all of this, there is absolutely no reason why we cannot move from a first to invent system to a first inventor to file system that would still retain a real and substantial grace period and still retain the right for patent applicants to swear behind references to demonstrate an earlier date of invention, at least with respect to pieces of prior art that are not the progeny of earlier filed patent applications.

Regardless of the disinformation that is widespread, the currently proposed S. 23 does, in fact, have a grace period. The grace period would be quite different than what we have now and would not extend to all third party activities, but many of the horror stories say that if someone learns of your invention from you and beats you to the Patent Office, they will get the patent. That is simply flat wrong.

As it stands now, the currently proposed 102 in S. 23 says, in relevant part:

§102. CONDITIONS FOR PATENTABILITY; NOVELTY

(a) NOVELTY; PRIOR ART.—A person shall be entitled to a patent unless—

(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention; or

(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

(b) EXCEPTIONS.—

(1) DISCLOSURES MADE 1 YEAR OR LESS BEFORE THE EFFECTIVE FILING DATE OF THE CLAIMED INVENTION.—A disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if—

(A) the disclosure was made by the inventor or joint inventor or by another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

(B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

Looking at the proposed 102(b), it becomes clear that despite the claims of critics, there is a grace period within S. 23. I find it sad, yet amusing, that some who challenge the bill simply refuse to quote 102(b), and even outright claim ''there is no grace period.'' Obviously, there is a grace period.

The proposed 102(b) seeks to eliminate from the universe of prior art disclosures made by the inventor or which owe their substance to the inventor. So if the inventor discloses his or her invention less than a year before filing a patent application, the patent can still be awarded. If someone learns of the invention from the inventor and discloses less than a year before filing a patent application, the patent can likewise still be awarded. What is notably missing here are several things. First, a definition for ''disclosure.'' Second, an exception that applies to third-party activities where the third party acted without learning of information from the inventor but yet did not file a first application themselves. So the grace period set up by proposed 102(b) excepts disclosures (whatever they are) made by or through an inventor less than 1 year before the inventor files, but does not extend to disclosures (whatever they are) made by others less than 1 year before the inventor files.

The proposed 102(b) is a departure from the current law of novelty. Nevertheless, it is simply wrong to claim there is no grace period in an attempt to manipulate independent inventors, small businesses and others to support elimination of first to file.

In any event, under the current 102(b), a patent applicant is entitled to a patent unless—the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States . . .

Under current 102(b) an inventor can create their own bar to patentability as a result of activity such as publication, public use in the U.S. or sale in the U.S. if it occurs more than 1 year before a U.S. patent application is filed. A bar can likewise be created if a third party, either known or unknown to the inventor, engages in the same activity more than one year before a U.S. patent application is filed. What this necessarily means, and has long been interpreted to mean, is that a patent can be awarded so long as the invention has not been patented, published, on public use in the U.S. or on sale in the U.S. for more than 1 year. The current 102(b) provides a solid grace period that applies across the board, the proposed 102(b) does not.

Independent inventors and start-ups are rightly concerned about whether they will be able to enjoy a grace period relative to third party activities. They are rightly concerned to wonder whether the term ''disclosure'' in 102(b) would mean that the exception applied to their own public use or sale activities, which is anything but clear. Inventors and start-ups are also rightly concerned about whether they will be able to swear behind and prove prior inventorship relative to prior art not associated with an earlier filed patent application. In short, I see no reason why we cannot have a first inventor to file system that does away with Interference proceedings, awards patents to the first inventor who files a patent application, but which also preserves a 12 month grace period under current law.

Of course, if first to file as stated in 102(b) becomes the law of the land, it will encourage independent inventors to do exactly what they should do, which is file patent applications earlier in the process. I hear the most ridiculous strategies from independent inventors who almost universally don't understand the requirements to prove they were the first to invent, see ''Much Ado About Nothing,'' so a simpler system that they can understand will no doubt benefit them. Small businesses and start-ups should likewise file earlier in the process, and frankly that is why there is so much opposition to first to file.

Small businesses and start-up companies do need a grace period to try and figure out what to pursue, and the proposed grace period should keep much of the law in its place [but] will not be as widespread as currently enjoyed. While resources are always limited with start-ups, I think they incorrectly argue that there is an over-burdensome cost in terms of both money and time associated with filing provisional patent applications to preliminarily protect rights. In fact, I have offered to demonstrate just how the preparation and filing of streamlined provisional patent applications can be accomplished to many of those making the argument that it is too costly and time consuming to prepare quality provisional patent applications. As yet I have had no takers. So if cost and time are such concerns, why aren't they willing to consider a better, faster, cheaper way?

I think Bryan Lord's call to reach out to your Senators is absolutely the right thing to do. Get involved and be heard!

MUCH ADO ABOUT NOTHING OVER FIRST TO FILE

(By Gene Quinn, President & Founder of IPWatchdog, Inc., Nov. 7, 2009)

Just about 24 hours ago I posted an article relating to my changing position with respect to first to file, and already there is something of a firestorm. I understand there are those who feel I have abandoned them and adopted a naive view of the world. But excuse me for recognizing the new tone and identifiable actions taking place at 600 Dulany Street. Yes, I have been an ardent supporter of first to invent for years, but I have been questioning my views for some time, as I speak with attorneys, inventors and others. Then several things recently caused me to realize the benefits of first to file for the independent inventor community, and then I heard USPTO Director David Kappos explain that in 2007 only 7 cases were decided in favor of an individual who invented first and filed second. Kappos explained, ''we already have a de facto first to file system.'' All this arguing for 7 cases? Cases where once the rule changes, behaviors will change to the point where some, perhaps most, or even all of those 7 cases will never happen again because everyone will know they need to file rather than wait. On top of that, it is inarguably good, correct, legally sound and business-appropriate advice to file sooner rather than later.

In a spirited comment chain associated with the aforementioned first to file article many supporters of first to invent are coming out in force, and they don't even realize they are making arguments that hardly support their position and in fact support the

exact opposite position. I would like to address several here.

First, it seems that many believe it is not appropriate to file provisional patent applications because many of the applications that are filed are inadequate and insufficient. It has been brought up that an appropriate and good provisional patent application needs to be identical to a nonprovisional patent application, perhaps without having been spell-checked. Obviously this is a gross overstatement of the law, and not correct. It is true that a provisional patent application needs to be as complete as a nonprovisional patent application in terms of disclosure, but nothing more. There are no formalities that need to be met, and it is the substance that matters. Nonprovisional patent applications exalt form over substance in large part, but a good provisional patent application needs to focus on substance. Whatever someone of skill in the art would understand to be described and disclosed has been described and disclosed. So those who think they need to write a nonprovisional patent application and file it as a provisional are overstating, don't understand the law or have not developed a sophisticated strategy. But don't vilify those who do understand the law, business realities and have developed fundamentally sound strategies.

Second, there seems to be a belief that first to invent can be relied upon while provisional patent applications are inappropriate to rely upon if an invention matters. But what exactly does this mean? If you rely on first to invent and are operating at all responsibly you are keeping an invention notebook that will meet evidentiary burdens if and when it is necessary to demonstrate conception prior to the conception of the party who was first to file. You are also keeping an invention record that will demonstrate diligence as well, but let's focus on the substance of what is in the notebook or record for a moment. Appropriate notebooks and/or invention records will be able to identify conception and when it occurs. Of course you never want to box yourself in when you present evidence to say a date certain was the date of conception, but you had better have an appropriate record for if and when it does matter, as it did in Oka v. Youssefyeh, where the senior party and junior party both were able to prove the same date of conception. Ultimately the Federal Circuit said any ties go to the senior party, so it is not fanciful to identify an oddball fact pattern where actual dates matter. Here is a real case, and given the extremely limited number of interference proceedings even one case is a statistically relevant sample.

Now, if you are relying on first to invent and keeping the records that you should be keeping, your invention notebook or invention record will detail, describe, identify and date conception so that others skilled in the art will be able to look at the notebook/record and understand what you did, what you knew, and come to the believe that you did in fact appreciate what you had. If you have this, you have provable conception. If you have provable and identifiable conception, you also have a disclosure that informs and supports the invention. It is pure folly to suggest that a provisional patent application, albeit perhaps not as formally structured as a nonprovisional patent application, is a waste of time but also believe that the cryptic notes of an engineer or scientist are superior and even preferable. If the notebook provably demonstrates conception then it can be filed as a provisional patent application at least for the purpose of staking a claim to the conception that is detailed with enough specificity to later support an argument in a first to invent regime.

Finally, let me address the matter of what gets included in a typical invention notebook or invention record. It is almost unbelievable for me to hear patent attorneys state that they prefer the notes of inventors, scientists and engineers with respect to detailing and describing conception over a provisional patent application. Every patent attorney and patent agent knows the level of detail that is provided by inventors, even those who work for large corporations. The invention disclosures are as a rule laughably inadequate. One paragraph passes for a ''complete'' explanation of the invention. The truth is that patent attorneys are typically given very little from an inventor at the beginning of the process. In fact, inventors give such little information that at times the true inventor on the patent application that is actually filed should really be the patent attorney, not the inventor. That is obviously not always the case, but this is the big joke in the patent attorney community. Getting information from inventors is a little like herding cats. They are creative and they understand their invention, and they seem to universally believe that cryptic information ought to suffice. Remember, the goal is not to explain the invention so that the inventor understands, the goal is to explain the invention so that those who are not the inventor understand.

It borders on the absurd to prefer cryptic invention notes and invention records over provisional patent applications that are drafted by an attorney or agent who understands the legal requirements for providing an enabling disclosure that also satisfies the written description requirement. It also strikes me as particularly odd to say that those with nothing more than an idea will not have any time to figure out the particulars required to describe their invention. Why exactly are we worried that those without an invention may be impacted by first to file? They are already negatively impacted under first to invent because they have not yet invented and have no conception.

Most are undoubtedly familiar with the 80–20 rule, which goes something like this—it takes 20% of the time to complete 80% of the project, and the remaining 20% of the project takes 80% of the time to complete. That is true certainly with respect to software, which is my area of expertise, and it is true for many other areas of invention. It also happens to be true for writing patent applications as well, at least if you think outside the box and adopt a business friendly approach to writing patent applications, mining inventions, and identifying open space that can be filed. I realize that somewhere between 70–80% of patent attorneys and patent agents start by writing the claims, and then write the specification. I do it the other way, and I can't for the life of me understand those who write claims first. It is not wrong, just a different approach, but not the way I think.

I write text and then translate into claim language, which I find much easier to do. By doing this, and starting with a thorough patent search, patentability assessment, some mapping, and working with the inventor to continually refine understanding of what is most unique compared with the prior art, I am able to identify the base target, describe it in English, layer on specifics that take the form of alternative embodiments and versions and ultimately create an extraordinarily detailed specification that will support a multitude of claims. To do this takes about 20% of the time. The remaining 80% of the time is spent explaining how hip bone 15 is connected to thigh bone 18, writing sets of claims, and going back to continue to expand upon the disclosure to continually mine new areas and expand scope. I do not support filing crappy provisional patent applications, and it doesn't mean that a provisional patent application cooperatively created between inventor and patent attorney is ''easy to get around'' or at all inferior compared to an invention notebook or invention record.

Stop looking at first to file as a curse. It is an opportunity for inventors, small businesses and start-ups that are willing to see opportunity rather than obstacles. Venture capitalists who are savvy and willing to explore new methods and models for protecting early-stage technologies will be handsomely rewarded. Savvy independent inventors, closely held businesses and businesses that are ordered to take direction from venture capitalists or lose funding will clean up, and clean up big. And for crying out loud, when only 7 cases out of nearly 500,000 applications a year change as a result of first to file versus first to invent, there is no way that first to file will cripple the economy or cost jobs.

Mr. KYL. I would urge my colleagues to fully participate in this debate, come to the floor with any questions or comments they have, and at the end of this process Chairman LEAHY will finally be rewarded with a bill that will bear his imprimatur and support, a bill that will be extraordinarily important to the future well-being of the people of the United States of America.

Mr. LEAHY. Mr. President, the Senator has been involved in this right from the beginning. We have worked at having a bill that would be in the best interests of the Senate under both Republicans and Democrats across the political spectrum. We have worked very closely together.

We run the risk of countries in Asia and Europe out-innovating the United States, and the patent systems in other countries are well ahead of us. If we want to compete, as I know the Senator from Arizona does, and I know I do, we want to have the best tools to compete. I believe Americans can compete with any country in the world, but they should at least have the tools to do it and be able to play—it becomes almost a clich, but we have to play on a level playing field. This will allow us to do that.

I compliment the Senator from Arizona for the way he has worked in his constant efforts in the committee, the public meetings, but that is the tip of the iceberg; it is the hundreds of hours of behind-the-scenes working to reach where we are. So I hope sometime in the next few minutes or so we can at least vote on the managers' package and then get going with the bill, because this is something that can be voted on, can be passed. We have been working, as the Senator from Arizona knows, very closely with our counterparts in the other body. I know Chairman SMITH would like to move quickly. We could have a bill on the President's desk in a relatively short time.

I thank the Senator for his kind words.

Mr. KYL. I thank the chairman of the committee.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

AMENDMENT NO. 112

Mr. VITTER. Madam President, I ask for regular order on the Vitter amendment.

The ACTING PRESIDENT pro tempore. The amendment is now pending.

Mr. LEAHY. Madam President, I thought the amendment pending is the managers' amendment.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana has just called for the regular order with respect to his amendment.

AMENDMENT NO. 112, AS MODIFIED

Mr. VITTER. Madam President, I now send a modification to the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. _____. FULL FAITH AND CREDIT ACT.

(a) SHORT TITLE.—This section may be cited as the ''Full Faith and Credit Act''.

(b) PRIORITIZE OBLIGATIONS ON THE DEBT HELD BY THE PUBLIC.—In the event that the debt of the United States Government, as defined in section 3101 of title 31, United States Code, reaches the statutory limit, the authority of the Department of the Treasury provided in section 3123 of title 31, United States Code, to pay with legal tender the principal and interest on debt held by the public shall take priority over all other obligations incurred by the Government of the United States.

(c) PRIORITIZE PAYMENT OF SOCIAL SECURITY BENEFITS.—Notwithstanding subsection (b), in the event that the debt of the United States Government, as so defined, reaches the statutory limit, the authority described in subsection (b) and the authority of the Commissioner of Social Security to pay monthly old-age, survivors', and disability insurance benefits under title II of the Social Security Act shall be given equal priority over all other obligations incurred by the Government of the United States.

Mr. VITTER. Madam President, I will be happy to explain the context to the chairman of the committee.

This modification simply merges what was previously a separate Toomey amendment and a separate Vitter amendment. We had hoped to have votes on those as a first-degree and second-degree amendment. That wasn't possible, so this is a merged amendment. Let me explain what this amendment does.

The basis of this amendment is Senator TOOMEY's Full Faith and Credit Act. It is very important. It simply says if we ever as a country reach our debt ceiling, then even if we go beyond the debt ceiling, we will use all the tools available to the Treasury Secretary to continue for as long as possible to pay to make good on U.S. debt, we are not going to immediately default on U.S. debt.

There have been a lot of scare tactics, in my opinion, suggesting that if we ever reach that day of bumping up against our statutory debt ceiling, the very next day, the very next hour, the United States would default on its debt—not make good on our obligations of the U.S. Treasury. That isn't true. It doesn't have to be true. This important reform will ensure that it is not true. We get far more revenue into the U.S. Treasury than has to be spent simply to service the debt. So the underlying Toomey bill, which is the heart of this amendment, says we will make good on those obligations. They will be the top priority.

The original Vitter amendment, which is now merged together with the Toomey amendment, says the exact same thing with regard to Social Security payments. I am sure we would all agree that seniors on fixed incomes depend on their Social Security checks. So the Vitter part of this now merged Toomey-Vitter amendment says we will honor Social Security payments in the same status as debt payments and we will use Federal revenues first for those purposes before we do anything else. What that means is, if we ever do bump up on the debt ceiling, we would not stop Social Security checks the next day. We would not stop Social Security checks the next month. We could have many weeks—probably a few months—honoring all of those commitments in the areas of Social Security and debt on U.S. Treasury notes.

So that is the purpose of this now merged Toomey-Vitter amendment. We are not suggesting that it is necessarily a good idea to bump up the debt ceiling. We are saying, Let's all take a deep breath, let's not use scare tactics, let's not use hysteria, and let's plan ahead.

What we hope will be the outcome is that we will not only deal with the debt ceiling in a responsible way, but before that, we will also deal with our underlying fiscal crisis in a responsible way. We will make real and serious budget reforms to get on a fiscally sustainable path which we are clearly not on right now.

This morning Senator TOOMEY and I were in the Banking Committee hearing where Chairman Ben Bernanke of the Federal Reserve testified. Chairman Bernanke said again, as he has numerous times over the last year and more, that the fiscal path we are on as a Federal Government is completely unsustainable. He also said that is the single biggest long-term threat to our economy, and he also said while it is a long-term problem, it could manifest itself in serious negative consequences in the short term. So this could rattle our economy and even begin to create an economic crisis—who knows when—possibly in the short term.

So the clock is ticking and we need serious budget reform, and this combined Toomey-Vitter amendment would take the hysteria out of the discussion and hopefully urge us to take concrete action on that serious budget reform before it is too late.

With that, I wish to yield to my distinguished colleague from Pennsylvania.

Mr. LEAHY. Madam President, before he does that, would the Senator yield for a question?

Mr. VITTER. Yes.

Mr. LEAHY. The Senator from Louisiana has been talking about amendment No. 112. Does that mean you are withdrawing 113?

Mr. VITTER. Yes. We will be seeking a single vote on the amendment, as modified.

Mr. LEAHY. So am I correct that amendment No. 113 is withdrawn?

The ACTING PRESIDENT pro tempore. It is not withdrawn at this time.

Mr. VITTER. First of all, as I understand it, it has been modified, so it has become——

Mr. LEAHY. You modified No. 112. I didn't know what you wanted to do with amendment No. 113.

Mr. VITTER. If I could yield to my colleague from Pennsylvania, I think he can help answer the question. But to clarify from my point of view, we are seeking a vote—a single vote, which I think we are very close to locking in—on the new modified amendment, which is a combination of the separate Vitter and Toomey amendments.

Mr. TOOMEY. Madam President, I thank my colleague for yielding. I would say that as soon as we can work out the specifics with the staff, that is exactly the intention that Senator VITTER and I came to. So a single vote on the merger of two amendments.

I would take a moment to thank Senator VITTER for his help. Senator VITTER was kind enough to offer the text of my legislation as an amendment to the patent reform bill. What he is adding is suggesting that the legislation should require the Treasury to prioritize not only the debt service so we can avoid under all circumstances a default by the U.S. Government, but also making sure Social Security payments get the priority they deserve.

The fact is, in the unlikely—and I would say certainly unfortunate—event that we were to reach the debt limit without having raised it, the Federal Government would still take in more than enough revenue to pay all of the interest service on the debt and all Social Security benefits. It is entirely manageable from an operational and functional point of view. Total revenue to the government from taxes alone is on the order of 70 percent of all expected expenditures. Debt service is only about 6 percent.

I appreciate the help of the Senator from Louisiana. By combining this, what we do—if we can pass this legislation, which I hope we will—is take off the table the specter of a default. We can take off the table the specter of any senior citizen not getting their Social Security payment. What we can then do is have an honest discussion about how are we going to reform a process that has gotten us into this fix—gotten us to the point where we are running a deficit of 10 percent of GDP, where our total debt is screaming toward totally unsustainable levels.

I can tell my colleagues, the folks in Pennsylvania know very well we cannot continue living beyond our means as this government has been. I see this as a very constructive, important opportunity to begin to have this discussion about how we are going to get this process under control.

I appreciate the help from Senator VITTER, and I yield.

Mr. VITTER. Madam President, I thank my distinguished colleague. Again, this amendment, as modified, simply says that if we were ever to reach the statutory debt limit for the Federal Government, then revenue coming in would go first to service two things: Social Security checks and interest on the Federal debt. So that would not be put in jeopardy for months down the line.

The purpose of this amendment is to try to take, quite frankly, some of the scare tactics and some of the hysteria out of the debate and to urge us to act. None of us wants to bump up on the debt ceiling. None of us is advocating that. What we are advocating is to take action now, real serious budget reform, to put us on a more fiscally sustainable path. We need to do that now. That is why we came to the floor with these concerns on the patent bill. We need to do that now. We need to act now. We need to get on a fiscally sustainable path now. The clock is ticking, as Chairman Bernanke reminded us before the Banking Committee this morning.

With that, I look forward to locking in a vote on this matter, and in the consent that establishes that, we will be happy to withdraw the other amendment and simply have one vote on the now combined Toomey-Vitter amendment.

With that, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. COBURN. Madam 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. COBURN. Madam President, I wish to thank the chairman of the committee for his work on this patent bill. I still have a few small problems with it, but I am extremely grateful for his consideration of our amendment. Most people don't understand there are no tax dollars taken from the general fund for the Patent Office. It is all fees paid when you file a patent or a trademark or a copyright. Unfortunately, over the last 10, 15 years, $800 million of those fees have not been left at the Patent Office. They have been taken and used somewhere else. So when you pay a fee for a patent, that money isn't going to pay for the examination of the patent.

Right now, we find ourselves with 718,000 patents waiting for first action. If I file a patent today, what we will see is that 26 months from now my patent will have first action—the first reading by an examiner.

If we want to create jobs and stay on top of the world in terms of innovation, we cannot allow that process to continue. So what the amendment does is say we are not going to take the money people use to pay for a patent application and spend it somewhere else; we are actually going to spend it on patent applications. That is what it was set up for.

Quite frankly, it is immoral to take money for a specific purpose for advantaging an American company or inventor or a university and not apply that money for the intended purpose under the statute. Although this is controversial, most Americans would think, if you are paying $10 on a toll road, the money is going to keep the toll road up. Yet we haven't been doing that with the Patent Office.

We are in trouble not because of our Patent Office but because we have not enforced intellectual property rights owned by Americans around the world. So as we work on getting a patent bill and blending it with whatever the House passes, it is as important—again, I thank the chairman because he was kind enough to have a hearing on the intellectual property for us, in terms of its enforcement.

There are two key points for American innovation to bring jobs to America. One is when you get a good idea and have an ability to get it patented and can defend the patent. The other side of that is to enforce that patent throughout the world with our own Justice Department, in terms of our State Department and in terms of the intellectual property rights.

It is amazing how much of our intellectual property is being stolen by China today. I wish to relate a conversation I had with their Secretary of Commerce—their equivalent to ours—in China 3 years ago. I asked him about intellectual property rights. He was bold in his statement to say: We are not going to honor them. We are a developing nation and you would not have honored them either—even though they are a signatory to the World Trade Organization. It is important we understand whom we are dealing with—people who will cheat and steal intellectual property from America. Fixing the patent apparatus will help us get there, but it is just as important to have tough laws on our books that create sanctions on nations that do not honor intellectual property.

Again, this is a simple, straightforward, moral response to an immoral act: collecting fees for something and not spending it on that, which has put us behind the curve. This will bring us back. We have a wonderful new Director, over the last 18 months, in the Patent Office. It is being run better than ever. They are catching up. But last year we took $53 million of the fees that were for patents and spent it elsewhere. What this amendment does is stop that.

It may come to a time in this bill that we allow the Patent Office to set their fees. It will come to a time when we have to say: Wait a minute. You are charging too much. You have to be more efficient.

We don't do anything with oversight. We still have the oversight capability of all the Appropriations Committees. We have the ability to change this in the future in terms of their fee setting. If we do the proper oversight, we will spring forward with tremendous new technology that is protected and enable that capital expenditure that was spent to get that technology to flourish in terms of American jobs.

Again, I thank the chairman. He worked with me judiciously. It has been a pleasure to work with him. I thank him for his efforts on my behalf and that of the American inventors in this country.

Mr. LEAHY. Madam President, the Senator raised some questions with me, both in committee and out of the committee, with respect to each other's positions. I appreciate his work in the committee to expedite getting the bill out of the committee. Like him, I believe it is extraordinarily important to level the playing to allow American innovators to compete in the world and within our country. I compliment the Senator and, as he knows, I have included his proposal in the managers' amendment because I thought it was a good proposal.

Madam President, I ask unanimous consent that the time until 5 p.m. be for debate on the Leahy-Grassley amendment No. 121, as modified, which I believe is pending, and the Vitter for Toomey amendment No. 112, as modified, en bloc, and divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to a vote in relation to the Leahy-Grassley amendment No. 121, as modified; that upon disposition of the Leahy-Grassley amendment, the Senate vote in relation to the Vitter for Toomey amendment No. 112, as modified; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; and that there be no amendments in order to any of the amendments listed in this agreement prior to the vote; further, that the Vitter amendment No. 113, as modified, be withdrawn.

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

Mr. LEAHY. Madam President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. Madam 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.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I would like to express my strong support for Senator COBURN's proposal to

end Patent and Trademark Office fee diversion. It is a commonsense, entrepreneur friendly solution to many of the problems plaguing the Patent and Trademark Office.

Over the years, we have heard numerous complaints from constituents about the long time it takes the Patent and Trademark Office to review patent applications and render a final disposition. It is my understanding that in most cases, it takes almost 3 years for the Patent and Trademark Office to make a final decision on an application which can be costly to the applicant.

We have also heard from Patent and Trademark Office officials about the difficulties that have arisen because of their lack of control over the agency's funding model. There are 1.2 million patent applications currently pending at the Patent and Trademark Office but not enough resources to tackle the workload. The patent application backlog situation, while improving, is still a significant problem.

Senator COBURN's proposal strikes at the heart of both of these concerns by creating a revolving fund at the Treasury Department where patent and trademark fees that are paid to the Patent and Trademark Office are directly allocated back to the office. That way those funds can be utilized in a fashion most beneficial to inventors, small businesses, and academic institutions.

At his confirmation hearing in 2009, Patent and Trademark Office Director David Kappos told the Judiciary Committee that one of the most immediate challenges facing the office was ''the need for a stable and sustainable funding model.'' The financial crisis affecting the Patent and Trademark Office is a direct result of its current funding structure. The Patent and Trademark Office receives no taxpayer funds—it is solely funded by patent and trademark user fees. Yet, those fees are not deposited within the Patent and Trademark Office. They are instead diverted to the Treasury Department, forcing the Patent and Trademark Office to ask for funds generated by their own office to be appropriated back to them.

The Patent and Trademark Office often requests lower than the amount generated by patent and trademark fees, which results in any extra fees being diverted by Congress to address ''general revenue purposes.'' In fact, since 1992, Congress has diverted more than $750 million from the Patent and Trademark Office.

For example, as recent as 2007, 12 million user-fee generated dollars were diverted from the Patent and Trademark Office for ''other purposes.'' With 1.2 million patent applications pending—735,000 of which are simply waiting for a patent examiner to take a first action—it is clear that the Patent and Trademark Office is in dire need of those funds. I believe those fees belong to the Patent and Trademark Office and are needed by their offices to make the patent and trademark process more accessible and efficient for America's innovators.

By ending fee diversion and allowing the Patent and Trademark Office to structure its own funding model, resources would be directly allocated to areas of most concern for both the Patent and Trademark Office and American innovators. The Coburn proposal does both, and ensures that the ever expanding backlog of unexamined patent applications and the timeframe for actual examination would be addressed in an efficient manner. It is time for Congress to take action and allow the Patent and Trademark Office to control the user fees that we think they deserve so they can effectively serve our Nation's inventors and small businesses.

Madam President, I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

Mr. GRASSLEY. Madam 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. GRASSLEY. I ask unanimous consent that the quorum call be equally charged to both sides.

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

Mr. GRASSLEY. I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. Madam 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.

MEMBERS' PAY

Mrs. BOXER. Madam President, I think the managers are aware that I am going to make a unanimous consent request shortly on a bill that deals with Members' pay in the event of a government shutdown. I have been told we are waiting to see—there is apparently one objection on the Republican side. If we can clear it, then this will be passed. If not, then I will be back later to make the same request.

I say to my friend from Vermont and my friend from Iowa that I support the managers' package. It is terrific. One of the things in there is a Coburn-Boxer amendment that would keep the patent fees in the Patent Office. I am so glad the chairman sees it that way because we have such a tremendous backlog.

I will be happy to yield to my friend.

Mr. LEAHY. Madam President, I wish to ask a question about the proposal that the Senator from California will make on pay, which is fine with me. Can we not have an alternative in the bill that we give the money to charity so somebody would actually see it? This would be one one-hundred thousandth of 1 percent, according to the Treasury. The last time we had a shutdown, I just voluntarily gave $4,000, $5,000 to charity. Would it not make a lot more sense, and actually people might get some benefit from it, especially places such as homeless shelters? They are going to be hurt by a government shutdown. Why not do something where they would get the money directly?

Mrs. BOXER. That is a good idea. The reason I have done it this way is because I am trying to say that we in the Senate and in the House have an obligation to keep the government running, and we should be treated just like other Federal employees. That is the simplicity of this legislation. We cannot force a Member to give money to charity.

Mr. LEAHY. We could, actually, by saying either return it to the Treasury or give an equal amount to charity and file with the Secretary of the Senate to which charity they gave it.

Mrs. BOXER. Again, that is treating us differently than other Federal employees. That would be a tax writeoff.

Mr. LEAHY. Not if one gives the full amount.

Mrs. BOXER. It is a tax writeoff to give to charity. All I am saying is that is certainly another option if my friend wanted to change it.

I just think it is simple. We just want to be treated the same as other Federal employees, and that is how I have structured it.

I spoke about this issue this morning. I wrote this bill with the support of CASEY, MANCHIN, TESTER, NELSON of Nebraska, BENNET, WARNER, WYDEN, COONS, HARKIN, HAGAN, MENENDEZ, STABENOW, MERKLEY, and ROCKEFELLER. There is a growing consensus that we want to avoid a shutdown at any cost. I am hoping we will avoid it. There could come a moment where it is forced upon us. There are lots of stories—who will get the blame for this, that, and the other. To me, that is not important. What is important to me is that we sacrifice—we in the Senate and in the House as well.

I am hopeful that if we get this done and send this over to Speaker BOEHNER that he will get it through his body over there, and we can get this done and send it to the President. It impacts the President too. We say the President cannot get paid either because the deal is we have to work with the President to come up with a compromise.

Senator LEAHY has a good suggestion. Some people might like that option better. I believe this should be kept very simple; that in the case of a government shutdown we are treated the same way as other Federal employees. The reason we have to do this is Members of Congress and the President are paid by separate statute rather than by the annual appropriations process. We have to pass a separate statute on this issue. It is a very simple bill.

Again, I hope we never have to come to this, where we have any type of a shutdown. Maybe this bill will make some colleagues who believe they will be protected from sacrifice realize it is painful. It is painful for a lot of people. Certainly, it would be painful if somebody on Social Security or disability cannot get their payment. It is painful if veterans who are on disability do not get their check. It is certainly painful if a citizen is planning a trip and cannot get a passport. It is painful if Superfund sites cannot be cleaned up. It is painful if there is, God forbid, an oil well explosion because we did not have people there to inspect the oil well.

For our business people who are government contractors it is painful if they do not get paid. Export licenses must be granted, and our troops should be paid. So there is no reason why we should shut down this government, and I am very hopeful we will have unanimous consent to do it.

I have a parliamentary inquiry to ask the Chair: Is it true that we no longer have secret objections here; that a person has to identify themselves if they are objecting?

The ACTING PRESIDENT pro tempore. There are provisions that address people objecting to unanimous consent requests.

Mrs. BOXER. So would I be correct if I said that if someone objects, we would know who that individual is so we can speak with that individual? You said there are provisions. Could you be more specific about that?

The ACTING PRESIDENT pro tempore. If the Senator will hold for a minute.

Mrs. BOXER. Certainly.

The ACTING PRESIDENT pro tempore. We will get the provision and read it to you.

Mr. LEAHY. While the Senator is waiting for that, if I might ask the Senator a question.

Article 2 of the Constitution says:

> The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall be elected.

Would the Senator's amendment be constitutional under that provision? And remember that we voted to increase the pay of the President when President Clinton—if I could have the attention of the Senator—

Mrs. BOXER. I know this issue, yes.

Mr. LEAHY. Between the time when President Clinton was in office, but it did not take effect until President George W. Bush came in and it doubled the salary for President Bush but not President Clinton. How do you, by statute, change, even for a matter of days, a Presidential salary? Doesn't it violate article 2 of the Constitution?

Mrs. BOXER. We did check this with legal counsel, and they told us that the legislation, as drafted, does not increase or diminish the annual salary of the President. It withholds pay during a shutdown or failure to raise the debt ceiling.

There are definitely standing questions, and we are told that only the President would be able to challenge this legislation in a court of law.

Mr. LEAHY. But you are saying that even though it goes directly against the Constitution, which says his compensation shall neither be increased nor diminished during the period for which he shall be elected, that unless he objected—well, by the same token, why couldn't we raise the pay of a President unless he objected?

Mrs. BOXER. Well, I will repeat what I said. This legislation—

Mr. LEAHY. It seems to be a total violation of the Constitution.

Mrs. BOXER. This legislation, as drafted, does not increase or decrease the salary. If you withhold it, and if the President felt that was a violation, he himself would have to challenge it.

Mr. LEAHY. But we have some responsibility in this body to actually pass laws that are constitutional. It would, if there were a shutdown, and if upon a per-diem basis his salary was decreased, why isn't that de facto a violation of the Constitution?

Mrs. BOXER. Because we are not changing—diminishing—his salary.

Mr. LEAHY. Of course you are.

Mrs. BOXER. It is only in the case of an extraordinary event—a government shutdown.

Mr. LEAHY. The Constitution doesn't say anything about an extraordinary event.

Mrs. BOXER. The Senator may oppose it.

Mr. LEAHY. That is not my question.

Mrs. BOXER. I will repeat. We don't diminish, we withhold it during a period of a government shutdown or a failure to raise the debt ceiling. There is a reason we do it. It is very rare we have a government shutdown, but, in my view, and in the view of the cosponsors, this is a major function of our body and of the President—to avert a government shutdown. We don't think it is fair to treat some people differently than others. If other Federal employees are going to get their pay cut and your Social Security recipients don't get their checks, we think the Congress and the President ought to have a bite taken out of their pay as well.

Mr. LEAHY. I don't disagree with anything the Senator is saying, but how do you get—it would be like reducing a judge's salary. The Constitution specifically prohibits that. You say it is not reducing, but of course it is. If you say we are shut down 5 days, take whatever percentage 5 days of the President's annual salary is, you withhold it—you are not going to give it back when the government comes back into service—you have decreased his salary.

I am not suggesting not doing it for the Congress, but I don't see how—I am not sure what kind of example we set if we pass a piece of legislation which on the face of it violates the Constitution. I am not talking about Members of Congress. As I said, the last time we had a shutdown I took whatever was my amount and added it to the thousands and thousands of dollars I give every year to charity. I added it to that. But in this case, you go against article 2 by decreasing the President's salary.

Mrs. BOXER. No, we do not.

Mr. LEAHY. Of course you do.

Mrs. BOXER. We are not changing a penny of the President's pay. What we are saying is, in the event of a government shutdown, he will be treated the same way other Federal employees are treated and be treated in the same way we are treated. He can determine if he wants to challenge this in a court of law.

We hope we don't ever face this. So we are not in any way changing his salary. We hope never to have to use this.

Mr. LEAHY. So is the Senator saying we set the right example by passing a bill which, on the face of it, violates the Constitution, but it is okay unless somebody challenges it?

Mrs. BOXER. No, I am not. I will reiterate again what I said, which is this: We do not increase or decrease the President's pay.

Mr. LEAHY. You just cut it for those days.

Mrs. BOXER. Can I finish? I let you talk. Now I think I have a turn. I don't have a legal degree, my friend has. It is common sense. It seems to me it is a question of fairness. Those of us who are responsible for keeping this government open—

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. Then I will finish this thought.

We are responsible to keep this government open. If we fail to do that, we ought to be punished.

I am going to make a unanimous consent request at this time, and I understand there is an objection.

I suggest the absence of a quorum.

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

Mrs. BOXER. Madam 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.

Mrs. BOXER. Madam President, I have just been told a Republican colleague objects to this. I don't understand why. I don't think it is a constitutional objection. I don't know the reason.

The ACTING PRESIDENT pro tempore. The Senator is out of time.

Mrs. BOXER. Madam President, I ask unanimous consent to make my request.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. On behalf of Senator COBURN, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. BOXER. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator does not have enough time under her control to suggest the absence of a quorum.

The Senator from Louisiana.

Mr. VITTER. Madam President, I rise in strong support of the Toomey-Vitter amendment, which we will vote on in the series of two votes starting at 5 p.m. The idea behind the Toomey-Vitter amendment is very simple. It says if we ever reach the debt ceiling, the government, as a top first priority, will use revenue to pay two things: first, proper interest payments on our U.S. Government debt; and secondly, Social Security checks to seniors.

The motivation behind this amendment is simple. First, those two things should be legitimately a top priority. No one should want the U.S. Government to default on its debt and no one should want the immediate stoppage, or the stoppage at any time, of Social Security checks to seniors. So first, it is legitimate to rank those two functions as an absolute top priority.

The second motivation behind this amendment is to take some of these scare tactics and hysteria out of this debate. Too many people, in my opinion, have been saying if we ever reach the debt ceiling, the next day all Social Security checks will stop and all payments will stop on U.S. Treasury bills—on government debt. That is not true. There is no reason it has to be true. This amendment, when passed into law, will ensure it is not true. It will ensure we look at this situation with focus and calmness and not hysteria and scare tactics.

The goal, I am certain—and I know it is for Senator TOOMEY, my distinguished colleague from Pennsylvania—is not that we not default on our debt and not that we reach the debt ceiling, but it is that we take strong, responsible action well ahead of any threatened event to put us on a fiscally sustainable path.

Just this morning, both Senator TOOMEY and I were in a hearing of the Senate Banking Committee and the witness—the only witness—was Ben Bernanke, Chairman of the Board of Governors of the Federal Reserve. He said very clearly several things directly pertinent to this discussion. First, he said we are on a fiscally unsustainable path. Our budget situation is absolutely unsustainable. Second, he said that is the biggest long-term threat to our economy—the biggest threat. Third, he said that although it is a long-term problem, it could create a short-term crisis. It could create a crisis that could hit immediately, at any time. So we need to act and we need to act strongly.

Madam President, I yield time to the distinguished Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Madam President, I want say I object to the Vitter-Toomey bill. I am not going to pay China before I pay people.

The ACTING PRESIDENT pro tempore. The Senator has no time. The Senator's time has expired.

Mrs. BOXER. I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from—

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. I ask unanimous consent to speak to make a unanimous consent request.

Mr. VITTER. Madam President, I think I control the floor and I yield to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. Is there objection to the Senator's request for unanimous consent to make a unanimous consent request?

Mr. VITTER. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. BOXER. I want an answer, please, to my question: Can people object to a unanimous consent request without saying who they are, No. 1? And No. 2, what is the parliamentary procedure here?

The ACTING PRESIDENT pro tempore. The Senator from Louisiana objected to the unanimous consent request on behalf of the Senator from Oklahoma, Senator COBURN. The Senator from Louisiana objected to the extension of the unanimous consent request for additional time on his own behalf.

Mrs. BOXER. So it is the Senator from Oklahoma, Senator COBURN, who objects to the bill we have that would say we don't get paid in the case of a shutdown; is that correct? Senator COBURN is objecting to that?

The ACTING PRESIDENT pro tempore. That is the Chair's understanding.

All time remaining is under control of the minority.

Mrs. BOXER. Thank you.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I wish to thank Senator VITTER for yielding his time and for his help on this effort. I want to be very clear. First, I am not aware of anybody in this body or anybody I know who wants to see a government shutdown. I am not aware of anybody who wants to see the disruption that would result from failing to raise the debt ceiling at the appropriate time. But I also feel strongly it is critical we take this opportunity to begin to address the structural problems we have.

The fact is we have a burden of debt right now that is costing us jobs in this country today. The uncertainty it creates, the cost of financing this, the question of whether and for how long we can roll this over, the extent to which inflation becomes a problem, all of these risk factors are already weighing on our economy and our ability to create jobs now. For the future, it is an even bigger risk.

Senator VITTER and I have taken this step so we can have an honest discussion about how we are going to bring this spending under control and the process reforms we are going to make so we can hopefully get off this unsustainable path and get on a sustainable trajectory for the economic growth we need. That is ultimately what this measure is all about. It simply says that in the event we reach the debt limit without having raised it first—and let's face it, we have been there before. This has happened in the past. In the last 20 years, it has happened on several occasions. So it is entirely possible that, despite the best efforts of those of us who want to avoid it, it could happen again.

If it were to happen again, we want to make sure that we have no default on our debt, that interest is paid, and that Social Security checks go to the recipients as they should. There will be plenty of resources from ongoing tax revenue to make sure that happens, and anything less would be very irresponsible.

I urge my colleagues to vote in favor of this amendment.

DAMAGES LANGUAGE

Mrs. FEINSTEIN. Madam President, I commend the chairman of the Judiciary Committee for his hard work in putting together this managers' amendment and building consensus for this bill. Part of the managers' amendment strikes most of section 4 of the bill, relating to damages. As the chairman knows, I worked very hard on the ''gatekeeper'' damages language in this section of the bill. That language represented a compromise between high-technology companies, many located in my State of California, which believed that the law relating to patent damages needed reform, and other interests, including universities, biotech, pharmaceutical companies, and small inventors, who were greatly concerned that the preferred solution of the high-technology companies, namely apportionment of damages, would be destructive to the value of patents. However, since then, the courts have further developed the law relating to damages, so I understand that the chairman proposes to now strike the gatekeeper damages language from the bill.

Mr. LEAHY. Yes, the Senator is correct. I thank her for her hard work in putting together the gatekeeper damages language with Senator Specter and myself in committee last Congress. It was instrumental in helping to move this bill forward. However, as the Senator from California recognizes, the courts have advanced the law regarding damages since then. For example, in Uniloc USA, Inc. v. Microsoft Corp., decided just this year, the Federal Circuit held that expert testimony regarding a ''rule of thumb'' for allocating profits between a patent user and a patent owner did not meet the Daubert test for expert testimony, and was inadmissible. And in Lucent Technologies Corp. v. Gateway, Inc., the

Federal Circuit found that no rational jury could have concluded a ''tiny feature of one part of a much larger software program with numerous features . . . appear[ing] to account for the overwhelming majority of consumer demand'' was worth an 8% royalty.'' This represented a new, greater level of review for jury damages assessment. In light of cases like these, it no longer appears necessary for this bill to contain language regarding the assessment of damages.

Mrs. FEINSTEIN. Yes, many businesses in my State agree. I also believe that if the bill remains silent on damages, as the managers' amendment would do, that no harm will be done to the value of patents, which is so important for encouraging innovation. Is it the chairman's intention, in future discussions with the House of Representatives, to continue to have the bill remain silent on damages?

Mr. LEAHY. Yes, it is. The courts have been making good progress in developing the law in this area, and I do not believe patent reform legislation should interfere with this progress. Should the House propose or pass some language on damages, I will certainly consult with the Senator from California to obtain her views on that language.

Mrs. FEINSTEIN. I thank the chairman, very much, for his consideration.

The PRESIDING OFFICER (Mr. CASEY). All time has expired.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the Leahy-Grassley-Kyl, et al., managers' amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—97

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

NAYS—2

Mikulski Shelby

NOT VOTING—1

Akaka

The amendment (No. 121) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay upon the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent for 1 minute equally divided for each side to explain this next amendment.

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

Mr. BAUCUS. Mr. President, the next amendment is Vitter amendment No. 112, which potentially says the United States must pay its interest debt and Social Security benefits before it makes any other government obligations. I think that is a bad idea. That would bring economic chaos to our country. If we default, we default.

Just because the bondholders in China would get priority over our troops overseas or get priority over tax refunds does not mean we are not in default. Besides, it is bad policy anyway. This amendment would bring chaos. If we were ever to get to the point of being unable to raise our debt, it would bring chaos to pay the Chinese bondholders first before we pay anybody else. That is the wrong thing to do.

I do not think we want to get into a situation where we are going to tell the American people they are second to foreign investors. I strongly urge that this amendment be defeated. At the appropriate time I will move to table the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, if I can take the minute to rebut my colleague, first of all, it is true it would be very disruptive and there would be some chaos if we had a shutdown or if we eventually failed to raise the debt limit. This amendment, of course, does not cause that. This amendment, in fact, is designed precisely to prevent the kind of chaos that might otherwise ensue by simply ensuring that under no circumstances whatsoever would the United States Government default on its debt.

I think we all agree that the last thing we should ever tolerate would be a situation in which the United States Government would default on our debt. The chaos that would result from that would be devastating. So this is an amendment that says, in the event the debt limit is not raised when we reach it—and, by the way, we have been there before, so it is not inconceivable—that we would make sure we, under no circumstances, would default on the debt.

Because Senator VITTER offered a modification to this amendment, essentially the merger of these amendments ensures that Social Security payments would also go out. By the way, there is more than sufficient revenue from ongoing taxes to ensure that could be done. So in the interests of avoiding the chaos of an actual default, I think this absolutely should occur.

By the way, I think it is also important to note that a majority of all of the debt issued by this government is held by Americans. They are held by senior citizens who live in Allentown, PA, and who have saved their whole life and invested that savings in U.S. Treasury securities.

I think it is very important that we send the message to them that even if we are not able to get our work done and raise the debt limit, as I hope we will at the appropriate time, we certainly would not default on the debt they hold.

I yield the floor.

VOTE ON AMENDMENT NO. 112

Mr. BAUCUS. Mr. President, I move to table the Vitter-Toomey amendment No. 112, as modified, and ask for the yeas and nays on my motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

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.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 28 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—47

Alexander	Brown (MA)	Cochran
Ayotte	Burr	Collins
Barrasso	Chambliss	Corker
Blunt	Coats	Cornyn
Boozman	Coburn	Crapo

DeMint	Johnson (WI)	Risch
Ensign	Kirk	Roberts
Enzi	Kyl	Rubio
Graham	Lee	Sessions
Grassley	Lugar	Shelby
Hatch	McCain	Snowe
Hoeven	McConnell	Thune
Hutchison	Moran	Toomey
Inhofe	Murkowski	Vitter
Isakson	Paul	Wicker
Johanns	Portman	

NOT VOTING—1

Akaka

The motion was agreed to.

Mr. LEAHY. I want to thank all Senators for supporting adoption of the Leahy-Grassley-Kyl managers' amendment. This consensus amendment is a compromise that resolves a number of the key outstanding issues in the bill, including fee diversion, business method patents, damages and venue. I want to take a moment to discuss the importance of these provisions.

First, the provisions in this managers' amendment that end fee diversion from the PTO are supported by all corners of the patent community. Today, users fund 100 percent of the PTO's operations. The PTO does not take a dime of taxpayer money. For all of the improvements that this legislation makes to our patent system, the Patent Office will always be hindered if it cannot retain the funds it generates to more adequately plan for its future. Today, as we ask our Patent Office to unleash the best in innovation from our businesses, our Patent Office does not have the funding to do the same for itself. Ending fee diversion will better equip the patent office with the resources to tackle the complexities of the 21st century.

Second, the managers' amendment creates a temporary proceeding at the Patent Office to reexamine certain business method patents. I appreciate the work that Senator SCHUMER has done on this issue, and the provisions included in the managers' amendment represents a middle-ground that bridges a divide on this issue between the financial and tech communities that reside in all of our States.

Third, the managers' amendment strikes provisions on damages and venue. Removing these provisions addresses recent concerns voiced by certain Members of the House, and raised by the high-tech community.

Finally, this managers' amendment wraps in Senator BENNET's previously offered amendment to provide a 50-percent reduction in fees for small business accelerated patent applications at the PTO, as well as some technical amendments. This break for small businesses, which drive innovation and create jobs, will better enable them to compete with the demands of the 21st century.

As we return to the America Invents Act, I encourage any Senator who has a germane amendment to come and debate it now. This is bipartisan legislation that our economy desperately needs. It will allow the PTO to function, and our inventors and innovators to flourish. If any other Senators have amendments, this is the time. We need to move on to other pressing matters as soon as we complete work on this bill.

Mr. BENNET. Mr. President, I would like to speak briefly on my amendment to strike the damages and venue provisions from this legislation. I thank the chairman and committee for working with my office on this important amendment and incorporating it into the managers' amendment.

I know the committee has been working tirelessly to address concerns with this bill, and I applaud their efforts for trying to build consensus.

As I discussed yesterday, I believe a well-functioning patent system is critical for our economic growth. The reforms in this legislation will promote innovation and create jobs.

In my State alone, nearly 20,000 patent applications have been granted between the years 2000 and 2009. These applications have created the foundation for our clean energy economy and emerging tech and bio industries.

Small inventors start new Colorado companies, and more established companies are able to expand their operations in a very competitive, knowledge-based economy.

An efficient and high-quality U.S. Patent and Trademark Office is essential to maintaining American leadership in innovation. The improvements to the patent system in this bill will help us grow new industries and will help cure the backlog and delay that has stunted the ability of inventors to patent their ideas.

Right now, the average pendency period for a patent application is 36 months. That is unacceptable if we are to compete with the rest of the world. This doesn't even account for those patents that have been tied up in years of litigation after they are granted.

This is why we need to ensure that patent owners have certainty. Consistency, uniformity, and fairness are essential to innovation.

Prolonged litigation and legal uncertainty only serve to stifle the incentive to innovate. We need clarity and efficient review by the courts to make sure we don't have a system where patents are tied up for years. Likewise, we also need to make sure there is a fair outcome where there is an infringement. Those whose rights are infringed have every right to take their case to court and receive the appropriate damages.

This is why I introduced my amendment on damages and venue. We need more certainty for patent owners, and I think portions of the bill may not do enough in this regard, in the face of litigation. In fact, the venue and damages portions of the bill may actually generate more uncertainty, not less.

The Federal Circuit Court of Appeals has made significant progress on damages and venue issues. The courts are moving in the right direction, and I believe it is wiser to allow this process to run its course than to add a new layer of laws that could only serve to confuse patent litigants. So in my view, congressional intervention on damages and venue is not needed at this time.

I would like to close by again thanking the chairman for his leadership and willingness to take into account the views of others on these important issues.

The PRESIDING OFFICER. The Senator from California is recognized.

PROHIBITING MEMBERS OF CONGRESS AND THE PRESIDENT FROM RECEIVING PAY DURING GOVERNMENT SHUTDOWNS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of S. 388 and the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 388) to prohibit Members of Congress and the President from receiving pay during Government shutdowns.

There being no objection, the Senate proceeded to consider the bill.

Mrs. BOXER. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the matter be printed in the RECORD.

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

The bill (S. 388) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 388

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

SECTION 1. PROHIBITION ON PAY DURING GOVERNMENT SHUTDOWN.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code, has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

Mrs. BOXER. Mr. President, in 1 minute or less, I thank the occupant of the Chair very much for his strong cosponsorship of this bill, along with other colleagues.

Basically, we are saying that if we fail to keep this government open, or to lift the debt ceiling, we Members of Congress should not receive our pay. It is pretty straightforward.

I thank Senator COBURN. He had objected earlier. He backed off of his objection. He will make his own case for the RECORD.

He is making the case that Federal employees, such as nurses, or Superfund cleanup workers, or Border Patrol agents never get 1 penny of reimbursement or back pay. I think that is, in essence, unfair, if we have a government shutdown, to put it on the backs of the middle-class people who don't want to stay home; they want to work. I am glad he is allowing this to move forward.

We certainly will now ask our friends on the other side of the Capitol and Speaker BOEHNER to take this bill up post haste and get it going. Let's avoid a shutdown but make it clear that if there is one, we are going to take our lumps just like other Federal workers. I hope this will help avert a shutdown.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

PATENT REFORM ACT OF 2011—Continued

AMENDMENT NO. 124

Mr. MENENDEZ. Mr. President, I ask unanimous consent to set aside the pending business and I call up amendment No. 124, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ] proposes an amendment numbered 124.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for prioritized examination for technologies important to American competitiveness)

On page 104, strike line 23, and insert the following:

SEC. 18. PRIORITY EXAMINATION FOR TECHNOLOGIES IMPORTANT TO AMERICAN COMPETITIVENESS.

Section 2(b)(2) of title 35, United States Code, is amended—

(1) in subparagraph (E), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (F), by striking the semicolon and inserting ''; and''; and

(3) by adding at the end the following:

''(G) may, subject to any conditions prescribed by the Director and at the request of the patent applicant, provide for prioritization of examination of applications for products, processes, or technologies that are important to the national economy or national competitiveness, such as green technologies designed to foster renewable energy, clean energy, biofuels or bio-based products, agricultural sustainability, environmental quality, energy conservation, or energy efficiency, without recovering the aggregate extra cost of providing such prioritization, notwithstanding section 41 or any other provision of law;''.

SEC. 19. EFFECTIVE DATE.

Mr. MENENDEZ. Mr. President, the goal of the patent reform legislation is to incentivize investment in the American economy, to create jobs, and allow this great country to continue to win in the global marketplace.

The amendment I am offering here today would do just that. It would incentivize innovation and investment by prioritizing patents that are vital to the American economy and American competitiveness. It will enable us, in essence, to incentivize that innovation by creating that prioritizing.

My amendment would allow the Patent Office to prioritize patent applications that are vital to our national interests.

Specifically, the amendment says the Patent Office Director may prioritize the examination of applications for technologies that are important to the national economy or national competitiveness, such as green technologies designed to foster renewable energy, clean energy, biofuels, agricultural sustainability, environmental quality, conservation, or energy efficiency.

Currently, the Patent Office runs a green technology pilot program. An application for green technologies may be fast-tracked, leading to an expedited decision. This fast-track process is reserved for a small number of applications that are vitally important, so it has little to no adverse impact on other patent applications.

Currently, the patent process is rather lengthy. Patent decisions regularly take 2 to 3 years for a final decision. Our country is at risk of having vital new technologies buried in a sea of paperwork at the Patent Office. We want to make sure patents that are important to our national economy are fast-tracked rather than sidelined.

The goal here is to create jobs at home. We have to make sure the Patent Office has the resources and ability to prioritize patents that do just that—create jobs, incentivize investment, and support innovation. The Patent Office supports this amendment because they need the tools to make sure this bill reaches its intended goal of improving America's economy.

This amendment will create green jobs and support America's transformation to a self-sustaining economy that, among other things, is not reliant on foreign oil.

It is vitally important we do our best to ensure that all Americans have good-paying jobs and that we secure our Nation's economic future.

I ask my colleagues to support this amendment. It codifies an existing, successful program at the Patent Office. It is good commonsense policy that can help America propel forward in the 21st century.

Mr. WHITEHOUSE. Mr. President, I rise today to speak about the America Invents Act of 2011. As we all know, innovation, hard work, and ingenuity long have been the fuel of the American dream. This bill will make much needed improvements to our patent system to unleash the full power of American innovation once again. I am proud to be a cosponsor.

Before I speak in more detail about the importance of this bill, I would like to recognize the hard work of Senator LEAHY, the chairman of the Judiciary Committee. He long has sought to change our patent system from a drag on innovation into a driver of innovation. Chairman LEAHY has led bipartisan negotiations on this bill, seeking input from all segments of the American intellectual property community. I applaud his work with Senator GRASSLEY, Senator HATCH, and others of our colleagues in bringing this much needed legislation to the floor.

I take particular interest in this bill because of Rhode Island's long and proud history of innovation, from the birth of the American industrial revolution to the high-tech entrepreneurs leading our State forward today. An area has developed in Providence, for example, that is rightfully known by the nickname ''the Knowledge District'' for its remarkable innovation. We need to take every opportunity to support such work across our Nation.

Make no mistake, this legislation will drive innovation and create high-quality jobs. It will secure the foundations of new small businesses, encourage the discoveries made every day in our universities, and allow American companies to continue to lead the world in technology, medicine, and mechanical science.

Patent reform may be complicated, but these are not abstract issues. In my conversations with innovators in Rhode Island, it has become clear to me that the problems in our patent system are real and need to be fixed. Fail to do so and we will pay the price in jobs and international competitiveness.

Perhaps the most consistent concern I have heard back home has related to delays in the issuance of patents. Massive backlogs of patent applications persist at the Patent and Trademark Office, causing years of uncertainty over whether an innovator in fact has secured intellectual property rights in his or her invention. We have to fix this problem. Innovators in Rhode Island and elsewhere in this country must be able to gain patent protection for their inventions within a reasonable timeframe. Uncertainty and delay in patent protection will dampen and frustrate innovation.

The America Invents Act takes on this problem by allowing the Patent and Trademark Office discretion to set its own fees. Coupled with exceptions that will ensure low fees for small businesses, this provision will enable the Patent and Trademark Office to better manage its resources and reduce examination times.

I also support Senator COBURN's amendment to restrict fee-diversion and enable the Patent and Trademark Office, which does not depend at all on taxpayer funding, to be properly resourced with examiners who can work through the patent application backlog. This provision raises issues

beyond the jurisdiction of the Judiciary Committee and as a result was not considered previously, but I trust it will win the support of our colleagues on the floor. I am glad that this provision has been included in the managers' amendment, of which I am a cosponsor.

My conversations with Rhode Island inventors also made clear that the fear of protracted litigation also dampens innovation. Unfortunately, numerous poor-quality patents have issued in recent years, resulting in seemingly endless litigation that casts a cloud over patent ownership. Administrative processes that should serve as an alternative to litigation also have broken down, resulting in further delay, cost, and confusion.

The America Invents Act will take on these problems by ensuring that higher quality patents issue in the future. This will produce less litigation and create greater incentives for innovators to commit the effort and resources to create the next big idea. Similarly, the bill will improve administrative processes so that disputes over patents can be resolved quickly and cheaply without patents being tied up for years in expensive litigation.

This body must not pass up this chance to enhance innovation and energize our economy. We must see this bill through the Senate, and we must work with the House to see it passed promptly into law. It is true that the bill is a compromise and may not reflect all of everyone's priorities. Improvements to the bill may still be possible. To that end, I expect a productive debate on the floor and a constructive dialog with the House. I look forward to continuing to work with the chairman, my colleagues, and all interested parties to craft a bill that generates the broadest consensus possible.

But we must not lose sight of the need for action. Our patent system has gone 60 years without improvements. It needs repair. Now is the time to energize our innovation economy, to create jobs, and to secure continuing American leadership in the fields of medicine, science, and technology. Hard work and ingenuity long have been the backbone of this country. Let's not get in their way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMERICA INVENTS ACT

Mr. SCHUMER. Mr. President, I rise to speak in support of the America Invents Act generally and about the managers' amendment specifically. The America Invents Act, also known as the patent reform bill, has been pending for many years and has been the subject of extensive debate, negotiation, and revisions. In its current draft, it does much needed good to help protect the American innovation economy by updating and modernizing our patent system.

The patent system in the United States is designed to protect innovation and inventions and investment. But over the last several decades, the Patent and Trademark Office has become bogged down and overburdened by inefficient process and outdated law. The result is a heavy burden on the innovative work that is the engine of our economy.

I wish to commend Senator LEAHY. He has gone the extra mile for this bill for many years. I am proud and glad he is seeing his work come to fruition as we finally debate the bill on the floor. Passage of the bill is in sight. I also wish to commend the ranking member of the Judiciary Committee, Senator GRASSLEY, who worked with him, as well as Senator KYL, who has taken a leading role on the Republican side, for their hard work in crafting a bill that effectively modernizes the patent system, while paying attention to the many and varied demands different sectors of the economy exert upon it.

I am particularly pleased the chairman has decided to adopt the Schumer-Kyl amendment on business method patents into the managers' amendment. It is a critical change that this bill finally begins to address the scourge of business method patents currently plaguing the financial sector. Business method patents are anathema to the protection the patent system provides because they apply not to novel products or services but to abstract and common concepts of how to do business.

Often, business method patents are issued for practices that have been in widespread use in the financial industry for years, such as check imaging or one-click checkout. Because of the nature of the financial services industry, those practices aren't identifiable by the PTO as prior art and bad patents are issued. The holders of business method patents then attempt to extract settlements from the banks by suing them in plaintiff-friendly courts and tying them up in years of extremely costly litigation.

This is not a small problem. Around 11,000 new applications for patents on business methods are filed every year, and financial patents are being litigated almost 30 times more than patents as a whole. This is not right, it is not fair, and it is taking desperately needed money and energy out of the economy and putting it into the hands of a few litigants. So I am very pleased Congress is going to fight it.

The Schumer-Kyl amendment, which was included in the managers' package we just adopted, will allow companies that are the target of one of these frivolous business method patent lawsuits to go back to the PTO and demonstrate, with the appropriate prior art, that the patent shouldn't have been issued in the first place. That way bad patents can be knocked out in an efficient administrative proceeding, avoiding costly litigation.

One of the most critical elements of this amendment has to do with the stay of litigation while review of the patent is pending at the PTO. The amendment includes a four-factor test for the granting of a stay that places a very heavy thumb on the scale in favor of the stay. Indeed, the test requires the court to ask whether a stay would reduce the burden of the litigation on the parties and the court. Since the entire purpose of the transitional program at the PTO is to reduce the burden of litigation, it is nearly impossible to imagine a scenario in which a district court would not issue a stay.

In response to concerns that earlier versions of the amendment were too broad, we have modified it so it is narrowly targeted. We want to make sure to capture the business method patents which are at the heart of the problem and avoid any collateral circumstances.

In conclusion, I believe the amendment takes an important step in the direction of eliminating the kinds of frivolous lawsuits the jurisprudence on business method patents have allowed. I am very grateful to the chairman and the ranking member, Senator KYL, and I support the managers' amendment and the America Invents Act as a whole.

Finally, I would like to say a few words about Senator COBURN's proposal on fee diversion. I think his idea, which is incorporated in the managers' amendment, makes a lot of sense; that is, to let the PTO keep the fees they charge so they are self-funded and we don't have to spend taxpayer money to fund them every year.

Last year, when we were debating the Wall Street reform bill, Senator JACK REED and I made a similar proposal for the SEC, which ultimately didn't make it into the final bill. I just wanted to

take this time to make a few points about this commonsense proposal.

First, for the last 15 years, the SEC hasn't spent a dime of taxpayer money. For 15 years, the SEC has had no impact on the deficit. This is because Congress, in 1996, amended the securities laws to provide that 100 percent of the SEC's funding comes from registration and filing fees charged by the Commission.

Second, even though the SEC collects more in fees every year than it spends, the amount of the SEC's annual budget is determined by Congress, which has continually shortchanged the SEC. The SEC's budget has been in the crosshairs for years, and their funding has been so inadequate that they have been compromised in their ability to pursue their core mission.

Third, the budget proposal in the House would continue the shortchanging of the SEC, cutting $40 million from its existing budget at a time when it needs resources more than ever.

Finally, a word about the current demands on the SEC. We gave that agency significant new responsibilities under the Dodd-Frank Act, in particular to oversee the previously unregulated derivative markets. That is an enormous undertaking that everybody agrees is necessary after seeing the role that unregulated derivatives played in the financial crisis.

In closing, I would strongly suggest to my colleagues that if self-funding makes sense for the PTO, it makes sense for the SEC. I am not going to call up my amendment now or my bill now, but I urge my colleagues to support this commonsense proposal Senator REED and I are pushing and ensure it gets a full hearing in the Senate.

I thank the Chair for his time and attention.

COMMITTEE ON APPROPRIATIONS RULES OF PROCEDURE

Mr. INOUYE. Mr. President, the Senate Appropriations Committee has adopted rules governing its procedures for the 112th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator COCHRAN, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

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

SENATE APPROPRIATIONS COMMITTEE RULES—112TH CONGRESS

I. MEETINGS

The Committee will meet at the call of the Chairman.

II. QUORUMS

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of staff members at closed sessions of the Committee shall be limited to those members of the Committee staff who have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARINGS

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the full Committee for its decision.

VI. AVAILABILITY OF SUBCOMMITTEE REPORTS

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. AMENDMENTS AND REPORT LANGUAGE

To the extent possible, amendments and report language intended to be proposed by Senators at full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. POINTS OF ORDER

Any member of the Committee who is floor manager of an appropriations bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriations bill.

IX. EX OFFICIO MEMBERSHIP

The Chairman and Ranking Minority Member of the full Committee are ex officio members of all subcommittees of which they are not regular members but shall have no vote in the subcommittee and shall not be counted for purposes of determining a quorum.

COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE

Mr. LEVIN. Mr. President, I ask unanimous consent that the rules of procedure of the Committee on Armed Services be printed in the RECORD.

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

RULES OF PROCEDURE OF THE COMMITTEE ON ARMED SERVICES

1. REGULAR MEETING DAY.—The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman, after consultation with the Ranking Minority Member, directs otherwise.

2. ADDITIONAL MEETINGS.—The Chairman, after consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

3. SPECIAL MEETINGS.—Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. OPEN MEETINGS.—Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. PRESIDING OFFICER.—The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the Ranking Majority Member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. QUORUM.—(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee. (See Standing Rules of the Senate 26.7(a)(1)).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, nine members of the Committee, including one member of the minority party; or a majority of the members of the Committee, shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. PROXY VOTING.—Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which the member is being recorded and has affirmatively requested that he or she be so recorded. Proxy must be given in writing.

8. ANNOUNCEMENT OF VOTES.—The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The Chairman, after consultation with the Ranking Minority Member, may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. SUBPOENAS.—Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued, after consultation with the Ranking Minority Member, by the Chairman or any other member designated by the Chairman, but only when authorized by a majority of the members of the Committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. HEARINGS.—(a) Public notice shall be given of the date, place and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) The Chairman of the Committee or subcommittee shall consult with the Ranking Minority Member thereof before naming witnesses for a hearing.

(e) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the Chairman and the Ranking Minority Member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(h) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. NOMINATIONS.—Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. REAL PROPERTY TRANSACTIONS.—Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. LEGISLATIVE CALENDAR.—(a) The clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. POWERS AND DUTIES OF SUBCOMMITTEES.—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen, after consultation with Ranking Minority Members of the subcommittees, shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

YOUTH ART MONTH

Mr. JOHNSON of South Dakota. Mr. President, today I recognize Youth Art Month and congratulate Samantha Kenaston of Mitchell, SD, on designing the winning State entry for the national student flag design program. Each March, the Council for Art Education sponsors National Youth Art Month. I appreciate the importance of arts education for children of all ages and am pleased with the work being done across South Dakota to promote and spotlight student artwork.

This year marks the 50th anniversary of National Youth Art Month. This month, schools across our country will partner with local businesses and communities to support the arts and display students' art work. In South Dakota, the Dakota Discovery Museum in Mitchell, the Aberdeen Recreation and Culture Center, and Presentation College in Aberdeen are just a few of the partners that will be hosting galleries and shows to display the artwork of South Dakota's many talented student artists.

This is the first year South Dakota has participated in the Youth Art Month flag design competition. Students from across our State designed flags to creatively represent the essence of our great State. I congratulate Samantha ''Sam'' Kenaston on designing the winning flag for the inaugural South Dakota Youth Art Month flag design competition. Sam is a seventh grade student at Mitchell Middle School. According to Sam's teacher, Ms. Renee Berg, Sam is a talented student and art is her favorite class. Sam also has a love for animals, which is often reflected in her artwork, and she aspires to become a veterinarian when she grows up.

Sam's winning flag features a drawing of a pheasant, the State bird of South Dakota. Sam's flag will be displayed on March 9, 2011, at a ceremony in Washington, DC, to honor the winners of the State flag competition, and her flag will then be displayed in Seattle, WA, at the National Art Education Conference.

As a member of the Senate Cultural Caucus, I recognize the importance of promoting arts and humanities in our communities and schools. I am pleased that Youth Art Month activities in South Dakota and across our country are highlighting the importance of art for our children's education. I am proud of Sam and the many talented student artists in our State.

REMEMBERING SEAN PATRICK McGEE

Ms. STABENOW. Mr. President, I come to the floor with the hardest speech I have ever made, to pay tribute to Sean Patrick McGee, a member of my staff who passed away suddenly over the weekend at the very young age of 26.

There really are no words to describe the tragedy of losing somebody so young, especially someone like Sean, who was so smart and so filled with promise. His death is painful for all of us who knew him, but the way he lived his life is really a source of hope and inspiration for us.

Every single day, Sean worked hard to help others. Before coming to my office, he was a congressional liaison at the American Legion Auxiliary, where he was an advocate for veterans, servicemembers, and their families. He joined my team in April of 2009, and quickly impressed everyone with his

work ethic and his dedication. It didn't take long before he was promoted and took on additional responsibilities, working on some of the most difficult and complex issues that in which we have been involved.

He was really the heart of my staff working on finance issues. He spent a lot of time with retirees who lost their pensions when our auto companies went through bankruptcy, and he talked with them all the time to keep them updated on what we were doing to help. He took the lead on housing issues, working with families whose dreams were shattered when their homes were lost to foreclosure. He spent his final days working on an amendment that I cosponsored to help retired pilots who lost their pensions when the airline they worked for went bankrupt. He was so proud that we were able to include that amendment in the Federal Aviation Administration bill.

During our work last year on the Small Business Jobs Act, Sean's help was absolutely invaluable. He put together information for small business owners letting them know how to take advantage of the new law. He grew up in Farmington Hills, MI, and he was a very important part of our team working on issues related to the automobile industry, so critical for Michigan's future and for our economy.

He took great pride in his work for our great State. Through hard work and service, he achieved the rank of Eagle Scout—the highest rank in scouting. When he applied for a job in our office he wrote, ''At a young age, I was volunteering to do community . . . service in Metro Detroit to better the community and that work shaped my desire to serve Michigan.'' And he served Michigan well.

In college, he secured a coveted internship in the office of the Governor, working in constituent services. After graduation, he worked on a congressional campaign and for Senator LEVIN's campaign, always willing to lend a hand and make a difference.

What really stands out about Sean is how good he was with people. On Capitol Hill, patience is sometimes a rare commodity, but Sean had more than enough to go around. When everyone was running a mile a minute, Sean was a beacon of calm. When his coworkers were stressed to the point of breaking, Sean could diffuse it with a wonderful one-liner that brought everything back into context.

He was also an amazing friend and had a quiet, charming sense of humor. His favorite day of the week was when the cafeteria served chicken wings. He would get a group together and go down to lunch on ''wing day''—he looked forward to that day all week long.

Sean McGee was a young man who brightened so many of our days, and he will be terribly missed.

I offer my sincerest condolences to his parents Tom and Sharon, to his brother Tom, and to his girlfriend of many years, Katie Kulpa, whom Sean loved so much. Sean was a gift to all of us, and we will always be thankful for the precious time we had with him.

Next Tuesday would have been Sean's 27th birthday. It is hard to believe we won't be able to celebrate with him. But we can honor him by living our lives as he did.

William Penn, one of the founders of our great Nation, said, ''I expect to pass through life but once. If therefore, there be any kindness I can show, or any good thing I can do to any fellow being, let me do it now, and not defer or neglect it, as I shall not pass this way again.''

That is how Sean lived his life, and that was the gift that he gave to all of us who knew him.

ADDITIONAL STATEMENTS

TRIBUTE TO VICTORIA MALOCH

• Mr. BOOZMAN. Mr. President, today I recognize Victoria Maloch from Magnolia, AR, for being selected for participation in the annual United States Senate Youth Program.

Created in 1962, the United States Senate Youth was organized to encourage an understanding of our government with an emphasis of how its three branches work and how elected officials work for their constituents and create policies that impact our Nation and the world. The weeklong visit to Washington, DC, allows students to meet and interact with lawmakers, appointed officials and staff who are involved in crafting legislation and making decisions that influence our laws.

This program brings together some of our Nations top youth leaders, like Victoria, who show a commitment to public service. An outstanding student at Emerson High School, Victoria excels both in and out of the classroom.

She serves as president of the 4–H Club and Future Farmers of America; vice president of Arkansas Junior Brangus Breeders Association; secretary of the Science Club and captain of Quiz Bowl. Victoria is a member of the Beta club, Future Business Leaders of America, and Family Career and Community Leaders of America. She was a People-to-People ambassador and volunteers in her community with the Youth Advisory Council and Today's Youth Tomorrow's Leaders program. Victoria plans to attend the University of Arkansas and continue her education in law school.

Victoria is very deserving of this honor. I congratulate her for her determination, dedication, and service and encourage her growth as a leader.•

30TH ANNIVERSARY OF MARIN AGRICULTURAL LAND TRUST

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 30th anniversary of Marin Agricultural Land Trust, MALT. Located in Marin County, CA, MALT was the first land trust in the United States to focus explicitly on farmland preservation. Since its founding in 1980, MALT has successfully protected more than 41,800 acres of California's land on 66 family ranches and farms.

Thirty years ago, in response to a changing economy and increasing urban expansion, biologist Phyllis Faber and dairywoman Ellen Straus recognized that in order to preserve Marin's 150-year-old tradition of family farming and protect the county's tremendous natural resources, ranchers and environmentalists would need to work together. Phyllis and Ellen cofounded MALT, bringing together a diverse coalition of ranchers and environmentalists who came together to pursue their vision for conserving Marin's pristine farmlands. By providing an alternative to the sale of farmland, MALT has protected thousands of acres of open grasslands, fertile floodplains, oak woodlands, and mixed evergreen forests that would otherwise have been sold or developed.

Working in areas stretching from the salt marshes of Tomales Bay to the Douglas-fir forest crowning Hicks Mountain, MALT continues to be an environmental and community leader. In addition to establishing easements, MALT runs a variety of stewardship and educational programs, including its Farm Field Studies Program in which more than 1,700 students from 35 schools recently participated. MALT also coordinates hikes and tours, giving residents opportunities to explore and experience Marin's stunning agricultural landscapes first hand.

MALT is also doing its part to reduce greenhouse gases and integrate the agriculture industry into the fight against climate change. As a founding member of the Marin Carbon Project, MALT is working with project partners in an attempt to sequester carbon in Marin's rangeland soil using agricultural management strategies.

Due to the dedicated efforts of its 5,000 members, staff, volunteers, funders, and partner agencies, MALT has helped revitalize local agriculture while preserving the ecological value of the land. Each year, Marin County produces millions of dollars in livestock, livestock products, feed, and crops, without diminishing the county's biological vitality.

Over the past year, despite difficult economic times, MALT achieved permanent protection for a goat dairy, a small-scale sheep ranch, and a grade A Holstein dairy that has been in operation since 1933. These crucial projects were funded through a combination of grants from public agencies and donations from private individuals.

The Marin Agricultural Land Trust's vision and commitment to protecting California's ecological, environmental, and agricultural endowment should be commended. Please join me in congratulating MALT for its three decades

of hard work and wishing MALT much more success in the years to come. I look forward to future generations having the opportunity to enjoy Marin County's rich agricultural tradition and natural beauty.●

REMEMBERING FRED HILL

● Mrs. BOXER. Mr. President, I take this opportunity to honor the memory of a very special man, Frederick ''Fred'' Hill of Sonoma County, who died on February 9, 2011. He was 75 years old.

Fred Hill was a man of many talents and will be fondly remembered for his diverse work in the literary world. Born in Philadelphia, PA, Fred went on to attend Brown University. Following graduation, Fred served in the Army before getting a job as a travelling textbook salesman with Knopf. He later worked for Little, Brown as a Western States salesman and then as head of the company's international division. Throughout this transformative time of travel and networking, Fred realized his gift: he loved writers, he loved publishers, and he was uniquely gifted in his ability to interact with and explain one to the other.

Fred relocated to the San Francisco Bay area in the late 1970s. In 1979, after 5 years as general manager at Sierra Club Books, he rented an office on Union Street and opened his own agency, which is now run by his business partner, Bonnie Nadell. Fred remained on Union Street, in one office or another, until he decided to move his business to Glen Ellen, where he resided with his partner, Peter Gilliam.

The job of a literary agent is all encompassing, as their success depends on their client's success. Authors bestow a great deal of trust to their agents, and I know personally that Fred Hill was an outstanding agent. He was able to be encouraging and yet be critical where warranted.

Fred worked diligently to advance the products and interests of his clients, and could always be counted on to excite virtually anyone about a client's book. Fred's clients ranged from best-selling novelist Richard North Patterson to nonfiction writer Michael Murphy. He also worked with an extensive list of food writers, including Carol Field, Hubert Keller, David Lebovitz, and Gerald Hirigoyen.

Those who knew Fred Hill recognized him as a uniquely innovative and brilliant man. His work in the literary world will be remembered fondly by all those whose lives he touched. He will be deeply missed.

Fred is survived by his partner of 31 years, Peter Gilliam.●

TRIBUTE TO SUE ROUST

● Mr. JOHNSON of South Dakota. Mr. President, today I recognize a devoted and dedicated public servant in my home State of South Dakota. Sue Roust has served as Minnehaha County auditor for five terms and is retiring.

During her tenure of public service in Minnehaha County, the number of registered voters in the county has grown from 75,000 to over 108,000. She has effectively managed 24 county elections as well as Sioux Falls city and school elections. In total, she has overseen the counting of over 1.3 million ballots.

Additionally, Sue manages the accounting functions for the county. During her 20 years of service, the county budget has quadrupled. She has provided oversight and counsel on a number of important issues impacting the county. She has also utilized her position as county auditor to educate the general public on numerous issues. She has maintained a high level of professionalism and commitment to community service during her two decades of service.

In addition to her elected service, Sue has served in various leadership capacities for many community organizations, including the PTA, Boy Scouts, Girl Scouts, United Way, the Sioux Falls Washington High School Booster Club, the Dow Rummel Village board of trustees, the Sioux Falls Business and Professional Women, and the First Congregational Church. She currently serves on the board of Here4Youth, an organization which provides day care and out-of-school care to children ages 3–21 with a special emphasis on children with special needs.

I commend Sue for her great dedication and commitment to the people of Minnehaha County and the State of South Dakota. She can take great pride in her service. I want to wish Sue and her family all the best in retirement and good luck in all future endeavors.●

TRIBUTE TO THE DOLAN-JUSTICE FAMILY

● Mr. JOHNSON of South Dakota. Mr. President, today I wish to pay tribute to the Dolan-Justice family on the 100th anniversary of owning the Grant County Review of Milbank, SD. This occasion highlights the Dolan-Justice family commitment to the newspaper industry and to the Grant County community.

On February 11, 1911, 24-year-old William S. Dolan acquired the Grant County Review. This started a 46-year adventure as editor of the small town weekly newspaper. In a time with virtually no access to television or radio, the local newspaper was the only source of news for small town South Dakota. With no experience in news media, William quickly learned the ropes. The Grant County Review became a family affair. William's wife, Christine Olson, was a trusted adviser to the paper, and his sister-in-law, Victoria Olson, even set the type on the linograph machine by hand. While other surrounding newspapers folded, William's accounting background and hard work enabled the Grant County Review to continue through the 20th century. A fierce rivalry began between the Grant County Review and the Herald Review, pitting each paper against each other for advertisers and breaking news stories. Often Dolan and the editor of the Herald Review would trade blows in the editorial section of their papers.

Sticking with the family tradition for journalism, William's daughter Phyllis pursued a journalism degree at South Dakota State University and the University of Minnesota. She then came back to write for the paper and help her father run the day-to-day activities. The family paper soon hired a printer, Clarence Justice. Clarence worked for many papers before coming to the Grant County Review, including the Miller Gazette, the Interlakes Daily, and the Miller Press. After William S. Dolan passed away, his family took over operation of the Grant County Review, with his wife Christine served as the new publisher, and his daughter Phyllis as the new editor.

William always fought for small business and rural farmers, and served as the president for the Board of Regents, overseeing South Dakota's public universities. In 1962, William S. Dolan was elected to the South Dakota Newspaper Hall of Fame. In 1982, Phyllis was elected as the first female president of the South Dakota Press Association, and in 1988 she joined her father in the South Dakota Newspaper Hall of Fame. Phyllis' boundary breaking honors serve as an inspiration to women in journalism. Clarence and Phyllis both received distinguished service awards for their work in journalism for the South Dakota Newspaper Association. In 1997, the Grant County Review received the distinguished Bishop Dudley award from the Diocese of Sioux Falls, for Clarence and Phyllis' dedication to integrity and religious values. The Grant County Review has the largest readership of any weekly newspaper in the State. This achievement highlights the incredible devotion this family and the paper's employees have to the responsibility of disseminating the news. I am proud to honor the Dolan-Justice family on reaching this hallmark, and on being reliable, responsible members of the journalism community.●

MESSAGES FROM THE HOUSE

At 10:40 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that that House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 347. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

H.R. 368. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

H.R. 386. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

H.R. 394. An act to amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes.

At 5:05 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H. J. Res. 44. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 347. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code; to the Committee on the Judiciary.

H.R. 368. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary.

H.R. 386. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; to the Committee on the Judiciary.

H.R. 394. An act to amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1. An act making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–693. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: Mechanical Fitting Failure Reporting Requirements'' (RIN2137–AE60) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–694. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Limiting the Use of Electronic Devices by Highway'' (RIN2137–AE63) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–695. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Enhanced Enforcement Authority Procedures'' (RIN2137–AE13) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–696. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Temporary Security Zones; San Francisco Bay, Delta Ports, Monterey Bay and Humboldt Bay, CA'' (Docket No. USCG–2010–0721) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–697. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Regulations; Long Island Sound'' (Docket No. USCG–2008–0171) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–698. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Sacramento New Year's Eve, Fireworks Display, Sacramento, CA'' ((RIN1625–AA00) (Docket No. USCG–2010–1079)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–699. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Fireworks Displays, Potomac River, National Harbor, MD'' ((RIN1625–AA00) (Docket No. USCG–2010–076)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–700. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Richardson Ash Scattering by Fireworks, San Francisco, CA'' ((RIN1625–AA00) (Docket No. USCG–2010–0902)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–701. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Gulf Intracoastal Waterway, Mile Marker 49.0 to 50.0, West of Harvey Locks, Bank to Bank, Bayou Blue Pontoon Bridge, Lafourche Parish, LA'' ((RIN1625–AA00) (Docket No. USCG–2010–0999)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–702. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Thea Foss and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA'' ((RIN1625–AA11) (Docket No. USCG–2008–0747)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–703. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL; Safety Zone, Chicago Sanitary and Ship Canal, Romeoville, IL'' ((RIN1625–AA11 and RIN1625–AA00) (Docket No. USCG–2010–1054)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–704. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Protection for Whistleblowers in the Coast Guard'' ((RIN1625–AB33) (Docket No. USCG–2009–0239)) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–705. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Delmarva Scallop Access Area to Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) Scallop Vessels'' (RIN0648–XA171) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Commerce, Science, and Transportation.

EC–706. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Removal of Expired Federal Aviation Administration Regulations and References'' ((RIN2120–AA66) (Docket No. FAA–2011–0092)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–707. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Expired Federal Aviation Administration Regulations and References'' ((RIN2120–AA66) (Docket No. FAA–2011–0092)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–708. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Muncie, IN'' ((RIN2120–AA66) (Docket No. FAA–2010–1032)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–709. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Martinsville, IN'' ((RIN2120–AA66) (Docket No. FAA–2010–1031)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–710. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class B Airspace; Cleveland, OH'' ((RIN2120–AA66) (Docket No. FAA–2009–0514)) received

during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–711. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Platinum, AK'' ((RIN2120–AA66) (Docket No. FAA–2010–1105)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–712. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Barrow, AK'' ((RIN2120–AA66) (Docket No. FAA–2010–0722)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–713. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Savoonga, AK'' ((RIN2120–AA66) (Docket No. FAA–2010–1103)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–714. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2010–0068)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–715. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Payments in Support of Emergencies and Contingency Operations'' ((RIN0750–AF51) (DFARS Case 2009–D020)) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Armed Services.

EC–716. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Preservation of Tooling for Major Defense Acquisition Programs'' ((RIN0750–AG45) (DFARS Case 2008–D042)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Armed Services.

EC–717. A communication from the Assistant Secretary of the Navy (Research, Development and Acquisition), transmitting, pursuant to law, a report relative to overseas ship repairs; to the Committee on Armed Services.

EC–718. A communication from the Principal Deputy Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to Title 10, U.S. Code 2464 requiring notification of Congress the first time a weapon system or other item of military equipment is determined to be a commercial item; to the Committee on Armed Services.

EC–719. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (2) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–720. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to current military, diplomatic, political, and economic measures that are being or have been undertaken to complete our mission in Iraq successfully; to the Committee on Armed Services.

EC–721. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA–7923)) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–722. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA–02010–0003)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–723. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer and Reorganization of Bank Secrecy Act Regulations—Technical Amendment'' (RIN1506–AA92) received in the Office of the President of the Senate on February 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–724. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Minimum Capital—Temporary Increase'' (RIN2590–AA01) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–725. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to the progress made in licensing and constructing the Alaska Natural Gas Pipeline; to the Committee on Energy and Natural Resources.

EC–726. A communication from the Chief, Branch of Foreign Species, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Listing Seven Brazilian Bird Species as Endangered Throughout Their Range'' (RIN1018–AV74) received in the Office of the President of the Senate on February 16, 2011; to the Committee on Environment and Public Works.

EC–727. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendment to the Definition of Fuel-Burning Equipment'' (FRL No. 9268–2) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Environment and Public Works.

EC–728. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''License and Certificate of Compliance Terms'' (RIN3150–AI09) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2011; to the Committee on Environment and Public Works.

EC–729. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Notice of Availability of Model Application and Safety Evaluation for Plant-Specific Adoption of TSTF–423, Revision 1 'Technical Specifications End States, NEDC–32988–A''' (NUREG–1433 and NUREG–1434) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2011; to the Committee on Environment and Public Works.

EC–730. A communication from the Chief Counsel of the Fiscal Service, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Minimum Interest Rate'' (31 CFR Part 356) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Finance.

EC–731. A communication from the Commissioner of the Social Security Administration, transmitting, pursuant to law, a report relative to the Administration's processing of continuing disability reviews for fiscal year 2009; to the Committee on Finance.

EC–732. A communication from the President of the United States of America, transmitting, pursuant to law the Economic Report of the President together with the 2011 Annual Report of the Council of Economic Advisers; to the Joint Economic Committee.

EC–733. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, status reports relative to Iraq for the period of October 20, 2010 through December 20, 2010; to the Committee on Foreign Relations.

EC–734. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Fiscal Year 2010 Annual Report on U.S. Government Assistance to and Cooperative Activities with Eurasia; to the Committee on Foreign Relations.

EC–735. A communication from the Deputy Director for Operations, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits'' (29 CFR Part 4022) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–736. A communication from the Deputy Director for Operations, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits'' (29 CFR Part 4022) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–737. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; General and Plastic Surgery Devices; Classification of Contact Cooling System for Aesthetic Use'' ((21 CFR Part 878) (Docket No. FDA–

2010–D–0645)) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–738. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Food and Drug Administration's annual Report to Congress on the Food and Drug Administration Advisory Committee Vacancies and Public Disclosures; to the Committee on Health, Education, Labor, and Pensions.

EC–739. A communication from the Secretary of Education, transmitting, pursuant to law, the Fiscal Year 2010 Annual Performance Report; to the Committee on Health, Education, Labor, and Pensions.

EC–740. A communication from the Director of Legal Affairs and Policy, Office of the Federal Register, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Regulations Affecting Publication of the United States Government Manual'' (A.G. Order No. 3252–2011) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–741. A communication from the Secretary of Energy, transmitting, pursuant to law, the Fiscal Year 2010 Agency Financial Report; to the Committee on Homeland Security and Governmental Affairs.

EC–742. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Appeal Authority when Researcher Privileges are Revoked'' (RIN3095–AB69) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–743. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Definition of Tulsa County, Oklahoma, and Angelina County, Texas, to Nonappropriated Fund Federal Wage System Wage Areas'' (RIN3206–AM22) received in the Office of the President of the Senate on March 1, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–744. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the Shreveport, LA; Texarkana, TX; Milwaukee, WI; and Southwestern Wisconsin Appropriated Fund Federal Wage System Wage Areas'' (RIN3206–AM28) received in the Office of the President of the Senate on March 1, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–745. A communication from the Executive Director, Christopher Columbus Fellowship Foundation, transmitting, pursuant to law, the General/Trust Fund Financial Statements for Fiscal Year 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–746. A communication from the Executive Director, Christopher Columbus Fellowship Foundation, transmitting, pursuant to law, the Fiscal Year 2010 Performance Accountability Report and Financial Statements; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SCHUMER, from the Committee on Rules and Administration, without amendment:

S. Res. 81. An original resolution authorizing expenditures by committees of the Senate for the periods March 1, 2011, through September 30, 2011, and October 1, 2011, through September 30, 2012, and October 1, 2012, through February 28, 2013.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN:

S. 422. A bill to improve consumer access to passenger vehicle loss data held by insurers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURR:

S. 423. A bill to amend title 38, United States Code, to provide authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER (for himself, Mr. ROBERTS, and Mr. CONRAD):

S. 424. A bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program; to the Committee on Finance.

By Mr. UDALL of Colorado (for himself, Ms. STABENOW, Mr. ISAKSON, Mr. CASEY, and Mr. JOHANNS):

S. 425. A bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANDERS (for himself, Mr. BROWN of Ohio, and Ms. MIKULSKI):

S. 426. A bill to strengthen student achievement and graduation rates and prepare young people for college, careers, and citizenship through innovative partnerships that meet the comprehensive needs of children and youth; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 427. A bill to withdraw certain land located in Clark County, Nevada, from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. MCCASKILL:

S. 428. A bill to establish the Office of the Inspector General of the Senate; to the Committee on Rules and Administration.

By Mrs. MCCASKILL:

S. 429. A bill to improve the reporting requirements relating to foreign travel by members of Congress and the use of foreign currency; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KIRK (for himself and Mr. DURBIN):

S. Res. 80. A resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights; to the Committee on Foreign Relations.

By Mr. SCHUMER:

S. Res. 81. An original resolution authorizing expenditures by committees of the Senate for the periods March 1, 2011, through September 30, 2011, and October 1, 2011, through September 30, 2012, and October 1, 2012, through February 28, 2013; from the Committee on Rules and Administration; placed on the calendar.

By Mr. PAUL:

S. Res. 82. A resolution to provide sufficient time for legislation to be read; to the Committee on Rules and Administration.

By Mr. REED (for himself and Ms. COLLINS):

S. Res. 83. A resolution designating March 2, 2011, as ''Read Across America Day''; considered and agreed to.

By Mr. CASEY (for himself, Mr. BURR, Mr. BROWN of Ohio, Mr. MENENDEZ, Mr. CARDIN, Mr. LEAHY, Mrs. BOXER, Mrs. HAGAN, Mrs. GILLIBRAND, Mr. MANCHIN, Mr. UDALL of New Mexico, and Mr. LAUTENBERG):

S. Res. 84. A resolution expressing support for internal rebuilding, resettlement, and reconciliation within Sri Lanka that are necessary to ensure a lasting peace; considered and agreed to.

By Mr. MENENDEZ (for himself, Mr. KIRK, Mr. LAUTENBERG, Mr. DURBIN, Mrs. GILLIBRAND, Mr. SANDERS, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. CASEY, Mr. WYDEN, and Mr. CARDIN):

S. Res. 85. A resolution strongly condemning the gross and systematic violations of human rights in Libya, including violent attacks on protesters demanding democratic reforms, and for other purposes; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. CHAMBLISS, Mr. WARNER, Ms. MIKULSKI, Mr. RUBIO, Mr. BURR, Ms. SNOWE, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. BLUNT, Mr. RISCH, Mr. LEVIN, Mr. MCCAIN, and Mr. SHELBY):

S. Res. 86. A resolution recognizing the Defense Intelligence Agency on its 50th Anniversary; to the Select Committee on Intelligence.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 23

At the request of Mr. LEAHY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

S. 202

At the request of Mr. PAUL, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 202, a bill to require a full audit of the Board of Governors of the Federal Reserve System and the Federal Reserve banks by the Comptroller General of the United States before the end of 2012, and for other purposes.

S. 219

At the request of Mr. TESTER, the name of the Senator from Iowa (Mr.

HARKIN) was added as a cosponsor of S. 219, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 248

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 248, a bill to allow an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act.

S. 249

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 249, a bill to amend the Endangered Species Act of 1973 to provide that Act shall not apply to any gray wolf (Canis lupus).

S. 255

At the request of Mr. ENSIGN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 255, a bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

S. 294

At the request of Mr. SANDERS, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 294, a bill to enhance early care and education.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 388

At the request of Mrs. BOXER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 388, a bill to prohibit Members of Congress and the President from receiving pay during Government shutdowns.

S. 414

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. CON. RES. 4

At the request of Mr. SCHUMER, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. CON. RES. 7

At the request of Mr. BARRASSO, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 20

At the request of Mr. JOHANNS, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. Res. 20, a resolution expressing the sense of the Senate that the United States should immediately approve the United States-Korea Free Trade Agreement, the United States-Colombia Trade Promotion Agreement, and the United States-Panama Trade Promotion Agreement.

S. RES. 47

At the request of Mr. ROBERTS, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of S. Res. 47, a resolution recognizing the importance of biosecurity and agrodefense in the United States.

AMENDMENT NO. 112

At the request of Mr. VITTER, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of amendment No. 112 proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

AMENDMENT NO. 116

At the request of Mr. BENNET, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 116 proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. ENSIGN):

S. 427. A bill to withdraw certain land located in Clark County, Nevada, from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today with my good friend Senator ENSIGN to introduce the Sloan Hills Withdrawal Act of 2010.

For nearly a decade, there has been heated debate over a proposal to permit a sand and gravel mine on public lands next door to a Henderson community with over 13,000 residents—many of whom are retired seniors. Local citizens have voiced serious safety and community health concerns about the mine. I have listened to their concerns and share their opposition to the mine.

That is why I am re-introducing legislation to stop the development of the proposed 640-acre gravel pit by withdrawing the area from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral materials. This legislation ensures the safety of Nevadans and puts an end to this proposed mining operation once and for all.

The opposition to the proposed gravel mine is overwhelming. I have received petitions with thousands—literally thousands—of signatures from people who are up in arms over the proposed gravel mine because of its potential effect on the health of residents and the toll that operations would have on an otherwise peaceful community. The project would be located on federal land, so local governments are limited in their ability to influence the outcome of the Sloan Hills proposal. It is clear, though, that the location envisioned for this project is not in the best interests of our community.

Despite strong local opposition, the Bureau of Land Management has undertaken an evaluation of the proposed gravel operation at Sloan Hills. If approved, the resulting mine would blast rock, crush gravel, kick up dust, and consume precious water resources up to twenty-four hours a day, every day, for thirty years. This would all be done just a stone's throw away from peaceful Henderson neighborhoods. Residents are justifiably worried that this project will reduce their home values, harm their health, and impact their overall quality of life.

Most troublesome to Henderson residents are large clouds of fine particulate matter that would be generated by mining activities at the Sloan Hills site. This dust pollution, kicked up by the proposed gravel operation, could exacerbate air quality challenges in the Las Vegas Valley and would be particularly troublesome for the nearby, age-restricted communities—home to many seniors already suffering from respiratory problems.

This bill is important to me and to the people of southern Nevada. I want to thank Steve Sisolak, vice chair of the Clark County Commission, for all his hard work championing this issue in Southern Nevada. Keeping our communities safe, healthy, and livable is critical.

I appreciate your help and I look forward to working with Chairman BINGAMAN, Ranking Member MURKOWSKI and the other distinguished members of the Senate Energy Committee to move this legislation forward in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 427

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sloan Hills Withdrawal Act''.

SEC. 2. WITHDRAWAL OF SLOAN HILLS AREA OF CLARK COUNTY, NEVADA.

(a) DEFINITION OF FEDERAL LAND.—In this section, the term ''Federal land'' means the land identified as the ''Withdrawal Zone'' on the map entitled ''Sloan Hills Withdrawal Area'' and dated February 24, 2011.

(b) WITHDRAWAL.—Subject to valid rights in existence on the date of introduction of this Act, the Federal land is withdrawn from all forms of—

(1) location, entry, and patent under the mining laws; and

(2) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 80—CONDEMNING THE GOVERNMENT OF IRAN FOR ITS STATE-SPONSORED PERSECUTION OF ITS BAHA'I MINORITY AND ITS CONTINUED VIOLATION OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Mr. KIRK (for himself and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 80

Whereas, in 1982, 1984, 1988, 1990, 1992, 1994, 1996, 2000, 2006, 2008, and 2009, Congress declared that it deplored the religious persecution by the Government of Iran of the Baha'i community and would hold the Government of Iran responsible for upholding the rights of all Iranian nationals, including members of the Baha'i faith;

Whereas the 2010 Department of State International Religious Freedom Report stated, ''Since the 1979 Islamic Revolution, more than 200 Baha'is have been killed, and many have faced regular raids and confiscation of property.'';

Whereas the 2009 Department of State Human Rights Report stated, ''The government [of Iran] continued to repress Baha'is and prevent them from meeting in homes to worship. It banned them from government and military leadership posts, the social pension system, and public schools and universities unless they concealed their faith.'';

Whereas, on October 15, 2010, the United Nations Secretary-General issued a special report on human rights in Iran, stating that ''the Baha'i, who comprise the country's largest non-Muslim religious minority, face multiple forms of discrimination and harassment, including denial of employment, Government benefits and access to higher education'';

Whereas, on December 21, 2010, the United Nations General Assembly adopted a resolution (A/RES/65/226) noting ''serious ongoing and recurring human rights violations'' in Iran, including against the Baha'i community;

Whereas, in November 2007, the Ministry of Information of Iran in Shiraz jailed Baha'is Ms. Raha Sabet, 33, Mr. Sasan Taqva, 32, and Ms. Haleh Roohi, 29, for educating underprivileged children, and gave them 4-year prison terms;

Whereas Ms. Sabet remains imprisoned in Iran;

Whereas Ms. Sabet, Mr. Taqva, and Ms. Roohi were targeted solely on the basis of their religion;

Whereas, in March and May of 2008, intelligence officials of the Government of Iran in Mashhad and Tehran arrested and imprisoned Mrs. Fariba Kamalabadi, Mr. Jamaloddin Khanjani, Mr. Afif Naeimi, Mr. Saeid Rezaie, Mr. Behrouz Tavakkoli, Mrs. Mahvash Sabet, and Mr. Vahid Tizfahm, the members of the coordinating group for the Baha'i community in Iran;

Whereas, in August 2010, the Revolutionary Court in Tehran sentenced the 7 Baha'i leaders to 20-year prison terms on charges of ''spying for Israel, insulting religious sanctities, propaganda against the regime and spreading corruption on earth'';

Whereas the lawyer for these 7 leaders, Mrs. Shirin Ebadi, the Nobel Laureate, has been denied all access to the prisoners and their files;

Whereas these 7 Baha'i leaders were targeted solely on the basis of their religion;

Whereas, in February 2011, the Revolutionary Court in Tehran sentenced human rights activist and follower of the Baha'i faith, Navid Khanjani, to a 12-year prison term on charges of ''propaganda against the regime by publishing news, reports, and interviews with foreign TV and radio,'' among others;

Whereas the Government of Iran is party to the International Covenants on Human Rights; and

Whereas the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111–195) authorizes the President and the Secretary of State to impose sanctions on ''the officials of the Government of Iran and other individuals who are responsible for continuing and severe violations of human rights and religious freedom in Iran'': Now, therefore, be it

Resolved, That the Senate

(1) condemns the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights;

(2) calls on the Government of Iran to immediately release the seven leaders and all other prisoners held solely on account of their religion, including Mrs. Fariba Kamalabadi, Mr. Jamaloddin Khanjani, Mr. Afif Naeimi, Mr. Saeid Rezaie, Mr. Behrouz Tavakkoli, Mrs. Mahvash Sabet, Mr. Vahid Tizfahm, Ms. Raha Sabet, and Mr. Navid Khanjani;

(3) calls on the President and Secretary of State, in cooperation with the international community, to immediately condemn the Government of Iran's continued violation of human rights and demand the immediate release of prisoners held solely on account of their religion, including Mrs. Fariba Kamalabadi, Mr. Jamaloddin Khanjani, Mr. Afif Naeimi, Mr. Saeid Rezaie, Mr. Behrouz Tavakkoli, Mrs. Mahvash Sabet, Mr. Vahid Tizfahm, Ms. Raha Sabet, and Mr. Navid Khanjani; and

(4) urges the President and Secretary of State to utilize all available measures, such as those available under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and Executive Order 13553, to sanction officials of the Government of Iran and other individuals directly responsible for egregious human rights violations in Iran, including against the Baha'i community.

Mr. KIRK. Mr. President, today I rise to introduce a bipartisan resolution with my colleague Senator DURBIN condemning the government of Iran for its state-sponsored persecution of the Baha'i minority.

Founded in Iran in 1844, the Baha'i faith now has more than 5 million adherents in 236 countries and territories. The Baha'is comprise the largest religious minority in Iran.

The Baha'is preach tolerance, diversity and equality. Yet since the Islamic Revolution of 1979, the Baha'is have faced brutal and unrelenting persecution in Iran. According to the U.S. State Department, more than 200 Baha'is have been killed since 1979.

The Baha'is are regularly denied employment, access to higher education, and face multiple forms of discrimination and harassment.

In August 2010, the Iranian government sentenced seven leaders of Iran's Baha'i community to 20-year prison terms on charges of ''spying for Israel, insulting religious sanctities, propaganda against the regime and spreading corruption on earth.'' Their lawyer has been denied all access to the Baha'i prisoners and their files. Last month, the Revolutionary Court in Tehran sentenced a Baha'i human rights activist, Navid Khanjani, to a 12-year prison term on charges that included ''propaganda against the regime by publishing news, reports, and interviews with foreign TV and radio.''

The United States and the international community need to act now.

The bipartisan resolution condemns the Iranian regime's continued persecution of its Baha'i minority, calls on the regime to release Baha'i political prisoners and urges President Obama and Secretary Clinton to designate Iranian officials and other individuals directly responsible for egregious human rights violations in Iran.

The plight of Baha'is in Iran should be deeply personal to all Americans. I call on the administration to elevate human rights in Iran, including the plight of Iranian Baha'is, to the top of the international agenda.

SENATE RESOLUTION 81—AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE FOR THE PERIODS MARCH 1, 2011, THROUGH SEPTEMBER 30, 2011, AND OCTOBER 1, 2011, THROUGH SEPTEMBER 30, 2012, AND OCTOBER 1, 2012, THROUGH FEBRUARY 28, 2013

Mr. SCHUMER submitted the following resolution; from the Committee on Rules and Administration; which was placed on the calendar:

S. RES. 81

Resolved,

SECTION 1. AGGREGATE AUTHORIZATION.

(a) IN GENERAL.—For purposes of carrying out the powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate there is authorized for the period March 1, 2011, through September 30, 2011, in the aggregate of $70,790,674, for the period October 1, 2011, through September 30, 2012, in the aggregate of $121,355,435, and for the period October 1, 2012, through February 28, 2013, in the aggregate of $50,564,763, in accordance with the provisions of this resolution, for standing committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Committee on Indian Affairs.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for

agency contributions related to the compensation of employees of the committees for the period March 1, 2011, through September 30, 2011, for the period October 1, 2011, through September 30, 2012, and for the period October 1, 2012, through February 28, 2013, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations'' of the Senate.

SEC. 2. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $2,800,079, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $4,800,136, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $2,000,057, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 3. COMMITTEE ON ARMED SERVICES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,749,869, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $8,142,634, of which amount—

(1) not to exceed $80,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,392,765, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 4. COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,304,188, of which amount—

(1) not to exceed $11,667, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $700, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $7,378,606, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $1,200, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,074,419, of which amount—

(1) not to exceed $8,333, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $500, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 5. COMMITTEE ON THE BUDGET.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,489,241, of which amount—

(1) not to exceed $35,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $21,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $7,695,840, of which amount—

(1) not to exceed $60,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $36,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,206,599, of which amount—

(1) not to exceed $25,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $15,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 6. COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,636,433, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $50,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $7,948,171, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $50,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,311,738, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $50,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 7. COMMITTEE ON ENERGY AND NATURAL RESOURCES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $3,924,299.

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $6,727,369.

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $2,803,070.

SEC. 8. COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $3,612,391, of which amount—

(1) not to exceed $4,667, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $1,167, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $6,192,669, of which amount—

(1) not to exceed $8,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $2,580,278, of which amount—

(1) not to exceed $3,333, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $833, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 9. COMMITTEE ON FINANCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $5,333,808, of which amount—

(1) not to exceed $17,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $5,833, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $9,143,671, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,809,862, of which amount—

(1) not to exceed $12,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,166, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 10. COMMITTEE ON FOREIGN RELATIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration,

to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,393,404, of which amount—

(1) not to exceed $100,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $7,531,549, of which amount—

(1) not to exceed $100,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,138,145, of which amount—

(1) not to exceed $100,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 11. COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $6,115,313, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $10,483,393, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $4,368,081, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 12. COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules and S. Res. 445, agreed to October 9, 2004 (108th Congress), including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Homeland Security and Governmental Affairs is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $6,902,759, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $11,833,302, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $4,930,543, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2011, through February 28, 2013, is authorized, in its, his, hers, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 73, agreed to March 10, 2009 (111th Congress) are authorized to continue.

SEC. 13. COMMITTEE ON THE JUDICIARY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $6,684,239, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $11,458,695, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $4,774,457, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 14. COMMITTEE ON RULES AND ADMINISTRATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $1,840,717, of which amount—

(1) not to exceed $43,750, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $7,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $3,155,515, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $12,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $1,314,798, of which amount—

(1) not to exceed $31,250, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 15. COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business and Entrepreneurship is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $1,732,860, of which amount—

(1) not to exceed $25,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $2,970,617, of which amount—

(1) not to exceed $25,000, may be expended for the procurement of the services of individual consultants, or organizations thereof

(as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $1,237,755, of which amount—

(1) not to exceed $25,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 16. COMMITTEE ON VETERANS' AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $1,602,238, of which amount—

(1) not to exceed $59,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $12,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $2,746,693, of which amount—

(1) not to exceed $100,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $1,144,455, of which amount—

(1) not to exceed $42,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $8,334, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 17. SPECIAL COMMITTEE ON AGING.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions imposed by section 104 of S. Res. 4, agreed to February 4, 1977 (95th Congress), and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $1,937,114, of which amount—

(1) not to exceed $117,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $3,320,767, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $15,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $1,383,653, of which amount—

(1) not to exceed $85,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 18. SELECT COMMITTEE ON INTELLIGENCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Congress), as amended by S. Res. 445, agreed to October 9, 2004 (108th Congress), in accordance with its jurisdiction under sections 3(a) and 17 of such S. Res. 400, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such S. Res. 400, the Select Committee on Intelligence is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $4,249,113, of which amount—

(1) not to exceed $37,917, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $1,167, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $7,284,194, of which amount—

(1) not to exceed $65,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $3,035,081, of which amount—

(1) not to exceed $27,083, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 19. COMMITTEE ON INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions imposed by section 105 of S. Res. 4, agreed to February 4, 1977 (95th Congress), and in exercising the authority conferred on it by that section, the Committee on Indian Affairs is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this section shall not exceed $1,482,609, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for training consultants of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $2,541,614, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for training consultants of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012,

through February 28, 2013, expenses of the committee under this section shall not exceed $1,059,007, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for training consultants of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 20. SPECIAL RESERVE.

(a) ESTABLISHMENT.—Within the funds in the account ''Expenses of Inquiries and Investigations'' appropriated by the legislative branch appropriation Acts for fiscal years 2011, 2012, and 2013, there is authorized to be established a special reserve to be available to any committee funded by this resolution as provided in subsection (b) of which—

(1) an amount not to exceed $4,375,000, shall be available for the period March 1, 2011, through September 30, 2011;

(2) an amount not to exceed $7,500,000, shall be available for the period October 1, 2011, through September 30, 2012; and

(3) an amount not to exceed $3,125,000, shall be available for the period October 1, 2012, through February 28, 2013.

(b) AVAILABILITY.—The special reserve authorized in subsection (a) shall be available to any committee—

(1) on the basis of special need to meet unpaid obligations incurred by that committee during the periods referred to in paragraphs (1), (2), and (3) of subsection (a); and

(2) at the request of a Chairman and Ranking Member of that committee subject to the approval of the Chairman and Ranking Member of the Committee on Rules and Administration.

SENATE RESOLUTION 82—TO PROVIDE SUFFICIENT TIME FOR LEGISLATION TO BE READ

Mr. PAUL submitted the following resolution; which was referred to the Committee on Rules and Administration

S. RES. 82

Resolved, That (a) it shall not be in order for the Senate to consider any bill, resolution, message, conference report, amendment, treaty, or any other measure or matter until 1 session day has passed since introduction for every 20 pages included in the measure or matter in the usual form plus 1 session day for any number of remaining pages less than 20 in the usual form.

(b)(1) Any Senator may raise a point of order that any bill, resolution, message, conference report, amendment, treaty, or any other measure or matter is not in order under subsection (a). No motion to table the point of order shall be in order.

(2) Any Senator may move to waive a point of order raised under paragraph (1) by an affirmative yea and nay vote of two-thirds of the Senators duly chosen and sworn. All motions to waive under this subparagraph shall be debatable collectively for not to exceed 3 hours equally divided between the Senator raising the point for order and the Senator moving to waive the point of order or their designees. A motion to waive the point of order shall not be amendable.

(3) This resolution is enacted pursuant to the power granted to each House of Congress to determine the Rules of its Proceedings in clause 2 of section 5 of Article I of the Constitution of the United States.

SENATE RESOLUTION 83—DESIGNATING MARCH 2, 2011, AS ''READ ACROSS AMERICA DAY''

Mr. REED of Rhode Island (for himself and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 83

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress has placed great emphasis on reading intervention and providing additional resources for reading assistance, including through the programs authorized in the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) and through annual appropriations for library and literacy programs; and

Whereas more than 50 national organizations concerned about reading and education have joined with the National Education Association to designate March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, as a day to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2011, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) honors the 14th anniversary of ''Read Across America Day'';

(4) encourages parents to read with their children for at least 30 minutes on ''Read Across America Day'' in honor of the commitment of the Senate to building a nation of readers; and

(5) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 84—EXPRESSING SUPPORT FOR INTERNAL REBUILDING, RESETTLEMENT, AND RECONCILIATION WITHIN SRI LANKA THAT ARE NECESSARY TO ENSURE A LASTING PEACE

Mr. CASEY (for himself, Mr. BURR, Mr. BROWN of Ohio, Mr. MENENDEZ, Mr. CARDIN, Mr. LEAHY, Mrs. BOXER, Mrs. HAGAN, Mrs. GILLIBRAND, Mr. MANCHIN, Mr. UDALL of New Mexico, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 84

Whereas May 19, 2010, marked the one-year anniversary of the end of the 26-year conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka;

Whereas the Government of Sri Lanka established a Lessons Learned and Reconciliation Commission (LLRC) to report whether any person, group, or institution directly or indirectly bears responsibility for incidents that occurred between February 2002 and May 2009 and to recommend measures to prevent the recurrence of such incidents in the future and promote further national unity and reconciliation among all communities;

Whereas United Nations Secretary-General Ban Ki-moon appointed a panel of experts, including Marzuki Darusman, the former attorney general of Indonesia; Yazmin Sooka, a member of South Africa's Truth and Reconciliation Commission; and Steven Ratner, a lawyer in the United States specializing in human rights and international law, to advise the Secretary-General on the implementation of the commitment of the Government of Sri Lanka to human rights accountability;

Whereas the Government of Sri Lanka expressed its commitment to addressing the needs of all ethnic groups and has recognized, in the past, the necessity of a political settlement and reconciliation for a peaceful and just society;

Whereas the United States Government has yet to develop a comprehensive United States policy toward Sri Lanka that reflects the broad range of human rights, national security, and economic interests; and

Whereas progress on domestic and international investigations into reports of war crimes, crimes against humanity, and other human rights violations during the conflict and promoting reconciliation would facilitate enhanced United States engagement and investment in Sri Lanka: Now, therefore, be it

Resolved, That the Senate—

(1) commends United Nations Secretary-General Ban Ki-moon for creating the three-person panel to advise the Secretary-General on the implementation of the commitment of the Government of Sri Lanka to human rights accountability;

(2) calls on the Government of Sri Lanka, the international community, and the United Nations to establish an independent international accountability mechanism to look into reports of war crimes, crimes against humanity, and other human rights violations committed by both sides during and after the war in Sri Lanka and to make recommendations regarding accountability;

(3) calls on the Government of Sri Lanka to allow humanitarian organizations, aid agencies, journalists, and international human rights groups greater freedom of movement, including in internally-displaced persons camps; and

(4) calls upon the President to develop a comprehensive policy towards Sri Lanka that reflects United States interests, including respect for human rights, democracy and the rule of law, economic interests, and security interests.

SENATE RESOLUTION 85—STRONGLY CONDEMNING THE GROSS AND SYSTEMATIC VIOLATIONS OF HUMAN RIGHTS IN LIBYA, INCLUDING VIOLENT ATTACKS ON PROTESTERS DEMANDING DEMOCRATIC REFORMS, AND FOR OTHER PURPOSES

Mr. MENENDEZ (for himself, Mr. KIRK, Mr. LAUTENBERG, Mr. DURBIN, Mrs. GILLIBRAND, Mr. SANDERS, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. CASEY, Mr. WYDEN, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 85

Whereas Muammar Gadhafi and his regime have engaged in gross and systematic violations of human rights, including violent attacks on protesters demanding democratic reforms, that have killed thousands of people;

Whereas Muammar Gadhafi, his sons and supporters have instigated and authorized violent attacks on Libyan protesters using warplanes, helicopters, snipers and soldiers and continue to threaten the life and well-being of any person voicing opposition to the Gadhafi regime;

Whereas the United Nations Security Council and the international community have condemned the violence and use of force against civilians in Libya and on February 26, 2011, the United Nations Security Council unanimously agreed to refer the ongoing situation in Libya to the International Criminal Court, impose an arms embargo on the Libyan Arab Jamahiriya, including the provision of mercenary personnel, freeze the financial assets of Muammar Gadhafi and certain family members, and impose a travel ban on Gadhafi, certain family members and senior advisors;

Whereas Muammar Gadhafi has ruled Libya for more than 40 years by banning and brutally opposing any individual or group opposing the ideology of his 1969 revolution, criminalizing the peaceful exercise of expression and association, refusing to permit independent journalists' and lawyers' organizations, and engaging in torture and extrajudicial executions, including the 1,200 detainees killed in Abu Salim Prison in June 1996;

Whereas Libya took formal responsibility for the terrorist attack that brought down Pan Am Flight 103 over Lockerbie, Scotland, killing 270 people, 189 of whom were U.S. citizens and high-ranking Libyan officials have indicated that Muammar Gadhafi personally ordered the attack; and

Whereas Libya was elected to the United Nations Human Rights Council on May 13, 2010 for a period of 3 years, sending a demoralizing message of indifference to the families of the victims of Pan Am flight 103 and Libyan citizens that have endured repression, arbitrary arrest, enforced disappearance or physical assault in their struggle to obtain basic human and civil rights: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the courage of the Libyan people in standing up against the brutal dictatorship of Muammar Gadhafi and for demanding democratic reforms, transparent governance, and respect for basic human and civil rights;

(2) strongly condemns the gross and systematic violations of human rights in Libya, including violent attacks on protesters demanding democratic reforms;

(3) calls on Muammar Gadhafi to desist from further violence, recognize the Libyan people's demand for democratic change, resign his position and permit a peaceful transition to democracy governed by respect for human and civil rights and the right of the people to choose their government in free and fair elections;

(4) calls on the Gadhafi regime to immediately release persons that have been arbitrarily detained, to cease the intimidation, harassment and detention of peaceful protestors, human rights defenders and journalists, to ensure civilian safety, and to guarantee access to human rights and humanitarian organizations;

(5) welcomes the unanimous vote of the United Nations Security Council on resolution 1970 referring the situation in Libya to the International Criminal Court, imposing an arms embargo on the Libyan Arab Jamahiriya, freezing the assets of Gadhafi and family members, and banning international travel by Gadhafi, members of his family, and senior advisors;

(6) urges the Gadhafi regime to abide by United Nations Security Council Resolution 1970 and ensure the safety of foreign nationals and their assets, and to facilitate the departure of those wishing to leave the country as well as the safe passage of humanitarian and medical supplies, humanitarian agencies and workers, into Libya in order to assist the Libyan people;

(7) urges the United Nations Security Council to take such further action as may be necessary to protect civilians in Libya from attack, including the possible imposition of a no-fly zone over Libyan territory;

(8) welcomes the African Union's condemnation of the ''disproportionate use of force in Libya'' and urges the Union to take action to address the human rights crisis in Libya and to ensure that member states, particularly those bordering Libya, are in full compliance with the arms embargo imposed by United Nations Security Council Resolution 1970 against the Libyan Arab Jamahiriya, including the ban on the provision of armed mercenary personnel;

(9) welcomes the decision of the United Nations Human Rights Council to recommend Libya's suspension from the Council and urges the United Nations General Assembly to vote to suspend Libya's rights of membership in the Council;

(10) welcomes the attendance of Secretary of State Clinton at the United Nations Human Rights Council meeting in Geneva and 1) urges the Council's assumption of a country mandate for Libya that employs a Special Rapporteur on the human rights situation in Libya and 2) urges the U.S. Ambassador to the United Nations to advocate for improving United Nations Human Rights Council membership criteria at the next United Nations General Assembly in New York City to exclude gross and systematic violators of human rights; and

(11) welcomes the outreach that has begun by the United States Government to Libyan opposition figures and supports an orderly, irreversible transition to a legitimate democratic government in Libya.

SENATE RESOLUTION 86—RECOGNIZING THE DEFENSE INTELLIGENCE AGENCY ON ITS 50TH ANNIVERSARY

Mrs. FEINSTEIN (for herself, Mr. CHAMBLISS, Mr. WARNER, Ms. MIKULSKI, Mr. RUBIO, Mr. BURR, Ms. SNOWE, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. BLUNT, Mr. RISCH, Mr. LEVIN, Mr. MCCAIN, and Mr. SHELBY) submitted the following resolution; which was referred to the Select Committee on Intelligence:

S. RES. 86

Whereas, the Defense Intelligence Agency was created in 1961 as the United States lead military intelligence organization, approved by Secretary of Defense Robert McNamara on July 5, 1961, and activated on October 1, 1961;

Whereas, with military and civilian employees worldwide, the Defense Intelligence Agency produces military intelligence to warfighters and policymakers in the Department of Defense and the intelligence community, to support United States military planning, operations, and weapon systems acquisition;

Whereas the Defense Intelligence Agency possesses a diverse and expeditionary workforce that conducts all-source analysis, intelligence collection, and information technology infrastructure support around the world;

Whereas the Defense Intelligence Agency plays a critical role within the Department of Defense, the combatant commands, the intelligence community, and the Defense Intelligence Enterprise through the Defense Attaché System, Defense Counterintelligence and HUMINT Center, National Defense Intelligence College, National Media Exploitation Center, and National Center for Credibility Assessment;

Whereas the Defense Intelligence Agency leads the defense all-source analytic community including the Directorate for Analysis and four specialized centers known as the Underground Facility Analysis Center, the National Center for Medical Intelligence, the Joint Intelligence Task Force-Combating Terrorism, and the Missile and Space Intelligence Center, as well as synchronizes the analytic efforts of the Army National Ground Intelligence Center, Office of Naval Intelligence, Air Force National Air and Space Intelligence Center, Marine Corps Intelligence Activity, and ten United States combatant command intelligence centers;

Whereas the Defense Intelligence Agency has throughout its history provided intelligence support to United States policy makers and military commanders in both war and peacetime during significant national security events including the Cuban Missile Crisis, the Vietnam conflict, the Cold War and its aftermath, operations against state-sponsored terrorist organizations, Operation Desert Storm, and in support of United States military and coalition operations in Somalia, the former Yugoslavia, and Haiti;

Whereas, since the terrorist attacks of September 11, 2001, the men and women of the Defense Intelligence Agency have worked diligently to deter, detect, and prevent acts of terror by providing intelligence support to United States and coalition forces in support of the Global War on Terror, Operation Enduring Freedom in Afghanistan, and Operation Iraqi Freedom; and

Whereas the Defense Intelligence Agency and subordinate organizations within the Agency have been awarded seven Joint Meritorious Unit Awards reflecting the distinctive accomplishments of the personnel assigned to the Defense Intelligence Agency: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the men and women of the Defense Intelligence Agency on the occasion of the Agency's 50th Anniversary;

(2) honors the heroic sacrifice of the employees of the Defense Intelligence Agency who have given their lives, or have been wounded or injured, in the service of the United States during the past 50 years; and

(3) expresses gratitude to all the men and women of the Defense Intelligence Agency for their past and continued efforts to provide timely and accurate intelligence support to deliver overwhelming advantage to our warfighters, defense planners, and defense and national security policymakers in the defense and security of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a resolution honoring the Defense Intelligence Agency on the occasion of its 50th anniversary this year.

I am joined by Senators CHAMBLISS, WARNER, MIKULSKI, RUBIO, BURR, SNOWE, BILL NELSON, ROCKEFELLER, BLUNT, RISCH, LEVIN, MCCAIN, and SHELBY on this resolution and I would like to thank them for their support.

Created in 1961, the Defense Intelligence Agency, known as ''DIA,'' provides intelligence on important national security questions such as foreign military intentions and capabilities. The agency supports military commanders and policymakers throughout the U.S. Government.

In fact, as Chairman of the Senate Select Committee on Intelligence, I regularly review DIA intelligence products. The DIA produces a daily set of classified intelligence products, called

the Defense Intelligence Digest, which is provided to our Committee each morning. The agency also produces longer reports on foreign military capabilities, strategic reviews, and other issues of interest to defense and other policymakers.

But producing finished intelligence analysis is only one of DIA's missions. Employing a diverse workforce of military and civilian intelligence professionals, DIA conducts all-source analysis, intelligence collection, and information technology infrastructure support worldwide.

DIA's responsibilities inside the Department of Defense and across the Intelligence Community have grown significantly over the years. The agency today is responsible for the Defense Attaché System, the Defense Counterintelligence and HUMINT Center, the National Defense Intelligence College, the National Media Exploitation Center, the National Center for Credibility Assessment and four specialized centers: the Underground Facility Analysis Center, the National Center for Medical Intelligence, the Joint Intelligence Task Force-Combating Terrorism and the Missile and Space Intelligence Center.

DIA also oversees intelligence analysis throughout the Department of Defense, including analytic work performed at the Army National Ground Intelligence Center, the Office of Naval Intelligence, the Air Force National Air and the Space Intelligence Center, the Marine Corps Intelligence Activity, and ten U.S. combatant command intelligence operations centers.

Over the last 50 years, the intelligence collected and analyzed by the men and women of DIA has informed the Nation's civilian and military leaders during crises and conflicts—from the Cold War to the current struggle against international terrorism. DIA has played a vital role in collecting, analyzing, and producing intelligence required to defend the Nation while also supporting U.S. military operations worldwide.

During the past 5 decades, DIA has transformed in response to evolving national security threats. From the Cuban Missile Crisis and the Vietnam conflict, to the first Gulf War, DIA's efforts have focused on understanding and, if necessary, defeating state-sponsored militaries while also providing strategic warning and preventing strategic surprise.

Since the 9/11 terrorist attacks in New York and Washington almost ten years ago, DIA has responded to the asymmetric threat posed by transnational terrorist groups such as al-Qaeda by pushing more analytic and collection capabilities forward in direct support of our military forces in Iraq, Afghanistan, and elsewhere. Today the agency is more forward deployed with soldiers on the battlefield than at any time in its history.

As Chairman of the Senate Select Committee on Intelligence, I receive frequent briefings from DIA personnel. Their depth of knowledge and expertise on foreign military intentions and capabilities has been impressive.

I've met twice within the past few weeks with the current DIA Director, Lieutenant General Ronald Burgess. He, like his predecessors, presents the facts like he sees them and manages to serve the Intelligence Community and the Department of Defense with skill and integrity.

I am keenly aware of the many sacrifices our intelligence professionals make to help defend our Nation and I am pleased that this resolution pays tribute to the DIA workforce and the DIA employees who have given their lives, or have been wounded or injured, in the line of service.

Because of the nature of intelligence and the need for secrecy, we in Congress often are understandably reluctant to draw unnecessary attention to our intelligence services and the vital and sometimes dangerous work they do to protect our Nation. However, at this important 50th anniversary, it is appropriate to reflect on DIA's history of important contributions while also honoring its professionals, past and present.

I ask my colleagues to join me in congratulating the men and women of DIA as they celebrate their legacy and forge their future.

Mr. CHAMBLISS. Mr. President, I rise today to talk about the Defense Intelligence Agency and a resolution that Chairman FEINSTEIN and I have introduced in honor of DIA's 50th Anniversary. The Defense Intelligence Agency is an integral part of the Department of Defense, our combatant commands, and the intelligence community. I want to congratulate the Agency and its employees on the approaching 50th Anniversary.

The Defense Intelligence Agency was established in 1961 under Secretary of Defense, Robert McNamara following a national debate on defense reorganization after World War II. McNamara, acting on recommendations of a Joint Study Group appointed by President Eisenhower, created the DIA to consolidate and integrate military intelligence efforts. DIA began operations on October 1, 1961 with only a handful of employees in borrowed office space in the Pentagon.

Shortly after its inception, DIA was thrust into the Cold War where DIA's analysts played a key role in the discovery of ballistic missiles in Cuba. However, the fledgling agency faced several early hurdles in the 60's including the Vietnam War and the Soviet Union's invasion of Czechoslovakia. In the 70's and 80's, DIA focused much of its attention on providing intelligence on the Soviet Union, but was finally coming of age as it was assigned support responsibilities to our combatant commanders under the Goldwater-Nichols Defense Reorganization Act. The 90's brought Operation DESERT STORM and bolstered DIA's mission as a Combat Support Agency with U.S. and United Nations forces in places such as Somalia, Rwanda, former Yugoslavia, and Kosovo.

The emergence of radical Islamic movements such as al-Qaida and the terrorist attacks of September 11th have ushered in a new era of integration and cooperation in military intelligence. The intelligence community has faced significant challenges and reorganization in recent years, but DIA has stepped up to meet these challenges head-on.

DIA has worked diligently to deter, detect, and prevent acts of terror by providing intelligence to U.S. and coalition forces in support of the Global War on Terror, Operation Enduring Freedom in Afghanistan, and Operation Iraqi Freedom.

Today, DIA has over 16,000 employees worldwide and has become an integral part of the Department of Defense and the intelligence community. I want to thank them for their service to our country and all that they do for our warfighters, planners, and policymakers. I am sure that all of my colleagues will join me in congratulating them on their upcoming 50th Anniversary.

AMENDMENTS SUBMITTED AND PROPOSED

SA 118. Mr. BENNET (for himself, Mr. BROWN of Massachusetts, Mr. RISCH, Mr. COONS, Mr. BINGAMAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table.

SA 119. Mr. BENNET (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 120. Mr. KIRK submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 121. Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. KYL, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 23, supra.

SA 122. Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 123. Mr. KIRK (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 23, supra.

SA 124. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 23, supra.

SA 125. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 126. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill S. 23, supra; which was ordered to lie on the table.

SA 127. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 128. Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 129. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 130. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 131. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 132. Mr. CARDIN (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 118. Mr. BENNET (for himself, Mr. BROWN of Massachusetts, Mr. RISCH, Mr. COONS, Mr. BINGAMAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 32, line 12, strike ''**DAMAGES**'' and insert ''**DEFENSES; EVIDENTIARY REQUIREMENTS**''.

On page 32, strike line 13 and all that follows through page 35, line 2.

On page 37, line 1, strike ''(b)'' and insert ''(a)''.

On page 37, line 20, strike ''(c)'' and insert ''(b)''.

On page 38, line 3, strike ''(d)'' and insert ''(c)''.

On page 38, line 13, strike ''(e)'' and insert ''(d)''.

On page 77, strike line 23 and all that follows through page 78, line 6.

On page 78, line 7, strike ''(b)'' and insert ''(a)''.

On page 78, line 20, strike ''(c)'' and insert ''(b)''.

SA 119. Mr. BENNET (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 104, between lines 22 and 23, insert the following:

SEC. 18. TELEVISION ACCESS.

(a) SHORT TITLE.—This section may be cited as the ''Four Corners Television Access Act of 2011''.

(b) SATELLITE CARRIAGE OF CERTAIN TELEVISION BROADCAST SIGNALS.—Section 122(a)(4)(C) of title 17, United States Code, is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by striking ''In the case of that State'' and inserting the following:

''(ii) In the case of that State''; and

(3) by inserting before clause (ii) (as so redesignated by paragraph (2)) the following:

''(i) In the case of that State in which are located 2 counties that—

''(I) are located in the 44th largest designated market area for the year 2008 according to Nielsen Media Research; and

''(II) had a combined total of 27,540 television households, according to the *Nielsen DMA Market Atlas* by Nielsen Media Research for 2008,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2008.''.

(c) CABLE CARRIAGE OF CERTAIN TELEVISION BROADCAST SIGNAL.—Section 341 of Communications Act of 1934 (47 U.S.C. 341) is amended by adding at the end the following:

''(c) RULE OF CONSTRUCTION.—

''(1) SIGNIFICANTLY VIEWED.—Each television broadcast station broadcasting in the designated market area of a State capital is deemed significantly viewed in a covered county within the meaning of section 76.54 of title 47, Code of Federal Regulations, for purposes of the carriage and retransmission of the signals of such broadcast station by a cable system, translator, or other multichannel video programming distributor.

''(2) RETRANSMISSION PERMITTED.—Notwithstanding the provisions of section 325(b), a cable system, translator, or other multichannel video programming distributor may retransmit the signal of any television broadcast station described in paragraph (1) within a covered county.

''(3) DEFINITION OF COVERED COUNTY.—For purposes of this subsection, a county is a covered county if—

''(A) it is 1 of 2 counties located in the 44th largest designated market area for the year 2008 according to Nielsen Media Research; and

''(B) it had a combined total of 27,540 television households, according to the *Nielsen DMA Market Atlas* by Nielsen Media Research for 2008.''.

On page 104, line 23, strike ''**SEC. 18.**'' and insert ''**SEC. 19.**''.

SA 120. Mr. KIRK submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 104, between lines 22 and 23, insert the following:

SEC. 18. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

There is established in the United States Patent and Trademark Office a Patent Ombudsman Program. The duties of the Program's staff shall include providing support and services relating to patent filings to small business concerns.

SA 121. Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. KYL, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 1, strike line 5, and insert the following: '''America Invents Act'''.

On page 9, line 8, strike ''1 year'' and insert ''18 months''.

On page 32, strike line 12 and all that follows through page 35, line 2, and insert the following:

SEC. 4. VIRTUAL MARKING AND ADVICE OF COUNSEL.

On page 37, line 1, strike ''(b)'' and insert ''(a)''.

On page 37, line 20, strike ''(c)'' and insert ''(b)''.

On page 38, line 3, strike ''(d)'' and insert ''(c)''.

On page 38, line 13, strike ''(e)'' and insert ''(d)''.

On page 57, strike lines 17 through 23, and insert the following:

''(b) PRELIMINARY INJUNCTIONS.—If a civil action alleging infringement of a patent is filed within 3 months of the grant of the patent, the court may not stay its consideration of the patent owner's motion for a preliminary injunction against infringement of the patent on the basis that a petition for post-grant review has been filed or that such a proceeding has been instituted.''.

On page 59, strike lines 13 through 19.

On page 59, line 20, strike ''(g)'' and insert ''(f)''.

On page 65, line 21, strike ''18 months'' and insert ''1 year''.

On page 66, line 3, strike ''18 months'' and insert ''1 year''.

On page 66, lines 4 and 5, strike ''and shall apply only to patents issued on or after that date.'' and insert ''and, except as provided in section 18 and in paragraph (3), shall apply only to patents that are described in section 2(o)(1).''.

On page 66, line 8, after the period insert the following: ''During the 4 year period following the effective date of subsections (a) and (d), the Director may, in his discretion, continue to apply the provisions of chapter 31 of title 35, United States Code, as amended by paragraph (3), as if subsection (a) had not been enacted to such proceedings instituted under section 314 (as amended by subsection (a)) or under section 324 as are instituted only on the basis of prior art consisting of patents and printed publications.''.

On page 69, line 2, strike ''18 months'' and insert ''1 year''.

On page 69, line 14, strike ''18 months'' and insert ''1 year''.

On page 74, line 22, strike ''18 months'' and insert ''1 year''.

On page 75, line 16, strike ''18 months'' and insert ''1 year''.

On page 75, line 22, strike ''18 months'' and insert ''1 year''.

On page 76, line 5, strike ''18 months'' and insert ''1 year''.

On page 77, strike line 23 and all that follows through page 78, line 6.

On page 78, line 7, strike ''(b)'' and insert ''(a)''.

On page 78, line 20, strike ''(c)'' and insert ''(b)''.

On page 79, strike lines 1 through 17, and insert the following:

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established, authorized, or charged under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.), notwithstanding the fee amounts established, authorized, or charged thereunder, for all services performed by or materials furnished by, the Office, provided that patent and trademark fee amounts are in the aggregate set to recover the estimated cost to the Office for processing, activities, services, and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

On page 79, lines 19–21, strike ''filing, processing, issuing, and maintaining patent applications and patents'' and insert: ''filing, searching, examining, issuing, appealing, and maintaining patent applications and patents''.

On page 86, between lines 8 and 9, insert the following:

(i) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

On page 86, line 9, strike ''(i)'' and insert ''(j)''.

On page 91, between lines 14 and 15, insert the following:

(b) NO PROVISION OF FACILITIES AUTHORIZED.—The repeal made by the amendment in subsection (a)(1) shall not be construed to authorize the provision of any court facilities or administrative support services outside of the District of Columbia.

On page 91, line 15, strike ''(b)'' and insert ''(c)''.

On page 91, line 23, strike ''under either subsection'' and all that follows through ''shall certify'' on page 92, line 2.

On page 92, line 7, before the semicolon insert the following: '', not including applications filed in another country, provisional applications under section 111(b), or international applications filed under the treaty defined in section 351(a) for which the basic national fee under section 41(a) was not paid''.

On page 92, between lines 7 and 8, insert the following:

''(3) did not in the prior calendar year have a gross income, as defined in section 61(a) of the Internal Revenue Code (26 U.S.C. 61(a)), exceeding 3 times the most recently reported median household income, as reported by the Bureau of Census; and''.

On page 92, strike lines 8 through 25.

On page 93, line 1, strike ''(3) has not assigned, granted, conveyed, or is'' and insert ''(4) has not assigned, granted, conveyed, and is not''.

On page 93, lines 4 and 5, strike ''has 5 or fewer employees and that such entity has'' and insert ''had''.

On page 93, line 7, strike ''that does'' and all that follows through line 11, and insert the following: ''exceeding 3 times the most recently reported median household income, as reported by the Bureau of the Census, in the calendar year preceding the calendar year in which the fee is being paid, other than an entity of higher education where the applicant is not an employee, a relative of an employee, or have any affiliation with the entity of higher education.''.

On page 93, strike lines 12 through 17, and insert the following:

''(b) APPLICATIONS RESULTING FROM PRIOR EMPLOYMENT.—An applicant is not considered to be named on a previously filed application for purposes of subsection (a)(2) if the applicant has assigned, or is under an obligation by contract or law to assign, all ownership rights in the application as the result of the applicant's previous employment.

''(c) FOREIGN CURRENCY EXCHANGE RATE.—If an applicant's or entity's gross income in the preceding year is not in United States dollars, the average currency exchange rate, as reported by the Internal Revenue Service, during the preceding year shall be used to determine whether the applicant's or entity's gross income exceeds the threshold specified in paragraphs (3) or (4) of subsection (a).''.

On page 94, between lines 18 and 19, insert the following:

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that other business methods are patentable or that other business-method patents are valid.

On page 94, line 19, strike ''(c)'' and insert ''(d)''.

On page 103, between lines 11 and 12, insert the following:

''(c) DERIVATIVE JURISDICTION NOT REQUIRED.—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.''.

On page 103, line 12, strike ''(c)'' and insert ''(d)''.

On page 105, between lines 22 and 23, insert the following:

SEC. 18. TRANSITIONAL PROGRAM FOR COVERED BUSINESS-METHOD PATENTS.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this section language is expressed in terms of a section or chapter, the reference shall be considered to be made to that section or chapter in title 35, United States Code.

(b) TRANSITIONAL PROGRAM.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall issue regulations establishing and implementing a transitional post-grant review proceeding for review of the validity of covered business-method patents. The transitional proceeding implemented pursuant to this subsection shall be regarded as, and shall employ the standards and procedures of, a post-grant review under chapter 32, subject to the following exceptions and qualifications:

(A) Section 321(c) and subsections (e)(2), (f), and (g) of section 325 shall not apply to a transitional proceeding.

(B) A person may not file a petition for a transitional proceeding with respect to a covered business-method patent unless the person or his real party in interest has been sued for infringement of the patent or has been charged with infringement under that patent.

(C) A petitioner in a transitional proceeding who challenges the validity of 1 or more claims in a covered business-method patent on a ground raised under section 102 or 103 as in effect on the day prior to the date of enactment of this Act may support such ground only on the basis of—

(i) prior art that is described by section 102(a) (as in effect on the day prior to the date of enactment of this Act); or

(ii) prior art that—

(I) discloses the invention more than 1 year prior to the date of the application for patent in the United States; and

(II) would be described by section 102(a) (as in effect on the day prior to the date of enactment of this Act) if the disclosure had been made by another before the invention thereof by the applicant for patent.

(D) The petitioner in a transitional proceeding, or his real party in interest, may not assert either in a civil action arising in whole or in part under section 1338 of title 28, United States Code, or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised during a transitional proceeding that resulted in a final written decision.

(E) The Director may institute a transitional proceeding only for a patent that is a covered business-method patent.

(2) EFFECTIVE DATE.—The regulations issued pursuant to paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all covered business-method patents issued before, on, or after such date of enactment, except that the regulations shall not apply to a patent described in the first sentence of section 5(f)(2) of this Act during the period that a petition for post-grant review of that patent would satisfy the requirements of section 321(c).

(3) SUNSET.—

(A) IN GENERAL.—This subsection, and the regulations issued pursuant to this subsection, are repealed effective on the date that is 4 years after the date that the regulations issued pursuant to paragraph (1) take effect.

(B) APPLICABILITY.—Notwithstanding subparagraph (A), this subsection and the regulations implemented pursuant to this subsection shall continue to apply to any petition for a transitional proceeding that is filed prior to the date that this subsection is repealed pursuant to subparagraph (A).

(c) REQUEST FOR STAY.—

(1) IN GENERAL.—If a party seeks a stay of a civil action alleging infringement of a patent under section 281 in relation to a transitional proceeding for that patent, the court shall decide whether to enter a stay based on—

(A) whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial;

(B) whether discovery is complete and whether a trial date has been set;

(C) whether a stay, or the denial thereof, would unduly prejudice the nonmoving party or present a clear tactical advantage for the moving party; and

(D) whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court.

(2) REVIEW.—A party may take an immediate interlocutory appeal from a district court's decision under paragraph (1). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedent.

(d) DEFINITION.—For purposes of this section, the term ''covered business method patent'' means a patent that claims a method or corresponding apparatus for performing data processing operations utilized in the practice, administration, or management of a financial product or service, except that the term shall not include patents for technological inventions. Solely for the purpose of implementing the transitional proceeding authorized by this subsection, the Director shall prescribe regulations for determining whether a patent is for a technological invention.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as amending or interpreting categories of patent-eligible subject matter set forth under section 101.

SEC. 19. TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.

(a) AUTHORITY TO COVER CERTAIN TRAVEL RELATED EXPENSES.—Section 2(b)(11) of title 35, United States Code, is amended by inserting '', and the Office is authorized to expend funds to cover the subsistence expenses and travel-related expenses, including per diem, lodging costs ,and transportation costs, of non-federal employees attending such programs'' after ''world''.

(b) PAYMENT OF ADMINISTRATIVE JUDGES.—Section 3(b) of title 35, United States Code, is amended by adding at the end the following:

''(6) ADMINISTRATIVE PATENT JUDGES AND ADMINISTRATIVE TRADEMARK JUDGES.—The Director has the authority to fix the rate of basic pay for the administrative patent judges appointed pursuant to section 6 of this title and the administrative trademark judges appointed pursuant to section 17 of the Trademark Act of 1946 (15 U.S.C. 1067) at not greater than the rate of basic pay payable for Level III of the Executive Schedule. The payment of a rate of basic pay under this paragraph shall not be subject to the pay limitation of section 5306(e) or 5373 of title 5.''.

SEC. 20. PATENT AND TRADEMARK OFFICE FUNDING.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Patent and Trademark Office.

(2) FUND.—The term ''Fund'' means the public enterprise revolving fund established under subsection (c).

(3) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(4) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means an Act entitled ''Act to provide for the registration and

protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'').

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for Intellectual Property.

(b) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund''; and

(B) in subsection (c), in the first sentence—

(i) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(ii) by striking ''shall be collected by and shall be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the later of—

(A) October 1, 2011; or

(B) the first day of the first fiscal year that begins after the date of the enactment of this Act.

(c) USPTO REVOLVING FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(2) DERIVATION OF RESOURCES.—There shall be deposited into the Fund on or after the effective date of subsection (b)(1)—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund, provided, however, that no funds collected pursuant to section 9(h) of this Act or section 1(a)(2) of Public Law 111-45 shall be deposited in the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(d) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (f).

(e) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(f) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(g) BUDGET.—The Fund shall prepare and submit each year to the President a business-type budget in a manner, and before a date, as the President prescribes by regulation for the budget program.

On page 105, line 23, strike ''**SEC. 18.**'' and insert ''**SEC. 21.**''.

At the end, add the following:

SEC. 22. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 122. Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 77, strike line 23 and all that follows through page 78, line 6.

On page 78, line 7, strike ''(b)'' and insert ''(a)''.

On page 78, line 20, strike ''(c)'' and insert ''(b)''.

SA 123. Mr. KIRK (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 104, between lines 22 and 23, insert the following:

SEC. 18. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

Subject to available resources, the Director may establish in the United States Patent and Trademark Office a Patent Ombudsman Program. The duties of the Program's staff shall include providing support and services relating to patent filings to small business concerns.

SA 124. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 104, strike line 23, and insert the following:

SEC. 18. PRIORITY EXAMINATION FOR TECHNOLOGIES IMPORTANT TO AMERICAN COMPETITIVENESS.

Section 2(b)(2) of title 35, United States Code, is amended—

(1) in subparagraph (E), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (F), by striking the semicolon and inserting ''; and''; and

(3) by adding at the end the following:

''(G) may, subject to any conditions prescribed by the Director and at the request of the patent applicant, provide for prioritization of examination of applications for products, processes, or technologies that are important to the national economy or national competitiveness, such as green technologies designed to foster renewable energy, clean energy, biofuels or bio-based products, agricultural sustainability, environmental quality, energy conservation, or energy efficiency, without recovering the aggregate extra cost of providing such prioritization, notwithstanding section 41 or any other provision of law;''.

SEC. 19. EFFECTIVE DATE.

SA 125. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 104, strike line 23, and insert the following:

SEC. 18. COMPLIANCE WITH CERTAIN ORDERS OF THE FEDERAL COMMUNICATIONS COMMISSION.

Section 1498 of title 28, United States Code, is amended by adding at the end the following:

''(f) Whenever, after the date of enactment of this subsection, a wireless carrier is alleged to infringe a patent or copyright not previously licensed as a means to comply with an order or directive of the Federal Communications Commission concerning enhanced 911 services, then that alleged infringement shall be construed as a use or manufacture for the United States for purposes of this section.''.

SEC. 19. EFFECTIVE DATE.

SA 126. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 104, strike line 23 and insert the following:

SEC. 18. DESIGNATION OF DETROIT SATELLITE OFFICE.

(a) DESIGNATION.—The satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan shall be known and designated as the ''Elijah J. McCoy United States Patent and Trademark Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan referred to in subsection (a) shall be deemed to be a reference to the ''Elijah J. McCoy United States Patent and Trademark Office''.

SEC. 19. EFFECTIVE DATE.

SA 127. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 94, between lines 18 and 19, insert the following:

(c) EXCLUSION.—This section does not apply to tax preparation computer software or financial management computer software that is novel and nonobvious as computer software.

On page 94, line 19, strike ''(c)'' and insert ''(d)''.

SA 128. Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 104, between lines 22 and 23, insert the following:

SEC. 18. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.''.

SA 129. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 42, line 19, strike ''6 months'' and insert ''1 year''.

SA 130. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 38, strike line 17 and all that follows through page 53, line 12.

SA 131. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 79, line 18, strike ''AND MICRO ENTITIES.—'' and insert '', MICRO ENTITIES, HBCUS, AND OTHER MINORITY-SERVING INSTITUTIONS.—''

On page 80, line 2, strike the period and insert ''and to any eligible institution defined in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q).''.

SA 132. Mr. CARDIN (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 20, strike line 11 and all that follows through ''(iv)'' on line 14, and insert the following:

(iii) the effects of the change on small business concerns owned and controlled by women, as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632), and small business concerns owned and controlled by socially and economically disadvantaged individuals, as that term is defined in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C));

(iv) the cost savings and other potential benefits to small business concerns of the change; and

(v)

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 8, 2010, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy.senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, March 10, 2011, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 398, a bill to amend the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other purposes, and S. 395, the Better Use of Light Bulbs Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Al Stayman or Abigail Campbell.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 1, 2011, at 9:30 a.m.

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

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 1, 2011, at 4:30 p.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 1, 2011, at 10 a.m., to conduct a committee hearing entitled ''Semi-annual Monetary Policy Report to Congress.''

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

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 1, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''How Did We Get Here? Changes in the Law and Tax Environment Since the Tax Reform Act of 1986.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 1, 2011, at 10 a.m., to hold a hearing entitled ''Breaking the Cycle of North Korean Provocations.''

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on March 1, 2011, at 10 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on March 1, 2011. The committee will meet in room 345 of the Cannon House Office Building beginning at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 1, 2011, at 2:30 p.m.

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 1, 2011, at 10 a.m., to conduct a hearing entitled, ''Examination of Public Relations Contracts at the General Services Administration's Heartland Region.''

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

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 44

Mr. SCHUMER. Mr. President, I ask unanimous consent that at 11 a.m. on Wednesday, March 2, the Senate proceed to the immediate consideration of H.J. Res. 44, the 2-week continuing resolution which was received from the House and is at the desk; that the Senate then proceed to a vote on the passage of H.J. Res. 44, with no intervening action or debate; further, that the cloture motion on the motion to proceed to Calendar No. 11, H.R. 359, be vitiated.

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

READ ACROSS AMERICA DAY

Mr. SCHUMER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 83 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 83) designating March 2, 2011 as ''Read Across America Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 83) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 83

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress has placed great emphasis on reading intervention and providing additional resources for reading assistance, including through the programs authorized in the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) and through annual appropriations for library and literacy programs; and

Whereas more than 50 national organizations concerned about reading and education have joined with the National Education Association to designate March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, as a day to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2011, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) honors the 14th anniversary of ''Read Across America Day'';

(4) encourages parents to read with their children for at least 30 minutes on ''Read Across America Day'' in honor of the commitment of the Senate to building a nation of readers; and

(5) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SUPPORTING RECONCILIATION WITHIN SRI LANKA

Mr. SCHUMER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 84, a resolution introduced earlier today by Senator CASEY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 84) expressing support for internal rebuilding, resettlement, and reconciliation within Sri Lanka that are necessary to assure a lasting peace.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 84) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 84

Whereas May 19, 2010, marked the one-year anniversary of the end of the 26-year conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka;

Whereas the Government of Sri Lanka established a Lessons Learned and Reconciliation Commission (LLRC) to report whether any person, group, or institution directly or indirectly bears responsibility for incidents that occurred between February 2002 and May 2009 and to recommend measures to prevent the recurrence of such incidents in the future and promote further national unity and reconciliation among all communities;

Whereas United Nations Secretary-General Ban Ki-moon appointed a panel of experts, including Marzuki Darusman, the former attorney general of Indonesia; Yazmin Sooka, a member of South Africa's Truth and Reconciliation Commission; and Steven Ratner, a lawyer in the United States specializing in human rights and international law, to advise the Secretary-General on the implementation of the commitment of the Government of Sri Lanka to human rights accountability;

Whereas the Government of Sri Lanka expressed its commitment to addressing the needs of all ethnic groups and has recognized, in the past, the necessity of a political settlement and reconciliation for a peaceful and just society;

Whereas the United States Government has yet to develop a comprehensive United States policy toward Sri Lanka that reflects the broad range of human rights, national security, and economic interests; and

Whereas progress on domestic and international investigations into reports of war crimes, crimes against humanity, and other human rights violations during the conflict and promoting reconciliation would facilitate enhanced United States engagement and investment in Sri Lanka: Now, therefore, be it

Resolved, That the Senate—

(1) commends United Nations Secretary-General Ban Ki-moon for creating the three-person panel to advise the Secretary-General on the implementation of the commitment of the Government of Sri Lanka to human rights accountability;

(2) calls on the Government of Sri Lanka, the international community, and the United Nations to establish an independent international accountability mechanism to look into reports of war crimes, crimes against humanity, and other human rights violations committed by both sides during and after the war in Sri Lanka and to make recommendations regarding accountability;

(3) calls on the Government of Sri Lanka to allow humanitarian organizations, aid agencies, journalists, and international human rights groups greater freedom of movement, including in internally-displaced persons camps; and

(4) calls upon the President to develop a comprehensive policy towards Sri Lanka that reflects United States interests, including respect for human rights, democracy and the rule of law, economic interests, and security interests.

CONDEMNING VIOLATIONS OF HUMAN RIGHTS IN LIBYA

Mr. SCHUMER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 85, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 85) strongly condemning the gross and systematic violations of human rights in Libya, including violent attacks on protesters demanding democratic reforms, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 85) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 85

Whereas Muammar Gadhafi and his regime have engaged in gross and systematic violations of human rights, including violent attacks on protesters demanding democratic reforms, that have killed thousands of people;

Whereas Muammar Gadhafi, his sons and supporters have instigated and authorized violent attacks on Libyan protesters using warplanes, helicopters, snipers and soldiers and continue to threaten the life and well-being of any person voicing opposition to the Gadhafi regime;

Whereas the United Nations Security Council and the international community have condemned the violence and use of force against civilians in Libya and on February 26, 2011, the United Nations Security Council unanimously agreed to refer the ongoing situation in Libya to the International Criminal Court, impose an arms embargo on the Libyan Arab Jamahiriya, including the provision of mercenary personnel, freeze the financial assets of Muammar Gadhafi and certain family members, and impose a travel ban on Gadhafi, certain family members and senior advisors;

Whereas Muammar Gadhafi has ruled Libya for more than 40 years by banning and brutally opposing any individual or group opposing the ideology of his 1969 revolution, criminalizing the peaceful exercise of expression and association, refusing to permit independent journalists' and lawyers' organizations, and engaging in torture and extrajudicial executions, including the 1,200 detainees killed in Abu Salim Prison in June 1996;

Whereas Libya took formal responsibility for the terrorist attack that brought down Pan Am Flight 103 over Lockerbie, Scotland, killing 270 people, 189 of whom were U.S. citizens and high-ranking Libyan officials have indicated that Muammar Gadhafi personally ordered the attack; and

Whereas Libya was elected to the United Nations Human Rights Council on May 13, 2010 for a period of 3 years, sending a demoralizing message of indifference to the families of the victims of Pan Am flight 103 and Libyan citizens that have endured repression, arbitrary arrest, enforced disappearance or physical assault in their struggle to obtain basic human and civil rights: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the courage of the Libyan people in standing up against the brutal dictatorship of Muammar Gadhafi and for demanding democratic reforms, transparent governance, and respect for basic human and civil rights;

(2) strongly condemns the gross and systematic violations of human rights in Libya, including violent attacks on protesters demanding democratic reforms;

(3) calls on Muammar Gadhafi to desist from further violence, recognize the Libyan people's demand for democratic change, resign his position and permit a peaceful transition to democracy governed by respect for human and civil rights and the right of the people to choose their government in free and fair elections;

(4) calls on the Gadhafi regime to immediately release persons that have been arbitrarily detained, to cease the intimidation, harassment and detention of peaceful protestors, human rights defenders and journalists, to ensure civilian safety, and to guarantee access to human rights and humanitarian organizations;

(5) welcomes the unanimous vote of the United Nations Security Council on resolution 1970 referring the situation in Libya to the International Criminal Court, imposing an arms embargo on the Libyan Arab Jamahiriya, freezing the assets of Gadhafi and family members, and banning international travel by Gadhafi, members of his family, and senior advisors;

(6) urges the Gadhafi regime to abide by United Nations Security Council Resolution 1970 and ensure the safety of foreign nationals and their assets, and to facilitate the departure of those wishing to leave the country as well as the safe passage of humanitarian and medical supplies, humanitarian agencies and workers, into Libya in order to assist the Libyan people;

(7) urges the United Nations Security Council to take such further action as may be necessary to protect civilians in Libya from attack, including the possible imposition of a no-fly zone over Libyan territory;

(8) welcomes the African Union's condemnation of the ''disproportionate use of force in Libya'' and urges the Union to take action to address the human rights crisis in Libya and to ensure that member states, particularly those bordering Libya, are in full compliance with the arms embargo imposed by United Nations Security Council Resolution 1970 against the Libyan Arab Jamahiriya, including the ban on the provision of armed mercenary personnel;

(9) welcomes the decision of the United Nations Human Rights Council to recommend Libya's suspension from the Council and urges the United Nations General Assembly to vote to suspend Libya's rights of membership in the Council;

(10) welcomes the attendance of Secretary of State Clinton at the United Nations Human Rights Council meeting in Geneva and 1) urges the Council's assumption of a country mandate for Libya that employs a Special Rapporteur on the human rights situation in Libya and 2) urges the U.S. Ambassador to the United Nations to advocate for improving United Nations Human Rights Council membership criteria at the next United Nations General Assembly in New York City to exclude gross and systematic violators of human rights; and

(11) welcomes the outreach that has begun by the United States Government to Libyan opposition figures and supports an orderly, irreversible transition to a legitimate democratic government in Libya.

ORDERS FOR WEDNESDAY, MARCH 2, 2011

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, March 2; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, there be a period of morning business until 11 a.m. with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes, and the remaining time until 11 a.m. equally controlled and divided between the two leaders or their designees, with the majority controlling the final half; further, following morning business, the Senate proceed to the consideration of H.J. Res. 44, the 2-week continuing resolution, as provided for under the previous order; and, finally, upon disposition of the CR, the Senate resume consideration of S. 23, the America Invents Act.

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

PROGRAM

Mr. SCHUMER. Mr. President, Senators should expect the first vote of the day to begin at approximately 11 a.m. That vote will be on the passage of the 2-week continuing resolution. Additional rollcall votes are expected to occur throughout the day in relation to the amendments to the America Invents Act.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Wednesday, March 2, 2011, at 9:30 a.m.