United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, MARCH 8, 2011 No. 34

House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. YODER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 8, 2011.

I hereby appoint the Honorable KEVIN YODER to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 3:50 p.m.

MEDICARE FRAUD

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

Mr. STEARNS. Mr. Speaker, last week, as chairman of the Oversight and Investigations Subcommittee of Energy and Commerce, I held a hearing on the problem of Medicare fraud. This is not a new issue. It has been a continuing problem with Medicare, and I have been concerned about Medicare fraud for some time here. Last Congress, I introduced a bill to increase the civil and criminal penalties on those who defraud the Medicare program.

In fact, in 1990, the Government Accountability Office, GAO, listed both Medicare and Medicaid as high risk because these programs are vulnerable to waste, fraud, abuse, and mismanagement. Now, how badly mismanaged are we talking about? Well, the GAO recently issued a report that there was $48 billion just in improper payments. This isn't fraud. This is just improper payments. So when it comes to fraud, it is estimated anywhere from $60 billion to $90 billion is lost to Medicare fraud every year.

During this hearing, I asked the Director of Medicare Program Integrity, whose job it is to protect Medicare against fraud and abuse, if he knew how much money is lost to fraud in Medicare. He could not answer this question. The following week, Secretary Sebelius was asked in a Health Subcommittee hearing if she knew how much money was lost to fraud in Medicare. Her answer: ''If we knew how big it was, we'd hopefully shut it down.''

But in my hearing, Special Agent Omar Perez, the head of the Medicare Fraud Strike Force in the Miami region of Florida for the Office of the Inspector General, testified he was able to find $3.8 billion in Medicare fraud. My colleagues, this is one city. If extrapolated across 50 States, with almost 20,000 municipalities, you can see how we could get to $60 billion to $90 billion in fraud. According to the Inspector General, Medicare fraud is more lucrative than the drug trade, with easy money, less violence, and lighter punishments. And organized crime is taking notice and getting involved in defrauding Medicare.

So here are five reform ideas that came out of this hearing that were mentioned to help secure Medicare against criminals engaged in defrauding the program.

First, Medicare needs to maintain better control over their provider network. It is easy for a company to do business with Medicare, and the burden is on the government to remove a company from the Medicare program. This needs to change to allow the government to remove bad actors from the program quickly and efficiently.

Secondly, Medicare needs to significantly improve their provider and supplier screening process. While individuals have a right to Medicare, companies do not have a right to become or stay a Medicare provider.

Third, Medicare needs to shift away from a fee-for-service program. A capitated managed care organization provides a strong financial incentive to the managed care organization to eliminate fraud and abuse. It is the managed care plan that has the financial risk and not the United States Federal Government when criminals perform fraud. Managed care organizations present their own set of challenges but need to be considered when discussing reforms to eliminate fraud in Medicare.

And fourth, Medicare needs to increase the role of physicians in detecting and preventing fraud themselves. Medicare providers and suppliers must use a doctor's prescription to obtain government reimbursement. Bad actors forge these documents. Previously, the GAO has recommended that Medicare require that physicians receive a statement of Medicare home health services that their patients receive so they can review the documents. This will allow them to look at it carefully and detect any potential misuse of their authorizations.

And lastly, Medicare needs to use predictive computer modeling and other technologies. The credit card industry uses this modeling to identify potentially fraudulent transactions. Medicare and Medicaid should adopt this style of analysis to prevent fraudulent claims.

Mr. Speaker, these are five simple ideas to empower the Medicare program to stop the fraud in this system,

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and this was recommended from the hearing what we had in Oversight and Investigations. It must be stated again there is an estimated $60 billion to $90 billion in fraud in Medicare every year, and of course, no one over at Health and Human Services knows how much is lost. The Secretary of Health and Human Services could not even come up with a number. And think of that. After 45 years of this program, no one knows how much fraud is in Medicare, and no steps have been taken to really analyze and find out. Yet we have all the baby boomers that are beginning to retire. The cost of Medicare will explode, and the hidden cost of fraud will increase.

My committee will forward the material from the Oversight and Investigation hearing to the Health Subcommittee to start to develop legislation to address these problems with Medicare fraud. We have a $1.5 trillion deficit, and eliminating waste, fraud, and abuse is necessary to balance our budget, and we should start now.

LIVING WELL AT THE END OF LIFE: A NATIONAL CONVERSATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, I had the privilege this morning to participate in a fascinating in-depth discussion sponsored by the National Journal and The Regence Foundation, ''Living Well at the End of Life: A National Conversation.'' It was made possible by the Regents Group, an insurance company headquartered in my hometown, Portland, Oregon, and the deep commitment that its president and CEO, Mark Ganz, has to be able to make sure that families have the information, the tools they have necessary to make sure that they understand their treatment choices and that they are respected.

This is an issue that goes far beyond the so-called ''end of life.'' This is key so that everybody knows their health care choices, they understand their choices, and they make their wishes known, their choice is honored and respected.

It is a mistake as we have these conversations to confuse the high cost of end of life with concerns about health care reform. When people are seriously ill, they have high health care spending, and there is nothing wrong with that. That is a natural consequence of what happens when people need more hospitalization, more intense activity.

But too often, the sickest and most vulnerable have negative experiences in our complex health care system, which creates unnecessary strains on both the patients and the caregivers, and it is a mistake to somehow confuse this with people who are seriously terminally ill. Forty percent of all people who are hospitalized can't make decisions for themselves. This is a real stress on them, on families, and the ones who have been given the responsibility to try and guess what is in their best interests.

I have heard countless stories about how our health care system has failed patients during these medically and emotionally complex episodes. Both colleagues on our Ways and Means Committee—and we're dealing with health care reform—friends, and witnesses have come forward time and time again with how a parent, a spouse, a friend ended up on auto pilot in the health care system, in and out of hospitals, confused by all the specialists, decisions being made around them but not with them.

We can do better. We know how to do better. There are successful models of comprehensive, patient-centered care that leads to better quality and greater patient satisfaction, and it's interesting that the new polling by the National Journal and The Regence Foundation makes this abundantly clear.

□ 1410

These results affirm that health care is deeply personal and that people want to know their options, stay in control of their care, and be in a position to help their loved ones. This poll indicates that 97 percent of Americans polled believe that it is important that patients and their families be educated about palliative care and care options available to them when they're seriously ill.

Over 80 percent of Americans polled believe that discussions about palliative care and other treatment options should be fully covered by health insurance, including Medicare. By a more than three to one margin, people identified that it's more important to enhance the quality of life for someone who is seriously ill rather than just simply extend life.

It pointed out that as a result of some of the, I would think, bizarre conversation that has surrounded this issue, including the 2009 PolitiFact's Lie of the Year about death panels, that elected officials and political candidates, according to this survey, are actually the worst source in people's minds for information. The good news is that they trust religious leaders, health care providers and doctors, insurance companies.

And the most trusted are friends and family, which illustrates why we need to work aggressively in educating all Americans about the choices that are available to them and how those choices are respected. It's time to start now.

NationalJournal + The Regence Foundation

Living Well at the End of Life: A National Conversation

FD

Sacred Mission Communications | Corporate Communications | Design & Digital Communications | Public Affairs | Special Situations | Strategy Consulting

FD | February 2011

Methodology

- This is the first installment of Regence/National Journal Living Well at the End of Life Poll commissioned by National Journal and conducted by FD.
- The survey fielded February 16-17 & 19, 2011 among a nationally representative telephone sample of 1000 adults, aged 18 and older. Margin of error = +/- 3.1%.

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Summary

- Americans have significant personal experience with these issues.
- As a result, it is this personal experience – rather than political persuasion – that drives attitudes and opinions.
- Americans want more information and discussion and think they will be well-served the discussion.
- There is opportunity for the discussion to come from institutions closer to the "level of care."

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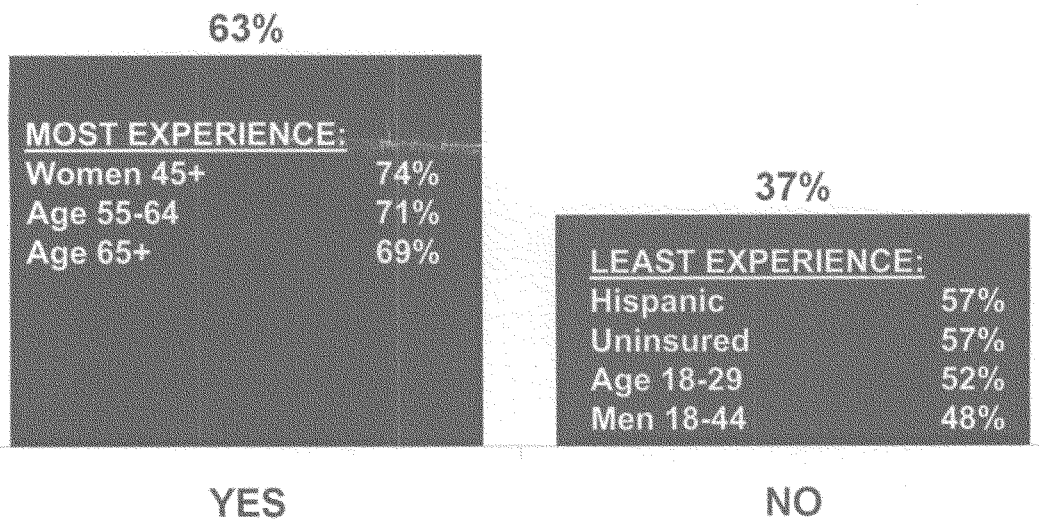
Have you, personally, had experience with palliative care, end-of-life care, or hospice care either for yourself or a family member?



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And, thinking back to before your experience with these issues, generally speaking would you say you were prepared or unprepared for that experience?

Among 63% with Personal/Family Experience

50% Prepared		49% Unprepared	
MOST PREPARED:		MOST UNPREPARED:	
Age 65+	59%	Hispanic	65%
Weekly Churchgoers	59%	Women 18-44	64%
Men Age 45+	59%	Age 30-44	61%
Men	57%	African-American	61%
Medicare Recipients	57%		

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5

By a wide margin, Americans place more importance on enhancing quality rather than extending life through every intervention possible.

Which statement comes closer to your point of view?

71% *It is more important to **ENHANCE the quality of life** for seriously ill patients, **even if it means a shorter life.***

23% *It is more important to **EXTEND the life** of seriously ill patients **through every medical intervention possible.***

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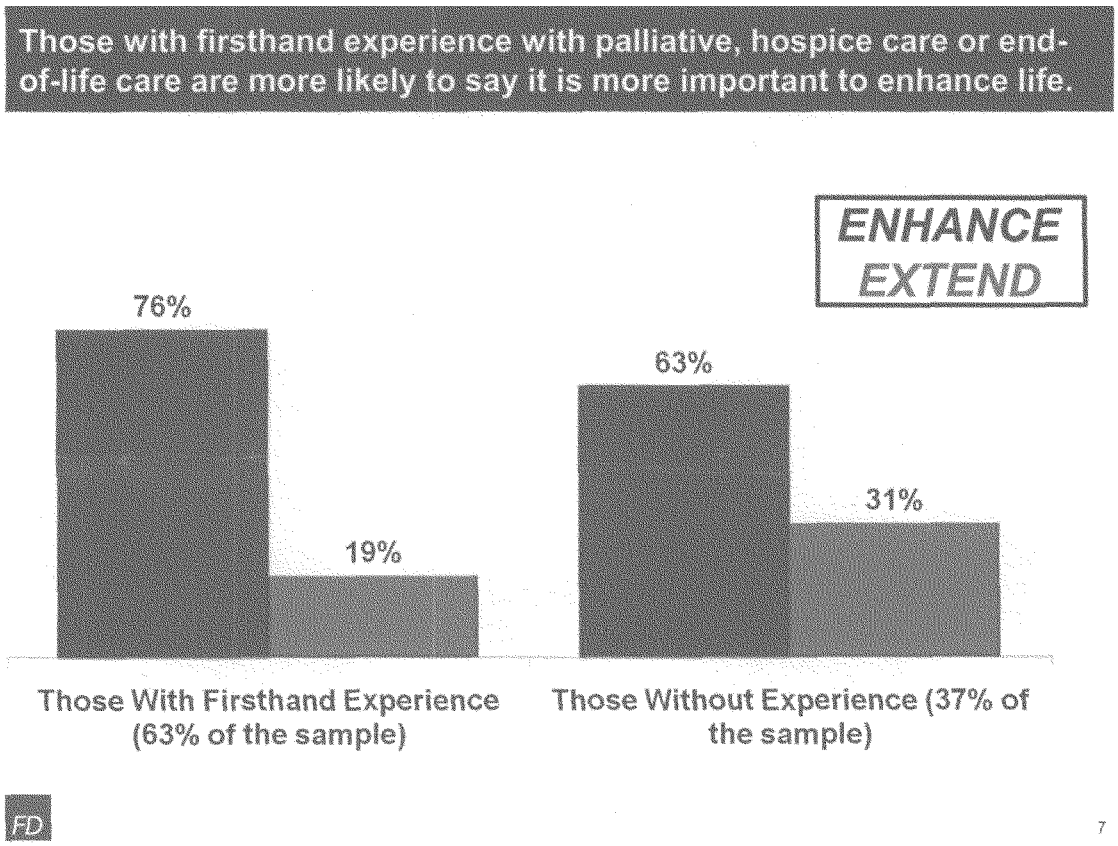
Those with firsthand experience with palliative, hospice care or end-of-life care are more likely to say it is more important to enhance life.
ENHANCE
EXTEND
76%
19%
63%
31%
Those With Firsthand Experience (63% of the sample)
Those Without Experience (37% of the sample)
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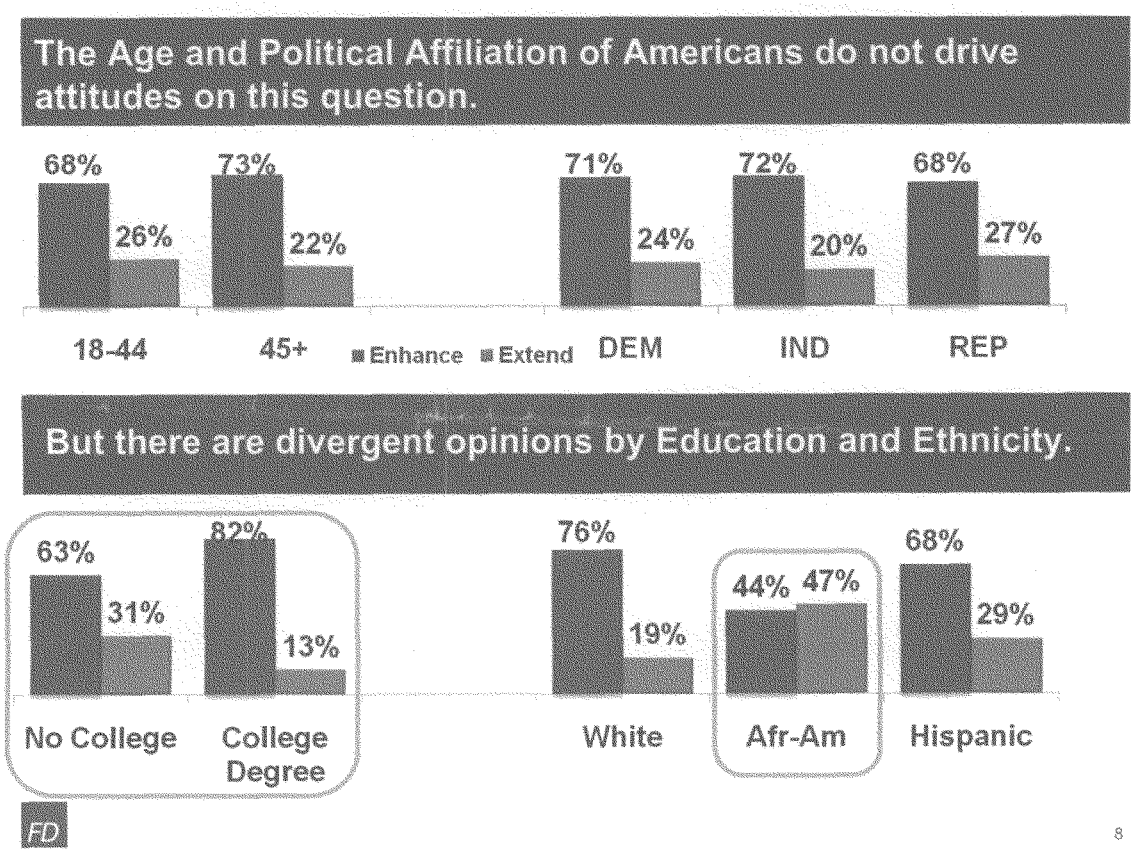
The Age and Political Affiliation of Americans do not drive attitudes on this question.
68%
26%
73%
22%
71%
24%
72%
20%
68%
27%
18-44
45+
Enhance
Extend
DEM
IND
REP
But there are divergent opinions by Education and Ethnicity.
63%
31%
82%
13%
76%
19%
44%
47%
68%
29%
No College
College Degree
White
Afr-Am
Hispanic
FD
8

Most Americans see the health care system as having the ability and the responsibility to offer life-extending treatments at any cost.

Which statement comes closer to your point of view?

55% *The health care system in this country has the **responsibility, the medical technology, and the expertise** to offer treatments to seriously ill patients and **spend whatever it takes to extend their lives.***

37% *The health care system **spends far too much** trying to extend the lives of seriously ill patients which **diverts resources from other priorities, adds to our country's financial difficulties, and increases the cost of health care for everyone.***

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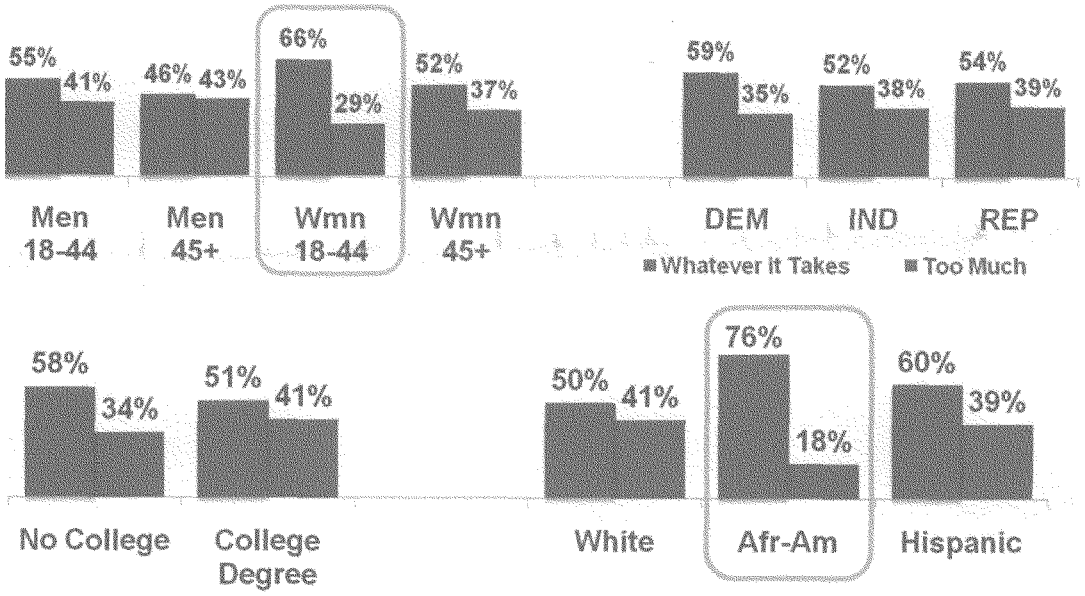
Younger women and African-Americans are more likely to agree with this sentiment. And, there is no political dimension at play.



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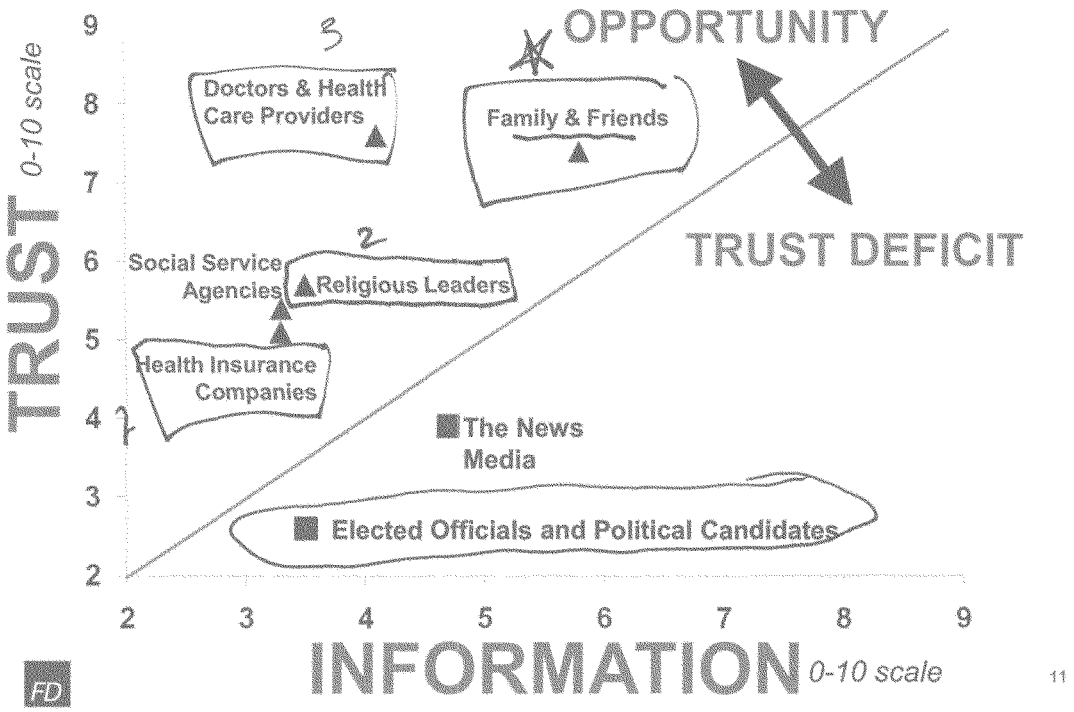
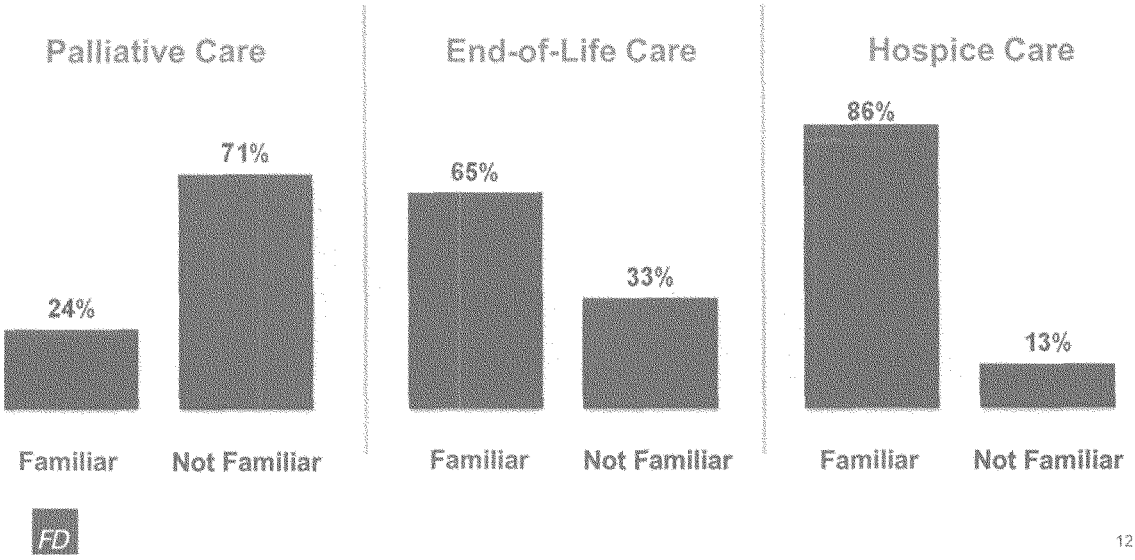


Hospice Care and End-of-Life Care are familiar terms to Americans, while Palliative Care is not.

Now, I'd like to read you a list of some different terms related to health care and, for each one, please tell me how familiar you are with that term.



Survey respondents were read a description of palliative care, end-of-life care, and hospice care.

Now, I'd like to read you some more information about some of the terms I mentioned earlier.

Palliative care *describes any kind of care or treatment for seriously ill patients which* ***focuses on reducing the severity of symptoms rather than attempting to reverse progression*** *of the illness or provide a cure. The goal of palliative care is to* ***provide physical, emotional, and spiritual support*** *to patients and also their families. Palliative care can be provided alongside of curative treatment and is commonly provided at home, at a hospital, or at a nursing home.*

An important part of palliative care is ***end-of-life care****, which* ***focuses specifically on advanced planning for patients approaching death.*** *This includes discussing their preferred treatment options and reducing their pain and suffering. Palliative care also includes* ***hospice care*** *which* ***focuses on providing comfort, rather than attempting to cure*** *patients in their final stage of life.*

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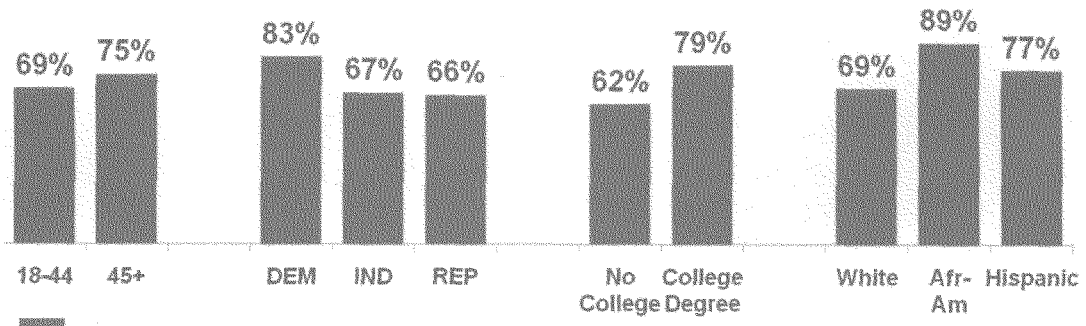
Across the demographic board, Americans say it's important for these issues to be a priority for the health care system.

Now that you've heard some more information, how important is it that these health and life issues be a top priority for the health care system in this country?

96% IMPORTANT

72% 'VERY' IMPORTANT



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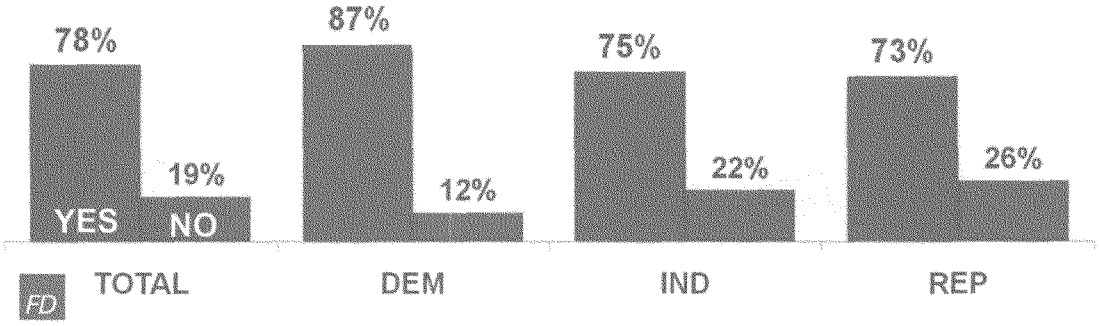
Across partisan lines, the American public wants more of an open discussion about these issues.

Now, still thinking about these health and life issues, including palliative care and end-of-life care...

Given this country's aging population and the increasing amount of public funds spent on health care, there should be more of an open debate *about public policies regarding palliative care and end-of-life care.*

Even though public funds are spent on these issues, ***an open debate about public policies regarding palliative care and end-of-life care could interfere with personal decisions between families and doctors.***

How about you? Do you believe there should be more of an open debate about public policies regarding these health and life issues?



15

Now, please tell me whether you agree or disagree with the following statements regarding these health and life issues.

It is important that patients and their families be ***educated*** *about palliative care and end-of-life care* ***options available*** *to them* ***along with curative treatment***

97% AGREE

A ***public dialogue and debate*** *about these health and life issues will* ***help patients*** *and their families by* ***providing them with more information*** *about their treatment options*

86% AGREE

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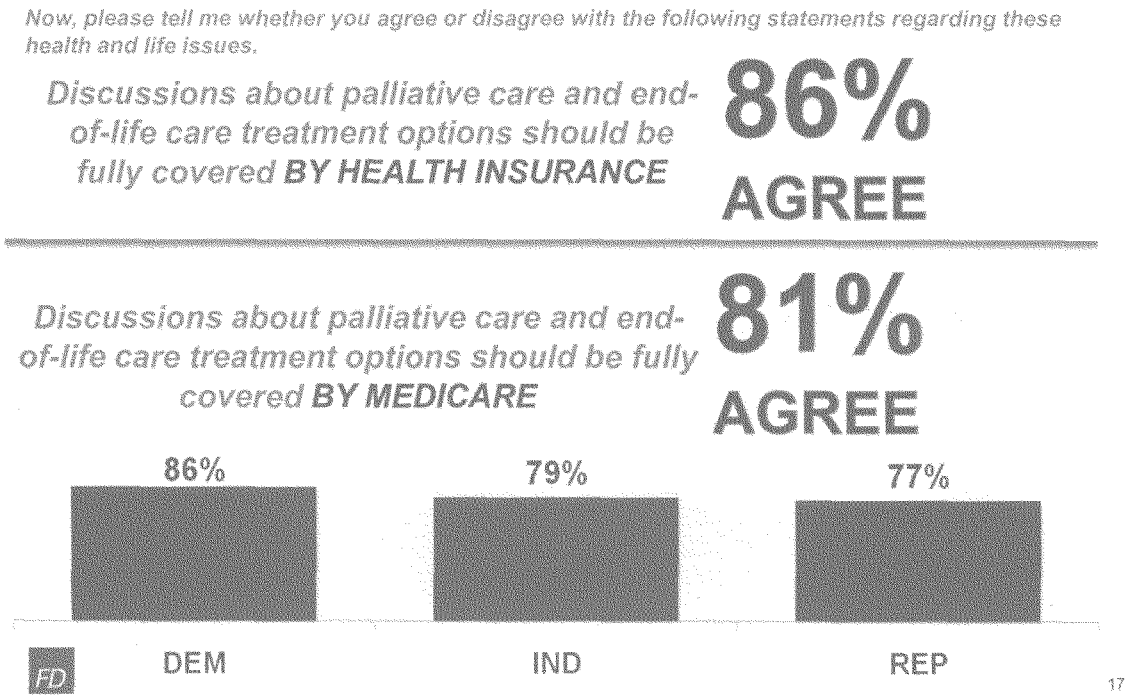
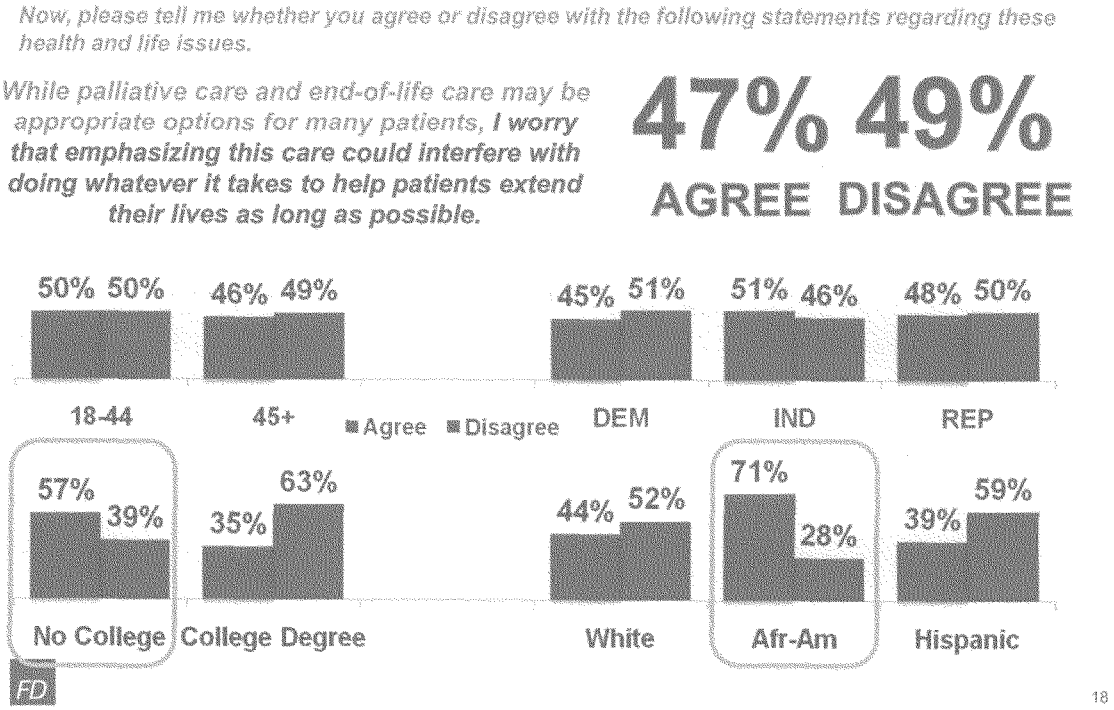
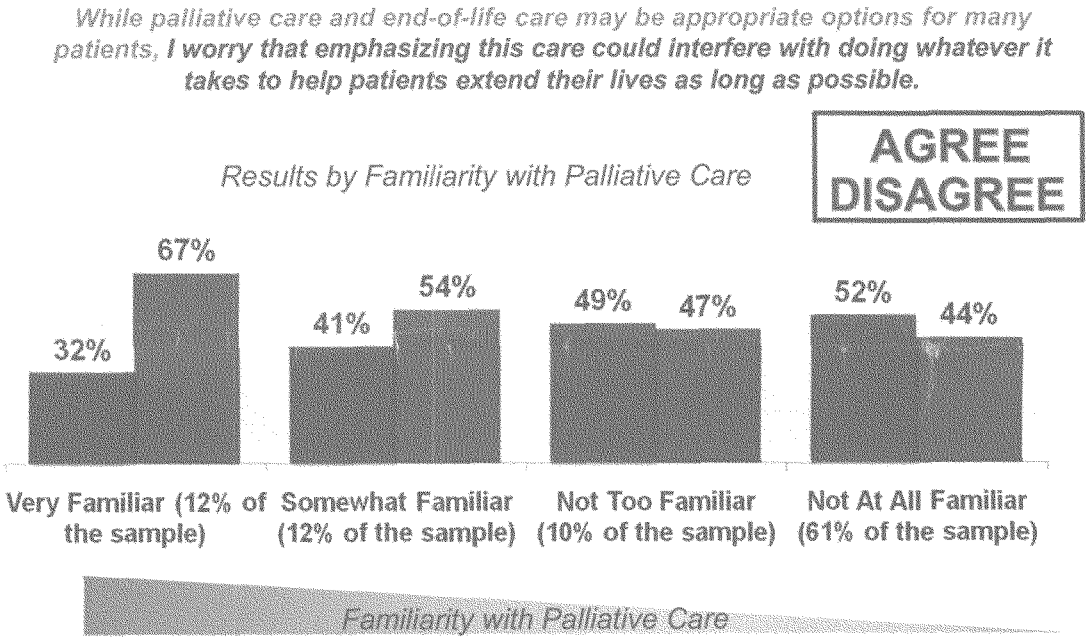

Now, please tell me whether you agree or disagree with the following statements regarding these health and life issues.
Discussions about palliative care and end-of-life care treatment options should be fully covered BY HEALTH INSURANCE
86%
AGREE
Discussions about palliative care and end-of-life care treatment options should be fully covered BY MEDICARE
81%
AGREE
86%
79%
77%
DEM
IND
REP
FD
17


Now, please tell me whether you agree or disagree with the following statements regarding these health and life issues.
While palliative care and end-of-life care may be appropriate options for many patients, I worry that emphasizing this care could interfere with doing whatever it takes to help patients extend their lives as long as possible.
47% 49%
AGREE DISAGREE
50% 50%
46% 49%
45% 51%
51% 46%
48% 50%
18-44
45+
Agree
Disagree
DEM
IND
REP
57%
39%
35%
63%
44%
52%
71%
28%
39%
59%
No College
College Degree
White
Afr-Am
Hispanic
FD
18


While palliative care and end-of-life care may be appropriate options for many patients, I worry that emphasizing this care could interfere with doing whatever it takes to help patients extend their lives as long as possible.
Results by Familiarity with Palliative Care
AGREE
DISAGREE
32%
67%
41%
54%
49%
47%
52%
44%
Very Familiar (12% of the sample)
Somewhat Familiar (12% of the sample)
Not Too Familiar (10% of the sample)
Not At All Familiar (61% of the sample)
Familiarity with Palliative Care

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PIRATES OF THE SEA: DÉJÀ VU OF 1801

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the pirates are back. These are not the Blackbeard, eye-patched, hook-for-a-hand, peg-legged kind of pirates from the Hollywood movies. The modern-day pirates are skilled, rich, violent, armed with automatic weapons, and are driven by a business that is generating up to $7 billion a year.

My constituents from Texas, Bill Rouse and his wife Judy, have navigated the oceans for years. Recently, they and another group of international navigators and sailors decided that Somalia and the Somalian pirates had made the seas too dangerous to sail in that region, forcing them to transport their ships and boats by barges to safer ports. Bill said that we cannot allow a bunch of thugs to take an entire ocean away from the world. And that is exactly what these pirates are trying do. They have taken control of parts of the ocean and are trying to mock the most powerful nations on Earth, including ours.

Days before the ill-fated American ship *Quest* left for their journey, Bill asked Scott Adam to join them in transporting their boats. Adam, the skipper, said of the *Quest*, the *Quest* was circumnavigating the globe, and it was a lifelong quest. And they continued on their trip, although it turned out to be doomed, in the Indian Ocean. Just a week after Scott Adam and three other Americans were captured, they were executed pirate-style after Somali pirates captured the ship the *Quest*.

Pirates have also hijacked and kidnapped a Danish family. Bill Rouse has also met with these people on this doomed ship. This family, including small children, is now on the Somali mainland, still held hostage. Their captors have arrogantly warned that any military effort to save them will result in their immediate execution.

Bill has told me of other stories about the tight-knit community of people sailing in that region from all over the world. And they have been forced off of the sea because of the pirates. There are not enough resources to respond to these constant threats; and these pirates not only kidnap, murder, and hold for ransom small boat owners, but attack freighters and other commercial vessels as well.

In just 2010, Somali pirates hijacked 53 ships and held a total of 1,100 hostages for ransom; and pirate attacks have increased dramatically in recent months. Here is a drawing of the recent attacks of the pirates in the Indian Ocean. The red represents all of the pirate attacks between March of 2009 up until October of 2010. But the blue, which you see just as much of, represents the attacks by pirates in the Indian Ocean in just the last 4 months.

Piracy is a growing business because nations pay the ransom. Every dollar paid in ransom is helping the pirates of the seas finance their cause, expand their reach, and their thirst is even getting greater for more bounty and loot. Despite an increased international naval presence, the Somalian pirates are getting bolder, and they are getting more violent.

America has been dealing with the threat of pirates since the days of our Founding Fathers, over 200 years ago. During the youngest years of America, the Barbary states would blackmail American ships and the United States by demanding money in return for the safety of U.S. ships that crossed the Mediterranean Sea. For years, the United States and European governments paid the humiliating tribute to protect the ships, but then in 1801 the Barbary pirates felt the wrath of the United States when Thomas Jefferson sent the United States Navy and the United States Marine Corps to take care of business with the Barbary pirates.

This was the most famous action of the marines during this time. And the phrase, ''from the shores of Tripoli,'' has been immortalized in the marine hymn. Jefferson sent a clear message to the Barbary states and their pirates: don't mess with the United States. And they didn't for 200 years. The Somalian pirates should study a little American history. If they would, they'd find out that there will be a day of reckoning that will eventually come to them and their evil ways. Thomas Jefferson destroyed them. We will see what happens now.

Our Constitution gives us the authority in article I, section 8: ''To define and punish piracies and felonies committed on the high seas.'' These ocean lines are essential to American commerce and travel, and we must do everything in our power to stop the pirates off the Somalian coast. These pirates of the seas must find out that if they continue to mess with the United States, they will find themselves in a déjà vu of 1801. And they, like the pirates before them, will disappear in the ash heap of history.

And that's just the way it is.

INTERNATIONAL WOMEN'S DAY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Wisconsin (Ms. MOORE) for 5 minutes.

Ms. MOORE. I rise today as the Democratic cochair of the Women's Caucus to celebrate the 100th anniversary of International Women's Day.

Mr. Speaker, I'm so pleased to join millions in our Nation and around the world in commemorating this International Women's Day. We celebrate courageous women in places like Afghanistan, Iraq, Egypt, Sudan, and elsewhere, who continue to fight the good fight at great risk to their own lives in the face of being ostracized and persecuted by their families and communities, for women's abilities to be included in the societies in which they live.

We celebrate tremendous women here at home in the United States who have done much to advance the ability of women to work, to vote, to go to school, and to run for and hold elective office. As a woman who is able to serve in Congress today, I know that I stand on the shoulders of these women giants who have sacrificed so much in the past.

But we must also recognize that much needs to be done right here in the United States. In our country, women make only 77 percent of the paycheck that a male would make doing the same job. We know that even after 100 years it is too soon to declare: Mission accomplished.

Recent news reports in Afghanistan show efforts in Afghanistan to pass legislation that would shut down domestic violence shelters. Turning our attention closer to home, in Haiti, we find that after the devastating earthquake, UNICEF has found that the rapes in Haiti are at an all time high. But we've also been fixated in recent weeks by the protests and push for democracy sweeping the Middle East. And women have been leading the charge.

We must also acknowledge the shameful plight of hundreds of thousands of mothers-to-be around the globe who die because of pregnancy or child-related complications. It's shameful that the simple act of childbirth remains a death sentence for hundreds of thousands of women and girls around the world.

□ 1420

We must recommit ourselves to the Millennium Development Goal to reduce dying from pregnancy or childbirth.

Last, I had the honor of attending the State Department's Women of Courage ceremony to honor 10 women.

They were:

Maria Bashir, a prosecutor general in Afghanistan. She handles cases on behalf of women victims of domestic abuse.

Nasta Palazhanka, who at age 20 has led peaceful protests and called attention to the plight of families of political prisoners.

Henriette Ekwe Ebongo from Cameroon, a political activist and publisher of Bebela, she spent a lifetime advancing press freedom, human rights, good governance, and gender equality.

From China, Guo Jianmei, a lawyer. Founder of the Women's Law Center at Peking University, she helped to create a corps of lawyers to defend public interest cases, especially affecting women and other vulnerable groups.

From Cuba, Yoani Sanchez. She has an international following for her blog to provide insight into life in Cuba and to expand information flow and free expression throughout Cuba.

Agnes Osztolykan, elected to the Hungarian Parliament in 2010, the only female Roma Member of Parliament in Hungary.

From Jordan, Eva Abu Halaweh has dedicated her career to advocating for

the vulnerable people of Jordan, including women at risk of becoming victims of so-called ''honor crimes.''

From Kyrgyzstan, we have Roza Otunbayeva, who emerged as central Asia's first female head of state and head of government in a traditional, majority Muslim country.

From Mexico, the first woman ever appointed to the position of Assistant Attorney General, Marisela Morales Ibanez, a leader in bringing to justice some of Mexico's most dangerous and notorious criminals.

Last but certainly not least, from Pakistan, Ghulam Sughra has become her village's first female high school graduate and the first teacher at the first school for girls.

Thank you so much for these women and thanks for International Women's Day.

[From the Department of State, United States of America, Mar. 8, 2011]

2011 INTERNATIONAL WOMEN OF COURAGE AWARDS CEREMONY

100TH ANNIVERSARY OF INTERNATIONAL WOMEN'S DAY

THE SECRETARY OF STATE'S INTERNATIONAL WOMEN OF COURAGE AWARDS

On the 100th anniversary of International Women's Day, Hillary Rodham Clinton, Secretary of State will present the fifth annual International Women of Courage Awards to ten women from around the world. This is the only award within the U.S. Department of State that pays tribute to outstanding women leaders worldwide. It recognizes their courage and leadership as they fight for social justice, human rights, and the advancement of women.

Today, The Secretary of State will pay tribute to this year's ten honorees from Afghanistan, Belarus, Cameroon, China, Cuba, Hungary, Jordan, Kyrgyzstan, Mexico, and Pakistan. They were chosen from among eighty-seven exceptional women nominated by U.S. Embassies worldwide for their extraordinary work in advancing human rights.

2011 INTERNATIONAL WOMEN OF COURAGE AWARDS CEREMONY

HOSTED BY

Hillary Rodham Clinton

Secretary of State

Tuesday, March 8, 2011

11:00 a.m.

Dean Acheson Auditorium—Department of State

WITH SPECIAL GUEST

First Lady Michelle Obama

PROGRAM PARTICIPANTS

The Honorable Hillary Rodham Clinton, Secretary of State

Mrs. Michelle Obama, First Lady of the United States

The Honorable Melanne Verveer, Ambassador-at-Large for Global Women's Issues

The Honorable Julia Gillard, M.P., Prime Minister of Australia

Mr. Lloyd Blankfein, Chairman and CEO of Goldman Sachs

AWARD RECIPIENTS

Ms. Maria Bashir, Afghanistan

*Ms. Nasta Palazhanka, Belarus**

Ms. Henriette Ekwe Ebongo, Cameroon

Ms. Jianmei Guo, China

*Ms. Yoani Sanchez, Cuba**

The Honorable Agnes Osztolykan, Hungary

Ms. Eva Abu Halaweh, Jordan

Her Excellency Roza Otunbayeva, President of the Kyrgyz Republic

Ms. Marisela Morales Ibañez, Mexico

Ms. Ghulam Sughra, Pakistan

** Unable to attend awards ceremony*

MARIA BASHIR

AFGHANISTAN

Maria Bashir is Prosecutor General of the Attorney General's Office in Herat province, Afghanistan, the only woman to ever hold such a position in Afghan history. She handles cases on behalf of women victims of domestic abuse. Her work on behalf of victims of-self-immolation and her unparalleled efforts to jail abusive husbands has put her own life at risk, yet she perseveres to make Herat a more just and safe place and remains steadfast in her commitment to the future of Afghanistan.

NASTA PALAZHANKA

BELARUS

Nasta Palazhanka joined the opposition youth movement in Belarus at the age of 14. Now 21, she is a key figure in the opposition youth organization ''Malady Front'' (Young Front). Ms. Palazhanka has led peaceful protests an called attention to the plight of the families of political prisoners. She was at the heart of the ''tent camp'' set up in downtown Minsk to demonstrate against the fraudulent results of the 2006 presidential polls, and she has selflessly worked on behalf of charitable causes to improve the human rights situation in her country.

HENRIETTE EKWE EBONGO

CAMEROON

Regarded as one of the most influential journalists in Cameroon, Henriette Ekwe Ebongo, political activist and publisher of Bebela, has spent a lifetime advancing press freedom, human rights, good governance, and gender equality. The publisher of Bebela, a weekly independent newspaper, she was instrumental in the founding of a freer and more independent media in Cameroon. Despite constant persecution over 30 years, ''la Maman'' (as her fellow journalists call her) continues to be committed to fight ''until things move in the right direction.''

GUO JIANMEI

CHINA

Born in an impoverished area of China, Guo Jianmei has become the country's best-known female lawyer. Founder of the Women's Law Center at Peking University, Ms. Guo helped create a corps of lawyers to defend public interest cases, especially in areas affecting women, migrants, and other vulnerable groups. When Peking University appeared to bow to official pressure, and closed her center, Ms. Guo responded by establishing her own law firm. The memory of the plight of the women in her village drives her to continue to fight to improve the lives of the underprivileged.

YOANI SANCHEZ

CUBA

Blogger, technological innovator, and emerging civil society leader Yoani Sanchez has attracted an international following for her blog, Generación Y, which gives readers unprecedented insight into life in Cuba. She has worked to improve the ability of ordinary Cubans to access and disseminate information, and to expand information flow and free expression throughout Cuba. In 2009, Sanchez was detained and roughed up by Cuban state security agents. She lives with daily fear that she could be jailed and accepts that she will always pay a price for her work as long as the current governmental system continues.

AGNES OSZTOLYKAN

HUNGARY

Defying the odds, Agnes Osztolykan was elected to Hungarian Parliament in 2010, and is the only female Roma Member of Parliament (MP) in Hungary. Ms. Osztolykan speaks out for Roma people in the face of open hostility, fearlessly advocating for the equal rights and inclusion of Roma in Hungarian society. As deputy chair of the Education Committee, she contributes to Hungary's new education regulations, ensuring that Roma inclusion remains a priority of government programming. Ms. Osztolykan is also a strong promoter of civil society in Hungary, who tirelessly pushes for better education and opportunities for children.

EVA ABU HALAWEH

JORDAN

Eva Abu Halaweh has dedicated her career to advocating for the vulnerable people of Jordan, including women at risk of becoming victims of so-called ''honor crimes.'' As Executive Director of the Mizan Law Group for Human Rights, Ms. Halaweh has developed a legal team that provides free legal advice and counseling, often the only option for those seeking justice or a remedy to their plight. Ms. Halaweh's work has influenced the government's actions to prevent torture and prosecute such violations and her advocacy opposing the government's use of administrative detention to ''protect'' women at risk of so-called ''honor crimes'' has changed the lives of many.

ROZA OTUNBAYEVA

KYRGYZSTAN

Stepping forward as a leader in the second effort of her country to shed authoritarian rule, Roza Otunbayeva emerged as Central Asia's first female head of state and head of government in a traditional, majority Muslim country. In the face of a collapsing, corrupt government and economic stagnation, President Otunbayeva succeeded in binding together a fractious opposition into a provisional government structure able to check the struggles for power from stirring up wider divisions in society. She has defied the expectations of the international community in building the first functioning democracy in Central Asia.

MARISELA MORALES IBANĚZ

MEXICO

The first woman ever appointed to the position of Assistant Attorney General for Specialized Investigation of Organized Crime (SIEDO) in 2008, Marisela Morales has been a leader in bringing to justice some of Mexico's most dangerous and notorious criminals. Her fearless efforts to stand up against corruption have generated confidence in SIEDO among the public at large. Under Ms. Morales' leadership, SIEDO has succeeded in coordinating efforts with the Secretariat of Defense, the Secretariat of the Navy, the Secretariat of Public Security, and the Secretariat of Governance, as well as with the U.S. Embassy in Mexico, and the embassies of other governments. Ms. Morales has been instrumental in creating the first Federal Witness Protection Program in Mexico. With her guidance and support, SIEDO indicted the first federal trafficking in persons case. With her oversight, SIEDO and the U.S. Department of Homeland Security have cooperated to reunify children of trafficking victims with their mothers in the United States.

GHULAM SUGHRA

PAKISTAN

Born in rural Sindh Province, Ghulam Sughra became her village's first female high school graduate and the first teacher at the first school for girls. Despite being challenged by villagers who refused to enroll their daughters in school, she initiated a public awareness campaign. She came to realize that economically empowered women would have more authority to allow their daughters to attend school so she focused on ways that would enable local women to develop their own sources of income. Her efforts led to the creation of the Marvi Rural Development Organization (MRDO), an NGO focused on creating community savings funds and raising awareness of education, health and social development issues.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 4 p.m. today.

Accordingly (at 2 o'clock and 23 minutes p.m.), the House stood in recess until 4 p.m.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 4 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, our God and Savior, You have given us a powerful calling. Destined in our journey of life to find eternal happiness in Your presence; each day, we hope to draw closer to You and at the same time accomplish great deeds for the good of this Nation and for the world community.

By Your guidance of our judgments and decisions may we respond to Your commands and holy inspirations to build Your kingdom of peace and justice.

In so doing, may we give You glory now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from North Carolina (Ms. FOXX) come forward and lead the House in the Pledge of Allegiance.

Ms. FOXX 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.

WORLD WAR I MEMORIAL

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the lone survivor, the last doughboy of World War I, Frank Buckles, has died at the age of 110. This photograph of Frank Buckles was taken when he was 16 years of age. He lied to numerous recruiters so he could join the United States Army and go ''over there'' in World War I. He served in the Ambulance Corps, rescuing other doughboys who had been wounded in Europe. He came back home to America.

During World War II, he was in the Merchant Marines, Merchant Seamen, and he was captured by the Japanese in the Philippines. He was held as a prisoner of war for 3½ years.

Later, Frank moved to West Virginia, and he drove his tractor until he was well into his hundreds. This is a photograph taken of him when he was 109 years of age. It was taken not far from here on The D.C. Mall because, you see, it was Frank's wish toward the end of his life that we, as Members of Congress, authorize the building of a memorial to all of the doughboys who served in World War I, all 4 million of them who have all died; 116,000 of them were killed in World War I.

Mr. Speaker, we have memorials for Vietnam, World War II, and Korea on The Mall, but we don't have a memorial for all of those who served in World War I. We have a memorial, and this is a photograph of it, for the folks that lived here in D.C. and served in World War I, but we don't have a memorial for all that served.

So I have filed, today, legislation on behalf of Frank Buckles and all those other doughboys that we authorize the building of a memorial on The Mall for those who served in World War I, those doughboys. It is time for Congress to do something for those young men and women who served.

And that's just the way it is.

HONORING C. RAY BAKER

(Mr. WOMACK asked and was given permission to address the House for 1 minute.)

Mr. WOMACK. Mr. Speaker, I rise today to remember an Arkansas legend—former Mayor Ray Baker—who died March 4, 2011, following a lengthy illness. For 20 years, Mayor Baker presided over Fort Smith, Arkansas, our second largest city. He was remembered this week not only for his outstanding civic leadership, but also for his 44 years of teaching American history at Fort Smith Southside High School, lessons taught to thousands of students on many of the very issues debated in this hallowed Chamber. He was an institution in civic and academic accomplishment, including the prestigious Milken Family National Educator Award.

Mr. Speaker, it warmed the soul to listen to his colleagues, former students, family, and friends eulogize him for his contributions to humankind. His enthusiasm was contagious; his devotion to his school, church, and community unmistakable.

Thanks to Mayor Baker, in his own immortal words, ''Life's worth living in Fort Smith, Arkansas.''

HORRIBLE UNDERMINING OF RIGHTS

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON LEE of Texas. Mr. Speaker, just a few minutes ago I had the privilege of listening to Janice Kay Bobholz, a deputy sheriff from Wisconsin; Courtney Johnson, a teacher from Ohio; Ryan Fagg, an electrician from Indiana; Lynne Radcliffe, a school support staff from Ohio; and Tom Guyer, a U.S. Army veteran and a parole officer from Ohio, all of them pleading with this Congress to intervene or to cease the nonsense of their Governors who are union busting and breaking the backs of middle class Americans.

They all explained how the unions were eager to work with these States on health and pension benefits; but yet, because of special interests and large corporate donors and private conversations of the Governor of Wisconsin talking about breaking the backs of the special 14 who are trying to stay out to help the working middle class, they are in trouble.

Rather than creating jobs, rather than creating jobs as we are trying to do as a Democratic Caucus working on behalf of the American people, what we have is, frankly, a horrible undermining of rights in this country.

CREATE JOBS BY PRODUCING AMERICAN ENERGY

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, with gas prices going through the roof, it is time to ask the question: Is this administration's energy policy working? After all, gas price haves soared by 30 percent over the past year.

We can help protect ourselves from these sky-high prices and create jobs by actively producing American-made energy. That's why I support an all-of-the-above energy policy that includes more American-produced energy, like oil and nuclear, along with alternatives like wind and solar. This will lower prices and create good American jobs while reducing our dependence on foreign oil.

Unfortunately, the Obama administration doesn't seem to get this. Its de facto drilling moratorium in the gulf has already cost 12,000 jobs and 300,000 barrels a day of energy production.

Mr. Speaker, we need to increase production, not decrease it, or American families are going to be stuck with ridiculous gas prices that line the pockets of unsavory regimes in the Middle East.

SLUSH FUNDS

(Mr. PITTS asked and was given permission to address the House for 1 minute.)

Mr. PITTS. Mr. Speaker, yesterday we learned that the Federal deficit for the month of February was $223 billion, more than the total yearly deficit in 2007. Yet Republicans have been labeled as irresponsible for looking to cut a mere $61 billion from the rest of this year's budget. Our cuts only amount to 30 percent of the monthly deficit. Additionally, these cuts are only made in the discretionary portion of our budget.

Tomorrow, in the House Energy and Commerce Health Subcommittee, we're going to look at new ObamaCare programs that have been locked away in the mandatory budget. One of these programs allows the HHS Secretary to spend unlimited sums of money. We have given the Secretary a credit card with no limit even though our national debt threatens the economic health of our Nation.

It is time that we cut up the credit card and restore to Congress the power to set fiscal priorities. Slush funds and unlimited spending are just two more reasons why ObamaCare needs to be repealed.

GUANTANAMO DETAINEES TO RECEIVE MILITARY TRIALS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, The Washington Post is correct today by headlining ''Obama allows indefinite detention,'' citing ''Guantanamo Bay Order Marks Shift'' as the ''U.S. also plans to resume trials by military commissions.''

I would like to commend the President for stating the administration will resume trials by military commissions for detainees that pose a threat to national security. Civilian courts were never the proper venue to try these enemy combatants. In the future, I hope the President will work with Congress in creating a comprehensive plan for the detention and prosecution of the detainees at Guantanamo Bay as we face the global war on terrorism.

As a member of the House Armed Services Committee, I know firsthand of the professionalism of our dedicated military personnel at Guantanamo. I recently visited the facilities in January, led by Chairman BUCK MCKEON; and in July 2005 with former Chairman DUNCAN HUNTER. Guantanamo Bay is a world-class detention facility to protect American families.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

□ 1610

OBAMACARE

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we are coming up, in 2 short weeks' time, on the 1-year anniversary of the passage of the Patient Protection and Affordable Care Act, affectionately known as ObamaCare.

Mr. Speaker, what has that year wrought? Many of us will remember the Speaker of the House a year ago, Speaker PELOSI, saying, We have to pass this bill so we can understand what's in it.

Well, it's been a year. Do we understand what's in it? The answer is we do, and people don't like what they see.

What about the oft repeated claim ''If you like what you have, you can keep it''? It turns out that is incorrect. What about the waivers that have been issued since October? Now well over a thousand waivers have been issued by HHS. Why have those waivers been issued? They have been issued because this policy doesn't work. And worse than not working, it costs a ton of money.

Mr. PITTS just mentioned that in February the deficit in this country was $223 billion for 1 month, the shortest month of the year. This is as good as it is going to get. What happens when you have those subsidies in the exchanges that subsidize middle class purchase of health insurance in this country for the first time? That's a high pressure tap into the Federal Treasury. It's really wrong and it has to stop.

COMMUNICATION FROM THE OFFICE OF THE CLERK

The SPEAKER pro tempore laid before the House the following communication from Robin Reeder, Archivist:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 2, 2011.

Hon. JOHN A. BOEHNER,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena, issued before the Evidentiary Panel for the State Bar of Texas, for documents.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

ROBIN REEDER,
Archivist.

RESIGNATION AS MEMBER OF COMMITTEES ON NATURAL RESOURCES AND HOMELAND SECURITY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committees on Natural Resources and Homeland Security:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 2, 2011.

Hon. JOHN BOEHNER,
Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER BOEHNER, I have accepted the nomination of my Caucus to serve on the Committee on Energy and Commerce in the 112th Congress. I hereby submit my resignation to the Committees on Natural Resources and Homeland Security.

Sincerely,

DONNA CHRISTENSEN,
Member of Congress.

The SPEAKER pro tempore (Mr. YODER). Without objection, the resignation is accepted.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Brian Pate, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

DENTAL EMERGENCY RESPONDER ACT OF 2011

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 570) to amend the Public Health Service Act to enhance the roles of dentists and allied dental personnel in the Nation's disaster response framework, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 570

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 ''Dental Emergency Responder Act of 2011''.

SEC. 2. DENTAL EMERGENCY RESPONDERS: PUBLIC HEALTH AND MEDICAL RESPONSE.

(a) NATIONAL HEALTH SECURITY STRATEGY.—Section 2802(b)(3) of the Public Health Service Act (42 U.S.C. 300hh–1(b)(3)) is amended—

(1) in the matter preceding subparagraph (A), by inserting ''and which may include dental health facilities'' after ''mental health facilities''; and

(2) in subparagraph (D), by inserting ''(which may include such dental health assets)'' after ''medical assets''.

(b) ALL-HAZARDS PUBLIC HEALTH AND MEDICAL RESPONSE CURRICULA AND TRAINING.—Section 319F(a)(5)(B) of the Public Health Service Act (42 U.S.C. 247d–6(a)(5)(B)) is amended by striking ''public health or medical'' and inserting ''public health, medical, or dental''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 570 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, currently Federal statute deters through omission the incorporation of dental professionals and schools into emergency response plans. H.R. 570 would remedy this omission by incorporating dentistry by name into the Federal disaster response framework. This legislation is endorsed by the American Dental Association and the Academy of General Dentistry, and it passed the House last year on a voice vote.

It recently passed the Committee on Energy and Commerce, the Health Subcommittee, and the full committee, on a voice vote, and 19 members of the Energy and Commerce Committee are currently cosponsors.

In the aftermath of a natural disaster, terrorist attack, or public health emergency, traditional medical delivery systems can become overwhelmed. In these situations it is vital that States work with all qualified and licensed providers to ensure a volunteer workforce to assist in the mitigation of that tragedy. Dentists receive sound general medical background during their professional education and are equipped to take patient medical histories, administer injections, and triage patients. This legislation calls for no new Federal money and poses no new restrictions on moneys now being spent. It simply allows States, at their option, to incorporate dentists and dental facilities into their planning.

I believe this bill will allow us to strategically utilize all available resources and have the ability to deploy the maximum amount of aid in times of disaster. I urge support of this bill.

I want to thank the gentleman from New York (Mr. TOWNS) for introducing the legislation with me.

I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 570, the Dental Emergency Responder Act of 2011. This is a bill that we passed on the House floor last fall with strong bipartisan support.

The bill amends the Public Health Service Act to include dentists in the National Health Security Strategy, which is the strategy HHS develops to respond to a public health emergency.

The bill also expands health and medical response training programs to include dental facilities. The bill will also amend the Homeland Security Act to include dental personnel in the definition of ''emergency response providers'' and will amend the Post-Katrina Emergency Management Reform Act of 2006 to require Federal response plans to include dental resources.

This bill will help shore up the Nation's preparedness for disasters, including natural disasters like hurricanes and manmade disasters like a terrorist attack.

I want to thank Representative BURGESS and Representative TOWNS for their outstanding work on this issue and also acknowledge the advocacy of our former colleague Representative Stupak, who worked so hard on this bill in the last Congress.

I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I want to take just a moment to thank CANDICE MILLER from Michigan, who was involved in this legislation throughout its course last year and has been very instrumental this year.

I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I again ask for support of the bill.

I yield back the balance of my time.

Mr. BURGESS. Again, Mr. Speaker, I also want to thank Chairman UPTON and Chairman PITTS and Ranking Members WAXMAN and PALLONE for their work in passing this bill so quickly through the subcommittee and the full committee. I also want to thank Mr. Stupak for his hard work on the legislation in the last Congress.

Again, I want to acknowledge the work of CANDICE MILLER last Congress and this Congress in getting this bill passed.

In an emergency, all hands on deck. Dentists are willing to support the medical and public health response to a disaster, and this legislation allows States the option to incorporate dentists into their disaster response framework. Our Nation's medical surge capacity will never be optimal until we capitalize on the personnel resources of the entire health care workforce.

I urge full support of this important legislation, H.R. 570, to ensure our national disaster responses have the maximum amount of available resources.

I also want to thank two of my staff members, Rebekah West and James Paluskiewicz, for their hard work in getting this bill to the floor in what appears to be record time.

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to reclaim my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1620

Mr. PALLONE. I now yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the distinguished gentleman from New Jersey (Mr. PALLONE) for yielding. I thank Dr. BURGESS for his courtesies and also Mr. TOWNS for this legislation.

Mr. Speaker, I rise to support H.R. 570 because, in having come from the gulf coast and in having gone through Hurricanes Katrina, Rita and Ike just in a few short years, I have seen the devastation of communities and know that a holistic approach to health care is vital. We have a vibrant dental community in Houston, Texas. In particular, I want to note that Senior Dr. Zeb Poindexter has served on the American Dental Board and is an enthusiastic supporter of accessing dental care services to the poor.

When there is a hurricane or a natural disaster of some form, everybody falls into the same boat. After the devastation, again, of a tornado—or of a hurricane and of the tragic incident that occurred this past weekend in Louisiana, individuals are facing many needs, so having medical professionals assist them or even to provide them specific dental care after the devastation, having the dental community be a part of this disaster response team, is an excellent idea.

I join my colleagues in recognizing the importance of access to dental care for those individuals facing disaster and also the importance of increasing the opportunity for poor Americans who likewise need access to dental care.

Dental care can impact one's health. We have seen that in the past, and we have seen that with children. So I believe this legislation is in the right direction, and I add my support to it. I know that the gulf region will appreciate the fact that the dental personnel

and professionals are added to our disaster relief efforts and our first responders who will respond to any disaster.

Mrs. MILLER of Michigan. Mr. Speaker, I rise today in strong support of H.R. 570, the Dental Emergency Responder Act. This important legislation would recognize dentists as emergency response providers who are capable of giving medical assistance in the event of a public health emergency.

This bill is an efficient way to improve America's emergency response system. Not only does it ensure that we are fully prepared on all fronts in the event of a crisis or natural disaster, but it does not add any new Federal spending or increase our ever-growing deficit.

Dentists have strong general medical training that I firmly believe should be utilized during a public health emergency. In the wake of September 11, 2001, the worst attack on civilians in the history of our country, we must ensure that America's emergency response system is prepared, and this includes having a strong medical response system in place.

In a time of crisis, it is crucial that vie have all hands on deck to issue medical assistance to the public. For this reason I am proud to support H.R. 570 and I urge my colleagues to vote in favor of this legislation.

Mr. TOWNS. Mr. Speaker, I rise today in support of H.R. 570, the Dental Emergency Responder Act of 2011. I urge my colleagues to support this act as it is a necessary step towards ensuring our nation's readiness for national emergencies.

As a member of the New York City Congressional delegation, I am no stranger to tragic, national events. In the wake of September 11, 2001, we witnessed thousands of citizens banding together to heal the community. Similarly, when Hurricane Katrina struck the gulf coast, Americans again came together to help those in need.

The people of our Nation stand together as a community in times of great sorrow. For this reason, Government should do all that it can to ensure that individuals with great skill are afforded the opportunity to assist in times of need.

For too long, dentists have been prohibited from assisting in times of emergency. However, this profession is composed of highly trained, and capable medical professionals, many of whom have offices that can easily convert into triage facilities when needed.

When this bill is enacted, states will be able to include, if they choose, dentists as part of the emergency response plan. The important decisions about how a state responds to a crisis will still be left to local authorities. Enactment of this bill simply provides decision makers with more options to respond to tragedies and emergencies.

I urge all of my colleagues to vote in support of H.R. 570.

Mr. PALLONE. I urge support of the bill, and I yield back the balance of my time.

Mr. BURGESS. Again, I urge support for the legislation and for the passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 570.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

VETERINARY PUBLIC HEALTH AMENDMENTS ACT OF 2011

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 525) to amend the Public Health Service Act to enhance and increase the number of veterinarians trained in veterinary public health.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 525

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 ''Veterinary Public Health Amendments Act of 2011''.

SEC. 2. INCLUSION OF VETERINARY PUBLIC HEALTH IN CERTAIN PUBLIC HEALTH WORKFORCE PROVISIONS.

(a) PUBLIC HEALTH WORKFORCE GRANTS.—Subsections (b)(1)(A) and (d)(6) of section 765 of the Public Health Service Act (42 U.S.C. 295) are amended by inserting ''veterinary public health,'' after ''preventive medicine,'' each place it appears.

(b) PUBLIC HEALTH WORKFORCE LOAN REPAYMENT PROGRAM.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 776(b)(1) of the Public Health Service Act (42 U.S.C. 295f–1(b)(1)) are amended by striking ''public health or health professions degree or certificate'' each place it appears and inserting ''public health (including veterinary public health) or health professions degree or certificate''.

(2) TECHNICAL CORRECTION.—Subparagraph (A) of section 776(b)(1) of the Public Health Service Act (42 U.S.C. 295f–1(b)(1)) is amended by adding ''or'' at the end.

(c) DEFINITION.—Section 799B of the Public Health Service Act (42 U.S.C. 295p) is amended by adding at the end the following:

''(27) VETERINARY PUBLIC HEALTH.—The term 'veterinary public health' includes veterinarians engaged in one or more of the following areas to the extent such areas have an impact on human health: biodefense and emergency preparedness, emerging and re-emerging infectious diseases, environmental health, ecosystem health, pre- and post-harvest food protection, regulatory medicine, diagnostic laboratory medicine, veterinary pathology, biomedical research, the practice of food animal medicine in rural areas, and government practice.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 525 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. I yield myself such time as I may consume.

Mr. Speaker, H.R. 525, the Veterinary Public Health Amendments Act of 2011, would take important steps to increase the number of public health veterinarians.

Food animal veterinarians have a vital role in our Nation's public health, and experts have informed us that there is, in fact, a shortage. This shortage could negatively affect our Nation's public health, including the safety of our Nation's food. We expect that this legislation will help greatly in solving that problem.

H.R. 525 would enable individuals seeking veterinary public health degrees to be eligible for existing public health workforce loan repayment programs. This legislation would also allow the Secretary of Health and Human Services to award existing training grants to increase the veterinary public health workforce.

I would like to thank all of the Members who have worked on this issue, including my physician colleague on the committee, Dr. PHIL GINGREY of Georgia. I would also like to thank Congresswoman TAMMY BALDWIN of Wisconsin for authoring the bill.

I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. PALLONE. I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 525, the Veterinary Public Health Amendments Act of 2011. This is an important, bipartisan bill that we passed on the floor in the last Congress.

Veterinary medicine is an important component of our human public health system. From H1N1, to SARS, to food safety, public health veterinarians are critical to our protection of human health. This bill would ensure that veterinary public health professionals are eligible for two important public health workforce programs, but only to the extent that the work of these veterinarians has an impact on human health.

I want to commend Representative BALDWIN for her leadership on this legislation. She has been working on this for a long time, and I was pleased to work with her. I also want to thank Chairman PITTS, Chairman UPTON, and Representative SHIMKUS for their support; and I urge my colleagues to support this important bill.

I now yield 3 minutes to the sponsor of the legislation, the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in strong support of H.R. 525, the Veterinary Public Health Amendments Act.

Although we may not know it, our health depends, in part, on a small

army of veterinarians working in public health. Their role was never clearer than during the H1N1 virus outbreak. We now see that diseases can travel from animals to humans seemingly overnight.

Public health veterinarians are our frontline of defense against another outbreak. They inspect our slaughterhouses, prevent a foot-and-mouth disease outbreak from devastating our economy and our agriculture industry, and protect our citizens against the threat of bioterrorism.

Unfortunately, our current workforce cannot meet these public health challenges. In the next 20 years, experts predict a shortage of 15,000 veterinarians; and between 2006 and 2016, the Bureau of Labor Statistics predicts that the demand for veterinary services will increase by 35 percent. Something must be done to protect our national health by preventing and controlling infectious diseases, ensuring the safety and security of the Nation's food supply, promoting healthy environments, and providing health care for animals.

H.R. 525 will help to ensure that we have a more robust veterinary public health workforce. The bill has two main components: loan repayment for veterinarians who commit to teaching or to working in public health and a new fellowship program for public health veterinarians.

I want to thank the Association of American Veterinary Medical Colleges and the American Veterinary Medical Association for their tireless work on behalf of public health veterinarians.

I would also like to thank Chairman PITTS and Ranking Member PALLONE for their support on this important legislation.

This bill is identical to the Veterinary Public Health Amendments Act that passed the House by voice vote in the last Congress. This bill also passed the Energy and Commerce Committee unanimously.

I urge my colleagues to support this critical bill to ensure that our veterinary workforce is prepared to meet our public health needs.

Mr. PALLONE. I would certainly urge support for this important legislation.

Mr. Speaker, as I have no further requests for time, I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I would like to insert into the RECORD a letter from the American Farm Bureau Federation urging support of this legislation.

I would also like to point out that this legislation enjoyed unanimous support from both the Republican and Democratic sides of the dais in the full Committee on Energy and Commerce.

AMERICAN FARM
BUREAU FEDERATION®,
Washington, DC, March 8, 2011.

Hon. FRED UPTON,
Chairman, House Energy and Commerce Committee, Washington, DC.

DEAR CHAIRMAN UPTON: The American Farm Bureau Federation encourages your support of H.R. 525, the Veterinary Public Health Amendments Act of 2011. This legislation, scheduled for floor consideration today, would amend the Public Health Service Act by adding veterinary public health as one of the groups eligible for grants to train the public health workforce, and would make veterinarians studying public health eligible for loan repayment.

The U.S. faces a critical shortage of veterinarians in public health practice areas such as food safety and security, bioterrorism and emergency preparedness, environmental health, regulatory medicine, diagnostic laboratory medicine, food systems veterinary medicine and biomedical research. Many recent studies have shown dramatic shortfalls of veterinarians in key public health practice areas, including food systems, veterinary medicine and at several federal government agencies protecting the nation's food supply and keeping a watchful eye out for bioterrorism and foreign animal diseases. The national pool of 2,500 new graduates a year is not enough to meet the demands of a growing population and the changing public health needs of society.

Public health starts at the farm and ranch level where veterinarians are essential for the health and welfare of our animals. Healthy animals mean a healthy food supply. However, many of our members feel continual strain caused by fewer large animal practitioners entering the field and the resulting underserved areas for veterinary expertise. From dairies in Maine to sheep flocks in Montana, fewer veterinarians are available to help producers care for their animals in both routine and emergency situations. National efforts such as this legislation are needed to address these critical deficits.

We urge the House of Representatives to approve H.R. 525 to increase the number of veterinarians working in public health practice. Thank you for your consideration of this important legislation to our nation's farmers and ranchers.

Sincerely,

BOB STALLMAN,
President.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 525.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1630

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 112–13)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication stating that the national emergency with respect to Iran that was declared on March 15, 1995, is to continue in effect beyond March 15, 2011.

The crisis between the United States and Iran resulting from the actions and policies of the Government of Iran has not been resolved. The actions and policies of the Government of Iran are contrary to the interests of the United States in the region and continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

BARACK OBAMA.

THE WHITE HOUSE, *March 8, 2011.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 6:30 p.m. today.

Accordingly (at 4 o'clock and 31 minutes p.m.), the House stood in recess until 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CHAFFETZ) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 570 and H.R. 525, in each case by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The second electronic vote will be conducted as a 5-minute vote.

DENTAL EMERGENCY RESPONDER ACT OF 2011

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the

bill (H.R. 570) to amend the Public Health Service Act to enhance the roles of dentists and allied dental personnel in the Nation's disaster response framework, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 401, nays 12, not voting 19, as follows:

[Roll No. 163]

YEAS—401

Ackerman
Adams
Aderholt
Akin
Alexander
Altmire
Andrews
Austria
Baca
Bachmann
Bachus
Baldwin
Barletta
Barrow
Bartlett
Barton (TX)
Bass (CA)
Bass (NH)
Becerra
Benishek
Berg
Berkley
Berman
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Black
Blackburn
Blumenauer
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Brooks
Brown (FL)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Canseco
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castor (FL)
Chabot
Chaffetz
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Cravaack
Crawford
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Davis (IL)
Davis (KY)
DeFazio
DeGette
DeLauro
Denham
Dent
DesJarlais
Deutch
Diaz-Balart
Dicks
Doggett
Dold
Donnelly (IN)
Doyle
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Edwards
Ellison
Ellmers
Emerson
Engel
Eshoo
Farenthold
Fattah
Filner
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grijalva
Grimm
Guinta
Guthrie
Gutierrez
Hall
Hanabusa
Harper
Harris
Hartzler
Hastings (FL)
Hastings (WA)
Hayworth
Heck
Heinrich
Heller
Hensarling
Herger
Herrera Beutler
Higgins
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Honda
Hoyer
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Inslee
Issa
Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
Jones
Jordan
Kaptur
Keating
Kelly
Kildee
Kind
King (IA)
King (NY)
Kinzinger (IL)
Kissell
Kline
Kucinich
Labrador
Lamborn
Lance
Landry
Langevin
Lankford
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebsack
Lofgren, Zoe
Long
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marino
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
McNerney
Meehan
Meeks
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran
Mulvaney
Murphy (PA)
Myrick
Nadler
Napolitano
Neal
Neugebauer
Noem
Nugent
Nunnelee
Olson
Olver
Owens
Palazzo
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pearce
Pence
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis
Pompeo
Posey
Price (GA)
Price (NC)
Quayle
Quigley
Rahall
Rangel
Reed
Renacci
Reyes
Ribble
Richardson
Richmond
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Rothman (NJ)
Roybal-Allard
Royce
Runyan
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schiff
Schilling
Schmidt
Schrader
Schwartz
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell
Sherman
Shimkus
Shuler
Shuster
Sires
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Stark
Stearns
Stivers
Stutzman
Sullivan
Sutton
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Tipton
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden
Walz (MN)
Wasserman Schultz
Watt
Waxman
Webster
Weiner
Welch
West
Whitfield
Wilson (FL)
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Woolsey
Wu
Yarmuth
Yoder
Young (AK)
Young (FL)
Young (IN)

NAYS—12

Amash
Broun (GA)
Campbell
Flake
Gibson
Graves (GA)
Kingston
McClintock
Paul
Schock
Walsh (IL)
Westmoreland

NOT VOTING—19

Davis (CA)
Dingell
Farr
Giffords
Graves (MO)
Hanna
Israel
Lipinski
Markey
Murphy (CT)
Nunes
Pelosi
Perlmutter
Rehberg
Reichert
Scott (SC)
Simpson
Speier
Waters

□ 1853

Messrs. KINGSTON, WESTMORELAND, and BROUN of Georgia changed their vote from ''yea'' to ''nay.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERINARY PUBLIC HEALTH AMENDMENTS ACT OF 2011

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 525) to amend the Public Health Service Act to enhance and increase the number of veterinarians trained in veterinary public health, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 280, nays 138, not voting 14, as follows:

[Roll No. 164]

YEAS—280

Ackerman
Aderholt
Akin
Alexander
Altmire
Andrews
Austria
Baca
Baldwin
Barletta
Barrow
Bartlett
Barton (TX)
Bass (CA)
Bass (NH)
Becerra
Berg
Berkley
Berman
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boren
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Bucshon
Burgess
Butterfield
Calvert
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castor (FL)
Chabot
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Cohen
Cole
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Cravaack
Crawford
Critz
Crowley
Cuellar
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dent
Deutch
Diaz-Balart
Dicks
Dingell
Doggett
Dold
Donnelly (IN)
Doyle
Edwards
Ellison
Emerson
Engel
Eshoo
Farr
Fattah
Filner
Fitzpatrick
Forbes
Fortenberry
Frank (MA)
Frelinghuysen
Fudge
Garamendi
Gardner
Gerlach
Gingrey (GA)
Gonzalez
Goodlatte
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grijalva
Grimm
Guthrie
Gutierrez
Hall
Hanabusa
Harper
Harris
Hartzler
Hastings (FL)
Heck
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly
Kildee
Kind
King (NY)
Kissell
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee (CA)
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lynch
Maloney
Marino
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinley
McNerney
Meehan
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Murphy (PA)
Nadler
Napolitano
Neal
Noem
Nunnelee
Olver
Owens
Palazzo
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis
Pompeo
Price (GA)
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rigell
Rivera
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross (AR)
Rothman (NJ)
Roybal-Allard
Runyan
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff

Schilling
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shimkus
Shuler
Sires
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Speier
Stark
Stivers
Sullivan
Sutton
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tierney
Tipton
Tonko
Towns
Tsongas
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden
Walz (MN)
Wasserman Schultz
Watt
Waxman
Weiner
Welch
Whitfield
Wilson (FL)
Wittman
Womack
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—138

Adams
Amash
Bachmann
Bachus
Benishek
Bilirakis
Black
Blackburn
Bonner
Bono Mack
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Buerkle
Burton (IN)
Camp
Campbell
Canseco
Cantor
Carter
Chaffetz
Coffman (CO)
Conaway
Crenshaw
Culberson
Davis (KY)
Denham
DesJarlais
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Flake
Fleischmann
Fleming
Flores
Foxx
Franks (AZ)
Gallegly
Garrett
Gibbs
Gibson
Gohmert
Gosar
Gowdy
Granger
Graves (GA)
Guinta
Hastings (WA)
Hayworth
Heller
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Johnson (OH)
Johnson, Sam
Jordan
King (IA)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Landry
Lankford
Latta
Long
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Myrick
Neugebauer
Nugent
Olson
Paul
Paulsen
Pearce
Pence
Poe (TX)
Posey
Quayle
Reed
Renacci
Ribble
Roby
Rohrabacher
Rokita
Rooney
Roskam
Ross (FL)
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shuster
Southerland
Stearns
Stutzman
Thornberry
Tiberi
Turner
Walsh (IL)
Webster
West
Westmoreland
Wilson (SC)
Wolf
Woodall
Yoder
Young (IN)

NOT VOTING—14

Davis (CA)
Giffords
Graves (MO)
Hanna
Israel
Lipinski
Markey
Nunes
Pelosi
Rehberg
Reichert
Scott (SC)
Simpson
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes left in the vote.

□ 1901

Ms. KAPTUR changed her vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. DAVIS of California. Mr. Speaker, on Tuesday, March 8, 2011, I missed the following votes due to illness.

Had I been present, I would have voted:

''Yea'' on rollcall No. 163.

''Yea'' on rollcall No. 164.

ELECTING A MEMBER TO A CERTAIN STANDING COMMITTEE OF THE HOUSE OF REPRESENTATIVES

Mr. LARSON of Connecticut. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 149

Resolved, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

(1) COMMITTEE ON ENERGY AND COMMERCE.—Mrs. Christensen.

Mr. LARSON of Connecticut (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 830, FHA REFINANCE PROGRAM TERMINATION ACT

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 112–27) on the resolution (H. Res. 150) providing for consideration of the bill (H.R. 830) to rescind the unobligated funding for the FHA Refinance Program and to terminate the program, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 836, EMERGENCY MORTGAGE RELIEF PROGRAM TERMINATION ACT

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 112–28) on the resolution (H. Res. 151) providing for consideration of the bill (H.R. 836) to rescind the unobligated funding for the Emergency Mortgage Relief Program and to terminate the program, which was referred to the House Calendar and ordered to be printed.

ALL-OF-THE-ABOVE ENERGY POLICY

(Mr. GUINTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUINTA. Mr. Speaker, in my home State of New Hampshire, I have had the pleasure of talking to many constituents over the course of the last several days who have expressed their great concern relative to the rising gas prices not just in New Hampshire, but all across the country. Just today, gas prices are now at $3.45 a gallon, minimum.

This and many Congresses have failed their obligation and responsibility to have an approach to solving the energy crisis and the energy challenges that are before us. And I call both on this body and the President of the United States to come with an all-of-the-above energy policy so we can once and for all look the American people in the eye, my constituents in New Hampshire, and give them hope for a true reduction not just in gas prices, but to have long-term sustainability and viability from our own country in how we have our oil and other opportunities to reduce our dependence on foreign oil.

This is something that is critical not just today and in the coming weeks, but its been critical for our Nation's infrastructure as well as our economy. I again hope that this body acts swiftly and promptly.

□ 1910

CONSTITUTION CAUCUS

The SPEAKER pro tempore (Mr. FLEISCHMANN). Under the Speaker's announced policy of January 5, 2011, the gentleman from Indiana (Mr. STUTZMAN) is recognized for 60 minutes as the designee of the majority leader.

Mr. STUTZMAN. Mr. Speaker, I am honored to represent the people of Indiana's Third District, and I am also proud to serve as a cochair of the Constitution Caucus here in Congress. The hottest fires make the strongest steel. After seeing Washington assail the Constitution, Americans went to the polls last November and demanded a return to our first principles. As a result, the membership of this caucus has more than doubled. We began this Congress by reading the Constitution right here on the floor. We have come here this evening in that same spirit.

I rise today to continue a conversation that used to fill the halls of this great building. There was a time in our Nation's past when Members of Congress openly and passionately debated the interpretation of the Constitution. We are here tonight to renew that discussion.

When we were sworn in, each of us took an oath to uphold and defend the Constitution. This means that we are required to interpret and apply it to our daily work. I am sure that we all take that oath very seriously. However, I am also sure that, without vigilance, we slip out of tune with the principles enshrined in that founding document.

Today, we have an opportunity to rededicate ourselves to those principles, to limited government and individual equality. In the coming months, my colleagues and I will come again to the floor to discuss federalism, checks and balances, and enumerated powers.

Today, however, we ought to begin by asking ourselves a very simple question: ''What is so wonderful about the Constitution?'' After all, I believe, the last election was a mandate to return to its wisdom and guidance. We ought to at least begin by asking why it should hold such prominence in our hearts. Why, for example, did Abraham Lincoln declare so forcefully, ''Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties''?

The answer is elegantly simple. The Constitution enshrines the enduring principles of limited government, and limited government is the surest guardian of human dignity. The Constitution gave form and shape to the philosophy put forth in the Declaration of Independence. The Declaration, it has been said, was the promise; the Constitution is the fulfillment.

I cannot overemphasize the truly revolutionary nature of our War for Independence. For the first time in human history, when a group of people overthrew an oppressive regime, they began by espousing a vigorous and eloquent philosophy: That all men are created equal. They are endowed by their Creator with certain unalienable rights. Even as lives, fortunes, and sacred honor hung in the balance, these men began with a summary of human nature.

America was founded on the idea that humans have a specific character. We are wired a certain way. Our Founding Fathers understood two basic and profound truths about human nature. First, we are not perfect. We err. We will never reach perfection. To believe that man is perfectible is to engage in fanciful speculation. Second, in spite of our fallen natures, we are dignified and equal. We each possess reason and the ability to determine our own lives.

As James Madison, the Father of the Constitution, eloquently stated: ''What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.''

How then can imperfect beings govern in a way that respects human dignity? The answer is found in limited government. Again, James Madison said this: ''You must first enable the government to control the governed; and in the next place oblige it to control itself.''

Limited government justly defends the dignity of the individual through specific and checked powers. Do not confuse limited for weak. Government ought to be strong in those areas where strength is required and specifically enumerated. In all other areas, the government must defer to the judgments of free men and women.

In our Republic, the dignity of the individual citizen is paramount. It would be arrogant to believe that a few elite can discern and direct over 300 million souls here in America. I fear, with ballooning government and near unstoppable deficits being run every year, we are dangerously close to abandoning the principles that brought us here safely thus far. As regulations infringe on nearly every aspect of daily life, human dignity is endangered.

Those of us here this evening are ready to work against this tide, to return our government to its proper role of defending individual freedoms. I am eager to continue this conversation in the coming months, because there is much work to be done.

Mr. Speaker, I would now like to yield to the gentleman from New Jersey (Mr. GARRETT), the original founder of this caucus.

Mr. GARRETT. I thank the gentleman from Indiana for being here tonight as we talk about the Constitution. And who was it that said that the Constitution, it may not be perfect, but it's better than what we have now?

As we talk about kicking off tonight's Special Order, this series here in the 112th Congress, I am pleased to be here with my colleague from Indiana and my colleague also behind me, the gentleman from Utah (Mr. BISHOP), to talk about these most important issues, the foundation of the Constitution.

Back at the very beginning, back in 2004, 2005, there really were not that many Americans talking about the proper role of the Constitution and the limitations that it does place both on the size and also on the scope of the Federal Government. But as the years went by, over the last several years at least, interest in the Constitution has grown as new government programs have whittled away basically at the protections in the Constitution that guarantee to us certain liberties to the people and authorities to the States. So, as we come here tonight, and as we have pointed out in the past, we will continue to highlight until Congress' recent course is reversed.

This body has drifted away from the principles of limited government enshrined in this, the Constitution. This document, the finely crafted sections and verses that are in it, the guidelines and the limitations that we see in it of the powers of government it was written to impose, does not have the same personal meaning and importance to Americans it seems it had during the times of the federalist and anti-federalist debates.

Is that because it is a different time, and now we're in a different age where we have long since forgotten what it is like to live under tyrannical rule? It may be, Mr. Speaker, because of that, or perhaps otherwise, it could also be because we don't simply cherish and study the Constitution like our forefathers once did.

So we come to the floor tonight, through these Constitution hours, if you will, and we hope to, by them, increase the knowledge not only of this body but also of the American public as well. And we do so, taking a look at the intricacies and the nuances of this, the Constitution. Also, I think, we also help to shed some light on the circumstances and the times that inspired the Founding Fathers to write our country's founding document.

Tonight, we specifically want to spend some time talking about limited government and its role in protecting human dignity. ''Liberty to all,'' President Lincoln once wrote, back in 1861, ''is the summation of the Declaration of Independence.'' He said further, ''the principles which have proved an apple of gold to all of us.''

Yet the mere assertion of those principles for him was not enough. As Lincoln later pointed out, for liberty to have real meaning, it must be enshrined, and it must be enshrined in law. The Constitution, as he put it, is the picture of silver subsequently framed around. Then he went on to say that the picture was made not to conceal or to destroy that apple as it was framed, but rather to adorn and to preserve it.

This, Lincoln said, drawing upon the book of Proverbs, is ''a word fitly spoken.'' So to understand America, you must understand our founding principles. To understand the Constitution and why government should be limited, you must then, therefore, understand also the Declaration of Independence.

So, the structure of the Constitution follows the principles and the arguments of the Declaration, where it says, of course, all men are created equal; they are endowed by their Creator with certain unalienable rights. This great statement, that we are hopefully all familiar with, at the outset of the Declaration, a truly revolutionary claim at the time, is followed by a list of complaints lodged against the king at that time, King George III.

To just spend a moment or two to go into this in a little bit more detail and to delve down into it, these then can be divided into three categories, corresponding with the legislative, executive, and judicial foundations of government.

□ 1920

So to step back for a moment, the list takes up over half of the Declaration, and the complaints there specify exactly where their King had failed. And so, too, why government by consent is therefore necessary. Now he refused to enact necessary laws, they said. Harmful ones took their places, they said. Judges entirely dependent upon the King's will were rendered mere puppets at the time; and when the King did act, he flooded American shores with soldiers and bureaucrats.

Their complaints there were specific. The King suspended representative Houses for opposing with manly firmness invasions on the rights of the people, he wrote. He went on to say, he has obstructed the administration of justice. How? By refusing his assent of laws for establishing judiciary powers. He went on to say he was also guilty of imposing taxes on us without our consent and also suspending our very own legislatures and declaring themselves vested with powers to legislate for us in all cases whatsoever.

Yet another complaint alleged against the King was that he ''erected a multitude of new offices and thereby sent hither swarms of officers to harass the people and eat out their substance.''

So, when all power is taken from the hands of the people and accumulated in the hands of a single person, or single head, if you will, it breeds a similar power grab by who else? The bureaucrats, who have no job but to consume the productivity and resources of the people, of the populace. So the overweening Federal Government today is guilty of the same offenses of liberty as back then as well.

Americans who are desperately trying to figure out and file their own income tax returns right now know this all too well, I think. And so the Declaration anticipates what we have here, the necessity of separation of powers and just society.

So its message is clear: No single person or political force can rightfully possess all the powers of the one government. Only the Divine, only the Divine who is named in the Declaration of Independence as the Author of the laws of nature, also named as the Creator, also named as the Supreme Judge of the entire world, and finally also named as Divine Providence, only the Divine justly exerts complete power. But in the hands of a human being, such power is, as it's stated there, absolute despotism.

Our Founding Fathers did not believe that human beings could be perfected. We were not divine. We were capable of both good and evil. James Madison later wrote in defense of the Constitution: ''As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust: So there are other qualities in human nature which justify a certain portion of esteem and of confidence.''

So to assume that man's goodness will always direct his actions is to ignore reality. People, therefore, are imperfect and cannot be perfected. And so no edict of government will change that fundamental fact.

To step back again, what, then, is the role of government? Calling government the greatest of all reflections of human nature, James Madison said that the government must start where? Well, with the understanding that men are not angels, as the gentleman from Indiana stated before. And as he said, were they perfect or angelic, no government would be necessary.

Jefferson, Madison's friend, implicitly argued the same thing in the Declaration. So, today, when we speak of ''the government,'' we often think of an impersonal force, somehow out there and above everything, above human nature, if you will.

But what is government? Government is composed of what you see here. It is composed of human beings, all of whom are imperfect. And so to be in the public sector or to be elected to office does not automatically, by any means, transform a human being into that angel. And so for that very same reason, that very same reason that human beings are not perfect, government therefore must be limited and its duties therefore must be delineated.

Going back to what President Lincoln once said, he further elaborated on the importance of human dignity, which is our discussion tonight, back in 1861 where he said a couple of things, and I will close on this: ''Without the Constitution and the Union, we could not have attained the result; but even these are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart.'' And what is that? ''That something is the principle of 'liberty to all'—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all.''

Over the course of this 112th Congress, this caucus and my colleagues, hopefully, on both sides of the aisle will continue to sponsor these discussions, these Constitution hours, if you will, to expand upon our understanding of these core principles of limited government enshrined in our Constitution.

Mr. Speaker, I appreciate this opportunity to speak tonight on this very important topic, and I yield back to the gentleman from Indiana.

Mr. STUTZMAN. It is my pleasure to now yield such time as he may consume to the fellow chair, the cochair of the Constitutional Caucus, the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. I thank the gentleman from Indiana. Mr. Speaker, it is a pleasure for me to be here and be part of this significant issue.

In the Constitution it says that certain things are self-evident. And what are the things that were self-evident in the Declaration of Independence? I have to get words right, don't I? In the Declaration of Independence there are things that are self-evident. And what was self-evident is that all men are created equal in a political sense. And because of that, because all men are equal, the Creator has given us certain inalienable rights.

And then it goes on to say the next step in that process is once you have those inalienable rights, it is the purpose of government to secure those rights. That's what we are talking about here, that within the concept of our country, which was written and established in the brilliant prose of Thomas Jefferson, every individual has an innate—almost divine—worth within them which signifies that they all have certain rights that are there from the Creator.

In England, those rights were established in law starting with the Magna Carta and then building on, so that at the time of our country's founding, everyone knew what the rights of Englishmen were. Our Revolutionary War was not about taxes being too high. It was, not as some revisionist historians will say, about impressment of colonials into the British Navy. It was about the rights of Englishmen which were being denied British subjects living in America at the time. That's what they argued about. That's what in Philadelphia they were talking about is the denial of those individual rights which are basic to all people because we all have that spark of divinity and we have those inalienable rights.

That's why as part of the debate that was established there was an exchange in which Benjamin Franklin took part in which he was talking with another person that said, there are more important things in life than simply having our rights protected. The fact is we are British citizens. To which Franklin then said, to be called a British citizen without given the rights of a British citizen is like calling an ox a bull. He is grateful for the honor, but would much rather have restored what was rightfully his. That's the key element to which we were talking here. With that, the Constitution was written as a fortification of those individual rights and freedoms.

And it is the purpose of limited government to protect those individual liberties. The Constitution created limited government, the purpose of which was to protect our individual liberties.

Now as I try and talk to my old students to try and sometimes define the term ''individual liberties,'' because it becomes somewhat vague in the minds of people, I look at individual liberties as the concept that individuals have choices in their personal lives. It is not the role of government to pick winners and losers in society, whether that be socially or economically. That is our rights as individuals.

□ 1930

It is the right to have choices in my life. You know, I look around the world in which we are, and it seems like all the time I am given choices and options, even when I don't want them. I can pick a cell phone plan from a myriad of options that are there. If I want a breakfast cereal, there is a whole row of choices that are there. Even if I want Pringles potato chips, there are 16 kinds of varieties for me.

The entrepreneurial world has understood that people in America want choices and options. That's their liberty. It is only government, especially here in Washington, that seems to see that one size fits all and mandates so that the government chooses winners and losers rather than allowing that

for individuals. It is only us it seems who have not learned what is yearning within the soul of all Americans that they understood when they wrote the Declaration of Independence and then formalized the Constitution of the United States.

I wish to quote someone here, and I don't know who actually wrote this, but it is brilliant so I am going to claim that I said it: In the first 150 years of this country, under the Constitution, we can sum up in the following way. In the early years of this country, measures to expand government's power beyond those enumerated in the Constitution rarely got out of Congress because they were stopped by the objections in that branch. Constitutional objections in Congress.

Members of Congress actually debated whether they had the power to do whatever it was that was being proposed. They didn't simply assume they had the power and then leave it to the courts to check them, Congress took the Constitution and the limits it imposed on congressional action seriously. Then when constitutionally dubious bills did by chance get out of Congress, Presidents vetoed them not simply on policy but on constitutional grounds. Indeed, the first six Presidents thought the veto was supposed to be used only for constitutional purposes. And finally, when that brake failed, the courts stepped in. In short, the system of checks and balances worked because the Constitution was taken seriously by a sufficient number of those who had sworn to uphold it. We seem to have forgotten that in probably the last 60, 70, maybe even 100 years.

If I can give a religious reference, at some time the children of Israel, as we read in the Old Testament, wanted to have a king so they could be likened to all other nations. They went to the prophet who tried to dissuade them, but they were insistent that they have a king to be likened to all other nations, so the king could do marvelous things. And, indeed, they had a king. And the first kings did great things. They unified a nation; they built a beautiful temple. But ultimately, those kings became the millstone around the neck of the people that brought them down to destruction.

We have a change that took place almost 100 years ago where people decided to change what the Federal Government was designed to do. It is not that they did not understand the Constitution. They understood it perfectly; they just didn't like it because it prohibited us from doing marvelous things. We have now run through almost two generations, three generations of individuals under a system of government in which we look not to limit what government does to protect individual liberties, but to try to make sure that government does those marvelous things. We have come to a period of time where economically and socially we are now in a period of distress simply because we forgot the original foundation of this country, the purpose of the Constitution, the joy and brilliance of limited government whose sole purpose should be to protect individual liberties, not for government to do marvelous things.

If we restore ourselves to that purpose and reinvigorate the concepts for which this country was established, which I do believe to be the concepts of federalism and limited government here, then indeed we have a chance of restoring this country and solving our problems. If not, we face very dark and difficult times indeed.

For the first 150 years, they understood that. They acted that way. We can do the same thing again. We have the same spark of divinity within us that they had back then. We can do it; we should do it.

I thank you for this opportunity of being here. I know you have other speakers who will speak on this particular issue far more eloquently than I, and I yield back to the gentleman from Indiana.

Mr. STUTZMAN. Next I yield to the gentleman from South Carolina, District Three, JEFF DUNCAN.

Mr. DUNCAN of South Carolina. As a new Congressman back in January, I was never prouder than when I took this floor to take part in reading the United States Constitution. That day, I brought with me to the podium a copy of the Constitution that I carry in my pocket every day.

Ronald Reagan, in his farewell address to the American people in January 1989, said: Ours was the first revolution in the history of mankind that truly reversed the course of government, and with three little words, ''We the people.''

We tell the government what to do, President Reagan stated, it does not tell us. A simple phrase, ''We the people . . . '' put down by our Founding Fathers who defined self-government. Self-government. Those words ring true.

I think daily about that government that they formed—a limited government, one with powers for each branch that are clearly spelled out in this document, clearly defined. And, you know, we are a long ways from the limited government and enumerated powers that they strived to corral.

I am concerned that we don't read and study the United States Constitution enough in our public schools like we used to when I grew up. I am worried that we the people don't know or remember why our Founding Fathers divided power into three separate branches of government, why they defined the powers of each, and why they were inclined to spell out our liberties in a Bill of Rights.

They formed this government that has lasted well over 200 years. But after they formed that government, they decided that they better spell out the liberties. In fact, they had to do that in order to have the States ratify this great document.

Everywhere I travel around my beloved Palmetto State and around this country, I ask folks: What are your First Amendment rights? And almost to a person, they mostly answer: Freedom of speech. But, you know, let me remind you here today that the first thing our Founding Fathers addressed was your freedom of religion. In fact, the first sentence in the First Amendment to the United States Constitution says Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

They do that before they address your freedom of speech, before they address your freedom of the press, before they address your right to peacefully assemble or your right to petition this government for redress of grievances. Folks, I remind you that our freedoms are slowly being eroded in this country, and I believe that we as Americans need to get back to doing what we did in that first week in this United States Congress, and that is take this document out, read it, understand what our Founding Fathers were trying to do when they said we the people will govern ourselves.

Mr. STUTZMAN. Thank you. Very eloquently said.

I would like to touch on a couple of things that the gentleman from South Carolina said, Mr. Speaker. As we did have a great opportunity to read the Constitution on the House floor, I found it not only to be one that should be a lesson for all of us, but also one that will remind each American of the great document that we have that governs our land.

I would like to read just a couple of statements that some of our Founding Fathers made that I believe are so important for each one of us to remember today. First of all, I would like to start with George Washington, who is my political hero. What a great man who not only was so willing to sacrifice and was willing to serve his great country, and he could have been king if he was wanting to, but instead knew that limited power was going to be the real answer to America's new Constitution and to its new Government.

George Washington said: ''The power under the Constitution will always be in the people. It is entrusted for certain defined purposes and for a certain limited period to representatives of their own choosing. And whenever it is executed contrary to their interest or not agreeable to their wishes, their servants can and undoubtedly will be recalled.''

Mr. Washington was referring to elections. I think what has not only solidified our government for years and years has been that it is the people, the people's government. The people have the ability to recall those who are elected to go to their representative capitals, whether it is in the State governments or here in Washington, D.C., and if their wishes are not received by the people, the people can recall them back to their State and elect someone new.

□ 1940

Also, I would like to read another statement by Thomas Jefferson: ''On every question of construction let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.''

Thomas Jefferson was our third President and was one of the great men who took part in building our great democracy and our Republic here in the great country of the United States.

I would also like to refer a little bit to my time in having the opportunity to serve in the Indiana State legislature and knowing that Thomas Jefferson was a Federalist who believed in States' rights. And one of the things I have seen in my short time in Washington is that the States have so much flexibility, have so much more ability to serve the people, as well as our local governments. And that is one of the reasons that I believe the Constitution was formed to protect that local control.

As we've seen time and time again, there is more influence by our Federal Government in reaching further and further into our communities with more mandates, with more legislation that continues to take away our freedoms.

And having the opportunity to serve in the State legislature in Indiana, I would also share that we can see how each State has different needs, and the Constitution addresses that by limiting the powers of the Federal Government. And we're seeing more and more waste of tax dollars, something that I believe that the American people are tired of, and they want to see Washington fix its problems just like the American people do every day in tightening their own belt.

We tighten our belt in our small family farming operation back in Indiana. We do that with our family budget. And people are asking across the country, If we can do it, why can't Washington?

And we're seeing overlap of Federal and State and local governments; and I believe if we would get back to the constitutional roles, the constitutional role that the Federal Government is given, and focus on the priorities that our Founding Fathers gave to us and the Constitution as a government, then we will be more effective, we will serve the people who have elected us to serve, and instead of infringing upon the responsibilities and the rights of those in our States that we will have a more efficient government and we will also have a government that is closer to the people and one that I believe serves best when government is close to the people and will serve and respond to the needs of them.

At this time I would like to yield to the gentleman from Texas (Mr. CONAWAY).

Thank you for being here and I look forward to your comments.

Mr. CONAWAY. I thank the gentleman for yielding.

I appreciate being here to participate in the Constitution Caucus's comments on our Constitution.

We labor under sometimes, basically all times, the misguided idea that we're the smartest people that ever walked the face of the Earth, that no new ideas are created except through us. Sometimes it's helpful to look back at some of the things folks who have gone before us have said to help us reflect on those and see how they apply to today's circumstances.

A couple of those things, one is from a speech that Robert Kennedy made on the Day of Affirmation address that he gave in South Africa back in 1966. And while much of what he talked about, the revolution of youth and the civil rights movement and other things, are not germane to what we're talking about tonight, there is a section that is particularly relevant to this conversation, and I would like to read into the RECORD his comments in some of those early paragraphs.

He started off by saying: ''We stand here in the name of freedom.''

''Freedom'' is that wonderful word that conjures up inside of all of us those kinds of feelings that are unique to just certain words. ''Liberty'' is another word that does that, that has that kind of visceral experience inside each one of us. It's different but nonetheless inspiring almost every single time you hear that.

Kennedy went on to say: ''At the heart of that Western freedom and democracy is the belief that the individual man, the child of God, is the touchstone of value, and all society, groups, the state, exist for his benefit. Therefore, the enlargement of liberty for individual human beings must be the supreme goal and the abiding practice of any Western society.

''The first element of this individual liberty is the freedom of speech, the right to express and communicate ideas, to set oneself apart from the dumb beasts of the field and the forest; to recall governments to their duties and obligations; above all, the right to affirm one's membership and allegiance to the body politic, and to society, to the men with whom we share our land, our heritage and our children's future.

''The essential humanity of men can be protected and preserved only where government must answer, not just to the wealthy, not just to those of a particular religion, or a particular race, but to all its people.

''And even government by the consent of the governed, as in our Constitution, must be limited in its power to act against its people so that there may be no interference with the right to worship or with the security of the home, no arbitrary imposition of pains or penalties by high officials or low; no restrictions on the freedom of men to seek education or work or opportunity of any kind so that each man may become all he is capable of becoming. These are the sacred rights of Western society.''

Senator Kennedy got it right. These are the sacred rights of Western society, and we are in danger of having those rights trampled on by this continued growth in the size of our Federal Government.

If you look at the trajectory that we find ourselves on from a financial standpoint, you can have estimates by think tanks on the left, estimates by think tanks on the right, the CBO, the GAO—all of these have 75-plus-year projections on the path that we're currently on. If you stack each of those projections on a light table to look through all of them at the same time, there's not a chigger's whisker difference between the path that we're on.

Nobody disagrees that the path that we're on is absolutely unsustainable. I tell my constituents back home we're very much like the fellow who fell off the 10-story building. As he passed the fifth floor, he said, So far so good, so far so good. Well, we are that guy; and although our financial wreck is 10, 15, 20 years down the road, we are in a free-fall that has an abrupt immediate stop somewhere in our future.

We are bright, intelligent, smart people, present company excepted. We ought to be able to look at those projections, Mr. Speaker, and take action. We have for 5 years now, 6 years this August, failed to reform Social Security. When I first joined Congress in 2005, that was one of the leading issues on our table at that time. And, yes, we got distracted about whether or not part of it should be personally owned and part of it should not; but at the end of the day, we had set the predicate for why Social Security needed to be adjusted. Most of us spent that first 8 months in 2005 trying to lay out to our constituents exactly what the issues were that are familiar to all of us in this Chamber. That lasted until the end of August 2005. And then Hurricane Katrina happened and distracted us from the goal of getting it done, and we have not touched Social Security since.

We've continued to choose each and every year to not adjust and not renegotiate Social Security. That choice has a consequence, and the consequence is that we're adding about $600 billion of unfunded mandates to the debt of future generations of Americans because we choose not to take action.

That choice is ours to take. It is our freedom to take that choice. It's our liberty to take that choice. But collectively both sides of the aisle—this isn't a Republican issue or Democrat issue—both sides of the aisle have, for good or for bad—I would argue for ill—chosen to not address a fundamental spending issue that, among those that we have to face, I would argue is the least difficult.

Let me finish a quote from George Washington in his first inaugural address. George Washington declared: ''The preservation of the sacred fire of liberty and the destiny of the republican model of government are finally staked on the experiment entrusted to the hands of the American people.'' Trust is placed in the people precisely because they are, in the words of the Declaration, equally created and endowed by their Creator with certain unalienable rights.

We have that precious gift in our hands: those of us in the 435 of us who get to vote in this House, the 100 on the other side of this building who get to vote, the man, the woman who occupies 1600 Pennsylvania Avenue. We have the tools of choice in our hands. Do we choose to preserve liberty and freedom for future generations, or do we choose to continue, as that fellow falling off the 10-story building said, So far so good, so far so good? I argue that we should not. I argue let us use our intellect, let us use our will, let us use the wisdom of the American people who last November made a pretty dramatic statement as to what they thought we ought to do.

□ 1950

We now need to take those reins of choice in our hands and lead this Nation to a sustainable Federal Government that does not mortgage our grandchildren's future and that does not hand off to them an America that is less prosperous and that has less opportunity for standard of living increases that you and I enjoyed as we stepped into adulthood.

If we continue to ignore the problem and stick our heads in the sand, as the ostrich sometimes does—a pretty unflattering position, quite frankly, for any of us, including for the ostrich—then the future generations will simply ask: Why did they do that? They saw it coming. They understood the consequences. They had within their power the ability to make it different.

We have chosen so far not to do that. We have chosen so far to expand the Federal Government at an unprecedented rate. We have chosen to take away from States the rights to conduct those affairs that are individualized, that are properly left to the States and to our local governments and that are, quite frankly, left to us alone, as individuals. We have chosen as a Nation to empower this Federal Government, year in and year out, to take away our freedoms and our liberties.

All I can say to that, Mr. Speaker, is shame on us. Shame on us if we don't right this ship of state by shrinking the size of this Government, by limiting what it does in our day-to-day lives, by getting back to the fundamental founding principles that our Founding Fathers built this country on: that of a limited Federal Government, one with limited powers and everything else being reserved to the States and/or to the local municipalities—or not at all—and left to the people.

So, Mr. Speaker, I appreciate the opportunity to express these comments tonight, and I yield back.

Mr. STUTZMAN. Thank you.

I would like to yield again to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT. Again, I thank the gentleman from Indiana for hosting tonight's Special Order dealing with the Constitution. More specifically tonight, we are spending a little time talking about, as the previous gentleman just did, unlimited government and its role in protecting human dignity.

Now, the gentleman from Texas was just referencing the issue with regard to the unsustainable projection and trajectory of spending at the Federal level, and with regard to the burden, therefore, that we place on untold generations that follow after ours. You have to then ask: What sort of respect does this generation have for the human dignity of future generations who encompass their lives with the specter of having limitations on their abilities to make fundamental choices for themselves because of the obligations that have been placed upon them by this generation?

Earlier, I spoke about the Divine, and I think you need to do so when you're asking the fundamental question, as we're doing tonight, with regard to the issue of human dignity. I was quoting, not from myself, but from Lincoln and also from our founding documents, which speak of the Divine and name the Declaration as the Laws of Nature by the Creator—the Supreme Judge of the world, the Divine Providence. All areas of this, as is set forth in our documents, talk about human dignity coming not from man, himself, but from the Creator, from the Divine. Then it's the imperfect—man, human beings—who distort that in some way. Government, as I said before, being not perfect and not capable of being perfected, has the obligation to protect human dignity as best it can, but it obviously does so in an imperfect manner.

The gentleman from Utah talked about its not just occurring over the recent decades but over the last generations—probably going back over 100 years, he said. Actually, if you think about it, it was probably to the beginning of—what?—the Progressive Movement, I guess you would say here in this country, where there began this distortion of the understanding of the Constitution.

The Progressive Movement elaborated upon the powers of the Federal Government to expand in areas that never were envisioned by our Founders. As a matter of fact, as I talk about the Progressive Movement, we have the Progressive Caucus here on the other side of the aisle, I guess, which speaks about these things all the time but in a much more favorable light than we talk about it from this side of the aisle. So, if you go back about 80, 90, 100 years, to the Progressive Movement, it began to crimp upon the human being and the rights of man—basically, therefore, what we're talking about tonight, human dignity—in some very profound and fundamental ways.

What are some of the basic issues that a man is able to decide about himself? What he is able to eat and what he is able to grow to eat.

It was the Progressive Movement. It was during the time of Roosevelt, who finally said the Federal Government knows better when it comes to what man can eat and what he can grow for himself, and he put a limitation on an individual farmer as to what he could grow in his own backyard to sustain himself and his family. The Federal Government said, No, we are going to have the long arm of the powers of the Federal Government reach into that farmer's backyard and dictate to him that, no, he cannot grow those particular crops even though he was not selling them, and they were not in the stream of commerce, and he was not transporting them across State lines, and interstate commerce was not involved whatsoever. Rather, the Government said: We, the Federal Government here in Washington, can constrict him as to the very food that he provides for his own family.

Now fast-forward to this generation and to this past Congress, and you'll see that the same sort of thing goes on here. It's not only food but all the regulations that entwine in that area, which have grown into a multitude of regulations over the years—from food to water. Washington now dictates your very own water use, and we're all familiar with that infamous decision with regard to the toilets that you have in your own house and with regard to the water consumption that you have. These are not even things that you can decide for yourselves. The Government steps in.

How about the lights that you turn on? How are you going to illuminate your home so you can have a light to read your book in the evening? Now the Federal Government says that is not the province of man. That is the province of the Federal Government's to dictate as well. So, in each area, we take one more chip away at individual human dignity—in deciding how you're going to control and live your own life. Washington is now the arbiter in those things.

We rise now to, perhaps, one of the most fundamentals after food and water and light—and that's health care. Of course we saw what happened in the last session of Congress here when the Federal Government said that we here—the bureaucrats, the elected officials, the politicians—know better than you as to just what sort of health care you need, as to just what sort of doctor you should see, how often you should go, and all the other myriad of decisions that were wrapped

up in that semblance of: How do I take care of my own human body? How do I take care of my own health decisions?

Now we have passed a bill, under our objection, of course, on this side of the aisle, but with the complete support on the other side of the aisle and with the White House as well, saying, No. Washington can now dictate those areas to a point that we have never seen before in the history of this Government and in the history of this country, which is that the price of citizenship is the purchase of a particular product that the Federal Government bureaucrats dictate. The price of citizenship, the price of freedom, the price of liberty—the price of being an American—is now dictated to you by the Federal Government and by bureaucrats here in Washington. They will dictate and control your health care just as the previous Progressive Era politicians said they would dictate with regard to the food that you grow, with regard to the water that you use, with regard to the lights that you light—and now in the area of health care as well.

So where do we then end up going from all this? What is the next step?

As I said before, government is not perfect, and man cannot be perfected, so we should not look to the government, as we said before, as the angelic beings who are going to give us all the right rules and regulations in this area. We should not look to the government to provide for us in these respective areas. Rather, that we are individuals made by our Creator, and we have our own worth and our own human dignity, and Washington should not take that away from us.

So I will close where I began some time ago.

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We will look then not to the imperfect bureaucrats or to the imperfect politicians but, rather, to the people who inherently have the power to send us here or to return us, those people who have the power to create governments or not: the population of this country, the citizens of this country, from which all power truly emanates originally, for them to speak up loudly, to have their voices heard as they did in this past election in November, to make sure that their human dignity is protected, that it is not eroded upon anymore, and that, rather, it can grow and prosper and expand as our Founding Fathers intended and why these rights and limitations on powers were rather limited in the founding documents that we cherish so greatly.

And that is why, as I said at the beginning, I appreciate so much the gentleman from Indiana for your working in bringing this message here to the floor, the Members that are here, the Members that are listening, and to the American public. I look forward to further work from you and the rest of the caucus and other the members of this conference to expound upon these areas, not only of human dignity but also of our issues of federalism and protected rights to the States and the individuals as well.

I look forward to those discussions on the floor in the future.

Mr. STUTZMAN. Mr. Speaker, I would inquire how much time we have remaining.

The SPEAKER pro tempore. The gentleman has 10 minutes remaining.

Mr. STUTZMAN. Mr. Speaker, I just would like to make a couple of comments in closing. I have appreciated the comments that were made by the other gentlemen that were here this evening.

You know, one of the things I believe is that the American people that have been given the rights and the responsibilities to elect those of us who are fortunate enough and honored to come to Washington to serve are paying attention and that they are paying attention to what we are doing in response to the actions that have been taken over the years here in Washington. Washington seems to be the problem.

When I go back home to Indiana, I hear repeatedly from folks that, you know, Republican, Democrat, we can point the finger from side to side, but it has been Washington that has been out of touch with the American people, and that Washington needs to be changed, not necessarily America needing to be changed.

And that is why I believe it is so important for us as Americans that we get back to our founding documents, to realize the truths and the principles that are in these documents that our Founding Fathers wrote over 200-some years ago.

And I would like to read just a couple of lines from the Declaration of Independence, as Mr. GARRETT was referring to earlier, the freedom and the opportunity that each of us as Americans has is given to us by our Creator, but also the Declaration of Independence and our Constitution give us rights and freedoms as well.

I'd like to refer to these lines in the Declaration of Independence. Many of these are obviously very familiar to us, but: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Now, I would submit, Mr. Speaker, that the people are the ones who are giving us the power to govern and that the Constitution, as it was written back by our Founding Fathers, was written in the effort to protect each individual and to protect each individual freedom that we have and enjoy every day.

I would also mention, as was mentioned before, that it is important for us as Americans to not only take on that personal responsibility but also to realize that our freedoms are given from our Creator, and it's important for each one of us to not only fight to protect those freedoms but remember some of the words that our Founding Fathers used as well, going back to what Benjamin Franklin said, and I quote, Only a virtuous people are capable of freedom. As nations become corrupt and vicious, they have more need of masters, end quote.

So it is up to each one of us as Americans, Mr. Speaker, that we are, first of all, as individuals and as communities involved in our communities, whether it's our churches, whether it's our schools, that we are taking on each responsibility and looking around us and who can we help, how can we make a difference in someone else's life.

I'd also read John Adams. He said this, quote, Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other, end quote.

How fortunate we as Americans are to have not only this founding document but many other founding documents written by men who were given such a great responsibility and a great opportunity to create one of the longest-lasting governments in world history; and I'm so proud to be an American tonight and believe that, even though we have many challenges in front of us, we have great debt, we have great deficits, and this is because of the irresponsible actions taken by those in Washington.

I believe that today it is important for each one of us as Americans to become more familiar with our Constitution and to read the words, as it may seem sometimes dry and not as exciting, but this document, these words give each one of us as Americans the opportunity to make life better than what we may have entered.

I know for myself as a son of a farmer in northern Indiana, I was raised in an old farmhouse; and now I have the great opportunity to serve in Congress, that each one of us can do great things if we set our minds to it, and it's because of this document that gives us that liberty and that freedom.

So I have great hope that the American people and that those who are elected to serve will make those choices that will not only continue to grant us those freedoms but also steer the ship and turn the ship and change the mindset of Washington and the way that our Federal Government has responded and acted over the years recently, that will not only give our children and our grandchildren the same opportunities that we have but to work together across the aisle, knowing that we all serve and have sworn to uphold the Constitution to make those changes.

I'm optimistic, I'm hopeful; but I know that we have a lot of work ahead. And I believe that the document we have been given and was signed by our Founding Fathers has given us that guiding light, and I am looking forward

to working together with the Members in this Chamber, both sides of the aisle, to making a difference and to getting back to our constitutional responsibilities.

CORRECTION TO THE CONGRESSIONAL RECORD OF TUESDAY, JANUARY 25, 2011, AT PAGE H462

OFFICE OF COMPLIANCE TEXT OF REGULATIONS FOR THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix ''H.'' When approved by the Senate for the Senate, these regulations will have the prefix ''S.'' When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix ''C.''

In this draft, ''H&S Regs'' denotes the provisions that would be included in the regulations applicable to be made applicable to the House and Senate, and ''C Reg'' denotes the provisions that would be included in the regulations to be made applicable to other employing offices.

PART 1—Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch (section 4(c) of the Veterans Employment Opportunities Act of 1998)

Subpart A—Matters of General Applicability to All Regulations Promulgated under Section 4 of the VEOA

Sec.
1.101 Purpose and scope.
1.102 Definitions.
1.103 Adoption of regulations.
1.104 Coordination with section 225 of the Congressional Accountability Act.

SEC. 1.101. PURPOSE AND SCOPE.

(a) Section 4(c) of the VEOA. The Veterans Employment Opportunities Act of 1998 (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 U.S.C., to certain covered employees within the Legislative branch.

(b) Purpose of regulations. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of the VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA (2 U.S.C. §1384). The purpose of subparts B, C and D of these regulations is to define veterans' preference and the administration of veterans' preference as applicable to Federal employment in the Legislative branch. (5 U.S.C. §2108, as applied by the VEOA). The purpose of subpart E of these regulations is to ensure that the principles of the veterans' preference laws are integrated into the existing employment and retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans' preference in covered appointment and retention decisions. Provided, nothing in these regulations shall be construed so as to require an employing office to reduce any existing veterans' preference rights and protections that it may afford to preference eligible individuals.

H Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of the CAA, 2 U.S.C. §1301(9)(A–C); (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

S Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made or directed by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of the CAA, 2 U.S.C. §1301(9)(A–C); (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (4) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1978; or (5) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

C Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (3) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

SEC. 1.102. DEFINITIONS.

Except as otherwise provided in these regulations, as used in these regulations:

(a) ''Accredited physician'' means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices. The phrase ''authorized to practice by the State'' as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

(b) ''Act'' or ''CAA'' means the Congressional Accountability Act of 1995, as amended (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(c) ''Active duty'' or ''active military duty'' means full-time duty with military pay and allowances in the armed forces, except (1) for training or for determining physical fitness and (2) for service in the Reserves or National Guard.

(d) ''Appointment'' means an individual's appointment to employment in a covered position, but does not include any personnel action that an employing office takes with regard to an existing employee of the employing office.

(e) ''Armed forces'' means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(f) ''Board'' means the Board of Directors of the Office of Compliance.

H Regs: (g) ''Covered employee'' means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (dd) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

S Regs: (g) ''Covered employee'' means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made or directed by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (dd) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1978; or (ee) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

C Regs: (g) ''Covered employee'' means any employee of (1) the Office of Congressional Accessibility Services; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include an employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; or (bb) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

(h) ''Covered position'' means any position that is or will be held by a covered employee.

(i) ''Disabled veteran'' means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected

disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(j) Employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol or the Botanic Gardens.

(k) Employee of the Capitol Police includes any member or officer of the Capitol Police.

H Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) of section 1.102 of the regulations classified with an ''H'' classification.

S Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) of section 1.102 of the regulations classified with an ''H'' classification.

C Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) of section 1.102 of the regulations classified with an ''H'' classification.

H Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

S Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

C Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

H Regs: (n) ''Employing office'' means: (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

S Regs: (n) ''Employing office'' means: (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, or be directed by a Member of Congress to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

C Regs: (n) ''Employing office'' means: the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(o) ''Office'' means the Office of Compliance.

(p) ''Preference eligible'' means veterans, spouses, widows, widowers or mothers who meet the definition of ''preference eligible'' in 5 U.S.C. 2108(3)(A)–(G).

(q) ''Qualified applicant'' means an applicant for a covered position whom an employing office deems to satisfy the requisite minimum job-related requirements of the position. Where the employing office uses an entrance examination or evaluation for a covered position that is numerically scored, the term ''qualified applicant'' shall mean that the applicant has received a passing score on the examination or evaluation.

(r) ''Separated under honorable conditions'' means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

(s) ''Uniformed services'' means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(t) ''VEOA'' means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(u) ''Veterans'' means persons as defined in 5 U.S.C. 2108(1), or any superseding legislation.

SEC. 1.103. ADOPTION OF REGULATIONS.

(a) Adoption of regulations. Section 4(c)(4)(A) of the VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, section 4(c)(4)(B) of the VEOA directs the Board to promulgate regulations that are ''the same as the most relevant substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of the VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of the VEOA that need be adopted.

(b) Modification of substantive regulations. As a qualification to the statutory obligation to issue regulations that are ''the same as the most substantive regulations (applicable with respect to the Executive branch)'', section 4(c)(4)(B) of the VEOA authorizes the Board to ''determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under'' section 4(c) of the VEOA.

(c) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate regulations accommodating the human resource systems existing in the Legislative branch; and that such regulations must take into account the fact that the Board does not possess the statutory and Executive Order based government-wide policy making authority underlying OPM's counterpart VEOA regulations governing the Executive branch. OPM's regulations are designed for the competitive service (defined in 5 U.S.C. §2102(a)(2)), which does not exist in the employing offices subject to this regulation. Therefore, to follow the OPM regulations would create detailed and complex rules and procedures for a workforce that does not exist in the Legislative branch, while providing no VEOA protections to the covered Legislative branch employees. We have chosen to propose specially tailored regulations, rather than simply to adopt those promulgated by OPM, so that we may effectuate Congress's intent in extending the principles of the veterans' preference laws to the Legislative branch through the VEOA.

SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CONGRESSIONAL ACCOUNTABILITY ACT.

Statutory directive. Section 4(c)(4)(C) of the VEOA requires that promulgated regulations must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be considered to authorize enforcement of the CAA by the Executive branch.

Subpart B—Veterans' Preference—General Provisions

Sec.
1.105 Responsibility for administration of veterans' preference.
1.106 Procedures for bringing claims under the VEOA.

SEC. 1.105. RESPONSIBILITY FOR ADMINISTRATION OF VETERANS' PREFERENCE.

Subject to section 1.106, employing offices with covered employees or covered positions are responsible for making all veterans' preference determinations, consistent with the VEOA.

SEC. 1.106. PROCEDURES FOR BRINGING CLAIMS UNDER THE VEOA.

Applicants for appointment to a covered position and covered employees may contest adverse veterans' preference determinations, including any determination that a preference eligible applicant is not a qualified applicant, pursuant to sections 401–416 of the CAA, 2 U.S.C. §§1401–1416, and provisions of law referred to therein; 206a(3) of the CAA, 2 U.S.C. §§1401, section 4(c)(3) of the Veterans Employment Opportunities Act of 1998; and the Office's Procedural Rules.

Subpart C—Veterans' preference in appointments

Sec.
1.107 Veterans' preference in appointments to restricted covered positions.
1.108 Veterans' preference in appointments to non-restricted covered positions.
1.109 Crediting experience in appointments to covered positions.

1.110 Waiver of physical requirements in appointments to covered positions.

SEC. 1.107. VETERANS' PREFERENCE IN APPOINTMENTS TO RESTRICTED POSITIONS.

In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in these regulations as restricted covered positions) employing offices shall restrict competition to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply to the appointment of a preference eligible applicant to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a restricted covered position, in the event that there is more than one preference eligible applicant for the position.

Custodian—One whose primary duty is the performance of cleaning or other ordinary routine maintenance duties in or about a government building or a building under Federal control, park, monument, or other Federal reservation.

Elevator operator—One whose primary duty is the running of freight or passenger elevators. The work includes opening and closing elevator gates and doors, working elevator controls, loading and unloading the elevator, giving information and directions to passengers such as on the location of offices, and reporting problems in running the elevator.

Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property; or required to stand watch at or to patrol a Federal reservation, industrial area, or other area designated by Federal authority, in order to protect life and property; make observations for detection of fire, trespass, unauthorized removal of public property or hazards to Federal personnel or property. The term guard does not include law enforcement officer positions of the Capitol Police.

Messenger—One whose primary duty is the supervision or performance of general messenger work (such as running errands, delivering messages, and answering call bells).

SEC. 1.108. VETERANS' PREFERENCE IN APPOINTMENTS TO NON-RESTRICTED COVERED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing scores in an entrance examination, in a manner that is proportionately comparable to the points prescribed in 5 U.S.C. §3309. For example, five preference points shall be granted to preference eligible applicants in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving appointment to a covered position, employing offices shall consider veterans' preference eligibility as an affirmative factor in the employing office's determination of who will be appointed from among qualified applicants.

SEC. 1.109. CREDITING EXPERIENCE IN APPOINTMENTS TO COVERED POSITIONS.

When considering applicants for covered positions in which experience is an element of qualification, employing offices shall provide preference eligible applicants with credit:

(a) for time spent in the military service (1) as an extension of time spent in the position in which the applicant was employed immediately before his/her entrance into the military service, or (2) on the basis of actual duties performed in the military service, or (3) as a combination of both methods. Employing offices shall credit time spent in the military service according to the method that will be of most benefit to the preference eligible applicant; and

(b) for all experience material to the position for which the applicant is being considered, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he/she received pay therefor.

SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN APPOINTMENTS TO COVERED POSITIONS.

(a) Subject to (c) below, in determining qualifications of a preference eligible for appointment, an employing office shall waive:

(1) with respect to a preference eligible applicant, requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) with respect to a preference eligible applicant to whom it has made a conditional offer of employment, physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, the preference eligible applicant is physically able to perform efficiently the duties of the position;

(b) Subject to (c) below, if an employing office determines, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, that an applicant to whom it has made a conditional offer of employment is preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(C) and who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible applicant of the reasons for the determination and of the right to respond and to submit additional information to the employing office, within 15 days of the date of the notification. The head of the employing office may, by providing written notice to the preference eligible applicant, shorten the period for submitting a response with respect to an appointment to a particular covered position, if necessary because of a need to fill the covered position immediately. Should the preference eligible applicant make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office shall render a final determination of the physical ability of the preference eligible applicant to perform the duties of the position, taking into account the response and any additional information provided by the preference eligible applicant. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible applicant.

(c) Nothing in this section shall relieve an employing office of any obligations it may have pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C. §1302(a)(3).

Subpart D—Veterans' preference in reductions in force

Sec.

1.111 Definitions applicable in reductions in force.

1.112 Application of preference in reductions in force.

1.113 Crediting experience in reductions in force.

1.114 Waiver of physical requirements in reductions in force.

1.115 Transfer of functions.

SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCTIONS IN FORCE.

(a) Competing covered employees are the covered employees within a particular position or job classification, at or within a particular competitive area, as those terms are defined below.

(b) Competitive area is that portion of the employing office's organizational structure, as determined by the employing office, in which covered employees compete for retention. A competitive area must be defined solely in terms of the employing office's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an employing office. The minimum competitive area is a department or subdivision of the employing office within the local commuting area.

(c) Position classifications or job classifications are determined by the employing office, and shall refer to all covered positions within a competitive area that are in the same grade, occupational level or classification, and which are similar enough in duties, qualification requirements, pay schedules, tenure (type of appointment) and working conditions so that an employing office may reassign the incumbent of one position to any of the other positions in the position classification without undue interruption.

(d) Preference Eligibles. For the purpose of applying veterans' preference in reductions in force, except with respect to the application of section 1.114 of these regulations regarding the waiver of physical requirements, the following shall apply:

(1) ''active service'' has the meaning given it by section 101 of title 37;

(2) ''a retired member of a uniformed service'' means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his/her service as such a member; and

(3) a preference eligible covered employee who is a retired member of a uniformed service is considered a preference eligible only if

(A) his/her retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 1101 of title 38;

(B) his/her service does not include twenty or more years of full-time active service, regardless of when performed but not including periods of active duty for training; or

(C) on November 30, 1964, he/she was employed in a position to which this subchapter applies and thereafter he/she continued to be so employed without a break in service of more than 30 days.

The definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 and section 1.102(p) of these regulations shall apply to waivers of physical requirements in determining an employee's qualifications for retention under section 1.114 of these regulations.

H&S Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term ''reduction in force''

does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis, or (3) attributable to a change in party leadership or majority party status within the House of Congress where the employee is employed.

C Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term ''reduction in force'' does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis.

(f) Undue interruption is a degree of interruption that would prevent the completion of required work by a covered employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, work generally would not be considered to be unduly interrupted if a covered employee needs more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a program accorded low priority by the employing office, or to a vacant position.

SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS IN FORCE.

Prior to carrying out a reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees within a particular group of competing covered employees are entitled to veterans' preference eligibility status in accordance with these regulations. In determining which covered employees will be retained, employing offices will treat veterans' preference as the controlling factor in retention decisions among such competing covered employees, regardless of length of service or performance, provided that the preference eligible employee's performance has not been determined to be unacceptable. Provided, a preference eligible employee who is a ''disabled veteran'' under section 1.102(i) above who has a compensable service-connected disability of 30 percent or more and whose performance has not been determined to be unacceptable by an employing office is entitled to be retained in preference to other preference eligible employees. Provided, this section does not relieve an employing office of any greater obligation it may be subject to pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) as applied by section 102(a)(9) of the CAA, 2 U.S.C. §1302(a)(9).

SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN FORCE.

In computing length of service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) a preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3501(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN REDUCTIONS IN FORCE.

(a) If an employing office determines, on the basis of evidence before it, that a covered employee is preference eligible, the employing office shall waive, in determining the covered employee's retention status in a reduction in force:

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the employee, the preference eligible covered employee is physically able to perform efficiently the duties of the position.

(b) If an employing office determines that a covered employee who is a preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(C) and has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible covered employee of the reasons for the determination and of the right to respond and to submit additional information to the employing office within 15 days of the date of the notification. Should the preference eligible covered employee make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office, shall render a final determination of the physical ability of the preference eligible covered employee to perform the duties of the covered position, taking into account the evidence before it, including the response and any additional information provided by the preference eligible. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible covered employee.

(c) Nothing in this section shall relieve an employing office of any obligation it may have pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected position classifications or job classifications in the function that is to be transferred shall be transferred to the receiving employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another source to that position.

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she is qualified before the replacing employing office may make an appointment from another source to that position.

Subpart E—Adoption of Veterans' preference policies, recordkeeping & informational requirements

Sec.
1.116 Adoption of veterans' preference policy.
1.117 Preservation of records made or kept.
1.118 Dissemination of veterans' preference policies to applicants for covered positions.
1.119 Information regarding veterans' preference determinations in appointments.
1.120 Dissemination of veterans' preference policies to covered employees.
1.121 Written notice prior to a reduction in force.

SEC. 1.116. ADOPTION OF VETERANS' PREFERENCE POLICY.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the veterans' preference requirements of the Veterans Employment Opportunities Act of 1998 and these regulations into its employment and retention processes. Each such employing office will make its policies available to applicants for appointment to a covered position and to covered employees in accordance with these regulations. The act of adopting a veterans' preference policy shall not relieve any employing office of any other responsibility or requirement of the Veterans Employment Opportunities Act of 1998 or these regulations. An employing office may amend or replace its veterans' preference policies as it deems necessary or appropriate, so long as the resulting policies are consistent with the VEOA and these regulations.

SEC. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.

An employing office that employs one or more covered employees or that seeks applicants for a covered position shall maintain any records relating to the application of its veterans' preference policy to applicants for covered positions and to workforce adjustment decisions affecting covered employees for a period of at least one year from the date of the making of the record or the date of the personnel action involved or, if later, one year from the date on which the applicant or covered employee is notified of the personnel action. Where a claim has been brought under section 401 of the CAA against an employing office under the VEOA, the respondent employing office shall preserve all personnel records relevant to the claim until final disposition of the claim. The term ''personnel records relevant to the claim'', for example, would include records relating to the veterans' preference determination regarding the person bringing the claim and records relating to any veterans' preference determinations regarding other applicants for the covered position the person sought, or records relating to the veterans' preference determinations regarding other covered employees in the person's position or job classification. The date of final disposition of the charge or the action means the

latest of the date of expiration of the statutory period within which the aggrieved person may file a complaint with the Office or in a U.S. District Court or, where an action is brought against an employing office by the aggrieved person, the date on which such litigation is terminated.

SEC. 1.118. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO APPLICANTS FOR COVERED POSITIONS.

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans' preference eligible applicants, provided that in doing so:

(1) the employing office shall state clearly on any written application or questionnaire used for this purpose or make clear orally, if a written application or questionnaire is not used, that the requested information is intended for use solely in connection with the employing office's obligations and efforts to provide veterans' preference to preference eligible applicants in accordance with the VEOA;

(2) the employing office shall state clearly that disabled veteran status is requested on a voluntary basis, that it will be kept confidential in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse treatment except the possibility of an adverse determination regarding the individual's status as a preference eligible applicant as a disabled veteran under the VEOA, and that any information obtained in accordance with this section concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3); and

(3) the employing office shall state clearly that applicants may request information about the employing office's veterans' preference policies as they relate to appointments to covered positions, and shall describe the employing office's procedures for making such requests.

(c) Upon written request by an applicant for a covered position, an employing office shall provide the following information in writing:

(1) the VEOA definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition in a manner designed to be understood by applicants, along with the statutory citation; and

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employees;

(3) the employing office may provide other information to applicants regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(d) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.119. INFORMATION REGARDING VETERANS' PREFERENCE DETERMINATIONS IN APPOINTMENTS.

Upon written request by an applicant for a covered position, the employing office shall promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's appointment decision regarding that applicant. Such explanation shall include at a minimum:

(a) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement of the reasons for the employing office's determination that the applicant is not preference eligible.

SEC. 1.120. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans' preference under the VEOA, as set forth in subsection (b) of this regulation.

(b) Written guidance described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation; and

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to reductions in force, including the procedures the employing office shall take to identify preference eligible employees.

(3) the employing office may provide other information in its guidance regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(c) Employing offices are also expected to answer questions from covered employees that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE.

(a) Except as provided under subsection (c), a covered employee may not be released due to a reduction in force, unless the covered employee and the covered employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the effective date of the action;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee's competitive area;

(5) the covered employee's eligibility for veterans' preference in retention and how that preference eligibility was determined;

(6) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee's competitive area, by providing:

(A) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible, and

(B) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will not be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(7) a description of any appeal or other rights which may be available.

(c) The head of the employing office may, in writing, shorten the period of advance notice required under subsection (a), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(d) No notice period may be shortened to less than 30 days under this subsection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HANNA (at the request of Mr. CANTOR) for today on account of medical reasons.

Mr. REICHERT (at the request of Mr. CANTOR) for today on account of the passing of his mother-in-law.

PUBLICATION OF COMMITTEE RULES

RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION FOR THE 112TH CONGRESS

March 2, 2011.

Hon. KAREN HAAS,
Clerk of the House of Representatives, Washington, DC.

DEAR MS. HAAS: Pursuant to clause 2(a) of Rule XI of the Rules of the House of Representatives, I hereby submit the Rules of the Committee on House Administration for the 112th Congress for publication in the Congressional Record. The Rules were adopted by the Committee in a meeting that was open to the public and with a quorum present.

If you have any questions about the Rules please contact Kimani Little, the Committee Parliamentarian.

Sincerely,

DANIEL E. LUNGREN,
Chairman,
Committee on House Administration.

COMMITTEE RESOLUTION 112–1

Resolved, that the rules of the Committee on House Administration for the 112th Congress are hereby adopted, as follows:

RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION ONE HUNDRED TWELFTH CONGRESS

Rule No. 1—General Provisions

(a) The Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a privileged motion in the Committee. Each subcommittee of the committee is a part of the committee and is subject to the authority and direction of the chair and to its rules as far as applicable.

(b) The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and, subject to the adoption of expense resolutions as required by House Rule X, clause 6, to incur expenses (including travel expenses) in connection therewith.

(c) The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee, and to make such information available to the public. All costs of stenographic services and transcripts in connection with

any meeting or hearing of the Committee shall be paid from the appropriate House account.

(d) The Committee shall submit to the House, not later than the 30th day after June 1 and December 1 of each year, a semiannual report on the activities of the committee under House Rules X and XI.

(e) The Committee's rules shall be made publicly available in electronic form and published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

Rule No. 2—Regular and Special Meetings

(a) The regular meeting date of the Committee on House Administration shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the Chair of the Committee as she or he may deem necessary or at the request of a majority of the members of the Committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the Chair subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting may be dispensed with if, in the judgment of the Chair, there is no need for the meeting.

(b) If the Chair is not present at any meeting of the Committee, or at the discretion of the Chair, the Vice Chair of the Committee shall preside at the meeting. If the Chair and Vice Chair of the Committee are not present at any meeting of the Committee, the ranking member of the majority party who is present shall preside at the meeting.

(c) The Chair, in the case of meetings to be conducted by the Committee, and the appropriate subcommittee chair, in the case of meetings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any meeting to be conducted on any measure or matter. Such meeting shall not commence earlier than the third day on which members have notice thereof. If the Chair, with the concurrence of the ranking minority member, determines that there is good cause to begin the meeting sooner, or if the Committee so determines by majority vote, a quorum being present, the Chair shall make the announcement at the earliest possible date. The announcement shall promptly be made publicly available in electronic form and published in the Daily Digest.

(d) The Chair, in the case of meetings to be conducted by the Committee, and the appropriate subcommittee chair, in the case of meetings to be conducted by a subcommittee, shall make available on the Committee's web site the text of any legislation to be marked up at a meeting at least 24 hours before such meeting (or at the time of an announcement made within 24 hours of such meeting). This requirement shall also apply to any resolution or regulation to be considered at a meeting.

Rule No. 3—Open Meetings

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation of the Committee shall be open to the public except when the Committee in open session and with a quorum present determines by record vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, that no person other than members of the Committee, and such congressional staff and such other persons as the Committee may authorize, shall be present in any business or markup session which has been closed to the public. To the maximum extent practicable, the Chair shall cause to be provided audio and video coverage of each hearing or meeting that allows the public to easily listen to and view the proceedings and maintain the recordings of such coverage in a manner that is easily accessible to the public.

Rule No. 4—Records and Rollcalls

(a)(1) A record vote shall be held if requested by any member of the Committee.

(2) The result of each record vote in any meeting of the Committee shall be made available for inspection by the public at reasonable times at the Committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(3) The Chairman shall make the record of the votes on any question on which a record vote is demanded available on the Committee's website not later than 48 hours after such vote is taken (excluding Saturdays, Sundays, and legal holidays). Such record shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

(4) The Chairman shall make available on the Committee's website not later than 24 hours (excluding Saturdays, Sundays, and legal holidays) after the adoption of any amendment to a measure or matter the text of such amendment.

(b)(1) Subject to subparagraph (2), the Chair may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chair may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chair shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(c) All Committee and subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chair; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) House records of the Committee which are at the National Archives shall be made available pursuant to House Rule VII. The Chair shall notify the ranking minority member of any decision to withhold a record pursuant to the rule, and shall present the matter to the Committee upon written request of any Committee member.

(e) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

Rule No. 5—Proxies

No vote by any member in the Committee may be cast by proxy.

Rule No. 6—Power to Sit and Act; Subpoena Power

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee or any subcommittee thereof is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents and other materials as it deems necessary, including materials in electronic form. The Chair, or any member designated by the Chair, may administer oaths to any witness.

(b)(1) A subpoena may be authorized and issued by the Committee or subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the Chair pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(2) Compliance with any subpoena issued by the Committee or a subcommittee may be enforced only as authorized or directed by the House.

Rule No. 7—Quorums

No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating Committee orders, or changing the rules of the Committee, one-third of the members of the Committee shall constitute a quorum. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

Rule No. 8—Amendments

Any amendment offered to any pending legislation before the Committee or a subcommittee must be made available in written form when requested by any member of the Committee. If such amendment is not available in written form when requested, the Chair will allow an appropriate period of time for the provision thereof.

Rule No. 9—Hearing Procedures

(a) The Chair, in the case of hearings to be conducted by the Committee, and the appropriate subcommittee chair, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one (1) week before the commencement of that hearing. If the Chair, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present, the Chair shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the Chair, each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the Committee upon any measure or matter, the minority party members on the Committee shall be entitled, upon request to the Chair by a majority of those minority members before the completion of such hearing, to call

witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Any member of the Committee may, if a subcommittee grants unanimous consent for a specific hearing, be permitted to sit during that hearing with a subcommittee on which he or she does not serve, but no member who has not been elected to a subcommittee shall count for a quorum, offer any measure, motion, or amendment, or vote on any matter before that subcommittee.

(e) Committee or subcommittee members may question witnesses only when they have been recognized by the Chair for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended as provided by House Rules. The questioning of a witness in Committee or subcommittee hearings shall be initiated by the Chair, followed by the ranking minority member and all other members alternating between the majority and minority.

In recognizing members to question witnesses in this fashion, the Chair shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The Chair may accomplish this by recognizing two majority members for each minority member recognized.

(f) The following additional rules shall apply to hearings of the Committee or a subcommittee, as applicable:

(1) The Chair at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the Committee rules and this clause shall be made available to each witness as provided by clause 2(k)(2) of Rule XI.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chair may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(5) If the Committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (f)(5), the Chair shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

(8) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee.

Rule No. 10—Procedures for Reporting Measures or Matters

(a)(1) It shall be the duty of the Chair to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chair notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present.

(2) With respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) The report of the Committee on a measure or matter which has been approved by the Committee shall include the matters required by Clause 3(c) of Rule XIII of the Rules of the House.

(d) If, at the time any measure or matter is ordered reported by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views, in the form submitted, by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraph (c)) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the Committee upon that measure or matter.

(3) shall, when appropriate, contain the documents required by Clause 3(e) of Rule XIII of the Rules of the House.

(e) The Chair, following consultation with the ranking minority member, is directed to offer a motion under clause 1 of Rule XXII of the Rules of the House, relating to going to conference with the Senate, whenever the Chair considers it appropriate.

(f) If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings published and available to the members of the House prior to the consideration of such measure or matter in the House.

(g) The Chair may designate any majority member of the Committee to act as ''floor manager'' of a bill or resolution during its consideration in the House.

Rule No. 11—Committee Oversight

The Committee shall conduct oversight of matters within the jurisdiction of the Committee in accordance with House Rule X, clause 2 and clause 4. Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress in accordance with House Rule X, clause 2(d).

Rule No. 12—Review of Continuing Programs; Budget Act Provisions

(a) The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriation for continuing programs and activities of the Federal Government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in Clause 4(e) of Rule X of House Rules.

(b) The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting there from, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

Rule No. 13—Broadcasting of Committee Hearings and Meetings

Whenever any hearing or meeting conducted by the Committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 4 of House Rule XI, subject to the limitations therein. Operation and use of any Committee Internet broadcast system shall be fair and nonpartisan and in accordance with Clause 4(b) of rule XI and all other applicable rules of the Committee and the House.

Rule No. 14—Committee and Subcommittee Staff

The staff of the Committee on House Administration shall be appointed as follows:

(a) The staff shall be appointed by the Chair except as provided in paragraph (b), and may be removed by the Chair, and shall work under the general supervision and direction of the Chair;

(b) All staff provided to the minority party members of the Committee shall be appointed by the ranking minority member, and may be removed by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member;

(c) The appointment of all professional staff shall be subject to the approval of the Committee as provided by, and subject to the provisions of, clause 9 of Rule X of the Rules of the House;

(d) The Chair shall fix the compensation of all staff of the Committee, after consultation with the ranking minority member regarding any minority party staff, within the budget approved for such purposes for the Committee.

Rule No. 15—Travel of Members and Staff

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the Chair or her or his designee. Travel may be authorized by the Chair for any member and any staff member in connection with the attendance at hearings conducted by the Committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chair in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each; and

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the Committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the Chair. Before such authorization is given, there shall be submitted to the Chair, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the Chair covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

Rule No. 16—Number and Jurisdiction of Subcommittees

(a) There shall be two standing subcommittees, with party ratios of members as indicated. Subcommittees shall have jurisdictions as stated by these rules, may conduct oversight over such subject matter, and may consider such legislation as may be referred to them by the Chair. The names and jurisdiction of the subcommittees shall be:

(1) Subcommittee on Elections—(4/2). Matters pertaining to the Federal Election Campaign Act, the Federal Contested Elections Act, the Help America Vote Act, the National Voter Registration Act, the Uniformed and Overseas Citizens Absentee Voting Act, the Federal Voting Assistance Program, the Bipartisan Campaign Reform Act, the Americans with Disabilities Act (accessibility for voters with disabilities), the Federal Election Commission (FEC), the Election Assistance Commission (EAC), and other election related issues. Oversight of the Federal Election Commission (FEC) and the Election Assistance Commission (EAC).

(2) Subcommittee on Oversight—(4/2). Matters pertaining to operations of the Library of Congress, the Botanic Garden, the Smithsonian Institution, the Architect of the Capitol, the Capitol Visitors Center; the Chief Administrative Officer, House Information Resources, the Clerk of the House, the House Inspector General, the Congressional Research Service and the Office of Compliance.

(b) No subcommittee shall meet during any full Committee meeting or hearing.

(c) The Chair may establish and appoint members to serve on task forces of the Committee, to perform specific functions for limited periods of time, as she or he deems appropriate.

Rule No. 17—Referral of Legislation to Subcommittees

The Chair may refer legislation or other matters to a subcommittee, or subcommittees, as she or he considers appropriate. The Chair may discharge any subcommittee of any matter referred to it.

Rule No. 18—Other Procedures and Regulations

The Chair may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

Rule No. 19—Designation of Clerk of the Committee

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the Committee shall act as the clerk of the Committee.

ADJOURNMENT

Mr. STUTZMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 9, 2011, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

762. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Difenoconazole; Pesticide Tolerances [EPA-HQ-OPP-2009-0823; FRL-8864-9] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

763. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Potassium hypochlorite; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2009-0996; FRL-8859-5] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

764. A letter from the Assistant Secretary, Department of Defense, transmitting a proposed change to the Fiscal Year 2009 National Guard and Reserve Equipment Appropriation (NGREA) procurement; to the Committee on Armed Services.

765. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of General George W. Casey, Jr., United States Army, and his advancement on the retired list in the grade of general; to the Committee on Armed Services.

766. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of General William E. Ward, United States Army, and his advancement on the retired list in the grade of general; to the Committee on Armed Services.

767. A letter from the Under Secretary, Department of Defense, transmitting a certification on the review of the M982 155mm Precision Guided Extended Range Artillery Projectile (Excalibur) program; to the Committee on Armed Services.

768. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Republic of Panama pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

769. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Budget Trading Program; Technical Amendment [EPA-R05-OAR-2006-0976; FRL-9272-1] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

770. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [EPA-R07-OAR-2010-0168; FRL-9271-5] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

771. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, For Imperial County, Kern County, and Ventura County Air Pollution Control Districts [EPA-R09-OAR-2010-0813; FRL-9239-6] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

772. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standard [EPA-R05-OAR-2010-0850; FRL-9271-9] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

773. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District [EPA-R09-OAR-2010-0418; FRL-9249-3] received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

774. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's ''Major'' final rule — National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters [EPA-HQ-OAR-2002-0058; FRL-9272-8] (RIN: 2060-AQ25) received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

775. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's ''Major'' final rule — National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers [EPA-HQ-OAR-2006-0790; FRL-9273-5] (RIN: 2060-AM44) received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

776. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Identification of Non-Hazardous Secondary Materials That Are Solid Waste [EPA-HQ-RCRA-2008-0329; FRL-9273-1] (RIN: 2050-AG44) received February 28, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

777. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a notice of proposed lease with the Royal Hashemite Kingdom of Jordan (Transmittal No. 06-10) pursuant to Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

778. A letter from the Director, Defense Security Cooperation Agency, transmitting Transmittal No. 11-05, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

779. A letter from the Director, Defense Security Cooperation Agency, transmitting reports submitted in accordance with Sections 36(a) and 26(b) of the Arms Export Control Act, the 24 March 1979 Report by the Committee on Foreign Affairs, and the Seventh Report by the Committee on Government Operations; to the Committee on Foreign Affairs.

780. A letter from the Secretary of the Board of Governors, Postal Service, transmitting the Service's report, as required by Section 3686(c) of the Postal Accountability and Enhancement Act of 2006; to the Committee on Oversight and Government Reform.

781. A letter from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting annual report on acquisition by foreign countries ''dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, biological weapons) and advanced conventional munitions'' covering January 1, to December 31, 2010; to the Committee on Intelligence (Permanent Select).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following action occurred on March 7, 2011]

Mr. BACHUS: Committee on Financial Services. H.R. 830. A bill to rescind the unobligated funding for the FHA Refinance Program and to terminate the program; with an amendment (Rept. 112–25). Referred to the Committee of the Whole House on the State of the Union.

Mr. BACHUS: Committee on Financial Services. H.R. 836. A bill to rescind the unobligated funding for the Emergency Mortgage Relief Program and to terminate the program; with an amendment (Rept. 112–26). Referred to the Committee of the Whole House on the State of the Union.

[Filed March 8, 2011]

Mr. BISHOP of Utah: Committee on Rules. House Resolution 150. Resolution providing for consideration of the bill (H.R. 830) to rescind the unobligated funding for the FHA Refinance Program and to terminate the program (Rept. 112–27). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 151. Resolution providing for consideration of the bill (H.R. 836) to rescind the unobligated funding for the Emergency Mortgage Relief Program and to terminate the program (Rept. 112–28). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. POE of Texas (for himself, Mr. CLEAVER, and Mr. HUIZENGA of Michigan):

H.R. 938. A bill to establish a commission to ensure a suitable observance of the centennial of World War I and to designate memorials to the service of men and women of the United States in World War I; to the Committee on Oversight and Government Reform, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POE of Texas:

H.R. 939. A bill to amend the Outer Continental Shelf Lands Act and the Gulf of Mexico Energy Security Act of 2006 to increase the percentage of revenues from new offshore leases that will be shared with coastal States to 50 percent; to the Committee on Natural Resources.

By Mr. GARRETT (for himself and Mrs. MALONEY):

H.R. 940. A bill to establish standards for covered bond programs and a covered bond regulatory oversight program, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROSS of Arkansas:

H.R. 941. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADY of Texas (for himself, Mr. LARSON of Connecticut, Mr. PAULSEN, Ms. ESHOO, Ms. MATSUI, and Mr. MCCAUL):

H.R. 942. A bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2012 and to increase and make permanent the alternative simplified research credit; to the Committee on Ways and Means.

By Ms. HIRONO (for herself, Mr. JONES, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. KUCINICH, Mr. HINCHEY, Mr. GARAMENDI, Ms. WOOLSEY, and Mr. CONNOLLY of Virginia):

H.R. 943. A bill to establish a grant program to encourage the use of assistance dogs by certain members of the Armed Forces and veterans; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMPBELL:

H.R. 944. A bill to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes; to the Committee on Natural Resources.

By Mr. GRAVES of Missouri:

H.R. 945. A bill to expedite the increased supply and availability of energy to our Nation; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Washington (for himself, Mr. DICKS, Mr. WALDEN, and Ms. HERRERA BEUTLER):

H.R. 946. A bill to amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, and for other purposes; to the Committee on Natural Resources.

By Mr. HINOJOSA:

H.R. 947. A bill to authorize the International Boundary and Water Commission to reimburse State and local governments of the States of Arizona, California, New Mexico, and Texas for expenses incurred by such a government in designing, constructing, and rehabilitating water projects under the jurisdiction of such Commission; to the Committee on Transportation and Infrastructure.

By Mr. LOEBSACK (for himself and Mr. LATHAM):

H.R. 948. A bill to amend title 10, United States Code, to require the provision of behavioral health services to members of the reserve components of the Armed Forces necessary to meet pre-deployment and post-deployment readiness and fitness standards, and for other purposes; to the Committee on Armed Services.

By Mrs. MALONEY (for herself, Ms. BALDWIN, Ms. HIRONO, Ms. MOORE, and Mr. STARK):

H.R. 949. A bill to authorize assistance to aid in the prevention and treatment of obstetric fistula in foreign countries, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MATHESON (for himself and Mr. TERRY):

H.R. 950. A bill to prohibit restrictions on the resale of event tickets sold in interstate commerce as an unfair or deceptive act or practice; to the Committee on Energy and Commerce.

By Mr. MCCAUL (for himself, Mr. MCKINLEY, Mr. CHAFFETZ, Mr. NEUGEBAUER, Mr. DUNCAN of South Carolina, Mr. BROUN of Georgia, Mr. BARLETTA, Mr. DOGGETT, and Mr. FLAKE):

H.R. 951. A bill to prohibit the use of Federal funds for a project or program named for an individual then serving as a Member, Delegate, Resident Commissioner, or Senator of the United States Congress; to the Committee on Oversight and Government Reform.

By Mr. MILLER of North Carolina:

H.R. 952. A bill to develop an energy critical elements program, to amend the National Materials and Minerals Policy, Research and Development Act of 1980, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. PAUL:

H.R. 953. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a full tax deduction for higher education expenses and interest on student loans; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 954. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for tuition and related expenses for public and nonpublic elementary and secondary education; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 955. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for professional school personnel in prekindergarten, kindergarten, and grades 1 through 12; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 956. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for amounts contributed to charitable organizations which provide elementary or secondary school scholarships and for contributions of, and for, instructional materials and materials for extracurricular activities; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 957. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 958. A bill to limit the jurisdiction of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. QUIGLEY:

H.R. 959. A bill to amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Kentucky (for himself and Mrs. CAPITO):

H.R. 960. A bill to amend the Federal Water Pollution Control Act to clarify the authority of the Administrator of the Environmental Protection Agency to disapprove specifications of disposal sites for the discharge of dredged or fill material, and to clarify the procedure under which a higher review of specifications may be requested; to the Committee on Transportation and Infrastructure.

By Mr. RUPPERSBERGER:

H.R. 961. A bill to amend title 18, United States Code, with respect to the prohibition on disrupting military funerals, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHWEIKERT:

H.R. 962. A bill to rescind certain unobligated discretionary appropriations and require that such funds be used for Federal budget deficit reduction; to the Committee on Appropriations.

By Mr. SMITH of Texas:

H.R. 963. A bill to amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response; to the Committee on the Judiciary.

By Ms. BALDWIN (for herself, Mr. ANDREWS, Ms. SPEIER, Mr. GUTIERREZ, Mr. ELLISON, Ms. WASSERMAN SCHULTZ, Ms. PINGREE of Maine, and Ms. WILSON of Florida):

H.J. Res. 47. A joint resolution removing the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. UPTON (for himself, Mr. DINGELL, Mr. CAMP, Mr. CONYERS, Mr. ROGERS of Michigan, Mr. KILDEE, Mrs. MILLER of Michigan, Mr. LEVIN, Mr. MCCOTTER, Mr. PETERS, Mr. AMASH, Mr. CLARKE of Michigan, Mr. BENISHEK, Mr. HUIZENGA of Michigan, and Mr. WALBERG):

H. Con. Res. 27. Concurrent resolution providing for the acceptance of a statue of Gerald R. Ford from the people of Michigan for placement in the United States Capitol; to the Committee on House Administration.

By Mr. DANIEL E. LUNGREN of California:

H. Res. 147. A resolution providing for the expenses of certain committees of the House of Representatives in the One Hundred Twelfth Congress; to the Committee on House Administration.

By Ms. SCHAKOWSKY (for herself, Mr. MARKEY, Mr. GRIJALVA, Ms. FUDGE, Mrs. DAVIS of California, Mr. STARK, Ms. NORTON, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCCOLLUM, Ms. BALDWIN, Mr. CARNAHAN, Mrs. CHRISTENSEN, Ms. HIRONO, Mr. HINCHEY, Ms. SPEIER, Ms. MATSUI, Mrs. MALONEY, Ms. WASSERMAN SCHULTZ, Ms. MOORE, Mr. LEWIS of Georgia, Ms. WILSON of Florida, Mr. HASTINGS of Florida, Ms. WOOLSEY, Mr. FARR, Mr. BACA, Ms. DELAURO, Mrs. LOWEY, Ms. LORETTA SANCHEZ of California, Mr. MORAN, Ms. BORDALLO, Ms. EDWARDS, Ms. KAPTUR, Mr. MCDERMOTT, Ms. RICHARDSON, Mrs. CAPPS, Mr. SIRES, Mr. HINOJOSA, Ms. CLARKE of New York, Mr. COHEN, Mr. GUTIERREZ, Mr. ISRAEL, Ms. LEE of California, Ms. BASS of California, Ms. SUTTON, Mr. SERRANO, Mr. CONYERS, Mr. SMITH of Washington, Mr. YARMUTH, Mrs. NAPOLITANO, Mr. MURPHY of Connecticut, and Mr. DEUTCH):

H. Res. 148. A resolution supporting the goals of International Women's Day; to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSON of Connecticut:

H. Res. 149. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. LANCE (for himself and Mr. HOLT):

H. Res. 152. A resolution recognizing the life-saving role of ostomy care and prosthetics in the daily lives of hundreds of thousands of people in the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOORE (for herself, Mr. BISHOP of Georgia, Mr. BRADY of Pennsylvania, Mr. CONYERS, Mr. ELLISON, Mr. FILNER, Ms. FUDGE, Mr. GRIJALVA, Ms. JACKSON LEE of Texas, Mr. KILDEE, Mr. MCGOVERN, Ms. PINGREE of Maine, Mr. RANGEL, Ms. RICHARDSON, Mr. RICHMOND, Mr. ROTHMAN of New Jersey, Mr. RUSH, Mr. SERRANO, Ms. SEWELL, Ms. SPEIER, Mr. WALZ of Minnesota, and Ms. WASSERMAN SCHULTZ):

H. Res. 153. A resolution to express the sense of the House of Representatives regarding the school breakfast program; to the Committee on Education and the Workforce.

By Mr. YARMUTH (for himself, Mr. GRIJALVA, and Mr. STARK):

H. Res. 154. A resolution recognizing the week beginning March 21, 2011, as ''National Safe Place Week''; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 4 of rule XXII,

6. The SPEAKER presented a memorial of the Senate of the State of Arkansas, relative to Senate Resolution No. 3 urging the President and the Congress to consider the removal of trade, financial, and travel restrictions relating to Cuba; jointly to the Committees on Foreign Affairs, Ways and Means, Financial Services, and the Judiciary.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. POE of Texas:

H.R. 938.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clauses 1, 12, 16, 17, and 18.

By Mr. POE of Texas:

H.R. 939.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation pursuant to Article 1, Section 8, Clause 3, and Article 4, Section 3, Clause 2 of the United States Constitution.

By Mr. GARRETT:

H.R. 940.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clauses 1 (''The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States''), 3 (''To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes''), and 18 (''To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof').

By Mr. ROSS of Arkansas:

H.R. 941.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 (General Welfare Clause); Article I, Section 8, Clause 18 (Necessary and Proper Clause).

By Mr. BRADY of Texas:

H.R. 942.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 1 of the U.S. Constitution.

By Ms. HIRONO:

H.R. 943.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years.

Article I, Section 8, Clause 13: To provide and maintain a Navy.

Article I, Section 8, Clause 14: To make Rules for the Government and Regulation of the land and naval Forces.

By Mr. CAMPBELL:

H.R. 944.

Congress has the power to enact this legislation pursuant to the following:

Clause 2 of Section 3 of Article IV of the Constitution of the United States.

By Mr. GRAVES of Missouri:

H.R. 945.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8.

By Mr. HASTINGS of Washington:

H.R. 946.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18 of the U.S. Constitution: ''To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any Department or office thereof.''

By Mr. HINOJOSA:

H.R. 947.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. LOEBSACK:

H.R. 948.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation pursuant to Clause 16 of Section 8 of Article I of the Constitution.

By Mrs. MALONEY:

H.R. 949.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 3, which reads: To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes.

By Mr. MATHESON:

H.R. 950.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3.

By Mr. McCAUL:

H.R. 951.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 9, Clause 7 of the Constitution of the United States reads: '' No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .'' This establishes the congressional power of the purse which grants Congress the authority to appropriate funds and place limits and conditions on their use.

By Mr. MILLER of North Carolina:

H.R. 952.

Congress has the power to enact this legislation pursuant to the following:

Clause 3 of Section 8 of Article I of the Constitution.

By Mr. PAUL:

H.R. 953.

Congress has the power to enact this legislation pursuant to the following:

The Make College Affordable Act is justified by the Sixteenth Amendment which, by granting Congress the power to lay and collect taxes on incomes, clearly gives Congress the power to help middle-class Americans afford college by making college tuition tax deductable.

By Mr. PAUL:

H.R. 954.

Congress has the power to enact this legislation pursuant to the following:

The Family Education Freedom Act is justified by the Sixteenth Amendment which, by granting Congress the power to lay and collect taxes on incomes, clearly gives Congress the power to provide American families with tax relief so they can devote more of their own resources to their children's education.

By Mr. PAUL:

H.R. 955.

Congress has the power to enact this legislation pursuant to the following:

The Professional Educators Tax Relief Act is justified by the Sixteenth Amendment which, by granting Congress the power to lay and collect taxes on incomes, clearly gives Congress the power to provide tax relief to America's hard-working educators.

By Mr. PAUL:

H.R. 956.

Congress has the power to enact this legislation pursuant to the following:

The Education Improvement Tax Cut Act is authorized by the Sixteenth Amendment which, by granting Congress the power to lay and collect taxes on incomes, clearly gives Congress the power to provide the American people with tax relief so they can devote more of their own resources to improving education.

By Mr. PAUL:

H.R. 957.

Congress has the power to enact this legislation pursuant to the following:

The Teacher's Tax Cut Act is justified by the Sixteenth Amendment which, by granting Congress the power to lay and collect taxes on incomes, clearly gives Congress the power to provide tax relief to America's hard-working teachers.

By Mr. PAUL:

H.R. 958.

Congress has the power to enact this legislation pursuant to the following:

The We the People Act is authorized by Article 1, Section 8 and Article 3, Section 1 which gives the Congress power to establish and limit the jurisdiction of lower federal courts as well as Article III, Section 2 who gives Congress the power to make exceptions to Supreme Court regulations.

By Mr. QUIGLEY:

H.R. 959.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8.

By Mr. ROGERS of Kentucky:

H.R. 960.

Congress has the power to enact this legislation pursuant to the following:

U.S. Constitution, Article 1, Section 8, Clause 3—granting Congress the authority to make rules for the government and regulate commerce among the States.

By Mr. RUPPERSBERGER:

H.R. 961.

Congress has the power to enact this legislation pursuant to the following:

1) Article 1, Section 8, Clause 14, Military Regulation.

2) The First Amendment to the Constitution permits time, place and manner restrictions on free speech.

By Mr. SCHWEIKERT:

H.R. 962.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 7 of the Constitution.

By Mr. SMITH of Texas:

H.R. 963.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 1, of the Constitution, which grants Congress authority to provide for the common defense of the United States; Article I, Section 8, Clause 3, of the Constitution, which grants Congress authority to regulate Commerce with foreign nations and among the several states; and Article I, Section 8, Clause 9; Article III, Section 1, Clause 1; and Article III, Section 2, Clause 2, of the Constitution, which grants Congress authority over federal courts.

By Ms. BALDWIN:

H.J. Res. 47.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation pursuant to Article 1 of the Constitution of the United States.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mrs. ADAMS, Mr. BILBRAY, Mr. BUCSHON, Mr. CULBERSON, Mr. HECK, Mrs. LUMMIS, Mr. MICA, and Mr. REED.

H.R. 5: Mr. TURNER.

H.R. 21: Mr. YODER.

H.R. 24: Mr. COSTA, Mr. PLATTS, Mr. NEUGEBAUER, Mr. GARAMENDI, Mr. BOREN, Mr. COURTNEY, Ms. SUTTON, Mr. FORTENBERRY, Mr. WILSON of South Carolina, Mr. PETRI, Mr. GUTHRIE, and Mr. MCCOTTER.

H.R. 25: Mr. GIBBS and Ms. JENKINS.

H.R. 38: Mr. LANDRY.

H.R. 50: Mr. GRIMM.

H.R. 58: Mrs. ADAMS.

H.R. 83: Ms. WOOLSEY, Mr. CLYBURN, Mr. GUTIERREZ, Ms. WASSERMAN SCHULTZ, Mr. CARNAHAN, Mr. LEWIS of Georgia, Mr. DAVID SCOTT of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. FUDGE, Mr. AL GREEN of Texas, Mr. POLIS, Ms. LEE of California, Mr. RUSH, Mr. COHEN, Mr. YARMUTH, Mr. CARSON of Indiana, Ms. CLARKE of New York, Ms. MOORE, Ms. SEWELL, Ms. BASS of California, Mr. CICILLINE, Ms. WILSON of Florida, Mr. REYES, Ms. VELÁZQUEZ, Mr. MORAN, and Mr. SERRANO.

H.R. 97: Mr. FRANKS of Arizona, Mr. TURNER, and Mr. KLINE.

H.R. 100: Mr. TURNER, Mr. BACHUS, and Mr. BARLETTA.

H.R. 104: Mr. GARAMENDI.

H.R. 118: Mr. DUNCAN of Tennessee.

H.R. 127: Mr. YODER.

H.R. 153: Mr. HARRIS and Mr. BARLETTA.

H.R. 198: Ms. WASSERMAN SCHULTZ, Ms. NORTON, Mrs. ELLMERS, and Mrs. DAVIS of California.

H.R. 214: Mr. DUNCAN of South Carolina.

H.R. 217: Mr. GRIFFIN of Arkansas.

H.R. 234: Mr. STUTZMAN.

H.R. 333: Mr. MCNERNEY, Mr. ANDREWS, Mr. STARK, and Ms. RICHARDSON.

H.R. 344: Mr. ROSS of Florida.

H.R. 350: Mr. HINCHEY, Mr. STARK, Mr. SABLAN, and Mr. WEINER.

H.R. 360: Mr. WHITFIELD.

H.R. 361: Mr. FORBES, Mr. ROGERS of Michigan, Mr. JORDAN, Mr. LANDRY, Mr. STUTZMAN, Mr. SCALISE, Mr. GRIFFIN of Arkansas, Mr. HUIZENGA of Michigan, Mr. BURGESS, and Mr. NEUGEBAUER.

H.R. 365: Mr. FALEOMAVAEGA, Ms. BORDALLO, and Mr. SABLAN.
H.R. 371: Mr. CANSECO.
H.R. 374: Mr. BILIRAKIS.
H.R. 412: Mrs. HARTZLER and Mr. YODER.
H.R. 420: Mr. BENISHEK, Mrs. ADAMS, and Mr. BROUN of Georgia.
H.R. 421: Mr. PRICE of Georgia, Mrs. BLACK, Mr. FLEISCHMANN, Mr. AMASH, Mr. HANNA, Mr. YODER, Mr. WALSH of Illinois, and Mr. CANSECO.
H.R. 422: Mr. CONYERS.
H.R. 434: Mr. SCHOCK.
H.R. 436: Mr. YODER, Mr. BASS of New Hampshire, Mr. TURNER, Mr. PENCE, and Mr. SCHILLING.
H.R. 440: Mr. LAMBORN, Mr. ADERHOLT, Mr. VAN HOLLEN, Mr. HONDA, Mr. LATHAM, Mr. YODER, Mr. CARDOZA, and Mr. BARLETTA.
H.R. 456: Mr. YOUNG of Alaska and Mr. OWENS.
H.R. 457: Mr. DUNCAN of South Carolina, Mr. KLINE, and Mr. HUELSKAMP.
H.R. 458: Mrs. LOWEY.
H.R. 470: Mr. SCHWEIKERT.
H.R. 471: Mr. YOUNG of Indiana and Mr. GOSAR.
H.R. 493: Mr. FILNER and Mr. SCHIFF.
H.R. 495: Mr. DUNCAN of South Carolina.
H.R. 509: Mr. FLAKE.
H.R. 520: Ms. SPEIER and Ms. SLAUGHTER.
H.R. 521: Ms. SLAUGHTER.
H.R. 531: Mr. MICHAUD.
H.R. 535: Mr. GARAMENDI and Mrs. CAPPS.
H.R. 539: Mr. MCDERMOTT and Mr. STARK.
H.R. 547: Mr. TURNER.
H.R. 555: Ms. NORTON.
H.R. 567: Mr. STUTZMAN.
H.R. 576: Mr. CONYERS.
H.R. 606: Mr. LABRADOR and Mr. DOLD.
H.R. 609: Mr. LATHAM and Mr. PITTS.
H.R. 610: Ms. RICHARDSON.
H.R. 612: Ms. ESHOO and Mr. FILNER.
H.R. 631: Ms. ROYBAL-ALLARD and Mr. JACKSON of Illinois.
H.R. 651: Mr. LEWIS of Georgia, Mr. OLVER, Mr. FARR, Mr. MORAN, and Ms. BASS of California.
H.R. 652: Mr. ROSS of Arkansas.
H.R. 661: Ms. RICHARDSON.
H.R. 663: Mr. LONG, Mr. MCCLINTOCK, and Mr. WESTMORELAND.
H.R. 676: Mr. YARMUTH.
H.R. 681: Mrs. BLACK.
H.R. 682: Mr. YODER.
H.R. 689: Mr. LUJÁN.
H.R. 711: Mr. LUJÁN.
H.R. 733: Mr. GERLACH and Mr. SARBANES.
H.R. 735: Mr. YODER and Mr. SHUSTER.
H.R. 738: Mr. ROTHMAN of New Jersey.
H.R. 740: Mr. ENGEL.
H.R. 745: Ms. FOXX, Mr. CAMPBELL, Mr. CANSECO, and Mr. GOSAR.
H.R. 747: Mr. CARNAHAN.
H.R. 748: Mr. DUNCAN of South Carolina.
H.R. 750: Mr. LATTA.
H.R. 763: Mr. GUTHRIE, Mr. RENACCI, Mr. TIPTON, and Mr. PAUL.
H.R. 780: Mr. COHEN and Mr. MICHAUD.
H.R. 782: Mr. DUNCAN of South Carolina.
H.R. 798: Mr. KILDEE, Mr. COSTELLO, and Ms. RICHARDSON.
H.R. 800: Mr. WEST, Mr. GARY G. MILLER of California, Mrs. MILLER of Michigan, Mr. JONES, and Mr. HECK.
H.R. 816: Mr. HECK.
H.R. 820: Mr. TOWNS, Ms. SLAUGHTER, Mr. SIRES, Mr. PRICE of North Carolina, Mr. GUTIERREZ, Ms. LINDA T. SÁNCHEZ of California, and Ms. RICHARDSON.
H.R. 822: Mr. MCINTYRE, Mr. LATHAM, Ms. FOXX, Mr. BACHUS, Mrs. ADAMS, Mr. WILSON of South Carolina, Mr. MULVANEY, Mr. PETRI, Mr. MCCOTTER, Mr. TURNER, Mr. CANSECO, Ms. JENKINS, Mrs. EMERSON, and Mr. KLINE.
H.R. 839: Mr. COFFMAN of Colorado.
H.R. 854: Ms. SUTTON, Mr. ELLISON, Mr. FILNER, Mr. TONKO, Mr. CARNAHAN, Mr. HANNA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. REYES, Ms. BROWN of Florida, Mr. BISHOP of New York, Mr. CLEAVER, and Ms. BASS of California.
H.R. 856: Ms. BERKLEY.
H.R. 865: Mr. HOLT, Mr. KIND, Mr. CLAY, Mr. KUCINICH, Ms. MCCOLLUM, Ms. BORDALLO, Mr. JACKSON of Illinois, Mr. LATHAM, Ms. ESHOO, Mr. KISSELL, and Mr. LANCE.
H.R. 870: Mr. JACKSON of Illinois, Mr. HASTINGS of Florida, and Mr. STARK.
H.R. 871: Mr. KISSELL.
H.R. 872: Mr. JOHNSON of Illinois, Mr. DENHAM, Mr. SCHRADER, Mr. CONAWAY, Mrs. LUMMIS, Mr. MCINTYRE, Mrs. ELLMERS, Mr. GARY G. MILLER of California, Mr. SHUSTER, Mr. WALZ of Minnesota, Mr. KING of Iowa, Mr. GIBSON, Mr. CUELLAR, Mr. HUELSKAMP, Mr. FINCHER, Mr. DUNCAN of Tennessee, Mr. HULTGREN, Mr. COBLE, Mrs. MCMORRIS RODGERS, Mrs. MILLER of Michigan, Mr. JONES, Mr. BUCSHON, Mr. FLORES, Mr. THOMPSON of Pennsylvania, Mr. FRANK of Massachusetts, Mr. DESJARLAIS, Mr. MCGOVERN, Mrs. ROBY, Mr. AUSTIN SCOTT of Georgia, Mr. RIBBLE, Mr. SOUTHERLAND, Mr. COURTNEY, Mrs. HARTZLER, Mr. LOBIONDO, Mr. WALDEN, Mrs. BLACKBURN, Mr. SMITH of Nebraska, and Mr. GOODLATTE.
H.R. 885: Mr. MORAN, Mr. PLATTS, Mr. HIMES, Mr. DUNCAN of Tennessee, Mr. ROSS of Arkansas, Mr. CONYERS, Mr. NADLER, and Mr. MICHAUD.
H.R. 888: Mrs. CHRISTENSEN.
H.R. 891: Mr. GRIFFIN of Arkansas.
H.R. 904: Mr. WEST, Mr. COSTELLO, Mr. RIBBLE, and Mr. PAUL.
H.R. 909: Mr. JOHNSON of Ohio, Mr. KLINE, and Mr. GRIFFIN of Arkansas.
H.R. 910: Mr. SHIMKUS, Mr. HALL, Mr. LUCAS, Mrs. CAPITO, Mr. OLSON, Mr. GUTHRIE, Mr. KINZINGER of Illinois, Mr. POMPEO, Mr. TERRY, Mrs. BONO MACK Mr. CASSIDY, Mr. SCALISE, Mr. LATTA, Mrs. MYRICK, Mr. BURGESS, Mr. GINGREY of Georgia, Mr. GRIFFITH of Virginia, Mrs. BACHMANN,
Mr. BENISHEK, Mr. LANKFORD, and Mr. JOHNSON of Ohio.
H.R. 912: Mr. MCGOVERN.
H.R. 915: Mr. FARENTHOLD.
H.R. 918: Mr. GARRETT and Mr. BARTLETT.
H.R. 925: Mr. STARK and Mr. ROTHMAN of New Jersey.
H.R. 926: Mrs. MILLER of Michigan.
H.R. 929: Mr. SIRES and Ms. MOORE.
H.J. Res. 20: Mr. HARRIS.
H. Con. Res. 20: Mr. BARTLETT and Mr. LAMBORN.
H. Con. Res. 25: Mr. AKIN, Mrs. BACHMANN, Mr. BACHUS, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BROOKS, Ms. BUERKLE, Mr. BURTON of Indiana, Mr. CARTER, Mr. COLE, Mr. DENHAM, Mr. DESJARLAIS, Mr. DUNCAN of South Carolina, Mr. FLEISCHMANN, Mr. FLORES, Mr. FRANKS of Arizona, Mr. GIBBS, Mr. GINGREY of Georgia, Mr. GOWDY, Mr. GRIFFIN of Arkansas, Mr. HUELSKAMP, Mr. HUIZENGA of Michigan, Mr. SAM JOHNSON of Texas, Mr. JORDAN, Mr. KING of Iowa, Mr. LATTA, Mr. MCHENRY, Mrs. MCMORRIS RODGERS, Mr. MULVANEY, Mr. PEARCE, Mr. PITTS, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. STEARNS, Mr. WALSH of Illinois, and Mr. WESTMORELAND.
H. Res. 60: Mr. DAVID SCOTT of Georgia, Mr. WILSON of South Carolina, Mr. PEARCE, and Mr. KISSELL.
H. Res. 71: Mr. JONES and Mrs. CAPITO.
H. Res. 102: Mr. YOUNG of Florida.
H. Res. 104: Ms. HIRONO, Mr. CAPUANO, Mr. WEBSTER, Mr. KILDEE, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE of California, Mr. GRIJALVA, and Mr. PAYNE.
H. Res. 111: Mrs. BLACK, Mr. ALTMIRE, Mr. GUTHRIE, and Mr. RIVERA.
H. Res. 142: Mr. LAMBORN, Mr. COFFMAN of Colorado, and Mrs. BLACK.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 830

OFFERED BY: MR. CARDOZA

AMENDMENT NO. 1: At the end of the bill, add the following new section:

SEC. 4. AFFORDABLE REFINANCING OF MORTGAGES OWNED OR GUARANTEED BY FANNIE MAE AND FREDDIE MAC.

(a) AUTHORITY.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall each carry out a program under this section to provide for the refinancing of qualified mortgages on single-family housing owned by such enterprise through a refinancing mortgage, and for the purchase of and securitization of such refinancing mortgages, in accordance with this section and policies and procedures that the Director of the Federal Housing Finance Agency shall establish. Such program shall require such refinancing of a qualified mortgage upon the request of the mortgagor made to the applicable enterprise and a determination by the enterprise that the mortgage is a qualified mortgage.

(b) QUALIFIED MORTGAGE.—For purposes of this section, the term ''qualified mortgage'' means a mortgage, without regard to whether the mortgagor is current on or in default on payments due under the mortgage, that—

(1) is an existing first mortgage that was made for purchase of, or refinancing another first mortgage on, a one- to four-family dwelling, including a condominium or a share in a cooperative ownership housing association, that is occupied by the mortgagor as the principal residence of the mortgagor;

(2) is owned or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(3) was originated on or before the date of the enactment of this Act.

(c) REFINANCING MORTGAGE.—For purposes of this section, the term ''refinancing mortgage'' means a mortgage that meets the following requirements:

(1) REFINANCING OF QUALIFIED MORTGAGE.—The principal loan amount repayment of which is secured by the mortgage shall be used to satisfy all indebtedness under an existing qualified mortgage.

(2) SINGLE-FAMILY HOUSING.—The property that is subject to the mortgage shall be the same property that is subject to the qualified mortgage being refinanced.

(3) INTEREST RATE.—The mortgage shall bear interest at a single rate that is fixed for the entire term of the mortgage, which shall be equivalent to the premium received by the enterprise on the qualified mortgage being refinanced plus the cost of selling a newly issued mortgage having comparable risk and term to maturity in a mortgage-backed security, as such rate may be increased to the extent necessary to cover, over the term to maturity of the mortgage, any fee paid to the servicer pursuant to subsection (d), the cost of any title insurance coverage issued in connection with the mortgage, and, as determined by the Director, a portion of any administrative costs of the program under this section as may attributable to the mortgage.

(4) WAIVER OF PREPAYMENT PENALTIES.—All penalties for prepayment or refinancing of the qualified mortgage that is refinanced by the mortgage, and all fees and penalties related to the default or delinquency on such mortgage, shall have been waived or forgiven.

(5) TERM TO MATURITY.—The mortgage shall have a term to maturity of not more than 40 years from the date of the beginning of the amortization of the mortgage.

(6) PROHIBITION ON BORROWER FEES.—The servicer conducting the refinancing shall not charge the mortgagor any fee for the refinancing of the qualified mortgage through the refinancing mortgage.

(7) TITLE INSURANCE.—The fee for title insurance coverage issued in connection with the mortgage shall be reasonable in comparison with fees for such coverage available in the market for mortgages having similar terms.

(d) FEE TO SERVICER.—For each qualified mortgage of an enterprise that the servicer of the qualified mortgage refinances through a refinancing mortgage pursuant to this section, the enterprise shall pay the servicer a fee not exceeding $1,000.

(e) NO APPRAISAL.—The enterprises may not require an appraisal of the property subject to a refinancing mortgage to be conducted in connection with such refinancing.

(f) TERMINATION.—The requirement under subsection (a) for the enterprises to refinance qualified mortgages shall not apply to any request for refinancing made after the expiration of the one-year period beginning on the date of the enactment of this Act.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(2) ENTERPRISE.—The term ''enterprise'' means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(h) REGULATIONS.—The Director shall issue any regulations or guidance necessary to carry out the program under this section.

H.R. 830

OFFERED BY: MR. COLE

AMENDMENT NO. 2: Page 5, line 12, after the period add the following: ''All such unexpended balances so rescinded and permanently canceled shall be retained in the General Fund of the Treasury for reducing the debt of the Federal Government.''.

H.R. 830

OFFERED BY: MR. LYNCH

AMENDMENT NO. 3: Page 5, strike lines 14 through 19.

Page 5, line 20, strike ''(b)'' and insert ''(a)''.

Page 5, lines 20 and 21, strike ''Notwithstanding subsection (a) of this section, any'' and insert ''Any''.

Page 5, line 25, strike ''specified in subsection (a) of this section'' and insert ''specified in section 2''.

Page 6, line 3, strike ''(c)'' and insert ''(b)''.

Page 6, lines 10 and 11, strike ''subsection (b)'' and insert ''subsection (a)''.

Page 6, line 14, strike ''(d)'' and insert ''(c)''.

H.R. 836

OFFERED BY: MR. CARDOZA

AMENDMENT NO. 1: At the end of the bill, add the following new section:

SEC. 4. AFFORDABLE REFINANCING OF MORTGAGES OWNED OR GUARANTEED BY FANNIE MAE AND FREDDIE MAC.

(a) AUTHORITY.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall each carry out a program under this section to provide for the refinancing of qualified mortgages on single-family housing owned by such enterprise through a refinancing mortgage, and for the purchase of and securitization of such refinancing mortgages, in accordance with this section and policies and procedures that the Director of the Federal Housing Finance Agency shall establish. Such program shall require such refinancing of a qualified mortgage upon the request of the mortgagor made to the applicable enterprise and a determination by the enterprise that the mortgage is a qualified mortgage.

(b) QUALIFIED MORTGAGE.—For purposes of this section, the term ''qualified mortgage'' means a mortgage, without regard to whether the mortgagor is current on or in default on payments due under the mortgage, that—

(1) is an existing first mortgage that was made for purchase of, or refinancing another first mortgage on, a one- to four-family dwelling, including a condominium or a share in a cooperative ownership housing association, that is occupied by the mortgagor as the principal residence of the mortgagor;

(2) is owned or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(3) was originated on or before the date of the enactment of this Act.

(c) REFINANCING MORTGAGE.—For purposes of this section, the term ''refinancing mortgage'' means a mortgage that meets the following requirements:

(1) REFINANCING OF QUALIFIED MORTGAGE.—The principal loan amount repayment of which is secured by the mortgage shall be used to satisfy all indebtedness under an existing qualified mortgage.

(2) SINGLE-FAMILY HOUSING.—The property that is subject to the mortgage shall be the same property that is subject to the qualified mortgage being refinanced.

(3) INTEREST RATE.—The mortgage shall bear interest at a single rate that is fixed for the entire term of the mortgage, which shall be equivalent to the premium received by the enterprise on the qualified mortgage being refinanced plus the cost of selling a newly issued mortgage having comparable risk and term to maturity in a mortgage-backed security, as such rate may be increased to the extent necessary to cover, over the term to maturity of the mortgage, any fee paid to the servicer pursuant to subsection (d), the cost of any title insurance coverage issued in connection with the mortgage, and, as determined by the Director, a portion of any administrative costs of the program under this section as may attributable to the mortgage.

(4) WAIVER OF PREPAYMENT PENALTIES.—All penalties for prepayment or refinancing of the qualified mortgage that is refinanced by the mortgage, and all fees and penalties related to the default or delinquency on such mortgage, shall have been waived or forgiven.

(5) TERM TO MATURITY.—The mortgage shall have a term to maturity of not more than 40 years from the date of the beginning of the amortization of the mortgage.

(6) PROHIBITION ON BORROWER FEES.—The servicer conducting the refinancing shall not charge the mortgagor any fee for the refinancing of the qualified mortgage through the refinancing mortgage.

(7) TITLE INSURANCE.—The fee for title insurance coverage issued in connection with the mortgage shall be reasonable in comparison with fees for such coverage available in the market for mortgages having similar terms.

(d) FEE TO SERVICER.—For each qualified mortgage of an enterprise that the servicer of the qualified mortgage refinances through a refinancing mortgage pursuant to this section, the enterprise shall pay the servicer a fee not exceeding $1,000.

(e) NO APPRAISAL.—The enterprises may not require an appraisal of the property subject to a refinancing mortgage to be conducted in connection with such refinancing.

(f) TERMINATION.—The requirement under subsection (a) for the enterprises to refinance qualified mortgages shall not apply to any request for refinancing made after the expiration of the one-year period beginning on the date of the enactment of this Act.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(2) ENTERPRISE.—The term ''enterprise'' means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(h) REGULATIONS.—The Director shall issue any regulations or guidance necessary to carry out the program under this section.

H.R. 836

OFFERED BY: MR. COLE

AMENDMENT NO. 2: Page 4, line 22, after the period add the following:: ''All such unobligated balances so rescinded and permanently canceled shall be retained in the General Fund of the Treasury for reducing the debt of the Federal Government.''.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, MARCH 8, 2011 No. 34

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

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

Let us pray.

Almighty God, whose word has taught us to pray without ceasing, guide us to pray according to Your will. May our Senators pray not only in challenging times, or to ask for special blessings, but because they love You and desire to do Your will. Remind them that our Nation was born in the spirit of prayer and that the intercession of righteous people has helped America survive and prosper. Use their vibrant prayer life to make them kind but firm, compassionate but resolute, loyal but independent. May Your grace be sufficient for all their needs.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY 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 as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 8, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

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 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time divided or controlled between the two leaders or their designees, with the minority controlling the first hour and the majority controlling the next hour, with 30 minutes under the control of the Senator from Massachusetts.

The Senator from Wyoming is recognized.

GASOLINE PRICES

Mr. BARRASSO. Mr. President, I come to the floor of the Senate to discuss an issue that is critically facing the American people: It is the price of gasoline at the pump. It is something that, in my opinion, will impact our economy, impact the economic recovery we are all hoping will continue in this country. But with every penny the cost of gasoline goes up, it has been estimated it takes about a billion dollars away from the amount of money that can be spent on other things in this country and to growing the economy.

We are at a point where the American people, who have to balance their budgets every year—and States have to do it, of course. Washington doesn't do that, but the American people do. They have to focus on their pocketbooks. When they are going to fill up with gas at the pump and are noticing that they are approaching a point where it is going to be $100 to get a fill-up, they worry about the impact on the quality of their life, their ability to put food on the table for their children, and clothing on their children, and even have the money to get back and forth to work—those fortunate enough to have jobs.

One can say: Well, is it really a problem? I believe it is. I filled up yesterday morning in Casper. A young man in front of me at the filling station was filling up his pickup truck. He was watching the numbers go up and up. I filled up a week ago in Wyoming as well. We use a lot of gasoline in Wyoming. We travel long distances. I was filling up in the evening. I put my credit card in, and it stopped at $75 because apparently they have to reset these pumps. One would think that with $75 one would have enough money to fill up. But not as these gas prices continue to rise.

My concern is that so much of this money is being sent overseas to people who are trying to blow us up. We have an opportunity to be much more secure in our energy resources by developing our energy resources at home. It just seems that this administration's policies are making it that much harder.

One may say: How high can gasoline prices go? With the unrest in the Middle East, a front-page story a few days ago in USA TODAY said: ''If unrest spreads, gas may hit $5 a gallon''—$5 a gallon by summer.

We need to do some things in this country that this administration has continued to block. We need to find more of our own energy, be reliant more on ourselves and less on foreign sources of energy. That means doing three things: exploring offshore, exploring on Federal land, and exploring in Alaska. We know there are huge reserves of oil, of energy in those locations. Yet day by day those efforts are

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

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being blocked. The impact on our overall economy is huge, and it is because of policies of this administration.

USA TODAY this morning: ''Will gas prices stall U.S. upturn? Consumers could cut spending again.''

It is not in the best interest of this country for us to have energy policies that make it more expensive for Americans to gas up their cars. It does not help the economy of this country when the policies of this administration do things that make it more expensive and harder for small businesses to create jobs and hire people. We are trying to get people hired, back to work.

That is what we need to focus on—jobs and the economy. When the administration's policies cut into our ability to use energy sources from within this country—red, white, and blue energy jobs; red, white, and blue energy as well—and just send more money overseas, that does not help us as a nation, it does not help our economy, and it does not help strengthen our communities. We are so blessed in this country with wonderful families, wonderful communities, and wonderful land. Yet we do not seem to be making wise decisions on a daily basis with the policies coming out of this administration.

It is interesting to see who is actually benefiting from these increased costs because we know American families are not benefiting, we know American taxpayers are not benefiting, and we know people trying to get their kids off to school are not benefiting. Who is benefiting from this huge increase in the cost of energy and the cost of oil? All we need to do is go to the front page of the business section of today's New York Times: ''Fears About Mideast Oil Pay Off for Russia.'' For Russia, Mr. President. ''Whatever the eventual outcome of the Arab world's social upheaval, there is a clear economic winner so far: Vladimir V. Putin.'' Right there, that is the winner. The economic policies of this administration to limit our ability and curtail our ability to use American energy, American oil, to keep down the cost of gasoline, are benefiting Russia.

It says:

> Russia, which pumps more oil than Saudi Arabia, is reaping a windfall from the steep rise in global energy prices resulting from instability in oil regions of the Middle East and North Africa . . . Russia does not have any oil wells standing idle . . . Right now Russia is pumping oil at its top capacity.

In a country where we and this Congress in particular choose winners and losers in energy, the winner seems to be Russia because of the policies of this administration.

The Hill newspaper this morning said: ''Pump pain for Obama.'' This clearly lies specifically at the feet of the President because of the policies of this administration.

We have had a situation in the Gulf of Mexico where there has been a moratorium, which is extended almost permanently, shutting down the use of oil reserves for the United States. The administration—so happy, and pronounced the moratorium—has not until this week allowed for an additional permit and finally one when the price of gasoline went up at the pump 38 cents on average, about $3.50 per gallon.

The Department of Interior, last October in the Federal Register, had a solution. They had some ideas about this because the Department of the Interior admitted—the President's own Secretary and his Department of Interior admitted that what they were doing in the Gulf of Mexico would have an impact.

It says:

> The impact on the domestic deepwater hydrocarbon production as a result of these regulations is expected to be negative.

What it means is that it is going to cut down on American sources of energy. We need energy security. We as a nation need to do it in an environmentally responsible way, and we need to focus on economic growth. This administration does not seem to be willing to make that distinction about energy security and economic growth and the needs we have to help make our economy stronger.

What is the administration's position? What, as of October of last year, was their position on all of this to say: OK, we know we are going to have impacts in the gulf. They didn't say: Oh, I know, we can go onshore and look on Federal land. They didn't say: Let's go to Alaska to explore. This is this administration's position. They said:

> Currently, there is sufficient spare capacity in OPEC—

In OPEC, in the Middle East—

> to offset a decrease in Gulf of Mexico deepwater production that could occur as a result of this rule.

The rule that they are going to shut down the gulf.

> Therefore, the increase in the price of hydrocarbon products to consumers from the increased cost to drill and operate on the Outer Continental Shelf is expected to be minimal.

That is the administration's solution. They do not expect anything to happen. They are not worried about it. And if there is a problem, just buy more oil from OPEC, send more American dollars overseas. That is the administration's position? And what about the impact on our economy?

We do have a Secretary of Energy. One would think he would be concerned about the cost of energy and the impact on American families. Not so when we look at some of the statements he has made. In the past, he said:

> Somehow we have to figure out how to boost the price of gasoline to the levels of Europe.

That is the proposal of the Secretary of Energy—figure out how to boost the price of gasoline to the levels in Europe. How much does gasoline cost in Europe? Almost $8 a gallon.

The President, when he was a Senator and running for President, did not seem to think high energy prices were a problem. He just wanted the price to go up gradually. He said the problem is when things go up too quickly.

The American people who try to put bread on the table for their kids, clothing on their backs, get them off to school, and then go to work themselves, notice this. They know every time the cost of a gallon of gasoline goes up by a penny or a nickel or 38 cents, as it has most recently, the economy will suffer as a result. It is specifically a result of the policies of this administration, the policies that ignore the need for American energy.

At a time when we need to be focused on jobs, that we need to realize the amount of uncertainty in the Middle East, there is now sticker shock at the pumps, and it is the policies of this administration that are keeping us from developing the energy security we need.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

FISCAL RESPONSIBILITY

Mr. JOHANNS. Mr. President, I rise today to speak for a few minutes about our current fiscal situation.

Over the next few weeks, we are undoubtedly going to have a very robust debate on our country's future and the tremendous issues we face. We are going to have a debate about the need for fiscal responsibility. One thing all of my colleagues should be able to agree on is that our current level of spending and borrowing and debt is just simply not sustainable. When you are bringing in $2.2 trillion but you are spending $3.8 trillion annually, something is seriously wrong. Adding $1.65 trillion to the national debt each and every year is not the answer. We simply cannot afford to continue in this direction.

For too long, the answer of Washington was: We will be all things to all people—promising everything with really no plan to pay for it. The result now is that we face a financial crisis unlike anything our Nation has ever seen. While Americans are making very tough, painful decisions in their daily lives, their government still refuses to make the same difficult choices.

I come from a State where its citizens really do believe that less government is better government. But even if my colleagues disagree that less government is better, we would be hard-pressed to find anyone who can argue with the numbers. Numbers do not lie, and they cannot be spun.

Let's take a look at the numbers, grim by any economist's viewpoint. We are currently borrowing 42 cents on every dollar. For every dollar spent today, every dollar spent this year by the Federal Government, 42 cents is borrowed. Can you imagine an average family charging nearly half of all of their spending to a credit card? It

would not take long for that family to face bankruptcy.

What is happening with our Nation is we are absolutely losing control of our destiny. I heard the Senator from Wyoming talk about the oil issues and the fact that we are shipping our resources out of this Nation. That is absolutely true. But what is also happening is that for every dollar borrowed, we have to find a banker. Looking at this chart, who are our bankers out there? China, Japan, other foreign holders, oil exporters, the UK. And we begin to understand the point. Billions of dollars annually are being borrowed from foreigners who have really no home interest in our Nation.

The interest payments on our debt will increase to almost $1 trillion by 2020—an increase of 370 percent since 2009. Again, just look at the chart. The numbers do not lie—a nearly 380 percent increase by 2020. The American people are absolutely appalled at trillion-dollar annual deficits. Just imagine, therefore, trillion-dollar annual interest payments. And what if current interest rates go up, which many project they will? Each 1 percent increase in interest rates equals—get this—$140 billion in additional debt. Our interest payments alone will eventually bankrupt our country before we even begin to think about providing services to our citizens, and everything will suffer. If you like education, guess what. It will suffer. If you want to build more roads and bridges, guess what. It will suffer. Our society will suffer. Probably most important, for those of us in the Senate, the legacy we leave behind for our children and grandchildren of a diminished standard of living because we could not get our spending under control is absolutely a horrific legacy. Our country's national debt totals nearly 70 percent of our entire gross domestic product. Looking down the road, within 10 years our publicly held debt will be at the 90-percent threshold.

While the American public looks on at this Enron accounting with utter amazement, they can't imagine 90 percent of their paychecks going to pay off debt. Yet their government continues to recklessly add to the debt year after year after year, trillion-dollar deficits, trillion-dollar deficits as far as the eye can see.

Well, this is just enormous. It is a record-setting annual deficit. The alarm bells are sounding, the red lights are flashing, and the flags are waving. We have to stop it.

While this discussion would not likely even acknowledge the entitlement iceberg headed our way, we have to come to grips with the reality that we can't finance what we have promised. Yet some object to $61 billion in spending reductions. In the grand scheme of what we are dealing with, that is hard to imagine. How can we possibly attack a massive debt if we can't even come to agreement on $61 billion out of a $3.5 trillion annual budget?

Now, I acknowledge $61 billion is significant. I acknowledge many of these programs are programs I like. But if we don't come to grips with this, those programs will not exist. Yet many are saying: Well, let's do a little nip and a tuck. Let's maybe get $4 billion out of this. That is only fourteen onehundredths of 1 percent in reductions. Does anyone really think that is a serious effort? Nobody is buying that. The media is not buying it, and the American people aren't buying it. I just did nine townhall meetings all across my State, and they are not buying it back home. It is time to roll up our sleeves. It is time to say: Look, we can't go on doing this.

It is my intention to be on the floor of the Senate on these issues a lot in the weeks and months ahead. I believe we are at a tipping point. If we don't turn this around, we may lose the ability to control our own destiny.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Tennessee.

Mr. CORKER. Madam President, I understand I have up to 10 minutes.

The PRESIDING OFFICER. That is correct.

The Senator from Nebraska has suggested the absence of a quorum.

Mr. JOHANNS. Madam President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, if the Chair will let me know when I get within 1½ minutes of my time.

The PRESIDING OFFICER. The Chair will so advise.

Mr. CORKER. Madam President, I rise today to speak also on the matter of our country's unlimited spending, the fact that this last month, February—I don't know if many people know this; it was just published—we had the largest budget deficit for 1 month in recorded history of $223 billion. Those numbers were just released.

I know we have some measures we are going to vote on this week regarding reductions in spending. I realize the Republican version likely will not pass and the Democratic version likely will not pass. Hopefully, we will then sit down and work out something to allow government to be open with, hopefully, a long-term CR. I know we are having a lot of difficulties in our departments as they try to manage their budgets not knowing what we are going to do.

As the Senator from Nebraska mentioned, $61 billion is a drop in the bucket as it relates to trying to solve our country's problems. That is why I have brought forth something called the CAP Act. I have tried to do it and I have done it in a bipartisan way. There are numbers of people in this body who have supported the CAP Act. I think the Chair, a former Governor, and other people here—and Tennessee families who have to live within a budget—realize that around here we have absolutely no construct. We do not know where we are going in the future. We never have a plan.

What we do is what we are doing this week: we fight and debate over issues that take us almost nowhere. Yet we do not have a long-term plan as it relates to spending. I think everybody in this body knows when we have $3.7 trillion in spending this year, and we have $2.2 trillion in income, trying to solve this problem by only dealing with discretionary spending makes no sense. If we did away with all discretionary spending during this year—all discretionary spending including defense—we still would not have a balanced budget. All of us know it is the mandatory programs that have to be added into this. What we need to do is create a comprehensive budget, a straitjacket for Congress.

I, along with others, have offered something called the CAP Act. It takes us from where we are today over a 10-year glidepath to the historical average of spending in this country relative to our country's output. That is about 20.6 percent of our country's economic output. I have tried to not message. This is not a messaging bill. It is a bill that I truly hope to pass. I have been meeting with numbers of my Republican colleagues and Democratic colleagues. I have numbers of meetings set up over the course of the next several weeks to try to build consensus.

Here is the way it would work. We would pass it as a statutory bill. What it would do is take us from where we are today—and that is a little over 24.5 percent of spending relative to our country's output, which is way out of line. By the way, I am not here to cast blame. I think both parties can recognize some of the contributions they have made to getting us where we are as a country. But the fact is, we know we cannot continue on today's path. We know that. We have to not just look at discretionary spending.

I have heard so many of my colleagues talk on the Senate floor about trying to solve this entire problem with only a very small percentage of the budget. That makes no sense. Everybody understands that. I know everyone here wants to ensure that the entitlement programs seniors benefit from are here for the long term. We want other seniors to benefit from them. Yet we know the way these programs are set up, they are not sustainable. There is not a person here, I don't think—there may be a few, but I think most of it would be rhetoric, though I don't want to cast judgment—who doesn't know these programs cannot continue as they are.

So this bill would require us to start today, working ourselves down to 20.6 percent of our GDP. Again, that has been the historical average for 40 years. This isn't something to try to overreach. For what it is worth, what that would mean to our country is that over the course of the next 10 years—as opposed to the course we are on now,

the alternative CBO scenario and what they deem most likely to occur without our action—we would spend $7.63 trillion less than we are now spending. This is how it would work. There is a formula in here.

This is a 10-page bill. There are not a lot of ''whereases'' in this bill. It is just a business document, something the former Governor from New Hampshire might be accustomed to looking at. It is a business document that puts in place statutory limits that are formula driven to take us from here to there.

If we don't meet those requirements, then after 45 days—and there are targets each year of spending relative to our economy. By the way, this joins everybody at the hip in wanting our economy to grow because if our economy grows rapidly, those targets are much easier to hit. But if Congress doesn't act, if we don't have the courage to act, then there would be automatic sequestration on a pro rata basis, depending on the enumerator, what the size of that particular budget appropriation is relative to the overall budget. So on a pro rata basis, we would have sequestration that would take out those monies.

Now, none of us wants to see that happen, so that would force us to actually do what any Congress acting responsibly needs to do; that is, to actually work together each year to meet those requirements.

I have heard so many people recently, especially on the other side of the aisle, talking about focusing on discretionary spending only, basically cutting out some of those things that might make our country stronger. There are some things certainly in all of these bills, as the Senator from Nebraska was mentioning, where I might have differing priorities. But the fact is, when we try to do it all only on discretionary spending, we are not only not solving the problem but it prevents us from actually looking at some aspects that might otherwise make our economy grow.

Again, this bill, the CAP Act—with CLAIRE MCCASKILL signed on as an original cosponsor with me, and others are looking at it—would cause us to look at everything. So, again, first, a comprehensive look at spending relative to our economy at historical levels. Everything is on the table and on budget. Sequestration would be in place, and it would take a two-thirds vote of Congress to override these spending limits.

Again, I did not come here to message. I didn't come to move the bar beyond what the other side might be doing just to make a name for myself or create publicity. I came to solve our country's problems. I look at these young people in front of me, and I don't think they have any idea what our irresponsibility is doing to them. We talk about future generations, but I think all of us know we are actually at a point now where we have been so irresponsible that this is not just going to affect future generations, it is getting ready to affect us.

There is a lot of turmoil in this world today. For that reason, the United States has been perceived as a safe haven. Our interest rates continue to be low because of the rest of the world's turmoil. The fact is, if and when—and we hope that when is soon—everything settles down, as people begin to again look closely at where we are as a country, and if we continue to not act responsibly and show the world we have the ability to at least put in place this framework that causes us to work together and get to the place we all know we need to get, then I fear interest rates, over time, are going to run from us, and that interest relative to our debt payments is going to continually consume more.

In closing, Madam President—and I appreciate the time—I have gone around the State of Tennessee and conducted 43 townhall meetings talking about this type of approach. I know numbers of Members on the other side of the aisle have talked about what they believe is an appropriate level of spending relative to our country's economy. I believe this bill is not out of line. I know this bill is at least appropriate. There are a number of people who think it should be lower, but this is something that would cause us to first agree on where we are going.

It is difficult for a body such as this, with 100 Senators and 435 House Members on the other side, to agree on little matters when we don't have any idea where it is we are trying to go. This would create a target for us. It would create a straitjacket for Congress. It would cause us to prioritize.

So I am going to continue talking about this until, hopefully, we pass it and actually have a process that causes us to work together in a constructive way.

With that, I yield the floor, and I thank the Chair for the time.

The PRESIDING OFFICER. The Senator from Louisiana.

GASOLINE PRICES

Mr. VITTER. Madam President, I rise to focus on another grave threat to our economic recovery and jobs: skyrocketing energy prices, and particularly the price of gasoline at the pump.

Madam President, I don't have to point out to Americans all over the country, and Louisianans all over my State, because they see it in front of them every time they go get a new tank of gas, the ever-increasing energy prices, the ever-increasing prices at the pump. Right now, on average, nationwide, the price at the pump is $3.51 a gallon. That is about 80 cents higher than the average price a year ago. Most Americans know it is not stopping there. They see $4 gasoline coming sooner rather than later, and who knows how far it will go beyond $4 at the pump?

This is a real threat. We are trying to come out of the worst recession since the Great Depression and this is an immediate threat to put the brakes on any recovery we may be mounting, and it is surely a real threat and a real hit to Louisiana and American families. It is a direct hit to their pocketbooks.

Louisianans, like all Americans, hear talking heads on TV, national economists, saying we don't have any real inflation. Listen, they are hit every time they go to the pump. They know there is inflation in key prices such as gasoline, and that is a big hit to their family budget.

This has sparked somewhat of a breakthrough in thinking among the ranks of the Obama administration. Let me explain what I mean by that. Recently President Obama's Energy Secretary, Secretary Chu, focused on supply and he said we need to increase supply to temper prices and mitigate the increasing price at the pump. He said we need to do this by convincing the Saudi Arabians to increase their supply of oil on the world market: ''That's going to mitigate the price increase.'' He said further, ''We're hoping market forces will take care of this.'' I at least give Secretary Chu and the Obama administration marks for this breakthrough understanding that supply is a big part of the equation. In fact, it is half of the supply and demand equation that yields price.

Recently the White House Chief of Staff Bill Daley made a comment that also went to supply. He said this weekend, on some of the weekend talk shows, that we need to consider opening the Strategic Petroleum Reserve to put more product on the market, to increase supply—also to temper prices, to stop these ever-increasing prices. Again, I at least give Mr. Daley and the Obama administration credit for finally realizing, and it is a bit of a breakthrough, that supply is a big part of the issue.

Where I disagree, where I want a further breakthrough, is that they need to focus on domestic supply we can create and that we can control in America. Unfortunately, they are not doing that yet.

I have come to the floor many times to talk about the virtual shutdown of the Gulf of Mexico to energy production since the BP disaster. I will mention that again because that is at the heart of this issue. The administration understands we need to increase supply. What about domestic supply? What about the Gulf of Mexico? What about all of our other vast energy resources that we are taking off the table and shutting down? What about that supply? That is the first place we should turn, that is the first action we should take. That is what can help us control our own destiny.

Instead, there has been a virtual shutdown of the Gulf of Mexico to energy production. That has reduced direct and indirect employment in the oil and gas and service industries. It threatens 93,000 jobs for every year until 2035 unless we reverse it. It could

reduce an additional 82,000 jobs every year through 2035 in non-oil and gas-related industries that are still impacted indirectly by this shutdown.

It reduces annual GDP by over $20 billion a year, a cumulative impact of $500 billion in the next 25 years, unless we immediately reverse course. It reduces long-term U.S. oil production by 27 percent. Long-term U.S. foreign oil imports are increased by 19 percent. Groppe, Long & Littell estimates—that is a consulting firm—show that over 23 wells per month are needed to maintain current production levels in the shallow water of the Gulf of Mexico. Since the moratorium was lifted on shallow water drilling, the formal moratorium, the administration has only approved permits for new wells at a pace of 1.8 per month—so 23 versus 1.8.

In deep water it is even worse. There has been one deepwater exploratory permit issued since the BP disaster and only one, in 9 months. As a result, six deepwater rigs have departed the gulf: Discovery America's Transocean has been moved to the Black Sea/Mediterranean. Ocean Baroness of Diamond Offshore, a semisubmersible rig, has been moved to Brazil. Ocean Confidence, also with Diamond, has been moved to West Africa. Ocean Endeavor, also with Diamond, has moved to the Black Sea area. Stena Drilling has moved major equipment to Eastern Canada. Transocean has moved some of their equipment to West Africa. According to ODS, another five major rigs are scheduled to leave the U.S. Gulf of Mexico by April 1. So that will put that 6 number up to 11. New well drilling has fallen from 20 in the first quarter of 2009 to 1 in the first quarter of 2010.

Again, I applaud the administration's realization that supply is a big part of the issue; that we need to increase supply in order to stop these skyrocketing prices which are hurting Louisianans and Americans every day. But let's focus on domestic supply. Let's focus on the Gulf of Mexico. Let's focus on things we can directly control—not just begging the Saudi Arabians to increase their production. I want to create jobs here, not just in Saudi Arabia. I want our children to be independent, to control their own future, not to have to beg some Saudi Arabian prince.

With regard to Mr. Daley's suggestion of opening the Strategic Petroleum Reserve, you know the Strategic Petroleum Reserve is just that. It is supposed to be strategic—for crises, for our security, our national security as a country. It is not the Salazar petroleum reserve to open, to cover up the complete ineptitude and foot dragging at the Interior Department in terms of issuing permits for our own drilling. So let's not play politics with the Strategic Petroleum Reserve, let's not treat it as the Salazar petroleum reserve, to cover up the mistakes and ineptitude and foot dragging of the Interior Department.

Let's increase domestic production, let's address the supply side of the equation that way, aggressively, and create American jobs in the process. Louisianans are depending on that. Americans are depending on that—for jobs and to mitigate prices at the pump so we do not have these ever-increasing prices that could kill a recovery that we are hoping to mount and that could hurt every American's pocketbook, every American family's budget.

I urge all of my colleagues, Democrats and Republicans, to come together on this point and urge the administration to act. Yes, they are right, supply is key. Let's start with domestic action, domestic supply, and mitigate price increases that way.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I am going to proceed on my leader time.

The PRESIDING OFFICER. The Senator may use his leader time.

THE BUDGET

Mr. MCCONNELL. Madam President, first let me commend my friend and colleague from Louisiana on his observations about the need to increase domestic production. I think he certainly agrees with me we will be talking about this a lot more in the coming months as the price of gas at the pump continues to rise, and I thank him for his insight.

Sometime this week, Senators will have an opportunity to take a position on government spending on two bills the majority leader has predicted will fail. One is a serious effort to rein in wasteful Washington spending that has gotten completely and totally out of control. The other, by our Democratic friends, is a proposal so unserious that even its supporters have been forced to exaggerate its impacts—something they have been called out on by the press repeatedly. That proposal comes on the heels of an equally unserious proposal by the White House last week to cut $6 billion from Federal spending for the entire year at a time when Washington is averaging about $4 billion in deficit spending every day. Let me say that again. We are running a $4 billion deficit every single day this year. Apparently Democratic leaders in Congress thought even that was too much to cut, because the bill they are proposing this week shaves it down to only about $4.7 billion. So you had the administration last week saying they would go along with $6.5 billion, and the proposal the Democrats in the Senate are going to lay before the Senate this week only reduces spending $4.7 billion. That is about what we are engaged in spending, deficit spending, every single day. We are averaging about $4 billion a day in debt this year and Democrats want to cut $4.7 billion and call it a day. That is their idea of getting serious.

Washington will add more to the debt this week than they want to cut for the entire year, and that is the farthest their leaders say they are willing to go. Anything more, they say, is Draconian. I will tell you what is Draconian. Draconian is what will happen if Democrats don't get real about our Nation's fiscal crisis.

Yesterday, the independent Congressional Budget Office issued a report that gave us a pretty good sense of the recklessness of Washington spending these days. Last month alone, the Federal Government spent $223 billion more than it had—last month alone—the highest monthly deficit ever and the 29th straight month Washington has been in the red.

Here is the Democrats' proposal: Let's cut $4.7 billion and call it a day; $4.7 billion, even less than the President called for last week. Even that was ridiculed because of the preposterous claim that it met us halfway. It is time our friends on the other side stop trying to see what they can get away with and actually summon the courage to get our fiscal house in order, because here is the hard truth: Even the biggest cuts under discussion this week are puny compared to the fiscal problems we face in the area of entitlements. It is a pitched battle around here over $4.7 billion when we have a $14 trillion debt and more than $50 trillion in entitlement promises that Washington cannot keep.

If Democrats cannot bring themselves to cut $4.6 billion, how are we going to get a handle on the big stuff? This is just a dress rehearsal. Democrats are going to have to do a lot better than this if we stand a chance of getting our Nation's fiscal house in order.

Frankly, it is embarrassing. The American people deserve better. It is time for Democrats in Washington to face facts and, as I said yesterday, it is time for the President to get off the sidelines and lead because, with each passing day, it becomes clear that Democrats in Congress cannot bring themselves on their own to get serious about the problems we face. They don't even want to admit these problems exist.

I yield the floor.

Mrs. BOXER. Madam President, I wanted to know, from a parliamentary standpoint, what time remains on the Republican side and when the Democrats' time begins.

The PRESIDING OFFICER. There is 20½ minutes remaining on the Republican side.

Mrs. BOXER. Madam President, it is my understanding the Republicans have finished their time. I ask unanimous consent we start our hour at this point.

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

FISCAL PRIORITIES

Mrs. BOXER. Madam President, I listened very carefully to my Republican colleagues who have come to the floor blaming the Democrats and the President for everything you can imagine, including the high price of gasoline and deficits as far as the eye can see.

I wish to say to Senator MANCHIN, I am going to make some very brief remarks about H.R. 1 and then yield to you for 5 minutes.

I respect the right of any colleague to say whatever he or she wants on the floor. But I also wish to tell the American people who may be following this debate, that in truth, in the last many years, 40 years, the only party to balance the budget was the Democrats. Bill Clinton, in his Presidency, not only took a deficit brought about by Republican Presidents, not only did he balance the budget with us, but we created surpluses. Guess what. Twenty-three million jobs.

Compare that to George W. Bush. He created huge deficits, handed President Obama a tremendous debt and deficits—I will get the exact numbers—and created 1 million jobs, compared to 23 million jobs.

I appreciate the lectures from my Republican friends, but look at any measure: job creation, budget balancing, stock market. Check it out, America. These are facts that are in the history books. So please do not lecture us about how to balance the budget. We know how to do it. The way you do it is cut waste, cut fraud, cut abuse, make sure everything you spend is essentially justifiable by the results, by the benefits, and invest in our people so if they lose a job, we invest in worker training, invest in our people, invest in science and technology, invest in health research, invest in our children.

If you follow that method, we will not only balance the budget, we will create jobs. We know their approach, H.R. 1, which they support, would devastate this economy, barely doing anything about the deficit. Most amazingly, they do not think billionaires should pay even a little bit higher tax rate than people who are earning $150,000—billionaires, multimillionaires. It does not make any sense.

So with that as an opening, I am very pleased to yield to the Senator from West Virginia, Mr. MANCHIN, for 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

PRESIDENTIAL LEADERSHIP

Mr. MANCHIN. Madam President, I rise today to express my deep concerns with the two widely divergent proposals for a continuing resolution that will be presented to us here today.

Now, I may be just a freshman Senator, but I will be blunt—this whole process does not make a lot of sense to me, and, I am afraid it doesn't make sense to a lot of West Virginians or most Americans.

We will likely have votes on two proposals today, and both options are partisan and unrealistic. And neither one will pass.

The first is a Democratic proposal that does not go far enough. This proposal, which calls for $6.5 billion in new cuts, utterly ignores our fiscal reality. Our Nation is badly in debt and spending at absolutely unsustainable and out-of-control levels. In February alone, the Federal Government outspent revenues by an unacceptable $223 billion. We must turn our financial ship around, but the Senate proposal continues to sail forward as if there is no storm on the horizon.

On the other hand, we could choose a second even more flawed measure: a House GOP proposal that blindly hacks the budget with no sense of our priorities or of our values as a country. I did not grow up in an America that would carelessly cut Hear Start and make the playing field even harder for kids born into poverty. Our America should not cut funding for veterans or for border security or for first responders or especially for our children without at least discussing the alternatives.

The bottom line, however, is this: Democrats and Republicans are being asked to vote on wildly different proposals for reining in spending. Republicans will say Democrats do not go far enough. Democrats will say Republicans go too far. The truth is both are right, and both proposals will fail. Worse still, everyone in Congress knows they will fail.

The more important question is this, Why are we engaging in this political theater?

Why are we voting on partisan proposals that we know will fail, that we all know do not balance our Nation's priorities with the need to get our fiscal house in order?

Why are we doing all this when the most powerful person in these negotiations, our President, has failed to lead this debate or offer a serious proposal for spending and cuts that he would be willing to fight for?

How does that make sense?

The truth is that this debate, as important as it is, will not be decided by House Republicans and Senate Democrats negotiating with each other or past each other. This debate will be decided when the President leads these tough negotiations.

And right now that is not happening.

I know it is not easy. I know that it takes compromise. I know it will be partisan and difficult. I know that everyone will have to give up something and no one will want to relinquish anything. But that is what the American people are demanding.

Respectfully, I am asking President Obama to take this challenge head on, bring people together and propose a compromise plan for dealing with our Nation's fiscal challenges, both now and for the future.

For me, when I was Governor of the great State of West Virginia, dealing with our State's problems required bringing together a diverse and strong-willed group of legislators. But I did, because that was my responsibility. By working together, we were able to tackle the tough fiscal problems that our State faced and we did it while setting our priorities and protecting the most vulnerable in our State.

The bottom line is the President is the leader of this great Nation, and when it comes to an issue of significant national importance, the President must lead—not the majority leader or Speaker but the President.

He must sit down with leaders of both parties and help hammer out a real bipartisan compromise that moves our Nation forward and establishes the priorities that represent our values and all hard-working families.

And I truly believe that he can do it. And when we finally do come together and agree to a bipartisan solution, we will not only set a new tone for our Nation but we can start to focus on what the American people sent all of us here to do: start working together to create a more prosperous future for our children and our families, and be the America we all know we can be.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, I am going to use leader time. I am wondering how long Senator BOXER is going to take.

Mrs. BOXER. We have a number of people coming for 30 minutes.

Mr. REID. Madam President, I will use leader time.

The PRESIDING OFFICER. The Senator has that right.

Mr. REID. Madam President, since the moment Republican Representatives passed their budget, the now infamous H.R. 1—it was their No. 1 issue in the House of Representatives—the country has been waiting to see whether the Senate would repeat the House's mistake in passing it. The House has passed it.

The plan the tea party pushed through the House is an irresponsible plan. It is a reckless plan. It is dangerous for the health of our economy and certainly the citizens of our great country.

In the last few days, I have come to the floor and explained at length the damage this tea party plan would do in the short term and in the long term. Let me now again talk, briefly, about a few of the things I have talked about before—but I will talk about them again. Here are some of the consequences.

H.R. 1 will fire 700,000 Americans, 6,000 Nevadans. Our budget would create jobs, not cost jobs. It will kick 200,000 Head Start students, the poorest of the poor, little boys and girls trying to get started in life, it will kick them off their ability to learn to read and do elementary math. Hundreds in Nevada will suffer from that. This is a very successful early education program. Head Start works.

It would slash college students' Pell grants, the financial aid so many rely on to afford to go to school. It will eliminate job training investment at a time when we need them the most. It would pull the plug on 600 renewable energy jobs at the largest solar plant in Nevada. It would fire 600 Nevadans who work at community health centers, which hurts those workers as well as the neediest Nevadans who need this help every day.

It would arbitrarily slash programs that fight crime and keep our neighborhoods safe. It would slash homeland security investments that keep Nevadans safe and our country safe. We have 55, 60 million people who visit Las Vegas every year. It is important we keep them safe also.

The mean-spirited bill, H.R. 1, eliminates national public broadcasting. That is saying a lot; is it not? It eliminates the National Endowment for the Humanities, the National Endowment for the Arts. These programs create jobs. The National Endowment for the Humanities is the reason we have, in northern Nevada every January, the Cowboy Poetry Festival. Had that program not been around, the tens of thousands of people who come there every year would not exist.

National Institutes of Health, it whacks that. When we are at a time in the history of this country, when we are on the verge of breakthroughs on some of the most devastating diseases known to man, they are cutting that program.

There are scores of other examples I could talk about. But, in short, the Republican plan they want to push through the Senate is all smoke and mirrors. It cuts the deficit in the name of a stronger future but cuts the most important ways we strengthen our future. It is counterproductive. It is bad policy. It is going to cost America 700,000 jobs. This is not some figure I picked out of the air. Economists agree with them, including Mark Zandi, chief economist at Moody's, who, by the way, worked for the Republican nominee for President, JOHN MCCAIN. He was his chief economic adviser.

Their plan slashes billions from the budget and hopes no one will look past the pricetag. H.R. 1 is not just about numbers, it is about people. It is about programs. It is about little boys and girls at Head Start. It is about senior citizens whose programs are going to be cut.

Because Republicans know that once the country sees what is in the fine print, they will run away from that as fast as they can. It seems Republicans themselves have finally read their own budget in the Senate because now they are even running from H.R. 1.

In the Senate, it was not we who moved H.R. 1 forward, it was the Republicans. We have a procedure in the Senate called rule XIV. It allows bills to move forward.

The Republicans decided they wanted to get to H.R. 1. So they jump-started H.R. 1. They wanted to make sure they let their buddies in the House know they wanted to have a vote on H.R. 1.

Last Thursday at 4, back in the Vice President's office, there was a meeting held with me, Senator MCCONNELL, Speaker BOEHNER, Leader PELOSI, and the Vice President. The purpose was to move forward on budget negotiations. We had a very good meeting. Everyone was kind and thoughtful and considerate. The idea we came up with is that what we should do to move these negotiations forward is have a vote on H.R. 1 and a vote on our alternative. That was the agreement. It was agreed upon by the Vice President, JOE BIDEN; by the Republican leader, MITCH MCCONNELL; by the majority leader, HARRY REID; by the Speaker, JOHN BOEHNER; and the leader of the Democrats in the House, NANCY PELOSI. That was the agreement we made: We would come here today and have a vote on H.R. 1 and on our alternative.

After we had made the agreement, the staff was called into the meeting. We told them what was done. Now over here the Republicans don't want to vote. They don't want to live up to the agreement.

Last Thursday the leaders of both Houses of Congress and both parties met with the White House. We decided this was a way to move forward. We agreed to hold a vote on H.R. 1 that Republicans moved to the Senate floor themselves. Then we would vote on the Democratic alternative, which makes much smarter cuts and more solid investments. But that would be up to the body to decide. Then we would return to the negotiating table and try again to find common ground.

There is no question that was the agreement made, no question. That was the deal. Now Republicans are reneging on that deal. They don't want to vote on their own bill. They want some procedural votes. They will have an opportunity to vote on H.R. 1. I may have to jump through all the procedural hoops to do it, in spite of the fact that they made a deal that we would move to have those votes. We are going to do that. The Republicans over here are going to have to vote on that terrible bill, H.R. 1. They will have to vote on it. They don't want to vote on their own bill.

The budget we outline—and our votes on that budget—reflects our values, values such as helping our Nation recover and prosper, giving us strong education for the children, encouraging innovation, keeping America competitive. But another important value is keeping one's word. Where I come from people keep their word. I am disappointed that Republicans now refuse to keep theirs.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, could the Chair tell me what the order is?

The PRESIDING OFFICER. The Democrats control 51 minutes 26 seconds.

Mrs. BOXER. How much time do I control?

The PRESIDING OFFICER. The Senator may speak for up to 10 minutes total. She has spoken for 4 minutes.

Mrs. BOXER. Madam President, my intention is to yield to Senator UDALL. He and Senator MERKLEY will engage in a colloquy.

I wish to open before yielding by saying that Senator REID has laid out the devastating consequences of H.R. 1, which the Republicans have put forward as their plan to cut the budget. It is a jobs killer. It is a killer for the middle class. They said they would have a vote on it. Now they don't want to vote on it. We are going to have a vote on it. It is important for the American people to understand the various plans to cut the deficit.

One of the things in H.R. 1, of many, is a huge cut to the Environmental Protection Agency. There are two points I wish to make in that regard. In 1970, the Clean Air Act was passed. The vote in the Senate was 73 to 0. The vote in the House was 374 to 1. Richard Nixon signed the Clean Air Act. H.R. 1 destroys the Clean Air Act by giving the largest cut of any agency to the Environmental Protection Agency. If that is not enough, it prohibits the EPA from enforcing pollution laws. In 1977 there were the Clean Air Act amendments signed by Jimmy Carter. There wasn't even a rollcall vote it was so popular. In 1990, George Herbert Walker Bush signed the Clean Air Act amendments. Two out of the three Presidents were Republicans. This passed 89 to 10 in the Senate and 401 to 25 in the House.

The Clean Air Act and the EPA are strongly supported by the American people. The only place we have a lack of support is in the Congress by our Republican friends, primarily.

The American Lung Association says 69 percent think the EPA should update the Clean Air Act with stricter air pollution limits; 68 percent believe Congress should not stop the EPA from enforcing Clean Air Act standards, which is what H.R. 1 does; and 69 percent believe EPA scientists, not Congress, should set pollution standards.

Our friends on the other side, through H.R. 1, are acting as if they have all the brilliance in the world, all the scientific credentials in the world. They don't.

I ask unanimous consent that we continue with our time until Senator KERRY comes to the Chamber to talk on his particular subject.

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

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, America's environmental laws are public health laws. Undermining those public health laws may protect special interests, but last year the Clean Air Act protected American families from 1.7 million asthma attacks, 130,000 heart attacks and 86,000 emergency room visits.

In New Mexico, over 170,000 residents suffer from asthma, and over 47,000 of those are children. Thousands also suffer from other respiratory illnesses. The House bill puts hundreds of thousands of New Mexicans at greater risk from pollution from powerplants, oil refineries, mines, and cement kilns.

The Clean Air Act has cut six major pollutants by over 40 percent, but air pollution still claims 70,000 lives per year, three times that of car accidents.

If we weaken that act, unfortunately, that number will rise. That is why the American Lung Association opposes these environmental rollbacks in the House bill.

The Clean Air Act also protects pregnant mothers and developing children from mercury, a neurotoxin that creates problems in brain development, including attention and memory problems. Mercury comes out of smoke stacks into the air, deposits into our water, and is also consumed in the fish that we eat.

One New Mexico pediatrician, Dr. K.P. Stoller, notes that ''mercury is the most toxic non-radioactive element on the periodic table.'' In New Mexico, over 2,000 pounds of mercury are emitted each year. Clean Air Act standards are making progress reducing that amount.

The American Academy of Pediatrics opposes the House bill because it would allow for more highly toxic mercury than existing law in the air we breathe, the water we drink, and the food we eat. Overall, the House continuing resolution undermines the Clean Air Act, leading to more pollution, asthma, hospital visits, and less healthy children.

These efforts run counter to the progress we are trying to make in New Mexico. At the University of New Mexico, the New Mexico Environmental Public Health Tracking Network and the National Tracking Network at the Center for Disease Control work closely with the Environmental Protection Agency to provide air quality data. We use that data to better understand how to prevent disease and develop air pollution standards for our State.

Unfortunately, these State air pollution control efforts are targeted for cuts in the House bill. The funding is not a lot of money so some people believe the real reason is to stop public health protections from going forward.

These standards are designed to reduce pollution, not put industrial facilities out of business. We have heard from few, if any, businesses in New Mexico that want these antipublic health provisions in the House bill.

Instead we are seeing dozens of e-mails from people simply asking that the Environmental Protection Agency do its job to protect public health.

Here are some additional facts about the House bill.

It cuts $2 billion in local wastewater and drinking water treatment funds, costing over 50,000 jobs. Dozens of rural communities from New Mexico are in desperate need of funds to rebuild aging water treatment plants and remove septic tanks that are polluting our limited supplies of groundwater.

It blocks the Environmental Protection Agency from enforcing the Clean Water Act to protect wetlands. Wetlands definitions are a controversial issue, but the Supreme Court has ruled on this twice, and Federal agencies need to move forward to resolve uncertainty and issue permits in a responsible way.

It cuts $60 million from the 2010 enacted level and more than $140 million from the President's 2012 Budget for grants to State and local environmental and public health agencies. Nearly every State is in a budget crisis.

America's leading public health professionals have responded to efforts to block clean air safeguards. For example: 1,882 Doctors, Nurses and Health Professionals:

> Please fulfill the promise of clean, healthy air for all Americans to breathe. Support full implementation of the Clean Air Act and resist any efforts to weaken, delay or block progress toward a healthier future for all Americans.

From the American Lung Association:

> The House of Representatives also adopted amendments that would block implementation of the Clean Air Act and its lifesaving protections . . . These provisions and others adopted by the House of Representatives in H.R. 1 would result in millions of Americans—including children, seniors, and people with chronic disease such as asthma—being forced to breathe air that is unhealthy. Breathing air pollution can cause asthma attacks, heart attacks, strokes, cancer and shorten lives.

From the American Public Health Association:

> Attempts to remove protections already in place must be stopped. The public health community is very concerned about the long-term health consequences of global climate change. Blocking EPA's authority to reduce carbon dioxide and other greenhouse gases could mean the difference between chronic debilitating illness or a healthy life.

From the Trust for America's Health:

> The potential consequences for public health are grave because the Clean Air Act protects the most vulnerable populations—those with asthma and other lung disease, children, older adults, and people with heart disease and diabetes—from the dangers of pollution . . . The science says carbon pollution is bad for our health. Rolling back EPA's ability to protect the public from this threat literally has life and death stakes.

From the American Thoracic Society:

> The Clean Air Act is one of the best public health success stories of the past four decades and has saved thousands of American lives. Any effort to revise the Clean Air Act should be carefully considered and focused on enhancing the public health benefits—not on granting big polluters a free pass to increase the amount of carbon pollution they release into the environment.

The American Lung Association has said the health of 137.2 million Americans—including as many as 29.8 million children under the age of 14 and close to 2 million children suffering from asthma attacks—are potentially exposed to unhealthful levels of smog, air pollution.

Scientific evidence increasingly shows that air pollution plays a major role as a trigger for asthma episodes. Specifically, fine particles, sulfur dioxide and ozone have been linked to increases in patients' use of asthma medication, emergency department visits and hospital admissions.

Powerplant particle pollution is estimated to cause more than 603,000 asthma episodes per year, 366,000 of which could be avoided by cleaning up the power plants.

Estimates of the annual human health costs of outdoor air pollution range from $14 billion to $55 billion annually.

Each year, pollution claims 70,000 lives in the United States.

In 2010, the United States will save a projected $1,100 billion in health benefits—i.e., avoided illness and death—associated with reductions in air pollution due to implementation of the Federal Clean Air Act.

Let me thank the chairman of the Environment and Public Works Committee, Senator BOXER. She has done an excellent job in terms of outlining in committee the real issues facing us. The big issue is, as we have heard today from Leader REID and Chairman BOXER, H.R. 1, or what we call the House Republican budget, is not only a budget bill, it is loaded with all these environmental riders that attack public health by repealing public health laws.

I wish to reflect, as Chairman BOXER did, on the history. We used to have tremendous bipartisan support in terms of public health and environmental laws. I remember the glory days of the Senate in the 1960s and 1970s. It was the Senate that passed the Clean Air Act, the Clean Water Act, created the Environmental Protection Agency, passed the Endangered Species Act. All of those were passed and created with significant bipartisan support. In fact, anywhere from 8 to 12 Republicans believed these were strong laws that needed to be passed. We don't need to look further than the majorities.

In 1967, the Air Quality Act passed 88 to 0. In 1970, the Clean Air Act passed 73 to 0, championed by a number of Republican Senators. In 1990, the Clean Air Act, championed by President George H.W. Bush and his EPA Administrator, William Reilly, passed 89 to 10. So there was broad bipartisan support.

What has happened to the Senate and to the Congress in terms of protecting public health? I suggest what we have seen with this House Republican budget is very strong powerful special interests weighing in, and those folks on that side kind of catering to that kind of mentality rather than looking out for public health and the American people.

I rise to talk about the impact of this bill on Americans and on public health and on New Mexicans.

At this point, I wish to engage in a colloquy with Senator MERKLEY on some of the damaging aspects he sees in terms of public health and the environment in H.R. 1, the House Republican budget.

Mr. MERKLEY. Madam President, it is a pleasure to join my colleague from New Mexico to discuss both the general environment, the environment in which we no longer have strong bipartisan support for clean air and clean water that we once had, and some of the specifics of the House Republican budget and the damage that would do to American citizens.

Just to give a small sense of this, in 2010 the Clean Air Act prevented 1.7 million asthma attacks, 130,000 heart attacks, and 86,000 emergency room visits. That is why leading public health experts oppose these cuts, groups such as the American Lung Association, which said: ''H.R. 1 is toxic to public health.''

Why is that the case? I will give a couple examples and then turn back to my colleague. One example is that it would prohibit standards for toxic air pollution, including mercury, lead, arsenic, dioxin, and acid gases coming from coal-burning powerplants. A second is that it would prohibit standards for toxic air pollution coming from industries burning coal and oil. A third is that it would prohibit guidance on how to protect clean drinking water from mountain top mining. A fourth is it would prohibit standards for handling hazardous waste from burning coal just 2 years after a disaster in Tennessee caused 1 billion gallons of coal waste to spill into people's neighborhoods and homes.

I have a longer list, but I will stop there and note that these impacts on water and air occur to citizens in every State under H.R. 1, the Republican budget.

Mr. UDALL of New Mexico. Madam President, if the American people knew what was happening here I think they would be out in the streets in Washington, as we are seeing in Wisconsin where people are turning out and are energized, because the rollback of these environmental laws is a rollback on public health.

As Senator MERKLEY has discussed persuasively, we are talking about preventing heart attacks, preventing emergency room visits. In New Mexico alone over 170,000 residents suffer from asthma. Over 47,000 of those are children. Thousands suffer from respiratory illnesses. With the rollbacks in the House Republican budget, those folks will suffer a lot more. It is going to impact vulnerable populations.

The House Republican budget puts hundreds of thousands of New Mexicans at greater risk from pollution, from powerplants, oil refineries, mines, and cement kilns. The Clean Air Act has had a very positive impact over the years that it has been a law. It has cut six major pollutants by over 40 percent. But air pollution still claims 70,000 lives per year, three times that of car accidents. So if we weaken that act by these riders and this approach in the House Republican budget, that number is going to rise. The number of lives claimed each year is going to rise. That is why one of the major organizations that monitors this, the American Lung Association, opposes these environmental rollbacks in the House bill.

The Clean Air Act also protects pregnant mothers and developing children from mercury, a neurotoxin that creates problems in brain development, including attention and memory problems. Mercury comes out of the smokestacks into the air, deposits into our water, and is also consumed in the fish we eat.

Just to give a little example, in New Mexico—and Senator MERKLEY may have this up in Oregon too—we have these coal-fired powerplants that are emitting mercury. It gets into the streams. We now have a warning on every stream in New Mexico—every stream in New Mexico—that if you are going to catch fish and eat them, do not do it more than about once a week. They actually warn pregnant women to not eat the fish from New Mexico's streams at all. I do not think people realize how much pollution there is out there.

With that, I yield back to Senator MERKLEY for any additional comments the Senator has. I see our good friend, Senator CARDIN, is on the floor and also has been a real leader on this issue. I know he wants to speak also.

Mr. MERKLEY. Madam President, I will say that one key aspect is that the House Republican budget would cut $2 billion from EPA's clean water and safe drinking water infrastructure loan programs. As I am going around my State, holding a townhall in every single county, I hold a meeting with the city and county leaders in advance of the public meeting. At virtually every one of these gatherings, I hear stories from mayors and chairs of county councils who talk about the challenge they have with their aging infrastructure, both on their water supply and on their wastewater disposal; and that aging infrastructure needs to be upgraded as plants wear out and as we discover more challenges we need to address. So cutting the loan program that supports our communities—our rural communities, our suburban communities, our urban communities, all of our communities—in providing clean water to the residents and of helping dispose of and treat wastewater would be an enormous mistake. That partnership is absolutely crucial to communities that cannot otherwise afford this infrastructure. That would mean more sewage and other pollution going into our water ways and less treatment of water we take out to drink.

Mr. UDALL of New Mexico. Madam President, in conclusion, from my perspective, I think it is most important at this point in our history in America that we take actions on the Senate floor that are going to create jobs, that are going to try to move us forward in terms of our economic development.

This House Republican budget is devastating in terms of creating jobs. Leader REID, I think, said 700,000 Americans are fired as a result of this job-killing bill, this House Republican budget. It is a devastating—devastating—thing to the fragile economic recovery we have going on right now.

I am very happy to hear—very happy to hear—that Senator REID says we are going to bring the House Republican budget here to the Senate floor. We are going to have an up-or-down vote on that budget. And it will be out there. We are going to have lively debate until we have that vote, and it will be out there for the American people to see the devastating consequences it could have if we adopted it.

With that, I say to Senator MERKLEY, I know you have some concluding remarks.

Mrs. BOXER. Madam President, I say to the Senators, if I could take back my time. I want to thank both Senators. We have only 10 minutes remaining, and we have three more speakers. So I thank you very much.

Before I yield to Senator CARDIN—I thought it could be for 5; now I am told there are two more speakers; it will be about 3 minutes—let me put two charts up here in the Chamber and then yield to him for 3 minutes.

Look at this picture, I say to my colleague from Maryland. These are the most difficult times on these children when the air is dirty. This is a beautiful child. She cannot breathe, and she has asthma. The reason we passed the Clean Air Act is because of kids like her, and others who are gasping for air, literally.

The other thing I want to show you is this chart. This is an incredible chart that shows the significant drop in smog-related health advisories in southern California, the most polluted area, since we have put the Clean Air Act into place in the 1970s. Look at this. We have gone from 166 days where there were warnings for people to stay indoors to zero days in 2010. The Republicans, in H.R. 1, devastate the EPA's budget, plus they tell them they cannot enforce the Clean Air Act.

Let me say this: If my Republican friends want to repeal the Clean Air Act, just bring it on, and we will have a debate here. Do not do it through the guise of deficit reduction.

Now I see I have three colleagues in the Chamber for the remaining time. I ask unanimous consent that we have until 20 after before we turn it over to Senator KERRY, and that I am going to yield 3 minutes to the following: Senators CARDIN, LAUTENBERG, and WHITEHOUSE.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland.

Mr. CARDIN. Madam President, let me thank, first, Senator BOXER for her leadership on this issue in bringing us together to point out what harm the House-passed budget bill would do to our environment.

I start off by saying, when you look at the Republican budget plan in the House, it not only devastates important investments in our environment, it does not bring us to a balanced budget because all the savings they get in these Draconian cuts to our discretionary domestic spending are offset by extending the tax cuts. We lose all the savings through their tax policy.

But today I want to talk about a nonmoney issue, at least a rider that was put on the House budget. Let me read what it says. The bill says that ''none of the funds made available in this Act may be used to . . . implement'' the Bay restoration plan now under way. I am talking about the Chesapeake Bay program, a matter I have talked about on this floor many times.

What does that mean? That means none of the funds in the budget can be used in the six States that are in the watershed, including Maryland and the District of Columbia, to implement their plan. Each of these States is relying and getting Federal funds under the State revolving fund to deal with wastewater treatment plants. Those funds would be denied. None of the money could be used for the State water programs. None of the funds could be used for watershed groups to restore local streams.

We have school groups and civic associations participating with us to clean up the Bay. Those programs would come to an end. It is estimated this one rider alone will cost the Bay restoration effort in Delaware, Maryland, Pennsylvania, New York, Virginia, West Virginia, and the District of Columbia more than $300 million.

What does that mean? It means job loss in our areas, by far. We are talking about jobs here. It also puts our citizens at risk as far as their health is concerned. More and more health-related illnesses are coming as a result of the poor quality of water in our communities.

Let me mention one other issue; that is, the House-passed budget—the Republican budget—will slash the EPA budget by 33 percent below the fiscal year 2010 level. That is a one-third reduction in the EPA's budget.

It threatens Clean Water Act protections for lakes, streams, and rivers across our country by cutting $2 billion from the EPA's Clean Water and Drinking Water State Revolving Loan Fund.

I mention that because in my State and around the Nation we are seeing more and more disasters occurring as a result of water main breaks. We saw what happened in Prince George's County, MD. That was within the last year. We saw what happened in downtown Baltimore when a water main broke and turned our downtown into unpavable streets. We saw what happened in Montgomery County, MD, where River Road became a river and people had to be rescued from their cars. This, once again, is about jobs. It creates jobs. But it also provides us with safe drinking water in our communities.

For all these reasons, Madam President, it is important that we do not allow the House-passed budget to become law.

I thank my colleagues for participating in this debate.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

The remarks of Mr. LAUTENBERG are printed in todays RECORD under ''Morning Business.''

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. WHITEHOUSE. Madam President, I thank Chairman BOXER for pulling us together. I want to make three quick points in the time I have.

The House bill cuts $2 billion out of the clean water and safe drinking water infrastructure loan programs at a time when EPA calculates we have a $600 billion water infrastructure deficit. We are behind on rebuilding America's clean water infrastructure, and yet they cut it. We need the infrastructure. We could certainly use the jobs. This is a very misplaced cut.

From a clean air perspective, the bill cuts $60 million from State and local grants that ensure clean air and clean water and attacks clean air programs. In 2010, the Clean Air Act is estimated to have saved 160,000 lives, compared to where things would have been without it.

Physicians for Social Responsibility says that U.S. coal plants alone cause about 554,000 asthma attacks each year. Why do I talk about asthma? Rhode Island has a 10-percent rate of asthma, despite not having a single coal-fired powerplant.

Why is this? Because out in the Midwest, they are pumping their pollution up into the sky, where it falls down on our New England States.

Average smokestack height increased from 200 feet tall in 1956 to over 500 feet tall in 1978. In 1970, there were only two U.S. smokestacks over 500 feet tall. By 1985, there were 180 smokestacks taller than 500 feet, and 23 were over 1,000 feet tall—so tall that they had to be put on air traffic control maps.

Why? Because it exports their pollution to us. A State such as Rhode Island has no shot at controlling the pollution that is dumped on us that originates in other States if there is not a strong national EPA to do this. So it is very vital to us. And asthma is a real threat.

Lastly, on carbon pollution, we hear a lot of talk about this, and there are certain things that are just factual at this point. It is a fact that over the last 800,000 years, the atmosphere has been in a range between 170 and 300 parts per million of CO_2. That is a measurement, not a theory. In 1863—a long time ago, during the time of the Civil War in this country—an Irish scientist, John Tyndall, determined that carbon dioxide has a blanketing effect in the atmosphere and increasingly warms the Earth. That has been textbook science for more than a century. It is not a negotiable or debatable proposition. We have burned 7 million to 8 million gigatons of carbon dioxide every year, and it is having an effect. We are now at 391 parts per million—well outside of a benchmark that has lasted for 800,000 years.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. WHITEHOUSE. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Madam President, I understand I have 30 minutes.

The PRESIDING OFFICER. The Senator has 27½ minutes, I am told.

Mr. KERRY. I ask unanimous consent to use the full 30 minutes.

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

Mr. KERRY. Madam President, I thank my colleagues, the Senator from California and other colleagues, who have been involved in an important discussion here. I will say a few more words about that in the course of my comments.

Let me begin by observing that last week, like a lot of colleagues here, I voted in favor of a 2-week continuing resolution in order to avoid a government shutdown. But I will say that I did so extremely reluctantly, and I am not inclined to continue to do that in a series of hatchet budgets that continue to make cuts without regard to the larger budget considerations we need to be considering. I know colleagues on both sides of the aisle voted reluctantly. Frankly, it is insulting and frustrating that we are reduced to passing incremental allowances just to keep the government functioning. This is just the work of this year's budget—something that should have been passed for an entire year last year.

The impact of this kind of staggered, stop-and-start, keep-them-guessing budgeting on programs and projects that, frankly, need to do some long-term planning actually costs Americans money and costs Americans long-term competitive capacity. Run a business the way we are running these kinds of programs, and you would go under if you had a month-to-month, week-to-week, 2-weeks-to-2-weeks budget process. No department head can plan for the long term because they don't know what they are going to have, how much they are going to spend. Projects that need to begin don't begin, and that costs America leadership. It costs us money. No wonder Americans are frustrated. All we do

is bounce from one short-term, stopgap solution, band aid approach to another, always deferring the tough decisions and the adult conversation, which is exactly what the American people sent us here to engage in.

I come here today to appeal to the common sense and conscience of our colleagues. This is not the time to create a fundamentally political budget document, steeped in ideology. It is not the time to put forward a set of choices, many of which have absolutely nothing to do with reducing the deficit or debt but everything to do with ideological goals long sought by some, now cloaked in the guise of deficit crisis in order to achieve what they have never been able to achieve to date.

Everyone here knows—you have private conversations with colleagues, and they will nod their heads and acknowledge to you how serious this budget situation is. We need a serious conversation about our fiscal situation. It begins with a comprehensive discussion about discretionary spending. Yes, that has to be on the table. But what about entitlements? What about revenues? Everybody here knows we have to work toward a long-term solution in order to reduce the budget deficit and the staggering debt of our country. We are going to have to reduce some Federal spending and make appropriate changes in entitlement programs in order to do that. When we are honest about it, it means you have to talk about everything—revenue, tax reform, spending, and entitlements.

A lot of Americans appropriately ask: What are we doing with 57,000 or 60,000 pages of a tax code? How many Americans have their own page? You can run through it and find an awful lot of big interests, big business, folks who can afford big lobbyists—they get their own pages. But the average American appropriately feels left out and abused by that process. That ought to be on this agenda—the simplification of the code and the fairness of the code.

In addition, we obviously need to talk about Medicaid, Medicare, and Social Security. Social Security, frankly, is easy to fix. We fixed it in the 1980s with Ronald Reagan. I was here then. We can do this again. That is not challenging. We can make that safe and whole throughout the century so that our children and grandchildren and their children have the opportunity to trust in the Social Security system. That is doable with minor tweaks.

What is far more complicated and challenging is Medicaid and Medicare. I assure colleagues who are out to undo the health care bill passed by President Obama, if that is undone, those Medicare costs are going to soar and the medical choices before our country are going to become even more complicated.

Back in December, a number of our colleagues understood and embraced exactly what I am saying right now. Senators, Republicans and Democrats alike, including Senators DURBIN, CONRAD, COBURN, and CRAPO, had the courage and willpower to put on the table the whole set of choices when they embraced the debt commission's report, which was appropriately entitled ''The Moment of Truth.'' Nobody liked every proposal set forth by the commission—not even the Commissioners themselves—but they did it in order to put everything on the table for a discussion by us.

The Congress is responsible for making these choices. Unfortunately, the budget sent to us by the House is an unbelievably irresponsible exercise in avoidance, and includes a set of choices that will take America backward. I am not exaggerating about that. I will go into that in a moment.

Let me cite what the commission said to remind us about our responsibility. They said that throughout our Nation's history, Americans have found the courage to do right by our children's future. Deep down, every American knows we face a moment of truth once again. We cannot play games or put off hard choices any longer. Without regard to party, they said, we have a patriotic duty to keep the promise of America to give our children and grandchildren a better life. Our challenge is clear and inescapable. America cannot be great if we go broke. Our businesses will not be able to grow and create jobs, and our workers will not be able to compete successfully for the jobs of the future without a plan to get this crushing debt burden off our backs. I think every Senator probably agrees with that, but is every Senator prepared to do something about it? Certainly, this budget sent to us by the House is an avoidance of that kind of discussion and the responsibility the debt commission placed on our heads. So we ought to get serious.

For fiscal year 2011, the administration's budget projects a deficit of $1.6 trillion. Without changes in our current policies, the Congressional Budget Office estimates that our Federal debt will be 95 percent of GDP the gross domestic product of our Nation. Today, as we are here, we are borrowing 40 cents of every single dollar we spend—borrowing 40 cents. We borrow a lot of it to be able to afford to buy the source of our energy from other countries, and much of the dollars we borrow in order to go into debt to buy energy from other countries winds up making us less secure. This is not a smart cycle, not a virtuous cycle. Certainly, it is not something we are locked into. We have a whole set of other choices.

Let me point out to my colleagues that spending is at the highest level as a share of our economy than it has been in more than 60 years. We are spending more than we have spent as a share of our economy at any time in 60 years. But we are also collecting less revenue than we have ever collected in the last 60 years. There is something wrong with that equation.

It seems to me clear—and many of us objected and opposed the tax cut that wound up putting us in this predicament—that we have been on a binge of political sloganeering. It has been appealing to the easiest instinct of every American. Who doesn't feel they don't pay too much? The fact is that the burden we pay is far less than many other countries. It is at about the lowest level in our history—the least amount of revenue in the last 60 years. That is part of what contributes to our debt. It also robs us of a whole set of other choices in terms of American competitiveness.

Let me point out, to listen to the Members of the House and some of our colleagues, you would think the President didn't do anything about this. In fact, the President is the only person who put a realistic budget before us. The President is the only person who really put in a plan to reduce the overall debt, not just a CR on a temporary basis but an overall budget with a plan for how you grow America and reduce our deficit. The President's budget does significantly reduce deficits.

I remember in the 1990s when we faced this very question. I remind my colleagues that we did balance the budget. The last President and party to balance the budget was President Bill Clinton and the Democrats. We did it jointly, working together in a responsible way. It wasn't just that we increased revenues and reduced spending. What was critical was—they all met within 1, 2, or 3 years—that we sent a message to the marketplace and the American people that we were serious about turning our deficit into a surplus.

I believe that as we go forward we have a responsibility to understand that we need to have a responsible set of choices put in front of us. We are locked in a debate that is not actually trying to find common ground right now. Ask this question: Is everything on the table in a serious effort to create jobs and advance America's economic leadership? Is it really impossible for us to sit down together across the aisle and come to an agreement as to what helps us grow and what doesn't? Is it really true that American Senators have the inability to be able to agree as to where the benefit comes to the economy in the multiplier effect with respect to science research or technology research or other kinds of things we can excite in the private sector?

Completely absent from this debate is an honest discussion of what actions only the government is actually equipped to take in order to bolster our global competitiveness. Every CEO in America knows there are some things that only the government can do. Look at President Eisenhower's National System of Interstate Highways in the 1950s. By today's standards, we could not build it. It would not happen by today's standards. But the fact is, more than 30 or 40 percent, maybe 50 percent, of America's productivity increases came as a consequence of the building

of the Interstate Highway System, not to mention billions of dollars' worth of spinoff jobs and tax revenues to our communities. We are still living off that inheritance. We are living off the infrastructure investments of those who went before us.

Today, China is investing 9 percent of its GDP into infrastructure. Europe is investing 5 percent of its GDP into infrastructure. The United States, just about 2 percent, slightly less. We have a $2.2 trillion infrastructure deficit.

What we have not been discussing in this debate is what we need to invest in, a coherent strategy, a policy to make certain we are not held hostage to oil and instability in the Middle East.

The United States could become the first country to have 1 million electric vehicles on the road by 2015 and ensure that 80 percent of our electricity comes from clean energy sources and with that comes jobs. We need a cutting-edge, high-speed wireless data network. We still do not have one. We are going backward. We invented the technologies. We used to be No. 3 or No. 4. Now we are drifting back to No. 16 or No. 21, depending on whose measurement we look at. By any measurement and any standard, we are going backward, while other countries are going forward, and it is because we are not investing and making it attractive for the private sector or private citizens to achieve this.

America has always been a competitive country. Our DNA is innovation and creativity and entrepreneurial activity. The fact is, we are not doing the things we could do in joint venture with the private sector to attract the best jobs and create the best opportunities. We have to become that nation again. That is what our budget ought to be discussing, and we ought to be able to agree across party lines as to how we do that.

The budget passed by the House of Representatives not only does not present a realistic set of choices with respect to how we make America competitive and create higher paying jobs and grow our economy, not only does it not do that, it actually strips away the opportunities to do that. It takes us backward.

The House budget is going to lower the deficit by only 6 percent because they are focused only on domestic discretionary spending. They do not focus on defense spending. They do not focus on Medicaid, Medicare, entitlements. They do not focus on some of the waste and duplication within the system. They just strip away at a whole bunch of programs that many of them have opposed for their entire life in politics and voted against in the first place. They are using the opportunity of this budget to press an ideological agenda. That is why only 13 percent of the budget is being focused on in what they are doing.

They have sworn off any discussion of the very hard choices. Here we are 3 months after the Commission put forward its important proposals, and the Senate is trapped in a political moment when what we need is a moment of truth.

We have to find a way to make these tougher choices. I wish to be clear about what I think they are. I ask my colleagues: Do we want a government that is too limited to have invented the Internet? A lot of people do not think about that, but the fact is, the government invented the Internet. It was a spinoff from DARPA, from research into how we might be able to communicate in the case of nuclear war. We were creating this communications network which became the Internet. Then the private sector saw the opportunities and took those opportunities and translated them into what we have today, which has revolutionized the way people communicate and do business. But it came from the government, just as digitalization came from government research, the space program, which also produced Gortex and microwave and Teflon and a host of other products that are now out in the marketplace where we have created millions of jobs. The Internet created more than a million jobs and has added greatly to the gross domestic product of our country.

We want to have a country that is so limited that we do not do those kinds of things? Taxes so low that everybody feels good, thinks they are better off, but we do not do the research that is necessary to create jobs and new industries and fill the Treasury with the revenue that educates our children, cures to diseases and provides opportunities for poor people to break out of poverty and touch the brass ring of America.

We have to get past the slogans and the sound bites. We have to reason together and talk about the things America does best.

If we are going to balance the budget and create jobs, we cannot pretend we are going to do it by eliminating earmarks and government waste. We have to look at how we did it previously.

In the early 1990s, our economy was faltering because deficits were too big and debt was freezing capital. We had to send a signal to the market that we were capable of being fiscally responsible. Guess what. We did it, and we did it without a reckless assault on a whole series of things that make a difference to the quality of life of our country and to our ability to create jobs. We saw our economy turn around in the 1990s, and we created 22 million jobs. We created unprecedented wealth in America. Every single income level in our country saw their income go up in the 1990s. We created more wealth in the 1990s than we created in the 1920s and 1930s with the great barons of wealth of that period—the Carnegies, Mellons, and so forth. We did it by committing the country to a disciplined path, where we spoke to the potential of the American people.

Working with the Republicans—it was bipartisan—we came up with a framework that put our country on a track to be debt free by 2012, for the first time since Andrew Jackson's administration. The fact is, Alan Greenspan was warning America and the Senate that we were paying down our debt too fast and that could have implications on the marketplace.

We know how to do this in a responsible way. How we got off track from that is a story I am not going to go back into right now. It is pretty well known. But the truth of how we generated the 1990s economic boom is a story that has to be retold again and again.

Let me point out the difference. We are not going to do this process in 2 weeks. We know that. We ought to have a responsible CR that allows us to go forward and give ourselves a proper amount of time to tackle these larger issues and put something serious on the table with tax reform spending, entitlements—all those issues on the table.

What we have in this House budget—let me point out, rather than say it takes us backward. I believe there are reckless cuts in this budget that would do great harm to our country because it strips away our ability to create the future. Research and development in technology, research and development in science, the National Institutes of Health—a host of these things are cut in a draconian way.

I had lunch the other day with the Secretary of the Navy. He was telling me how the House budget has cut ARPA–E program. It has cut it from about $250 million down to $50 million. The House bill effectively shuts off all the projects.

Do you know what some of those projects are? One is our military's ability to have greater capacity in the field, to have solar or wind or battery storage so they do not have to run convoys of fuel to keep vehicles and supply our troops with the administrative support they need.

They say the military has done a study. For every 24 convoys for fuel, we lose one marine or soldier—one marine or soldier for every 24 convoys. They are looking at ways to reduce having those convoys, and they are cutting the money so our military will be more dependent on the fossil fuel that comes from unstable countries in various parts of the world.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. KERRY. Mr. President, China is racing ahead with respect to these kinds of investments. The fact is, they are sending their students to the United States for degrees in math, science, and engineering, but the House is cutting Pell grants so there is a 15-percent cut below the maximum level, which would affect over 100,000 students in college, making it less affordable, less accessible for low- and moderate-income students. That is not a

budget that helps our economy. It does nothing with dealing with the deficit and jobs.

They tie the hands of the Consumer Product Safety Commission so they cannot launch a database for consumer products. If you are an average American, you do not need to know if the products you buy are safe or will harm you. That does not matter anymore, even though it has nothing to do with dealing with the budget problem.

They reduce Federal funds from being spent for Planned Parenthood, for doctors and nurses to conduct 1 million lifesaving screenings for cervical cancer and more than 830,000 breast cancer exams. I guess it is much more important that millionaires, people earning more than $1 million a year, get their tax cut than 830,000 women to have breast cancer screenings. This value system is something that I think is absolutely essential for us to examine.

The House cuts almost $2 billion from the clean water and drinking water State funds that allow us to capitalize on low-interest loans and no-interest loans so we can build and refurbish clean water systems.

All across our country, we have communities that are under court orders to clean up the water for our citizens. The House is cutting the ability of those communities to be able to provide for that because most of them do not have the tax base to do it on their own.

The House bill prohibits the EPA—that discussion took place, and I will skip over it. It has nothing to do with deficit reduction. It just prohibits the EPA from enforcing clean air laws, after the American people decided in 1970 they wanted clean air, and people's lives have been improved because we have provided it. We are going to go backward there.

I mentioned the ARPA–E cuts. The House bill cuts $780 million below the current level for energy efficiency and renewable energy, which is going to cut critical programs that advance our job base.

I met yesterday with the CEO of a major solar company. They are going to create a huge number of jobs in the Southwest of our country. The largest facilities are going to be in Arizona and California. But by cutting the loan guarantee program, we are going to lose 1,200 jobs just on the California project, and that does not include the $½ billion of equipment from U.S. suppliers in nine States, including Arizona, Oklahoma, Kentucky, Colorado, and Kansas. That is a loss of jobs in every single one of those States.

The House bill reduces funding for the National Institutes of Standards and Technology, which is going to reduce research and hurt job creation. It slashes funding for the National Science Foundation by more than $300 million. That is 1,800 fewer research and education grants.

The House bill provides $787 million below the current level for energy efficiency and renewable energy. It would significantly delay needed investments in energy efficiency and renewable energy R&D, demonstration and deployment programs critical to the transition to a clean energy economy.

The U.S. stands to be the world leader in concentrated solar with the addition of these two projects, but this title is in jeopardy thanks to more irresponsible and irrational cuts in H.R. 1.The proposed elimination of the DOE loan guarantee program for clean energy cost jobs, American competitiveness, and immediate economic benefits. For example, yesterday I met with Abengoa Solar, a company trying to help the U.S. become the world leader in concentrated solar with two of the largest facilities in Arizona and California. But by cutting the loan guarantee program we stand to lose 1,200 jobs from just the California project. In addition this doesn't include the $½ billion of equipment from U.S. suppliers in nine States across the U.S. including Arizona, Oklahoma, Kentucky, Colorado, and Kansas.

The House bill slashes $1.3 billion from the National Institutes of Health, NIH, which would force NIH to reduce support for more than 25,000 existing research grants and scale back clinical trials and research projects. These drastic cuts will devastate biomedical research; cures will be delayed, jobs will be eliminated, and American leadership and innovation will be jeopardized. NIH is the primary Federal agency responsible for conducting and supporting medical research, most of which is done at medical schools, hospitals, universities and research institutes distributed in every State in the country. NIH-funded research drives scientific innovation and develops new and better diagnostics, prevention strategies, and more effective treatments. NIH-funded research also contributes to the Nation's economic strength by creating skilled, high-paying jobs; new products and industries; and improved technologies.

They do that even as we know that continued commitment to NIH is essential for securing a strong national economy and for maintaining our leadership as the global leader in research and development. Everyone applauded when President Obama said in his 2011 State of the Union Address that ''one key to future growth in the U.S. economy will be to encourage American innovation and job creation by investing in research and development—including biomedical research at the NIH.'' And Massachusetts received more than $2.5 billion in NIH grants last year alone. But here we are gutting the NIH because we are afraid to look at the things that need to be addressed that yield real savings.

Folks, this is killing our economic competitiveness in the cradle—and in the laboratories. Investment in the NIH produces a steady stream of talented researchers who lead the way to treatments and cures for some of the world's most devastating diseases. In fact, a report by Families USA estimated NIH awards to the States results in over 351,000 jobs that pay an average annual wage of more than $52,000, and results in $50.5 billion in increased output of goods and services to the U.S. The jobs, the spinoff industries, and the local development that are sustained by NIH awards will disappear or relocate to more competitive nations—such as China or India—without continued and stable funding for the NIH.

The House bill reduces funding for the National Institute of Standards and Technology by $223 million which will reduce research and hurt job creation. The House bill slashes funding for the National Science Foundation by more than $300 million below current levels meaning 1,800 fewer research and education grants.

Earlier this month, 300 of America's leading economists, including Alan Blinder and Laura Tyson, sent an open letter to President Obama and Members of Congress concerning these cuts, and they said it is shortsighted to make cuts that eliminate necessary investments in our human capital, our infrastructure, and the next generation of scientific and technological advances. They said: Republican-planned cuts threaten our economy's long-term economic competitiveness and the strength of our current economic recovery. The letter goes on to say that we need to look and sustain the critical investments in the productive capacity of the United States.

Mr. President, you are a farmer, and there ain't a farmer in the country who doesn't know you don't eat your seed corn. But that is what we are doing here. We are eating our seed corn. We are stripping away America's already challenged ability to compete against a China, India, Brazil, Mexico, South Korea, and countless countries that are indicating far more seriousness than we are about their desire to build out and build a future.

We have a train that runs from Washington to New York called the Acela. It can go 150 miles an hour. But it only goes 150 miles an hour for 18 miles of that trip between here and New York. Why? Because if it goes too fast into the tunnel in Baltimore, the tunnel may cave in; because if it goes too fast over the bridges of the Chesapeake, they may fall down. But you can go to China and ride on a train that goes 200 miles an hour and the water in your glass doesn't even move; or 300 miles an hour in the Maglev train from Shanghai airport to downtown Shanghai. Go to Abu Dhabi, go to Dubai, go to Paris, or any major airport in Europe and you will find an airport that outshines the airports of the United States and you will find public transit systems that outshine the public transit systems of the United States. Because once again, we are living off what our parents and grandparents built because we are not willing to pay for anything, which is why revenue in the United States is at a 60-year low.

We need to be smart about where we are going here. The GDP of our country is measured by our total expenditures of consumption of the American people, it is measured by our investments, it is measured by government spending and investment, and by our exports minus our imports. That is the GDP. That is how you measure GDP. How can these folks sit here and say if you cut the government spending you are not going to cut the GDP, which is what every major economic analysis has said?

So yes, we have to cut waste; yes, we have to cut some spending; yes, we have to be responsible. But let us be responsible in a responsible way, by looking at the overall budget and the places we can reduce, at a tempo that doesn't do injury to our ability to invest in America's future, to create the jobs for the future, but nevertheless send the right message to the marketplace and to the American people.

We have done that before. We saw the longest expansion in America's history. Staring us in the face is the largest economic opportunity of a lifetime. The energy marketplace is a $6 trillion market with 6 billion potential users today, rising to about 9 billion over the next 30 years. But we are not engaged in that. Two years ago, China produced 5 percent of the world's solar panels. Today, they produce 60 percent, and the United States doesn't have one company in the top 10 companies of the world's solar panel producers. What are we doing? The biggest transformational market staring the United States in the face is the energy market, and we should be here putting an energy policy in place, an education policy in place, an infrastructure investment policy in place, and a research policy for technology and medical that soars, that takes America into the future, creates the jobs we need for the next generations, and reduces the deficit in responsible ways, not in this unbelievable reckless, meat axe, hatchet budget that is being presented to us by the House of Representatives. We need to find common ground.

The minority continues to criticize President Obama about the lack of progress in creating jobs. Last month, the economy added 192,000 jobs and the unemployment rate declined from 9 percent to 8.9 percent. This is one of the best job reports since the recession began more than 3 years ago. It shows that the economic recovery is beginning to gain momentum. However the unemployment rate is still too high and we need both small and big businesses to increase jobs if we are going to see a meaningful decrease in unemployment. The House continuing resolution will make that more difficult.

Republican economist Mark Zandi says that now is not the time to implement the cuts included in the House continuing resolution. In a recent report, Zandi said. ''The economy is adding between 100,000 and 150,000 per month—but it must add closer to 200,000 jobs per month before we can say the economy is truly expanding again. Imposing additional government spending cuts before this has happened, as House Republicans want, would be taking an unnecessary chance with the recovery.''

Zandi estimates that the cuts included in the Republican continuing resolution would lead to 700,000 fewer jobs by the end of 2012. Federal Reserve Chairman Ben Bernanke said last week that the Republican continuing resolution would reduce growth and cost our economy about a couple hundred thousand jobs.

Last month, a Goldman Sachs economist warned that the Republican cuts could reduce economic growth in the United States by 1.5 to 2 percentage points this year.

Additional spending cuts would also go against the thrust of our economic policies. The Federal Reserve is holding short-term interest rates close to zero and purchasing hundreds of billions of dollars in long-term Treasury bonds, in an effort to hold down long-term interest rates. The tax cut agreement we made last year is also helping to create jobs and boost our economy. It doesn't raise taxes, includes a 2 percent payroll tax holiday, extends emergency unemployment insurance benefits and allows businesses to expense their investments this year.

The American people deserve better than the approach taken by the House of Representatives that cuts critically needed research funding, eliminates jobs and reduce economic growth, hurts our competitiveness and could push our economy into a ''double dip'' recession.

There is a better way for us to resolve our budget problems. Let's go back to what worked before and can work again if we are willing to bite the bullet. In the early 1990s, our economy was faltering because deficits and debt were freezing capital. We had to send a signal to the market that we were capable of being fiscally responsible. We did just that and as result we saw the longest economic expansion in history, created more than 22 million jobs, and generated unprecedented wealth in America, with every income bracket rising. But we did it by making tough choices.

Now is the moment for America to reach for the brass energy ring—to go for the Moon here on Earth by building our new energy future—and, in doing so, create millions of steady, higher paying jobs at every level of the economy. Make no mistake: Jobs that produce energy in America are jobs that stay in America. The amount of work to be done here is just stunning. It is the work of many lifetimes. And it must begin now. This shouldn't be a partisan issue, but instead of coming together to meet the defining test of a new energy economy and our future.

There is a bipartisan consensus just waiting to lift our country and our future if Senators are willing to sit down and forge it and make it real. The President's fiscal commission made very clear that our budget cannot be balanced by cutting spending alone. The American people deserve a serious dialogue and adult conversation within the Congress about our fiscal situation, discretionary spending, entitlements, and revenues. We need to work together in a bipartisan process to develop a long-term solution to reduce both our current budget deficit and our staggering debt. And, yes, we will need to reduce Federal spending and make appropriate changes to our entitlement programs to meet the fiscal challenges facing our country. But everything everything—tax reform, spending and entitlements—needs to be on the table.

Mr. President, this is one of the moments the Senate was intended to live up to to provide leadership. To find common ground. To level with the American people and be honest with each other. We will no doubt continue to be frustrated and angry from time to time, but I believe that more often than not, we can rise to the common ground of great national purpose. A lot of us like to talk about American exceptionalism. But now we need to get beyond the permanent campaign and the ideological agenda—and instead do the exceptional things that will keep America exceptional for generations to come.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

CONCLUSION OF MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that all remaining morning business time be yielded back.

The PRESIDING OFFICER. Without objection, morning business is closed.

PATENT REFORM ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 23, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Reid/Ensign amendment No. 143, to include public institutions of higher education in EPSCOR jurisdictions in the definition of a micro entity.

Reid amendment No. 152 (to Reid amendment No. 143), to provide an effective date.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, American ingenuity and innovation have been a cornerstone of the American economy from the time Thomas Jefferson examined the first patent to today. The Founders recognized the importance of promoting innovation. The Constitution explicitly grants Congress the

power to ''promote the progress of science and useful arts by securing for limited times to inventors the exclusive rights to their respective discoveries.''

The discoveries made by American inventors and research institutions, commercialized by American companies and protected and promoted by American patent laws, have made our system the envy of the world.

The Senate has before it the America Invents Act. This will keep America in its longstanding position at the pinnacle of innovation. This bill will establish a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs, while making sure no party's access to court is denied.

I was glad to see the overwhelming bipartisan vote in favor of ending debate and invoking cloture that was cast yesterday. Yesterday was one of the rare instances ever in Vermont where snow impeded us and made it impossible for us to get back. I am delighted to be back here for what I hope will be the successful conclusion and vote on our legislation.

This is, after all, the product of eight hearings over the last three Congresses, hundreds of meetings, and dozens of briefings. I again thank Secretary Locke and PTO Director Kappos for their involvement, their wise counsel and their support.

Last Congress, I introduced the Patent Reform Act of 2009 as a precursor to the America Invents Act today, along with Senator HATCH and others, and our bill was the subject of consideration and amendments over several thoughtful sessions of markups in the Senate Judiciary Committee in March and April of 2009. At that time, Senator KYL asked that I convene a meeting with the Director of the Patent and Trademark Office to discuss whether there were further changes the office needed in the legislation to improve the office's efficiency. We held those discussions, and we held countless other meetings and briefings with interested parties in an effort to improve the legislation, again on a bipartisan basis. Bruce Cohen in my office, Aaron Cooper, Ed Pagano and others, had meeting after meeting just as predecessors of theirs had. In short, we spent a whole lot of time making sure this was done right and we did it in a bipartisan manner. Bolstering the American economic recovery and strengthening our efforts in global competition should not be matters of partisanship or political advantage.

The process of discussions, debates and deliberation has resulted in legislation that is going to be a much-needed boon to our economy. It is also a model for our legislative process. It shows what you can do when you set aside partisan rhetoric and instead negotiate and collaborate together in good faith.

I know I speak for Senator KOHL, Senator WHITEHOUSE, Senator KLOBUCHAR, Senator GILLIBRAND, Senator COONS and the other Democratic cosponsors of the bill when I thank the four senior Republican members of the Judiciary Committee, Senator HATCH, Senator GRASSLEY, Senator KYL and Senator SESSIONS for working with us. Innovation and economic development are not uniquely Democrat or Republican objectives, so we worked together to find the proper balance for America—for our economy, for our inventors, for our consumers. It is both a process and a result that should make us all proud.

The last time Congress significantly updated the patent system was more than a half century ago. In the intervening decades, our economy has changed dramatically. A patent system developed in our 1952 economy before the Internet, before cell phones, before computers, before photocopiers, even before the IBM Selectric typewriter, needs to be reconsidered in light of 21st century realities, while staying true to the consistent constitutional imperative of encouraging innovation and invention.

Our patent laws that were the envy of the world in the 20th century desperately need to be updated if we are going to compete effectively and win the future. China and the European Union are improving their patent laws. We can't remain complacent. If we are going to win the global competition by out-innovating the rest of the world, we need a patent system that works in the 21st century.

The array of voices heard in this debate represent virtually all sectors of our economy, all interests in the patent system. They have not been uniform, as expected, but they know the legislative process is one of compromise and accommodation where possible, and it has been that way during the 6 years we have been at work on this bill. Three major areas of concern emerge from this discussion. The America Invents Act addresses each one of them.

First, there is significant concern about delays in the patent application process. The Patent and Trademark Office, PTO, currently has a backlog of more than 700,000 unexamined patent applications. There are several reasons for this, not the least of which is the PTO is overwhelmed with patent applications and doesn't have the resources necessary to work through that backlog.

The Director of the PTO often says the next great invention that may drive our economic growth may be waiting on the shelf, waiting to be granted. Some estimate that each issued patent represents three to 10 jobs. We can ill-afford to keep so many job-creating patents backlogged at the PTO. The America Invents Act authorizes the PTO to set its fees and ensures that the PTO will have access to those fees. We want the PTO to work through its backlog and be current. In his white board presentation on the need for patent reform this week, Austan Goolsbee, the chair of the President's Council of Economic Advisers, illustrated this point by noting that when Alexander Graham Bell applied for a patent that led to the telephone, it was granted in a month. The patent in 1974 that led to the cell phone took less than three years. The average time this year for a patent to be processed is almost three years and several thousand take far longer.

I want to commend Austan Goolsbee, the chairman of the Council of Economic Advisers. His white board presentation this week on the importance of patent reform shows we need to help America win global competition and create jobs. The creation of more than 220,000 jobs in the private sector last month, the creation of 1.5 million jobs over the last 12 months, and the unemployment rate finally being reduced to 8.9 percent are all signs that the efforts we have made over the last two years to stave off the worst recession since the Great Depression are paying off and the economic recovery is taking hold. The almost full percent point drop in the unemployment rate over the last three months is the largest decline in unemployment since 1983. Despite interruptions of economic activity in many parts of the country caused by winter weather over the last months and days, despite the extraordinary rise in oil prices, the Dow Jones industrial average has climbed back to over 12,000 from a low point of 6,500. Passage of the America Invents Act should help bolster our economic recovery and keep us on the right path toward business development and job creation.

According to an article in the New York Times just a couple of weeks ago, patent applications last year amounted to 2,000 a day. There are currently 1.2 million patent applications in the pipeline. Among them could be the next medical miracle, the next energy breakthrough, the next leap in computing ability, or the next killer app. We should be doing all we can to help the PTO Director. It makes no sense that it takes 2 years for an inventor to get an initial ruling on his or her patent application and another year or more to receive a patent, this during a time when technology changes sometimes by the hour, to say nothing by the year and the 2 year and 3 year. As the 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.''

Second, there is a concern about the quality of patents that have issued. Just as high quality patents are the key to innovation, low quality patents are a drag on the economy because they provide monopoly rents over products or processes that were not inventive.

Patent examiners are facing a difficult task given the explosion in the

number of applications and the increasing complexity of those applications. When Congress last overhauled the patent system in 1952, the PTO received approximately 60,000 patent applications; in 2009, it received more than 480,000.

The America Invents Act will improve the quality of patents issued by the PTO in several ways. At the outset, our legislation makes the commonsense change that third parties who see a patent application and know that it is not novel and nonobvious, can assist the PTO examiners by providing relevant information and explaining its relevance.

The bill will also create a new post-grant review process for patents that recently issued to improve the quality of patents in the system, as recommended by the National Academy of Sciences, and it will streamline the current ''inter partes'' system so that it will be a more efficient alternative to litigation.

The third concern is that as business competition has gone global, and patent applicants are increasingly filing applications in the United States and other countries for protection of their inventions, our system puts American inventors and businesses at a disadvantage. The filing system in the United States differs from that in other patent-issuing jurisdictions, which have ''first-inventor-to-file'' systems. The difference causes confusion and inefficiencies for American companies and innovators. The inefficiencies exist both in the application process and in determining what counts as ''prior art'' in litigation. I ask unanimous consent to have printed in the RECORD an editorial from today's New York Times, which calls the transition to first-inventor-to-file ''simpler and cheaper'' and says it ''should benefit the little guy.''

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

(See exhibit 1.)

Mr. LEAHY. The America Invents Act transitions to a first-inventor-to-file process, as recommended by the administration, while retaining the important grace period that will protect universities and small inventors, in particular. We debated this change at some length in connection with the Feinstein amendment. That amendment was rejected by the Senate by a vote of 87 to 13. The Senate has come down firmly and decisively in favor of modernizing and harmonizing the American patent system with the rest of the world.

When we began the patent reform debate 6 years ago, there was also a significant concern that the costs and uncertainty associated with patent litigation had been escalating, which was resulting in a drag on innovation. Damage awards had been inconsistent and not always related to the value of the invention. This disconnect and uncertainty was a problem that also led to unreasonable posturing during licensing negotiations.

Fortunately, the courts have made great strides in addressing this issue, and there is general consensus that legislation need not and, in fact, should not affect the law of damages as a result.

The Senate has before it bipartisan legislation that can lead to long-needed improvements in our patent laws and system. This 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.

The America Invents Act promotes innovation, and will improve our economy, by addressing the impediments to innovation. As the President challenges Americans to win the future, Congress cannot afford to sit idly by while innovation—the engine of our economy—is impeded by outdated laws. Our legislation leverages the ingenuity of our businesses, our universities, and our independent inventors, and creates a system in which that ingenuity can improve our economy. It will create jobs, improve products and reduce costs for American companies and American consumers.

I began working on patent reform years ago, along with Chairman SMITH in the House, because of my belief that we needed a more efficient and streamlined system. For many years, patent law interested only a niche audience, and developments were reported only in trade publications. Now they are discussed everywhere from the front page of the Wall Street Journal to the New York Times, and all three branches of government have taken an active role.

The America Invents Act is about economic development. It is about jobs; it is about innovation; it is about consumers. All benefit under a patent system that reduces unnecessary costs, removes inefficiencies, and holds true to the vision of our Founders that Congress should establish a national policy that promotes the progress of science and the useful arts.

When Thomas Jefferson examined that first patent in 1790—a patent that went to a Vermonter—no one could have predicted how the American economy would develop and what changes would be needed for the law to keep pace, but the purpose then remains the purpose today: promoting progress.

If we are to maintain our position at the forefront of the world's economy, if we are to continue to lead the globe in innovation and production, if we are to continue to enjoy the fruits of the most creative citizens, then we must have a patent system that produces high quality patents, that limits counterproductive litigation over those patents, and that makes the entire system more streamlined and efficient.

Now is the time to bolster our role as the world leader in innovation. Now is the time to create jobs at home. Now is the time for Congress to act on patent reform. I urge all Senators to support the American Invents Act.

EXHIBIT 1

[From the New York Times, Mar. 7, 2011]

PATENTS, REFORM AND THE LITTLE GUY

In the last decade, Congress has missed several chances to reform a patent system that is slow, costly and puts the United States at odds with the rest of the industrial world. On Wednesday, the Senate has another opportunity to reform the nation's patent law.

The America Invents Act offers a step toward a more effective and transparent patent protection system. This should encourage investment in inventions and faster diffusion of ideas. The bill, which has broad bipartisan support, would boost the patent office's resources by letting it keep all the fees it collects. This would enable it to speed up the review of patent applications—which currently takes almost three years to process—and work through an immense backlog of 715,000 applications.

The bill should reduce costly litigation by creating an in-house system to look into claims of patent infringement before they go to court.

The bill would also replace the first-to-invent standard prevailing in the United States—which grants formal protection to the creator of an innovation—with the first-inventor-to-file system used in most nations.

This change would make it cheaper for American patent holders to get patent protection around the world. But it has been met with vocal opposition from some groups of small businesses and inventors who claim the change would benefit big corporations at their expense.

We disagree. The new law would make the process simpler and cheaper. That should benefit the little guy.

Small inventors who needed time and money to fully develop and test their ideas could request a provisional patent until they were ready for a full filing. It costs $110. And because it is easy to determine who filed a patent first, the new system would better protect small inventors from challenges by corporations with deep pockets, reducing the chance of costly litigation.

Right now, proving who invented something first is difficult and expensive. According to the patent office, it costs $400,000 to $500,000 to challenge a patent on the grounds of a prior invention. Most small inventors don't have that kind of money. Big corporations do.

In fact, the current system mostly protects whoever files first for a patent. Of the last three million applications filed, only 113 were granted to entities who filed second but proved they had invented first. In 88 of these cases, the winners were large corporations.

The patent system is too cumbersome, and it doesn't protect the small inventor. The America Invents Act is a smart reform.

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

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

THE BUDGET

Mr. WARNER. Mr. President, I rise today to add my voice to the debate that has been going on in the Chamber about spending proposals and how we get through the balance of this current fiscal year and ensure that we do not

end up with a government shutdown and some of the repercussions that will come about from that.

I am blessed to represent a State that has not only a disproportionate share of Federal employees but also has a large number of private sector employees who rely upon predictability from the government. Unfortunately, with these lurchings from 2-week extensions, we are not providing that kind of predictability.

As you know, I strongly believe this is a moment in time for this body, colleagues in the House, and the President and others to come together regarding the question of how we no longer simply look at our debt and deficit on a piecemeal basis but we actually take on this issue on a comprehensive basis as so many, both elected officials and financial officials, continue to suggest. That came in earlier today in testimony from former Senator Alan Simpson and former Presidential Chief of Staff Erskine Bowles about the consequences of our failure to act if we do not get our comprehensive deficit and debt under control. It is a problem that is not going to get easier. Every day we fail to act we add $4 billion to our national debt.

Unfortunately, some of the proposals that are coming, particularly from the House at this point, the House budget plan, do nothing significant to address our long-term deficit and debt issues.

I travel around Virginia. Yesterday I was down with our colleague from Georgia, Senator CHAMBLISS. We met with literally hundreds of business leaders from across central Virginia, and their message was clear: No more games, no more showmanship, get something done. That ''something'' they want done is a comprehensive approach to our Nation's fiscal challenges. That will mean, yes, cutting down on spending. That will mean, as well, making our Tax Code more efficient so American business can grow and compete.

It will also mean at the same time that part of that tax reform effort adds revenues because trying to deal with this problem by simply cutting or simply taxing will not be sufficient. Instead, the folks across Virginia, and I imagine across Montana as well, are saying: This is a moment in time we have to put everything on the table, and we have to ensure we actually provide a long-term solution.

One of the things that has been most frustrating as I listened to this current debate about CRs and what we are going to do for the balance of this fiscal year is that the debate has focused almost entirely, the spending cuts proposed from the House, on domestic discretionary spending. The $60-plus billion the House has celebrated all comes from that one narrow slice of the pie. Domestic discretionary spending accounts for less than 12 percent of our Federal spending. We cannot solve the $1.5 trillion current-year deficit or the over $14 trillion long-term debt without going beyond that 12 percent of our budget.

What should be particularly challenging to our colleagues is that every day we fail to act, we are seeing not only our debt grow, but we are seeing the amount of taxpayer dollars that we have to spend to pay off current interest rates—current interest payments continuing to rise. As a matter of fact, it is expected at some point over the next 3 or 4 years the amount that we pay out of every dollar collected, simply on interest, will exceed the 12 percent of our current domestic discretionary spending. So all of these current fights about these current cuts that are being proposed, all will be subsumed in interest payments we will all have to make as Americans; dollars that, quite candidly, do not go to build another school, to make another investment, to build another road; dollars that are not recycled in this country but increasingly are owned by folks abroad, increasingly by our bankers in Asia and a disproportionate number from China.

When we have the chance to vote on H.R. 1 this afternoon, I will be voting no. I will be voting no because I think this narrow focus on domestic discretionary spending only for cuts will not get us to the point we need to be in terms of long-term deficit reduction.

Let me again point out where I think the House proposal is so shortsighted. One of the things that Erskine Bowles and Alan Simpson said today: There is no silver bullet in this challenge we have in front of us. It is going to take significant spending cuts. It is going to take looking at the revenue side through the aspects of tax reform. But those two things, revenues and spending alone, still will not get us out of this problem. We have to get a third leg on the triangle, and the third leg on the triangle is a growing economy. How do we grow an economy in a place where America, while still the world's leading economy, does not drive the economy the way it did even 20 years ago?

We saw 20 years ago where the world would have to wait on America to get its financial act together. The world is not waiting now—China, India, Brazil, countries abroad are moving ahead. If we are going to remain competitive, we have to continue to invest smartly.

The President said we have to make sure we educate, we have to invest in our infrastructure, and we have to be able to out-innovate. That means targeted research and development. Unfortunately, the House proposal, which not only focuses on domestic discretionary to the exclusion of other areas of spending but also focuses these cuts on the remaining 6 or 7 months of our fiscal year, takes a disproportionate whack out of these key areas where we must maintain certain levels of investment if we are going to grow the economy to make sure the other cuts and other revenue raisers won't have to be as Draconian.

Let me give a couple of examples. I know the Presiding Officer comes from an energy-rich State. He also realizes we have to diversify our energy mix in this country and no longer be dependent upon foreign oil. One of the things that those of us who have hallowed the benefits of the Internet over the last 20-plus years are quick to point out is that the Internet came about because of initial government investment through ARPA. That led to the development of the networks that created the Internet that have spawned tremendous economic growth in this country.

I believe, and I think many of our colleagues on both sides of the aisle believe, that we need a similar investment in the energy field. That was created, the RPE Program, at the Department of Energy. If we move forward with the House budget proposal, that will cut $1 billion out of the kind of basic research we need to make sure we have a full portfolio of domestic energy sources, renewable energy sources. I, for one, believe it also has to include conservation, nuclear, increased—continued domestic oil and gas, coal—all these have to be part of the mix. But we have to do it in a smarter and cleaner way. Right now, at this point, to cut $1 billion out of that kind of basic next generation research and development, the same kind of research and development that in the IT field created the Internet, would be shortsighted. I think that is true in the minds of most business folks.

We have to get our health care costs under control. Part of getting our health care costs under control means continuing to unlock innovation. Perhaps one of the greatest growth fields of the next 20 years, and something I know the chairman of the Judiciary Committee has been working on in terms of his patent reform, is making sure in the life sciences area America continues to lead in terms of innovation.

Well, where does that innovation come from in terms of government dollars being leveraged four, five, six times? That comes from an investment in NIH. Unfortunately, the House budget proposal cuts $1.3 billion from NIH funding. Well, if you are in stage 2 or stage 3 of the next-generation cancer development drug, to have those kind of trials cut back, to have that kind of basic research cut back, not only in terms of American economic growth but the personal toll it could take on folks who are desperately waiting for solutions to a disease, I believe, is again not a good policy choice at this moment.

As we move forward as well, we have to make sure we outeducate our competitors. No one believes America's future is going to be based on low-wage labor; it is going to be based on a well-educated, innovative, and well-trained workforce.

I think one of the areas this President has not gotten the appropriate

credit for is the fact that he has advanced forward dramatic education reform within his proposals. Unfortunately, the House bill will cut $5 billion from the Department of Education and over $1 billion from the Head Start Program.

When we are trying to look at our kids competing against kids from India and China, does it make sense, if we are going to grow our economy, to slash education programs, if we are going to have that well-trained workforce?

So I do believe the House proposal is shortsighted. I believe it does not do anything to take on the structural deficit our country is facing. I will continue to work with the Presiding Officer and I think a growing number of Members from both sides of the aisle. Our suggestion is to go ahead and take the good work that was put forward by the Presidential debt and deficit commission as at least a starting point and put in place as consequences if we do not act; that we will not solve this issue—which, I believe, is the issue of the day, which as Chairman Mike Mullin said is the No. 1 national security issue for this country, to get our deficit and debt under control—unless we can broaden this debate from the 12 percent of domestic discretionary to include, yes, defense spending, entitlement spending, tax reform, trying to make sure everything is on the table.

The House approach does not do that. The House approach is shortsighted. The House approach will not allow us to grow our economy in a way we need. I will be voting against that proposal when it comes to the floor. But I look forward to working again with all my colleagues to make sure we get a true comprehensive deficit and debt reduction plan that this Congress can vote on and put into action.

I yield the floor and 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. UDALL of Colorado. 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. UDALL of Colorado. Mr. President, I wished to rise to speak on the legislation that is currently before the Senate, the America Invents Act of 2011. I wish to applaud the work of Judiciary Committee Chairman LEAHY and Ranking Member GRASSLEY for working so hard to bring this complex, bipartisan legislation to the Senate floor.

As we work to rebuild our economy, get Americans back to work, and win the global economic race, we should all appreciate this effort to spur innovation and create jobs. Patent reform is an important issue for Colorado's economy and, of course, our national economy. High-tech innovators represent over 12,000 jobs in Colorado, and they are an important part of our economic recovery.

In addition, Colorado has a vibrant biotech, clean energy, and aerospace set of industries. That is why I believe getting patent reform right and achieving consensus on provisions such as inter partes reexamination is so important.

Inter partes reexamines a proceeding at the Patent Office that allows for the validity of a patent to be challenged in an administrative proceeding. These proceedings are intended to serve as a less-expensive alternative to courtroom litigation and provide additional access to the expertise of the Patent Office on questions of patentability.

Inter partes reexam is often the preferred method of examination because a panel of experts is more likely to reach the correct decision on a technical question compared to a jury composed of laypeople. The inter partes process is not frequently used today because of procedural restrictions in the existing law. Rather than expanding the opportunities to use the inter partes reexamination process, the America Invents Act before us today imposes standards that are more restrictive than current law and are not supported by top high-tech innovators.

We need a patent reform bill that is fair to America's innovative technology companies and all users of the patent system.

By failing to provide any relief from the huge burden abusive patent lawsuits impose on technology companies and instead reducing the protections in current law, I fear this legislation will force these companies to spend hundreds of millions of dollars on frivolous lawsuits. These are dollars that otherwise would be used to employ engineers, produce and market new goods and services, and help Colorado and America win the global economic race.

As this legislation moves to the House, we must work to achieve consensus on inter partes reexamination. While I do not believe we have the right balance quite yet, I do believe this bill is a good faith effort to improve our patent system, and I am going to support moving it forward because we cannot let job-creating patents languish any longer.

As we all know, the Patent Office has an enormous backlog of nearly 700,000 applications, in addition to a half million new applications every year. Each of these pending applications will create on average 3 to 10 jobs. But while these applications collect dust in America, other countries are getting a head start on technologies that can revolutionize the way we live. I am very pleased the America Invents Act will address the funding challenges faced by the Patent Office. This legislation will allow the Director of the Patent Office to set fees as necessary, but it will also ensure that those fees stay at the Patent Office—all without any cost to taxpayers. This legislation will allow the Director to finally clear the backlog and create needed jobs through innovation. It is my hope that the funding provisions in the America Invents Act stay in this legislation as it moves to the House.

I am also pleased that this legislation includes an amendment I cosponsored with Senator BENNET to establish additional satellite patent offices around the country. It is no secret that we believe Colorado is well situated to house a regional satellite patent office because of the combination of our rich and diverse innovative economy, our strong research universities and the fact that Colorado is a great place to live. I am confident that Colorado will be competitive in the process of selecting these new satellite patent offices.

In the end, I believe the America Invents Act goes a long way to help unleash America's innovative spirit, but we need to make sure that we don't make changes that could have unintended consequences for some of our most innovative companies. Let's get patent reform right. Let's move it forward, and let's continue working to make our patent system fair, efficient and supportive of innovators as we seek to compete in the global economy.

I thank the Presiding Officer for his attention and interest in his own State of Montana.

I yield the floor.

RECESS

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

Thereupon, at 12:33 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

The PRESIDING OFFICER. The Senator from Pennsylvania.

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. CASEY. 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. CARDIN. 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. CARDIN. Mr. President, I understand we are in morning business; is that correct?

The PRESIDING OFFICER. That is correct.

THE BUDGET

Mr. CARDIN. Mr. President, I take this time to talk about the budget deficit and what we need to do in order to

bring our budget into balance to have a credible plan to deal with our future growth in this Nation.

I start off by saying the budget deficit is an extremely serious issue for this Nation. We do not have a sustainable budget. You cannot sustain a budget that creates debt at 10 percent of our gross domestic product and a gross debt that equals 100 percent of our GDP. We need to bring down our deficit in order to have the type of economic growth that our children and grandchildren will be able to enjoy a better economic circumstance than this generation.

First, before we talk about where we need to go, we have to understand how we got here. I am not going to harp on this, but I wish to make sure the people of Maryland and the Nation know how we got to these large deficits so we do not repeat the mistakes of the past.

During President Clinton's administration, we balanced the budget. I might say, we did that—the Democrats did it—without a single vote from the Republicans. We were on course to retire all of our debt, and that was just 10 years ago.

Then, under President Bush, we cut taxes twice without paying for it. We went to war in Iraq and Afghanistan and did not pay for it. To date, the war in Iraq has cost $770 billion. That is money we had to borrow in order to fight that war in Iraq.

We had chosen, under the previous administration, that it was more important to cut taxes than it was to balance the budget, and that was a mistake. President Obama inherited a huge deficit and an economy that was hemorrhaging 700,000 jobs a month.

Well, it is time now to move forward. We have turned our economy around. It is growing, but we need to do it in a way that does not jeopardize our economic recovery. But it is absolutely essential we start to move our budget back into balance and we take aggressive steps to do it.

Today, in the Budget Committee, we heard from Erskine Bowles and Senator SIMPSON from the debt commission, and I think we were all impressed. If we are going to get a credible plan—which is critically important for our Nation—to balance the budget, we need to follow the example of the debt commission. It does not mean we have to agree to everything the debt commission did. But the debt commission recognized we could not balance the Federal budget by cutting discretionary domestic spending alone; that we need a game plan which brings all the major components of the budget together: discretionary domestic spending, military spending; we need to deal with entitlements, and we need to deal with revenues. We are only going to get this done if Democrats and Republicans work together for a credible plan. That is what we need to do in order to bring back our economy.

The only specific proposal we have had come over from the House of Representatives to date—H.R. 1, their budget—I believe does not follow the example of the debt commission. I believe it is extremely harmful to the process of trying to work out a plan where we have a credible effort to balance the budget with shared sacrifice because the House-passed budget, the Republican budget in the House, gets all its savings from 12 percent of the Federal budget, from discretionary domestic spending, and it jeopardizes our recovery. Mark Zandi, the economist from Moody's, said we would lose 700,000 jobs if the House-passed Republican budget were enacted into law.

Let me give you some examples as to how it would affect the people of Maryland if the House budget became law.

First, let me talk a little bit about some of the budget cuts themselves.

About 10 days ago, I was at the Greater Baden Health Center in Prince George's County, MD. They are expanding that health center to include prenatal care. The reason, quite frankly, is that the infant mortality rate in Maryland is way too high. We rank 29th in the Nation. That is unacceptable. In the African-American community, the infant mortality rate is 260 percent of that of the White community. The problem is, we have too many low birthweight babies. Some die and become part of the infant mortality statistics. Others survive and have complications throughout their lives.

It is in our interest, from every perspective, to bring down that infant mortality rate and to provide prenatal care for women so we have healthier babies. I hope we would all agree to that. We are doing something about that in Maryland, using moneys that were a part of the Affordable Care Act. The Republican budget would eliminate that funding. That community would not be able to expand with prenatal care to do something about the health of our citizens.

Mr. President, 2,900 community health workers would lose their jobs in Maryland—2,900 community health workers would lose their jobs in Maryland—if the House-passed budget, H.R. 1, became law.

I have taken the floor on several occasions, and a little earlier today, to talk about the Chesapeake Bay and the Federal partnership. We have had a Federal partnership in cleaning up the bay. It is the largest estuary in North America. It is a body of global significance, and it is in danger because too many pollutants are entering the bay as a result of population growth, development, and farming practices.

Well, we have a game plan to do something about it. But the budget that passed the House would cut the Chesapeake Bay program dramatically—$25 million—making it extremely difficult for us to move forward on our remedial efforts. Making it even worse, there is an environmental rider that was put on H.R. 1 that says none of the funds made available under this act may be used to implement the bay restoration plan now underway.

What does that mean? It means each one of the States that are in the watershed of the Chesapeake Bay—the States of Maryland; Virginia, the Presiding Officer's State; Delaware; New York; Pennsylvania; West Virginia; and the District of Columbia—they all rely on improving their wastewater treatment facility plants in order to reduce the pollutants going into the bay under the State revolving fund. Well, if that rider became law, the States could not participate in that program. They would not be able to implement one of the major features of their plan in order to reduce the pollutants going into the bay to make it a cleaner body of water.

I could talk about the watershed grants that go to schools and civic associations—eliminated under the Republican budget—or I could talk about how the State gets money to operate its water funds—eliminated under the House-passed budget.

The Environmental Protection Agency sees their budget reduced by over 30 percent. Plus, there are additional environmental riders that make it very difficult for the Environmental Protection Agency to protect the environment.

In Maryland, we would lose $150 million toward the Federal Government's commitment to the Washington Metro system. This affects the entire area, including Virginia and the District. This is the Nation's Metro system that allows the Federal workforce to get to work. We entered into a 10-year commitment with the local jurisdictions, including Maryland, Virginia, and the District, that the Federal Government would be a partner—$150 million a year—toward those costs. The House budget eliminates those transit funds.

The Republican House budget would cut Head Start by $1.1 billion. Mr. President, 157,000 children would be affected, 2,300 in the State of Maryland—2,300. These are children who are getting a better start in life because of this program, and the budget passed in the House, H.R. 1, would eliminate those services for so many of our children.

Pell grants, to allow families to be able to afford a college education, are reduced by $5.7 billion. It affects 9.4 million students. What does it mean for the people of Maryland? It means those who have Pell grants today could see their grants go down by as much as $650. I can tell you, there are many families in Maryland who cannot afford that extra $650. Without a college education today, it is difficult to be able to be as competitive as you need to be in order to take advantage of our economic opportunities.

The WIC Program that helps women and infants and children is cut by 10 percent under the House-passed budget. NIH funding is down $1 billion.

Research—and not just at NIH, located in Maryland, but also at Johns Hopkins University and the University of Maryland Medical Center—would be

disrupted if the Republican-passed budget, H.R. 1, were to become law.

Our challenge, as President Obama said in the State of the Union Address, is that we have to outeducate, outinnovate, and outbuild our competitors so that America will be able to compete in the 21st century globally. That is our challenge. H.R. 1, the Republican budget, doesn't allow us to do that. There is a better way of doing it, and, as the President said, we need to do it in a fiscally responsible way. How do we do that?

We need a credible plan to balance the Federal budget—a credible plan that will bring in more deficit reduction than H.R. 1, the Republican budget, because you need to allow America to grow, yet move toward a balanced budget. The only way is to include all sectors, not just discretionary domestic spending. You need to include military spending, you need to deal with entitlements, and you need to deal with revenues. President Obama's budget starts us down that path by freezing discretionary domestic spending over 5 years. We have already gone further than that in the continuing resolution we have passed. We are going to go back to 2010 numbers or even below that.

We have already put on the table dramatic reductions in the growth rate of discretionary domestic spending, but we need to include defense. Iraq and Afghanistan need to come to an end; those savings will be dramatic. America cannot continue to have a growth economy where we spend so much more than any other nation on our national defense. We have to protect the people in this Nation, but we cannot take on the burdens of the world. There have to be adequate burdens among our allies, which will bring savings to the U.S. taxpayer.

In entitlement spending, we need to bring down costs. We took a major step forward in doing this in the Affordable Care Act. One of the areas in which I agree with some of our Republican friends who are criticizing the CBO is that their numbers are off. We are going to get more savings, not less, than what the CBO estimated.

I am convinced that when you deal with people in preventive health care and use better information technology, when you manage people's diseases, when you deal with readmissions so people understand what they need to do to stay healthy, when you put all that together, when you expand our community health centers, as I said earlier about what happened at the Greater Baden center on prenatal care, when you do all that, it will bring down the rate of health care costs.

America spends more than any other nation, any way you want to calculate it, on health care. We don't have the health care results to demonstrate that type of commitment. We can bring down the cost of health care, and when we do that, by implementing the Affordable Care Act and making sure we get those savings, we will bring down the Medicare costs and we will bring down the Medicaid costs, which will save taxpayers even more under our entitlement spending. We can get those savings.

By the way, we are going to save middle-income families in this country by also reducing their costs for health care. That is what we need to do to make our economy stronger.

We can do something about entitlement spending, and there are other areas we need to look at. The farm subsidy programs need to be reviewed, and the debt commission made recommendations in that regard that I think are worthy of our review.

Then there is revenue. Yes, I think we need to take a look at revenues. Our current income tax structure cannot be justified, as has been pointed out frequently. We hemorrhage as much revenue in our Tax Code as we raise. If you eliminated all the special provisions, you could cut the tax rates in half. Since we had tax reform in 1986, we have added so many new loopholes and provisions and special interest provisions in the Tax Code. In 1986, we attempted to lower the rates and make sure everybody paid their fair share. Well, it is now 2011, and we are out of balance, and we need to look at tax reform.

I urge, in looking at tax reform, that we should look at consumption-based taxes. I know the criticisms of that, but I will start by saying that if we had consumption-based taxes to deal with some of our income tax revenues, we would be more competitive internationally. If you are an export company and you are choosing whether to locate in America or in another country, you pay income taxes here that cannot be taken off the price of your product when you put it in the international marketplace. If you locate in another country that uses consumption taxes at a higher level than we do—we don't use it at all—but a higher level than our income taxes, that country will allow those exporters to take the tax off when they put their products into the international marketplace. That is acceptable under the World Trade Organization, putting American producers at a disadvantage.

We need to save more as a nation. We have heard over and over the point made that America, during the height of our economic progress, had one of the lowest savings ratios in the world. We need to save more as a nation. Our Tax Code should encourage savings much more than it does today.

I want to make it clear that I am totally committed that in tax reform we should make our Tax Code more progressive. I don't believe it is progressive enough. Progressive means that it is based, at least in part, on the ability to pay. Wealthier people will pay a higher percentage of the tax than lower income people. Today, under our income tax system, many people do not have to pay income tax now. We can design a consumption tax, so they won't have to pay a consumption tax and there is no new tax burden. There are proposals out there that can take more people off the tax rolls.

By the way, this is a zero-sum game on revenue. Let's decide how much we need and then raise it in a cost-efficient way that will allow America to grow.

That is the type of reform I hope we will be able to get. If we do, it will mean not only bringing our budget into balance by a credible plan that deals with discretionary domestic spending and military and entitlement and revenues but does it in a way that allows America to grow by investing in our future—in education, in energy, in our transportation infrastructure and transit and all those areas that we need—so that we can meet the challenges of the future but do it in a way that is fiscally responsible.

How do we get this done? We get it done by coming together and listening to each other. I don't think anybody here has a monopoly on what is right. For the sake of our Nation, let's listen to each other and try to get this done in a way where we have a credible plan. It has to be a credible plan. These are not Democratic or Republican or Independent problems; these are American issues. We have to put our Nation first.

I hope we will step back a little and listen to the debate and use the debt commission as a model of civility. Again, I am sure we will have different views on it, but at the end of the day, I hope we can achieve at least the deficit reduction of the commission. I think we can. The people of Maryland and the country want us to do this. Working together, I think we can accomplish those goals.

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

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

Mr. DEMINT. Mr. President, I have been sitting in my office listening to news reports about the Congress and the President arguing about the budget and the debate about what we are going to cut. It is interesting to think back over the last couple of years, because it is hard to put these things together. After 2 years of the largest expansion of government, the biggest increase in debt in our history, now suddenly we are debating what needs to be cut.

I think over the last couple of years as the President proposed a massive spending plan—which we called a stimulus—and Republicans were saying no, that is not the way to improve the economy. But the President insisted it would keep unemployment below 8 percent and get our economy going again.

Republicans said no. We were accused of being the party of no. As it turns out, we were right.

Then it wasn't too long until the President insisted we needed essentially a national takeover of our health care system, and this, he promised, would lower the cost of health insurance. Republicans said no, what we need is more freedom for patients and physicians to work together, and more transparency, more competitiveness in the market. The President said no, that his way of nationalizing health care was better. Republicans were again called the party of no for saying that was not the way to go. But as it turns out, we were right. Insurance premiums are headed straight up. Even the New York Times today talked about skyrocketing insurance premiums and less health care.

Well, it wasn't long after that until the President and our Democratic majority wanted more national control of our whole banking system, with the financial reform that was supposed to loosen credit and help our economy get going again. But I have talked to too many bankers back home to believe that worked. Of course, Republicans said no, that wasn't the direction we needed to go. We were called the party of no. But as it turns out, we were right.

You might say we were the party of no, but you spell it K-N-O-W. We knew this centralization of power, of government control, was not going to stimulate our economy, that it was not going to improve our health care system, and it wasn't going to improve our banking system. It was the time to say no.

Last November, the American people decided it was time to say no. They began to put a stop to what has been going on around here, and we know what happened in the House and the elections over here. The American people were pretty clear. They instinctively knew we couldn't continue to spend more than we were bringing in. They knew when you are borrowing 40 cents on every dollar you spend that sooner or later the country is going to be bankrupt.

But it is amazing that since that election, even with the changes here, our colleagues on the other side the other day killed a proposal to balance the budget—a resolution that called for the balancing of the budget. I think most Americans know if you are not willing to balance your checkbook or balance your budget, sooner or later you are going to be bankrupt. I think that is what a lot of Americans are afraid of right now.

I think we have a different situation going on with our colleagues on the other side. From Wisconsin to here in Washington, as we look at the budget problems and the debate on how to cut spending at the Federal level, we have a party of no show. They are not showing up for the debate in Wisconsin. The Democrats headed across the State line. And in the budget debate, the President, who had pledged to do something about our spending and our deficits and go through the budget line by line, didn't even produce a budget. And regarding the budget he proposed this year—and promised that it would keep us living within our means—even the most liberal commentator said this expands our debt nationally probably more than $10 trillion over the next 10 years. We are over $14 trillion in debt, we hit our debt ceiling within the next month or 2, and we are debating how much to cut.

I want to talk a little bit about this debate because it shows that even with the astounding election we had in November, very quickly Congress is back to business as usual. The deficit we are looking at this year in America—this is just 1 year—is over $1.5 trillion. That is going to be on top of the $14 trillion that we are already experiencing. The projections are that we will increase our debt over the next 10 years another $1 trillion every year. Last month, in February—which was a short month—over $220 billion of debt was incurred in that 1 month. That is a larger deficit than we have experienced in most years our country has been around. It is crazy, $220 billion in 1 month.

We are facing $1.5 trillion this year. It is amazing how this place can lower our expectations. Do you know what the debate is about right now? The Republican House has proposed $61 billion in cuts against the $1.5 trillion. The Democrats have told us this is completely unacceptable; these are Draconian cuts. The President proposed around $6 billion. I think the Democratic leader is coming out with one that is about $4.5 billion, which some say is too much of a cut.

As we are looking at doubling this $14 trillion deficit over the next 10 years or close to doubling it, and the hard decisions we have to make about how to deal with Social Security and Medicare, the big decisions about how we economize even in areas like our defense, how we possibly deal with this debt, we have a Congress now that instead of addressing the issue of $1.5 trillion is debating between $61 billion and $6 billion. These are fractional. You cannot even see the line here, of what is being proposed by our Democratic colleagues.

I am afraid that President Obama and Democrats, like we see in Wisconsin, are not showing up for this debate. Instead of proposing realistic ways to tighten our belts at the Federal level and look at how we can balance our checkbook, as so many Americans have to do every month in their homes, the President has decided to sit on the sidelines and criticize things that have to be trimmed or cut or changed.

It is amazing. The Democratic leader has called Republicans ''mean spirited'' because they are proposing to cut funding for a cowboy poetry festival. I love poetry and cowboys as much as anyone else, but we are looking at bankrupting our Nation, destroying the future that was given to us by our predecessors, and we cannot even get close to a realistic debate on how we can stop this rampage toward bankruptcy in America. There is not enough there. Even what the House Republicans have done is not enough. I realize that politics is sometimes the art of the possible, but I am hoping it can become the promotion of the principles that make this country great and can secure our future.

We all have to decide today how we are going to vote. Obviously, this $6 billion is not a serious proposal by our Democratic colleagues. But I think those of us who realize we are up against a mountain of debt—how do we deal with even the highest proposal now that is coming through Congress? My point is this: There are some hard decisions that have to be made in Washington, some very hard decisions. There is a new reality that we have to face as a Congress. We have to tell the truth. Americans just want the truth. They want fact-based budgeting. They want us to do what we need to do to save our country. Obviously, no one wants anything that is coming to them to be cut, but I have talked to too many Americans who have said: Keep fighting. Do what has to be done to leave this country as good as we found it. I think that is a reasonable request for us to consider.

What we are doing is not even within the realm of reality of what has to be done to leave America better than we found it. This is not about partisan politics anymore, this is about the survival of America. This is about avoiding bankruptcy not just for our country, but this country has been the bastion of freedom and the model for democracy and freedom for centuries. The other countries even today are looking to us and wanting to be free as violence erupts around the world. They want to overthrow authoritarian regimes so their people can live in freedom. But at the time other countries strive to be like America, America seems to be determined, at least at the political level, to push our way toward being a Third World country that is so in debt and so dependent that we can no longer determine our destiny.

Today America is literally on its knees to China and other countries for the credit we need to run our economy. We are also on our knees to the Middle East, which is very unstable right now, for the energy we need to run our country, to even take our food to market, the essentials at home. But instead of addressing the real issues, knowing this budget is in front of us, over the last couple of weeks, when we knew we just had this 2-week funding bill to get us through, instead of debating what we are really up against we have been dealing with a patent bill.

I think it is good to improve our patent system, but the party that is leading the Senate has been a no-show on

the issue that is really threatening our country. And unless they show up, it is very difficult for Republicans—who are not in the White House; they are not controlling the Senate—to actually take the steps that are needed to move our country back in the right direction.

My invitation today is to my Democratic colleagues, that after listening to them call us the party of no, I will say that we were right, and our hope is they will listen to what we are saying and show up for the debate on our budget and do what we need to do to change the role of the Federal Government, to devolve functions back to the States and back to individuals so this country can continue to survive and thrive and succeed in the future.

This is within our grasp. It is something we can do. This is not a doomsday scenario because many of the solutions are not in what the Federal Government can do but what the Federal Government can let go of. As we look at the problems we have, it is not a matter that freedom has failed. The problem is we have failed to let freedom work. We have tried to take control of education, of health care, of transportation, of energy, of retirement programs. The fact is, we have not done it well and now we are spending so much that our country is threatened with bankruptcy. There are good solutions if we are willing to look at letting things go.

As we consider this massive debt hill we have to climb, we need to realize we can and we must balance the budget. That is probably what I would consider the No. 1 goal of the Republicans right now is to produce a budget that shows within 5 years that we can balance the budget and leave America better off than before we started. I believe with real freedom solutions we can do that.

We need to go back to where we started. This political system, this Washington establishment has brought America to the brink of bankruptcy. The debt in 1 year—even 1 month—and we are talking about not even addressing for maybe a few days and we cannot even agree on this $61 billion.

I hope the American people who were so instrumental in changing things in November will rise up and let Washington know that it is time to get serious about reforming the way we spend money in Washington. We have had reports in the last week that show over $100 billion of outright waste that we could cut immediately if we would just address it. But when one party will not show up for the debate it is very difficult to do.

Let's make this more than partisan politics. Let's cooperate. Let's look at the real problem and let's address it. I believe we can succeed.

I yield the floor and 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, I inquire of the Parliamentarian: My understanding is, we are in morning business with Senators permitted to speak for 10 minutes each.

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, there is a lot of talk these days about dangers posed to our national security from far away places: revolution in Libya, the war in Afghanistan. They get our full attention. But what about the dangers that lurk inside our Nation?

We have a domestic situation, a danger that is directly visible, and we are about to stoke that fire. House Republicans are going after something as fundamental as the air our children breathe.

The budget they recently passed calls for the gutting of the Clean Air Act, which is a clear and present danger, as they fail to solve a major fiscal requirement. That includes the expansion of revenues to balance the budget rather than simply the slash-and-burn policy we are now undergoing.

The Clean Air Act protects our children from toxic chemicals in the air and illnesses such as asthma and lung cancer. Last year alone, that law prevented 1.7 million cases of childhood asthma and more than 160,000—160,000—premature deaths, according to EPA. Those numbers are big, but they loom a lot larger when it is your child. As we often say here, what goes around can come around.

If you want to know the real value of the Clean Air Act to America's families, talk to the millions of parents who live in fear of their children's next asthma attack. It is a fear my own family knows all too well. One of my grandsons suffers from this disease. He is an athletic young man, and every time he goes to a competitive game, my daughter first checks to see where the closest emergency room is, if she hears him starting to wheeze.

The House Republican budget says to these families: We are sorry, we are here as accountants and we are not here to worry about these humanitarian things—as ridiculous as that sounds. But that is the result of the work they have done over there with their budget.

They say you cannot restrict polluters with regulations because it is too cumbersome. If you do not like regulations, get rid of traffic signals. Those red lights slow traffic down. It is a terrible inconvenience. Think of the outcome if you had no red lights. Or maybe they would get rid of the air traffic control system—pilots having to wait for some governmental bureaucrat to tell them when and where they can fly, land, or take off.

The House Republican budget does not even allow us to control mercury emissions. Mercury is brain poisoning for children. The Centers for Disease Control has said mercury is a potent neurotoxin that can—and I quote here from their statement—''permanently damage the brain, kidneys, and developing fetus.'' Yet the House Republicans want to return mercury to our Nation's air.

The House Republicans also, in their budget, prevent the EPA from strengthening air quality standards for soot pollution. Soot pollution reaches deep into the lungs and causes serious health problems, especially in the very old or the very young. As shown in this picture I have in the Chamber, you see how ugly it looks. It is much uglier when it reaches inside a child's body.

Studies have linked soot with aggravated asthma, heart attacks, and premature death. Why would we want to weaken our clean air laws and allow polluters to pump more smog, more soot, and more toxic substances into the air our children breathe?

It is pretty simple: The tea party Republicans in the House apparently do not care about protecting our children's health. They only care about one thing: cutting the budget no matter the real cost, the long-term pain that can follow by cutting these budgets.

The question we have to ask here is: Do we want our children to be able to play outside in clean air that allows them to grow and be healthy? Or should we keep them indoors all the time?

If you want to see where the House Republicans will lead us, look at China. China has no clean air act. The air is so polluted that many people wear masks when they walk outside. During the Olympics in Beijing, some U.S. athletes delayed their arrival to avoid the polluted air.

On a trip I took to China some years ago, I went to visit the Minister of the Environment, and he complained. He said: Look at how the United States fouls the air with their burning of fuel. I asked him to join me at the window. We were on the 23rd floor. You could not see the sidewalk—that is how heavy the pollution was in the air.

We do not want to be like that. We want to make sure we take care of our obligations. And the strongest obligation anybody has in America is to their children. Interestingly enough, what is happening now is: The phone calls that came to my office in New Jersey at first seemed to support these irrational budget cuts; and now they have turned around and they do not like what they see.

We would rather make sure our children are taken care of, that we try to balance the budget in more efficient ways. The one I talk about on a regular basis is revenue. I ran a pretty good-sized corporation before I came to the Senate and I know something about financial statements. I knew one thing: that we had to continually improve the revenue so we could, in that corporation, increase the profits and not cut

staff needlessly or endlessly while the company got weak. We cannot do it in this country of ours.

So we face a very difficult task because people are feeling the squeeze on their incomes, concerned about job protection, concerned about being able to stay in their houses. We still face a lot of foreclosure possibilities for homeowners. They cannot educate their children, cannot take care of their health. We cannot say to them, as we used to say, that we know our children will do better in the future in their lives than we did in ours. We cannot say it and be honest about it. We do not know that is true. If we continue along the path we are on, we are going to be looking at fairly bleak things to tell our children about as they grow, if we do not work harder to balance the budget, educate our kids, make sure their health is good, with America being what it is always thought to be: a golden opportunity to bring your families up and make sure life is acceptable or better than they otherwise might have had.

Madam President, how is the time here?

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator used 9½ minutes.

Mr. LAUTENBERG. Madam President, I will take that half minute, and I ask unanimous consent that if I go over the half minute that I get 2 more minutes.

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

Mr. LAUTENBERG. Madam President, I served in World War II a long time ago, but I have been around a long time. When I went into the Army—I enlisted when I was 18—my father was deathly ill with cancer. My mother was 37 years old. The prospects for life for our family were grim. I went to the Army. My father, with a condition, arranged with the recruiters that I would be allowed to stay home till my father passed away. He was 43 years old. My mother became a 37-year-old widow, and things were tough. Money was owed to doctors and pharmacists and hospitals.

Why do I talk about this now? It is because I was given the benefit, as were 8 million others who were in uniform, to get my college education. I went to Columbia University. It was so far distant from my vision when I graduated from high school and enlisted in the Army. It turned out to be the greatest generation America has ever seen. It was because the government intervened at the right time and made sure that education was abundantly available for those who could learn. That is what we ought to recall about America, and not this kind of a gloomy picture that says, OK, we are growing, but so are the threats to health and well-being.

EXTENSION OF MORNING BUSINESS

Mr. LAUTENBERG. Madam President, I ask unanimous consent to extend morning business until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. LAUTENBERG. 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. HATCH. Madam 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. HATCH. Madam President, before the Senate moves to final passage of the America Invents Act of 2011, I wish to express my unequivocal support for this bill. This is not a perfect bill, but the fact is it is going to be a very important occasion to pass this because we haven't passed a major piece of patent legislation for over 60 years or around that length of time. It has been a long time in the making, but it is well worth the effort to modernize our patent system. Despite modifications along the way, the bill retains its strength and ability to bring about true reform.

In considering our country's economic condition, the bill's passage could not come at a more opportune time. The America Invents Act is integral to creating jobs and spurring growth across all sectors of our country. After all, jobs and economic growth are crucial to maintaining our Nation's dominance in innovation and entrepreneurship.

I would like to briefly mention a few key provisions of the act that improve our outdated patent system. These include transitioning to a first-inventor-to-file system, which all the rest of the world has; allowing third parties to submit relevant prior art during patent prosecution; creating a patent quality-enhancing supplemental examination process; and instituting a post-grant review and an inter partes reexamination expansion. All of that is extremely important.

The bill provides fee-setting authority and addresses a long-felt need by the patent community and now by the majority of this body to end the practice—the obnoxious practice—of diverting fees from the U.S. Patent and Trademark Office. No wonder we have such a rough time getting things to work.

Finally, the legislation makes important clarifications to tax strategy patents and creates a pilot program to review already-issued business method patents.

This enumeration underscores a holistic approach that strikes the right balance. I hope everyone in this Chamber recognizes what we are accomplishing. We have come together in a bipartisan fashion to invigorate some of our country's greatest strengths—our ideas and our inventive spirit.

Let me conclude my remarks by commending Senate Judiciary Committee chairman PAT LEAHY for his leadership and tenacity in moving this bill through the Senate. He deserves a lot of credit. His vision and tireless efforts have made today's vote a reality. Together, we have worked on patent reform legislation since 2006—and in reality, even earlier than that—passing the torch of leadership along the way. One time, I was chairman; he has been chairman. It is satisfying to see the time has finally come to pass this bill.

I would also like to acknowledge the hard work of our distinguished ranking member, CHUCK GRASSLEY. His unwavering support and commonsense approach have been invaluable in this process.

I wish to acknowledge the various staff members of Senator LEAHY, my staff, and Senator GRASSLEY's staff for the work they have done on this bill—very important. Likewise, contributions of the members of the Senate Judiciary Committee and other Members of this body have enriched our debate.

Finally, as I have said, I wish to thank our bill managers' staff for their sustained efforts throughout the process. Aaron Cooper, Bruce Cohen, Rita Lari Jochum, and Kolan Davis have been instrumental in getting us to this point. I also thank my own counsel, Matt Sandgren, who has done a terrific job on this bill for all these years we have been working on it, and Remy Yucel, my USPTO detailee, for her and Matt's commitment and perseverance over these many years. They have been a formidable team.

I also acknowledge the important work of Joe Matal, Sarah Beth Groshart, Tim Molino, and Curtis LeGeyt.

Madam President, passing the America Invents Act is the right thing to do, and I urge my colleagues to join in this monumental undertaking. It is the right thing to do, it will help our country, it is going to reestablish our patent laws in ways they should be, and it will stop the fee diversion that has been going on, assuming we can get help from the House as well, and I believe we will. It will be a bill that I think we will have to go to conference on and hopefully be able to perfect it even more. I am grateful for all who have been involved, and I hope and pray we can get this through both Houses of Congress and establish this monumental bill at a monumental time. It is very important in all our lives.

Madam 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.

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

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

EXTENSION OF MORNING BUSINESS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent to extend morning business until 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

Mrs. SHAHEEN. Mr. President, we have now almost a 9-percent unemployment rate in this country. I think the good news is that unemployment dropped to 8.9 percent, but it is still way too high. We have a $1.6 trillion deficit. Yet, despite these enormous challenges, Congress still has not passed a Federal budget for this year. Our deadline to pass a 2011 appropriations bill was September 30 of last year, but Congress still has failed to meet that deadline. Last week, we passed our fifth short-term continuing resolution to keep the Government open.

At some point soon, I think maybe this evening, we are going to be voting on the House Republicans' package of budget cuts that I believe threaten our economic recovery. After moving on from that, we will still need to pass another continuing resolution by the end of next week in order to avoid a Government shutdown.

While we are debating these short-term continuing resolutions, in China and India and Germany, they are debating long-term investments in education, energy, technology, and research. Those are the decisions with the potential to shape the global economy for many decades to come. Meanwhile, here at home, we are fighting about whether we are going to keep the Government open for 2 weeks. This kind of short-term budgeting is not just hurting our future, it is hurting our economy today.

Just last week, I heard from a company in New Hampshire about the effects of Congress's failure to pass a full-year budget. The company is called Nitro Security and it is located in Portsmouth, NH. It is a company that is at the forefront of the emerging cyber security industry. Even in a difficult economy over the last couple years, they were named one of the 600 fastest growing private companies in the Nation. Yet, despite most of their business coming from the private sector, Nitro Security also has significant contracts protecting data systems at the Department of Defense, NASA, and even the Food and Drug Administration. They should be creating jobs and helping to get our economy moving again, but because Congress cannot conduct its business on time, their stalled contracts mean they have not been able to hire new workers. We are missing out on these jobs because Washington's budget process is broken.

Congress needs to do better. In the last 30 years, Congress has only completed the annual budget process on time twice—just two times in the last 30 years. That is a 7-percent success rate. Solving our long-term deficit problems and reinvigorating our economy is going to require tough choices, but we are never going to be able to make these choices until we change the way Washington does business. That is why I joined Senator ISAKSON in proposing the Biennial Budgeting and Appropriations Act, to bring sorely needed oversight and long-term planning to the Federal budget process. Our legislation would dedicate the first year of a Congress to appropriating Federal dollars and devote the second year to scrutinizing Federal programs to determine if they are working and deserve continued funding.

Because of annual budgeting, Members of Congress do not have the time we need to conduct careful, thorough reviews of Federal programs, and Federal agency staff are required to dedicate countless hours every year to preparing the budget and to explaining what they do, rather than accomplishing critical missions. As a result, we continue to spend money on projects that are duplicative, sometimes failing, and often no longer useful.

In fact, just last week, the Government Accountability Office released a landmark report on Government duplication and overlap. The report reveals that in as many as 34 different areas across the Federal Government, agencies are offering overlapping services to similar populations.

As we think about how we need to address our debt and deficit, we should begin by eliminating these kinds of duplicative programs. That is the type of reform we should be considering. We should be eliminating duplication and making targeted cuts and investments in our future. We should be making investments in projects such as the Memorial Bridge, which connects New Hampshire and Maine and is a critical economic engine for the seacoast region of New Hampshire and Maine and the shipyard that is so vital to making sure we can upgrade the ships in our Navy.

Even though this bridge has been recognized as a national priority and it enjoys support from the Maine and New Hampshire Senate delegations, the project to replace the bridge has been threatened by ill-considered, reckless cuts in the House of Representatives' continuing resolution. These are the consequences of short-term budgetary thinking: They are penny wise and pound foolish.

In another example we have in New Hampshire, the Bureau of Prisons has recently completed construction of a Federal prison in the north country of New Hampshire in a community called Berlin. The cost—$276 million. As the construction was wrapping up, the Bureau of Prisons requested activation funding for fiscal year 2011 to hire rank-and-file officers and begin getting this prison ready to open. But because we are operating on this short-term continuing resolution that fails to account for these types of situations, we now have a state-of-the-art, $276 million prison that is sitting vacant. We have a warden who is there who is waiting to hire staff. The Bureau of Prisons needs the 1,280 inmate beds this facility will provide. The community needs the $40 million annual economic impact from this prison and the 340 jobs this facility will provide. But none of these important objectives are being met because our budget process is not working. Instead, the Bureau of Prisons is spending $4 million a year to maintain an empty building.

As Members of Congress, we are entrusted with the responsibilities of spending taxpayer dollars wisely. Our current budget and spending process makes it all too easy for waste and inefficiency to remain hidden and, at the same time, important priorities are neglected by the whims of a chaotic annual budgeting process. Switching to biennial budgeting will not solve all our problems, but it would certainly be an important step toward greater oversight, increased accountability, and a more responsible government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first, I thank my colleague from New Hampshire for her great leadership on the subject about which she just spoke; that is, the necessity of moving beyond our old system of having appropriations bills every year. I have advocated, for a long time, exactly what she is taking the lead on; that is, every 2 years do the appropriations and then we can do oversight. As the Senator from New Hampshire correctly pointed out, we don't do oversight because we are always wrapped up in some appropriations measure or budget measure every single year.

It is time we move and move as rapidly as possible to biennial budgeting so we can fulfill one of our most important obligations, which is to find out what is working and what is not working so we can have oversight. I thank my colleague from New Hampshire for her leadership in this area.

I yield the floor.

Mrs. SHAHEEN. I thank Senator HARKIN for his efforts over the years to try to move us to a biennial budget and a process that gets a budget done that makes a lot more sense and allows us to be a lot more thoughtful about how we are supporting programs in our Federal Government.

Mr. HARKIN. Just make sure I am on your bill, OK?

Mrs. SHAHEEN. We will.

Mr. HARKIN. Put my name in because you are right on—and Senator

ISAKSON. It is a bipartisan effort and it should be a bipartisan effort. I talked to a number of my colleagues on the other side of the aisle who believe the same way we do about this. Hopefully, we can have a good, bipartisan approach.

I wish to take a few moments to talk about the budget and what we are confronting right now in the Congress. First of all, we all agree—I think we should all agree—the deficits we have now are unsustainable. They are a drag on our economy, they jeopardize our future, and they have to be brought under control. I am committed to finding a bipartisan approach to try to get us through this and to attain this important goal of bringing the budget under control and balanced for the future.

I might just say for the last three decades, I have been proud that my party, the Democratic Party, has been the party of fiscal discipline and balanced budgets. Well, that may come as a shock to some people, but let's review the history.

When Bill Clinton became President in 1992, he inherited at that time the largest deficits in U.S. history. Well, he joined with Democrats in Congress to pass a balanced deficit reduction law that resulted in the largest surpluses in history and put us on a path, by the year 2000, to completely eliminate the national debt within a decade. I was here for that. Every single Republican voted against it, every single one.

Likewise, President Obama inherited from President Bush a deficit in excess of—are you ready for this one—$1 trillion and a deep recession that made it even worse. Once again, we Democrats are committed to bringing this under control and to do it in a fair and balanced way.

But as a former President once said: Here we go again. In December, my friends on the other side of the aisle, the Republicans, insisted that we extend tax cuts largely benefitting the wealthy, add $354 billion to the deficit this year, and even more next year. Then they voted to repeal the health reform law on the House side, which would add $210 billion to the deficit over the next decade. Now these same people are shedding crocodile tears and claiming to be worried about the deficit.

Let's be clear. There is a right way to balance the budget and there is a wrong way. We can balance the budget in a way that is fair or we can do it in a way that is manifestly not fair, that will deepen the gulf between the rich and the poor and further erode the middle class in our country.

H.R. 1, which I assume we will be voting on shortly, embodies the Republican approach to reducing deficits, driven by ideology that absolutely rules out any tax increase. It kind of holds the Bush tax cuts to the wealthy to be almost sacred. Instead, they take a meat ax to the essential parts of the budget, everything from cancer research to education to safety net programs for our most vulnerable citizens.

Well, we have seen this movie before—you know, give tax breaks to corporations and the wealthiest people in our society. Then balance the budget on the backs of the middle class and low-income in America. These are bad priorities, they are bad policies, and they are bad values.

The right way is a balanced approach. This must include spending cuts. We have made cuts in my own appropriations bill. But it also includes necessary revenue increases while making room for critical investments in education, job training, infrastructure, research, things that are essential to economic expansion and job creation in the future.

We know this balanced budget approach can work. As I said, that is what we did in the early 1990s under President Clinton. We did both. We cut spending and we raised revenues. As I said, every Republican voted against it. But that single act of Congress, that bill signed by the President, led to the largest budget surplus and the longest economic expansion in U.S. history and created 22 million new jobs.

Now, H.R. 1, which has come over from the House, their approach on how to bring the budget under control, will kill jobs. Mark Zandi, top economic adviser to Senator MCCAIN's campaign in 2008, estimates H.R. 1 will kill some 700,000 jobs. Federal Reserve Chairman Bernanke estimates it will kill 200,000 jobs. Nobody knows for sure. But what they all agree on is it will kill jobs. With about 9 percent unemployment, a fragile economy—we are just now starting to increase employment in this country—why would we be asked to vote for a bill that we know, that everyone agrees, will kill hundreds of thousands of jobs?

Well, we do not reduce the deficit by increasing unemployment. That is what H.R. 1 will do. It will slow economic growth, drag us back into a recession, and make deficits even worse. H.R. 1 slashes the entire gamut of education programs that are so essential to provide a ladder of opportunity for our younger generation in this country. It slashes the safety net for our most vulnerable citizens—infants, children, seniors, and people with disabilities. So if you vote for H.R. 1, the House bill, you are voting to slash title I grants to school districts by nearly $700 million. It means that 2,400 schools serving 1 million disadvantaged students could lose funding.

If you vote for H.R. 1, you are voting to slash community health centers by about $1 billion. That means you eliminate funding for 127 clinics in 38 States. If you vote for H.R. 1, you are voting to slash Head Start Programs. Why would you want to take it out on kids? Why would you want to say: Oh, we have to balance the budget so we are going after Head Start kids? But that is what it does. It eliminates services for about 218,000 children and their families next year, about a 25-percent reduction in Head Start.

If you vote for H.R. 1, you are voting to slash childcare. The child care development block grant would be cut by H.R. 1. If you vote for H.R. 1, you are voting to undermine Social Security.

Well, people say: How is that? Social Security is not involved in H.R. 1. Well, it is in this way: We know because of the recession more and more people have applied for SSI, supplemental security income. They have applied for disability. They have gone on disability or basically they have just retired.

Well, in order to take care of this huge increase in the number of people applying, we have to have people who will take the cases in, review them, make sure people are eligible, cut the checks, and get the money out. That is called the Social Security Administration. Well, H.R. 1 cuts the funding for doing this $125 million below last year's funding level. That means every American filing for benefits this year will have to wait even longer. Right now, it is almost 400-and-some days. That is over a year. That is over a year.

Think about if you are on disability, if you are disabled and you cannot work and you filed for a disability claim. You are waiting a year and a half in order to even get your first check. Well, H.R. 1 would cut it even more and would probably increase waiting times up to 2 years or maybe even more than 2 years. So it undermines the safety net of Social Security.

If you vote for H.R. 1, you are voting to slash student aid. It cuts the maximum Pell grant by $845. That is 15 percent below where we are now. You might say: Well, that is not that big a deal. Well, it is. I tell Senators, check two things. Check with your private not-for-profit schools in your States. They do a great job of educating low-income students because they are able to utilize Pell grants plus endowments. They put them together. They do a great job in every one of our States educating poor kids. Start taking away that Pell grant, we lower that Pell grant, that means a lot of poor kids will not be able to go to school. That means the private non-profits would have to raise the tuition on other kids. That means some of them would not be able to go, and we start an escalator effect in our colleges.

I just had the President of the University of Iowa, President Mason, in to see me today talking about one of our great universities in Iowa, the University of Iowa. She told me, President Mason said that cutting Pell grants would affect probably close to 5,000 students at the University of Iowa. Sometimes this is the difference between whether they are in school or they are not in school or it could be the difference between a Pell grant or they have to go out and borrow more money and take on more debt.

So if you vote for H.R. 1, you are cutting student aid. If you vote for H.R. 1, you are going to slash job training programs. The House bill that came over, H.R. 1, completely eliminates Federal funding for adult training, dislocated worker assistance and youth training programs, completely eliminates it. These programs provide job training and reemployment services to about 8 million Americans every year, 8 million. They just do away with it.

If you vote for H.R. 1, you are voting to slash the community services block grant. Well, they cut about $305 million from that. That provides services to some of our lowest income people and elderly. If you vote for H.R. 1, you are voting to cut investments in infrastructure, highway funding, sewer and drinking water funds, and rural economic development funding because H.R. 1 slashes community development block grants by 62 percent.

Now, I say go out and talk to your mayors, talk to your city council, talk to your boards of supervisors in your counties. Ask them if they can take a 62-percent cut in their community development block grants and what it is going to mean to them.

Well, I cannot help but also speak to my own constituents in Iowa about what this means for my own State. If H.R. 1, the House bill which passed the House, if it were to be passed and enacted into law—well, I mentioned about the cuts that we are having in the Job Corps. It would basically kill the Denison, IA, Job Corps Center, which employs 163 people. It provides training to 450 at-risk students each year, and we have a new Job Corps Center just being built, just being opened in Ottumwa. That will probably just come to a screeching halt. It is supposed to be opening later this year.

It would shut down at least the community health center in Centerville, IA. That is H.R. 1. H.R. 1 would be cutting down the community services block grant and would shut down the Red Rock Community Action Agency serving Boone, Jasper, Warren, Marion, and rural Polk County.

H.R. 1, as I mentioned, would completely eliminate funding for job training programs, which assisted more than 35,000 Iowans in the last year. As I mentioned, it would slash Pell grants for our kids who go to all of our colleges in Iowa, the private not-for-profits and our Regents institutions. Two thousand low-income Iowa kids who now attend Head Start would be cut off.

Lastly, it is not only just the cuts and the slashes to these vital programs which will increase unemployment and send us back into another recession, there are riders in this bill, what we call legislative riders, that are pernicious. They do terrible damage to our country.

For example—just one—there is a rider in the bill that says no money can be used or spent to continue the implementation of the health reform bill that we passed last year. Well, what does that mean? Well, that means right now, in law, because of the Affordable Care Act we passed last year, kids can stay on their parents' policy until they are age 26. That would be gone. The question would be, the ones who got on before this, will they be able to stay on? But I can tell you, no new kids would ever be allowed to stay on their parents' policy until they are age 26.

We put in—and as you know, it is in law right now—that an insurance company cannot impose a lifetime limit on individuals. That was in the bill last year. That would be gone. They can start reinstituting lifetime limits and annual limits.

Also we had a provision in the bill that provided for a medical loss provision. Let me try to explain that.

In our bill we said insurers and health insurance companies have to pay at least 80 cents of every dollar of premium they collect on health care rather than profits, bonuses, overhead, fancy buildings, and corporate jets and all of that. They had to pay—80 cents of every premium dollar has to go for health care. It is done away with under H.R. 1. We cannot enforce that at all.

So, again, for those who have seen benefits to themselves from the health care bill we passed, whether it is keeping their kids on their policy or elderly people now who get free mammograms and free colonoscopies and a free health checkup every year with no copays, no deductibles, that ends. That ends with H.R. 1.

So the bill passed by the House is just, as I said, bad policy, and it is bad values. It is not the values of our country, and I hope the Senate will resoundingly—resoundingly—defeat H.R. 1, consign it to the scrap heap of history, the history of ill-advised ideas, of ill-advised programs. There have been a lot of them that have come along in the history of this country.

Fortunately, I think the Congress in most instances has turned them down, and we moved ahead. We can't afford to go backward. H.R. 1 would do that. It would take this country back. We would lose jobs. It would cut kids out of getting an education, close down Head Start centers. It would widen that gulf between the rich and the poor. We can't continue to go down that road. We don't want to wind up another Third World country where we have a few at the top and everybody at the bottom and nobody in between. The middle class built this country, and we cannot continue to erode the middle class. That is what H.R. 1 would do, erode the middle class and widen the gulf between the rich and poor.

I hope the Senate will recognize H.R. 1 for what it is, a detriment, a body blow to our recovery efforts. I hope the Senate will resoundingly defeat it.

I yield the floor and 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. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PATENT REFORM ACT OF 2011—Continued

Mr. LEAHY. Mr. President, since the Senate began this debate on the American Invents Act more than a week ago, I have talked about American ingenuity and innovation. As this debate comes to a close, I want to emphasize that this is legislation that should promote innovation, help create jobs, and help energize the economy as we continue our recovery. This legislation can be a key part of a jobs agenda. We can help unleash innovation an promote American invention, all without adding a penny to the deficit. This is commonsense, bipartisan legislation.

Innovation has been a cornerstone of the American economy from the time Thomas Jefferson examined the first patent to today. The Founders recognized the importance of promoting innovation. A number were themselves inventors. The Constitution explicitly grants Congress the power to ''promote the progress of science and useful arts, by securing for limited times to . . . inventors the exclusive right to their respective . . . discoveries.'' The discoveries made by American inventors and research institutions, commercialized by American companies, and protected and promoted by American patent laws have made our system the envy of the world. The President has spoken all year about the need to win the future by out innovating our competition. This bill can play a key role in that effort.

Yesterday, I commended Austan Goolsbee, the chair of the President's Council of Economic Advisers, for his white board presentation this week on the importance of patent reform to help America win the global competition and create jobs. The creation of more than 220,000 jobs in the private sector last month, the creation of 1.5 million jobs over the last 12 months, and the unemployment rate finally being reduced to 8.9 percent are all signs that the efforts we have made over the last 2 years to stave off the worst recession since the Great Depression are paying off and the economic recovery is taking hold. The almost full percent point drop in the unemployment rate over the last 3 months is the largest decline in unemployment since 1983. Despite interruptions of economic activity in many parts of the country caused by winter weather over the last months and in recent days, despite the extraordinary rise in oil

prices, the Dow Jones industrial average has climbed back to over 12,000 from a low point of 6,500. Passage of the America Invents Act should help bolster our economic recovery and keep us on the right path toward business development and job creation.

As we began this debate, I referred back to the President's State of the Union address and his challenge to the Nation to out-innovate, out-build and out-educate our global competitors. Enacting the America Invents Act is a key to meeting this challenge. Reforming the Nation's antiquated patent system will promote American innovation, create American jobs, and grow America's economy. I thank the President and his administration for their help and support for the Leahy-Hatch-Grassley America Invents Act. Commerce Secretary Locke has been a strong partner in our efforts, and Director Kappos of the Patent and Trademark Office has been an indispensable source of wise counsel.

The America Invents Act will keep America in its longstanding position at the pinnacle of innovation. This bill will establish a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs, while making sure no party's access to court is denied.

The America Invents Act is the product of eight Senate hearings over the last three Congresses. Our bill is the product of years of work and compromise. The Senate Judiciary Committee has reported patent reform legislation to the Senate in each of the last three Congresses, this year, unanimously. And the House has seen efforts over the same period led by Congressmen LAMAR SMITH of Texas and HOWARD BERMAN of California. The legislation we are acting on today, in fact, is structured on the original House bill and contains many of the original provisions.

From the beginning, we recognized the need for a more effective and efficient patent system, one that improves patent quality and provides incentives for entrepreneurs to create jobs. A balanced and efficient intellectual property system that rewards invention and promotes innovation through high quality patents is crucial to our Nation's economic prosperity and job growth. That is how we win the future—by unleashing the American inventive spirit. This bill, the America Invents Act, will allow our inventors and innovators to flourish.

It is important to our country's continued economic recovery, and to our successfully competing in the global economy. America needs a 21st century patent system to lead. The last extensive reform of our patent system was nearly 60 years ago. It is time.

While the Congress debates spending and budget measures in an often too partisan manner, the American people are craving—and the American economy is demanding—bipartisan legislation that can create jobs and help our economy through common sense measures. That is what this bill can do. It relies on not one dollar of taxpayer money. Let me emphasize, not a dime in taxpayer money is spent on the Patent and Trademark Office, PTO, reforms. They are all funded by patent fees, not taxes.

Innovation drives the Nation's economy, and that entrepreneurial spirit can only be protected by a patent system that promotes invention and spurs new ideas. We need to reform our patent system so that these innovations can more quickly get to market. A modernized patent system—one that puts American entrepreneurs on the same playing field as those throughout the world—is a key to that success. This is an idea that cuts across the political spectrum.

During Senate debate over the last week our bill has been improved by a number of Senators who have contributed amendments. Senators BENNET, COONS, SCHUMER, MENENDEZ, PRYOR, STABENOW, BAUCUS, BINGAMAN, COBURN and KIRK have all contributed, and I thank them for working with us. Senator CARDIN attempted to offer germane amendments, and I regret that these were blocked.

I thank our ranking Republican on the committee and the comanager of this measure, Senator GRASSLEY, and his staff, Kolan Davis and Rita Lari, for their dedication to this effort. I commend Senator HATCH for sticking with it for these many years, and Senator KYL for helping get this done.

I also extend my personal thanks, as well, to Senator KLOBUCHAR of Minnesota who was active during committee consideration and helped manage this legislation effort in the Senate. She has been outstanding.

The Senate's action today could not have been accomplished without the hard work of many dedicated staffers. I would like to thank in particular the steadfast work of Aaron Cooper of my Judiciary Committee staff. Aaron has spent countless hours in meetings and briefings, with Members, other staff, and interested parties, working to help me ensure that the America Invents Act preserved the meaningful reforms we have been working toward since 2005. I would also like to thank Ed Pagano, my chief of staff, and Bruce Cohen, my chief counsel, who have worked on this issue since the start, as well as Susan Davies who served as my chief Intellectual Property counsel through the formative stages of this legislative effort. Erica Chabot, Curtis LeGeyt and Scott Wilson of my Judiciary Committee staff also deserve thanks for their committed work on this legislation.

I also commend the hardworking Senate floor staff, Tim Mitchell and Trish Engle, as well as Dave Schiappa, and the staffs of other Senators, including Tim Molino, Joe Matal, and Matt Sandgren, for their dedicated efforts.

I also thank the many individuals, companies, associations and coalitions that have helped with this effort. This legislation has been supported by both business and labor, including the National Association of Manufacturers, the United Steelworkers, the AFL–CIO, the Association of American Universities, the American Bar Association, the Association of Public and Land-Grant Universities, the Association of American Medical Colleges, the Association of University Technology Managers, the American Council on Education, the Council on Government Relations, PhRMA, BIO, the Intellectual Property Owners Association, the American Intellectual Property Law Association, the Coalition for 21st Century Patent Reform, the Association for Competitive Technology, the Coalition for Patent and Trademark Information Dissemination, IBM, General Electric, Eli Lilly and Company, Bose Corporation, Johnson and Johnson, 3M, General Mills, Honeywell, Monsanto, Motorola, Cargill, Inc., Caterpillar, Enventys, Abbott, Astra Zeneca, AdvaMed, Air Liquide, Bayer, Beckman Coulter, Boston Scientific, BP, Bridgestone American Holdings, Inc., Bristol-Myers Squibb, the California Healthcare Institute, the Colorado BioScience Association, Cummins, The Dow Chemical Company, DuPont, Eastman Chemical Company, ExxonMobil, Genentech, Genzyme, GlaxoSmithKline, the Healthcare Institute of New Jersey, Henkel Corporation, Hoffman-LaRoche, Illinois Tool Works, International Game Technology, Kodak, Medtronic, Merck & Co., Inc., Millenium Pharmaceuticals, Milliken and Company, Northrop Grumman, Novartis, PepsiCo., Inc., Pfizer, Procter & Gamble, SanDisk Corporation, Sangamo BioSciences, Inc., United Technologies, USG Corporation, the Virginia Biotechnology Association, Weyerhaeuser, the American Institute for CPAs, the American Institute of Certified Public Accountants, the Tax Justice Network USA, the New Rules for Global Finance, the American College of Tax Counsel, Consumer Action, The American College of Trust and Estate Counsel, the Partnership for Philanthropic Planning, Global Financial Integrity, the International Association for Registered Financial Consultants, the National Association of Enrolled Agents, USPIRG, the Certified Financial Planner Board of Standards, the Financial Planning Association, the American Association of Attorney-Certified Public Accountants, the Citizens for Tax Justice, the National Treasury Employees Union, the Independent Community Bankers of America, and numerous other organizations and companies representing all sectors of the patent community that have been urging action on patent reform proposals for years.

The America Invents Act will accomplish 3 important goals, which have been at the center of the patent reform debate from the beginning: It will improve and harmonize operations at the

PTO; it will improve the quality of patents that are issued; and it will provide more certainty in litigation. In particular, the legislation will move this Nation's patent system to a first-inventor-to-file system, make important quality enhancement mechanisms, and provide the PTO with the resources it needs to work through its backlog by providing it with fee setting authority, subject to oversight. The America Invents Act provides the tools the PTO needs to separate the inventive wheat from the chaff, which will help business bring new products to market and create jobs.

Innovation has always been at the heart of America and American success. From the founding of our Nation, we recognized the importance of promoting and protecting innovation, and so the Constitution explicitly grants Congress the power to ''promote the progress and science and useful arts, by securing for limited times to . . . inventors the exclusive right to their respective . . . discoveries.'' The patent system plays a key role in encouraging innovation and bringing new products to market. The discoveries made by American inventors and research institutions, commercialized by our companies, and protected and promoted by our patent laws have made our system the envy of the world.

High quality patents are the key to our economic growth. They benefit both patent owners and users who can be more confident in the validity of issued patents. Patents of low quality and dubious validity, by contrast, enable patent trolls who extort unreasonable licensing fees from legitimate businesses, and constitute a drag on innovation. Too many dubious patents also unjustly cast doubt on truly high quality patents.

After 6 years of debate and discussion, more than a dozen hearings and mark up sessions, and countless hours of member and staff meetings with two presidential administrations and interested parties across the spectrum, the Senate is finally acting to make the first meaningful, comprehensive reforms to the nation's patent system in nearly 60 years. The Senate debate has now extended for more than a week. Passage of the America Invents Act demonstrates what we can accomplish when we cast aside partisan rhetoric, and focus on working together for the American people and for our future.

It has been almost 6 years since Chairman SMITH and Congressman BERMAN introduced the first version of patent reform legislation in 2005, but the structure and guiding principles of the legislation remain the same. The bill will speed the process by which the Patent Office considers applications and should improve the quality of patents it issues.

Innovation and economic development are not uniquely Democratic or Republican objectives, so we worked together to find the proper balance for America—for our economy, for our inventors, for our consumers. Working together, we can smooth the path for more interesting—and great—American inventions. That is what this bipartisan, comprehensive patent reform bill will do. No one claims that ours is a perfect bill. It is a compromise that will make key improvements in the patent system. Having coordinated with the leaders in the House through this process, I hope that the House will look favorably on our work and adopt this measure so that it can be sent to the President without delay and its improvements can take effect in order to encourage American innovation and promote American invention.

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

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

Mr. REID. Mr. President, I ask unanimous consent the Reid amendment No. 152 be withdrawn; that the Reid amendment No. 143 be modified with the changes at the desk; the Senate proceed to vote on the amendment, as modified, with no amendments in order prior to the vote; that there then be 30 minutes of debate equally divided between the two managers or their designees; that S. 23 be read a third time; that a budgetary pay-go statement be read; the Senate then proceed to a vote on passage of the bill, as amended; and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

Further, I ask unanimous consent that at 12 noon Wednesday, March 9, the Senate proceed to the consideration of Calendar No. 14, H.R. 1, the Defense appropriations long-term continuing resolution for fiscal year 2011; that there be 3 hours of debate on H.R. 1 and the Democratic alternative, the Inouye substitute amendment No. 149, with the time equally divided between the two leaders or their designees prior to a vote on passage of H.R. 1; that the vote on passage be subject to a 60-vote threshold; that if the bill achieves 60 affirmative votes, the bill be read a third time and passed; that if the bill does not achieve 60 affirmative votes, the majority leader be recognized to offer the Inouye substitute amendment No. 149; the Senate then proceed to a vote on the substitute amendment; that the substitute amendment be subject to a 60-vote threshold; if the substitute amendment achieves 60 affirmative votes, the substitute amendment be agreed to; the bill, as amended, be read a third time and passed; if the substitute amendment does not achieve 60 affirmative votes, H.R. 1 be returned to the calendar; that no motions or amendments be in order to the substitute amendment or to the bill prior to the votes; further, that all of the above occur with no intervening action or debate.

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

Mr. REID. Mr. President, with this agreement, I ask unanimous consent that the cloture vote with respect to the motion to proceed to H.R. 1 be vitiated.

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

Mr. REID. Mr. President, even though there have been a few turns in the road, we are at the place where we need to be. We need to be able to show the American people where we are on these two measures. I express my appreciation to my friend, the Republican leader. As I said, things don't always work smoothly around here, but they usually work. Now we are at a point where we can vote on these two measures which is what we need to do.

The PRESIDING OFFICER. Under the previous order, amendment No. 152 is withdrawn.

Under the previous order, amendment No. 143 is modified with the changes at the desk.

The amendment, as modified, is as follows:

(Purpose: To include public institutions of higher education in the definition of a micro entity)

On page 93, before line 18, insert the following:

''(d) STATE INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, a micro entity shall include an applicant who certifies that—

''(A) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is a State public institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); or

''(B) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to such State public institution.

''(2) DIRECTOR'S AUTHORITY.—The Director may, in the Director's discretion, impose income limits, annual filing limits, or other limits on who may qualify as a micro entity pursuant to this subsection if the Director determines that such additional limits are reasonably necessary to avoid an undue impact on other patent applicants or owners or are otherwise reasonably necessary and appropriate. At least 3 months before any limits proposed to be imposed pursuant to this paragraph shall take effect, the Director shall inform the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate of any such proposed limits.''.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 143, as modified.

The amendment (No. 143), as modified, was agreed to.

Mr. COBURN. I wish to express my opposition to Reid amendment No. 143, as modified. I do not believe public institutions of higher education, or any entity, should be carved out of the definition of micro entity in the underlying legislation. Had a rollcall vote occurred, I would have voted no.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum, with unanimous consent that the time be equally divided.

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

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.

CHECK 21 ACT PATENTS

Mr. PRYOR. I would like to clarify some concerns I have about the Schumer-Kyl program that was included in the managers' amendment to the America Invents Act, adopted on March 1. I am specifically concerned that this provision revives an amendment that had been included in previous versions of the bill—that amendment specifically targeted patents related to the Check 21 Act and eliminated the ability of the holder of such patents to collect damages. Is that the purpose of the Schumer-Kyl language?

Mr LEAHY. No, the amendment is entirely different from the 2008 amendment related to patents that place on tax on implementation of the Check 21 Act. The Schumer-Kyl program addresses certain business method patents and does not target any specific patents. The Schumer-Kyl program is intended to provide a cost-effective alternative to litigation to examine business-method patents.

Mr. PRYOR. Am I correct then that the Schumer-Kyl program is simply trying to address the problem of business method patents of dubious validity that are commonly associated with the Federal Circuit's 1998 decision in State Street Bank v. Signature?

Mr. LEAHY. That is correct. It is still unclear whether the subject matter of these patents qualifies as patentable subject matter under current law. Patents of low quality and dubious validity, as you know, are a drag on innovation because they grant a monopoly right for an invention that should not be entitled to one under the patent law.

Mr. PRYOR. Can the Senator describe how the program would work in practice?

Mr. LEAHY. Certainly. If a petitioner provides evidence to the PTO and the PTO determines that the patent is on a ''covered business method patent'' then the PTO would institute a post-grant review of that patent. In this review, the PTO could consider any challenge that could be heard in court.

Mr. PRYOR. Is it correct then that the Schumer proceeding would only have an effect if the PTO determines it is more likely than not that a claim of the patent is invalid and, even then, the proceeding would have no effect on a patent unless the petitioner can demonstrate that under current law the patent is not valid?

Mr. LEAHY. That is correct. The proceeding has a higher threshold than current reexamination before the PTO will even undertake a review of the patent. So as a practical matter, a patent without any serious challenge to its validity would never be subject to a proceeding.

Mr. PRYOR. Would the Senator agree that in a case in which the validity of the patent has been upheld by a district court but the case remains on appeal, that this amendment would likely not affect the pending appeal?

Mr. LEAHY. I would. The patent may still be subject to the proceeding, but since the court did not hold the patent invalid or unforceable, it would not likely have an effect on the pending appeal.

Mr. SCHUMER. Mr. President, I want to take the opportunity to explain further a few elements of the Schumer-Kyl provision in the patent bill. The Transitional Program for business method patents addresses a critical problem in the patent world, and it is crucial that it be administered and implemented appropriately by both the Patent and Trademark Office and the courts.

Business method patents are the bane of the patent world. The business method problem began in 1998 with the U.S. Court of Appeals for the Federal Circuit decision in State Street Bank & Trust Co. v. Signature Financial Group, Inc. State Street created a seachange in the patentability of business-methods, holding that any invention can be patented so long as it produces a ''useful, concrete, and tangible result'' and meets other requirements of the patent laws.

State Street launched an avalanche of patent applications seeking protection for common business practices. The quality of these business method patents has been much lower than that of other patents, as Justice Kennedy noted in his concurring opinion in eBay Inc. v. MercExchange. Justice Kennedy wrote about the ''potential vagueness and suspect validity'' of some of ''the burgeoning number of patents over business methods.'' Commentators like Rochelle Dreyfuss have also lamented ''the frequency with which the Patent Office issues patents on shockingly mundane business inventions.'' Malla Pollack pointed out that ''[M]any of the recently-issued business method patents are facially (even farcically) obvious to persons outside the USPTO.''

One of the main reasons for the poor quality of business method patents is the lack of readily accessible prior art references. Because business methods were not patentable prior to 1998 when the State Street decision was issued, the library of prior art on business method patents is necessarily limited—as opposed, say, to more traditional types of patents for which there can be centuries of patents and literature about them for the PTO to examine. Furthermore, information about methods of conducting business, unlike information about other patents, is often not documented in patents or published in journals. This means a patent examiner has significantly less opportunity than he might with a traditional patent to weed out undeserving applications. Unfortunately, that means the burden falls on private individuals and an expensive court process to clean up the mess.

The ability to easily obtain business method patents without a rigorous and thorough review in the Patent Office has created a flood of poor quality business method patents and a cottage industry of business method patent litigation. The Federal courts have recognized this problem, and indeed even the Supreme Court has begun to address it. In KSR Intl Co. v. Teleflex, Inc. and Bilski v. Kappos, the Court articulated a new standard for obviousness and made clear that abstract business methods are not patentable. While these legal developments are important, the leave in limbo the many patents that were issued by the PTO since State Street that are not in fact valid.

Litigation over invalid patents places a substantial burden on U.S. courts and the U.S. economy. Business-method inventions generally are not and have not been patentable in countries other than the United States. In order to reduce the burden placed on courts and the economy by this back-and-forth shift in judicial precedent, the Schumer-Kyl transitional proceeding authorizes a temporary administrative alternative for reviewing business method patents.

It is important to clarify two elements of the Schumer-Kyl program's operation in particular. First, there is the issue of how a district court should treat a motion for a stay of litigation in the event the PTO initiates a pilot program. Second, there is the issue of how the Federal circuit will treat interlocutory appeals from stay decisions. Finally, there is the issue of which patents should be considered to be covered business method patents.

The transition program created by the Schumer-Kyl amendment is designed to provide a cheaper, faster alternative to district court litigation over the validity of business-method patents. This program should be used instead of, rather than in addition to, civil litigation. To that end, the amendment expressly authorizes a stay of litigation in relation to such proceedings and places a very heavy thumb on the scale in favor of a stay being granted. It is congressional intent that a stay should only be denied in extremely rare instances.

When Congress initially created ex parte reexamination, it did not expressly provide for a stay of litigation pending the outcome of an ex parte reexamination proceeding. Rather, Congress relied on the courts' inherent power to grant stays and encouraged courts to liberally grant stays. However, relying on the courts' inherent

power to grant stays did not result in courts liberally granting stays. For example, one commentator who surveyed the grant rates on motions for stay pending reexamination, Matthew A. Smith, found that numerous district courts granted stays less than half the time. In fact, Eastern District of Texas grants stays only 20 percent of the time. Due to low grant rates for stays in several jurisdictions, this amendment instructs courts to apply the four-factor test first announced in Broadcast Innovation, L.L.C. v. Charter Communications when evaluating stay motions.

The amendment employs the Broadcast Innovation test, rather than other multifactor tests employed by other district courts, because this test properly emphasizes a fourth factor that is often ignored by the courts: ''whether a stay will reduce the burden of litigation on the parties and on the court.'' Too many district courts have been content to allow litigation to grind on while a reexamination is being conducted, forcing the parties to fight in two fora at the same time. This is unacceptable, and would be contrary to the fundamental purpose of the Schumer-Kyl amendment to provide a cost-efficient alternative to litigation.

Absent some exceptional circumstance, the institution of a business-methods proceeding—which requires a high up-front showing and will be completed in a relatively short period of time—should serve as a substitute for litigation, and result in a stay of co-pending district court litigation.

By adopting this four-factor test, rather than one of the three-factor tests used by other courts, the amendment also precludes the use of additional factors that are not codified here and that have occasionally been used by some district courts. For example, a few courts have occasionally employed a different de facto fourth factor: whether the challenger offers ''to forgo invalidity arguments based on prior art patents and/or printed publications considered during an ex parte reexamination process.'' The proceeding authorized by this amendment, at subsection (b)(1)(D), sets its own standard for determining what issues may still be raised in civil litigation if a patent survives PTO review. By codifying the exclusive set of factors that courts are to consider when granting stays, the amendment precludes courts from inventing new factors such as extra-statutory estoppel tests.

Several unique features of this proceeding further make it appropriate to grant stays in all but the most unusual and rare circumstances. These proceedings will only be instituted upon a high up-front showing of likely invalidity. The proceeding is limited to certain business method patents, which, as noted above, are generally of dubious quality because unlike other types of patents, they have not been thoroughly reviewed at the PTO due to a lack of the best prior art. And the proceeding will typically be completed within 1 year.

In summary, it is expected that, if a proceeding against a business method patent is instituted, the district court would institute a stay of litigation unless there were an extraordinary and extremely rare set of circumstances not contemplated in any of the existing case law related to stays pending reexamination. In the rare instance that a stay is not granted, the PTO should make every effort to complete its review expeditiously. We encourage the PTO Director to promulgate regulations to this effect to ensure that petitioners know that in extreme circumstance where a gay is not granted, the PTO will complete its review in a compressed timeframe, such as within 6 months.

To ensure consistent and rigorous application of the Broadcast Innovation standard, the amendment also allows the parties, as of right, to have the Federal Circuit closely review the application of this test in a manner that ensures adherence to these precedents and consistent results across cases. As such, either party may file an interlocutory appeal directly with the Federal Circuit. Because this amendment provides an automatic right to an interlocutory appeal, the district court does not need to certify the appeal in writing, as it would ordinarily need to do under 28 U.S.C. §1292(b). Also, unlike the discretion typically afforded an appellate court under 28 U.S.C. §1292(b), under this amendment the Federal Circuit may not decline to hear an interlocutory appeal.

Since the denial of a stay pending post-grant review under this amendment is an extraordinary and extremely rare circumstance, the filing of an interlocutory appeal should result in the stay of proceedings in the district court pending the appeal. Staying the lower court proceedings while the Federal Circuit reviews the question of whether the case should be stayed pending the post-grant review will help ensure that requests to stay are consistently applied across cases and across the various district courts.

On appeal the Federal Circuit can and should review the district court's decision de novo. It is expected that the Federal Circuit will review the district court's decision regarding a stay de novo, unless there are unique circumstances militating against a de novo review, such as subsequent requests for an interlocutory appeal in the same case. A de novo review is central to the purpose of the interlocutory appeal provision in the Schumer-Kyl amendment, which is to ensure consistent application of standards and precedents across the country and to avoid one particular court with a favorable bench becoming the preferred venue of business method patent plaintiffs.

The definition of covered business method patents in the transitional program was developed in close consultation with the PTO to capture all of the worst offenders in the field of business method patents, including those that are creatively drafted to appear to be true innovations when in fact they are not.

The amendment only applies to ''covered business method patents.'' If the PTO determines that a patent is a ''covered business method patent''—and the other applicable requirements of this amendment and Chapter 32 are met—the patent will be subject to post-grant review under this amendment regardless of whether the patent has been through prior PTO proceedings, such as ex parte reexamination, or current or prior litigation.

The definition of a ''covered business method patent'' includes ''a method or corresponding apparatus.'' The phrase ''method or corresponding apparatus'' is intended to encompass, but not be limited to, any type of claim contained in a patent, including, method claims, system claims, apparatus claims, graphical user interface claims, data structure claims—Lowry claims—and set of instructions on storage media claims—Beauregard claims. A patent qualifies as a covered business method patent regardless of the type or structure of claims contained in the patent. Clever drafting of patent applications should not allow a patent holder to avoid PTO review under this amendment. Any other result would elevate form over substance.

Not all business method patents are eligible for PTO review under this amendment. Specifically, ''patents for technological inventions'' are out of scope. The ''patents for technological inventions'' exception only excludes those patents whose novelty turns on a technological innovation over the prior art and are concerned with a technical problem which is solved with a technical solution and which requires the claims to state the technical features which the inventor desires to protect. It is not meant to exclude patents that use known technology to accomplish a business process or method of conducting business—whether or not that process or method appears to be novel. The technological invention exception is also not intended to exclude a patent simply because it recites technology. For example, the recitation of computer hardware, communication or computer networks, software, memory, computer-readable storage medium, scanners, display devices or databases, specialized machines, such as an ATM or point of sale device, or other known technologies, does not make a patent a technological invention. In other words, a patent is not a technological invention because it combines known technology in a new way to perform data processing operations.

The amendment covers not only financial products and services, but also the ''practice, administration and management'' of a financial product or service. This language is intended to

make clear that the scope of patents eligible for review under this program is not limited to patents covering a specific financial product or service. In addition to patents covering a financial product or service, the ''practice, administration and management'' language is intended to cover any ancillary activities related to a financial product or service, including, without limitation, marketing, customer interfaces, Web site management and functionality, transmission or management of data, servicing, underwriting, customer communications, and back office operations—e.g., payment processing, stock clearing.

The amendment also requires a patent to relate to a ''financial product or service.'' To meet this requirement, the patent need not recite a specific financial product or service. Rather the patent claims must only be broad enough to cover a financial product or service. For example, if a patent claims a general online marketing method but does not specifically mention the marketing of a financial product, such as a savings account, if that marketing method could be applied to marketing a financial product or service, the patent would be deemed to cover a ''financial product or service.'' Likewise, if a patent holder alleges that a financial product or service infringes its patent, that patent shall be deemed to cover a ''financial product or service'' for purposes of this amendment regardless of whether the asserted claims specifically reference the type of product of service accused of infringing.

In conclusion, I am very pleased that the Senate has adopted the Schumer-Kyl provision and trust that it will go a long way towards addressing the havoc that frivolous business method patent litigation has wreaked upon the courts and the economy. Indeed, Senator KYL and I received a letter of thanks and appreciation from the Independent Community Bankers of America, who represent nearly 5,000 community banks. As they point out, the money they are required to spend defending litigation from business method patent trolls—and the capital they must reserve against these contingent liabilities—is money which ''cannot find its way into the hands of worthy borrowers, retarding economic growth and job creation at the time such activity is most needed.''

To that end, I would ask unanimous consent that the letter from the Independent Community Bankers of America be printed in the RECORD.

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

INDEPENDENT COMMUNITY BANKERS OF AMERICA,
Washington, DC, March 3, 2011.

Hon. CHARLES E. SCHUMER,
U.S. Senate,
Washington, DC.
Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATORS SCHUMER AND KYL: On behalf of the Independent Community Bankers of America (ICBA) and the nearly 5,000 community banks that we represent, we thank you for your efforts to improve S. 23 the Patent Reform Act of 2011 through your amendment to establish an oppositional proceeding at the United States Patent and Trademark Office (PTO) where business-method patents can be examined using the best available prior art. Such patents have, unfortunately, become the preferred method of extracting large settlements from community banks and these practices threaten our bankers' ability to provide banking and banking related services to their local communities and to local small businesses.

Under the current system, business method patents of questionable quality are used to force community banks to pay meritless settlements to entities that may have patents assigned to them, but who have invented nothing, offer no product or service and employ no one. In addition, all public companies are required by accounting rules to reserve capital against contingent liabilities. For community banks, this is money which cannot find its way into the hands of worthy borrowers, retarding economic growth and job creation as the precise time such activity is most needed. The Schumer-Kyl amendment is critical to stopping this economic harm.

We appreciate that you have worked hard with the Patent and Trademark Office and other stakeholders to refine the amendment and make compromises to enable the amendment to move forward. We support those efforts and will continue to push to ensure that business method patents cannot be used as a weapon by those who seek to game the patent granting and litigation system at the expense of legitimate businesses.

We are pleased to learn that the Senate has adopted much of the Schumer-Kyl amendment into the base text of S. 23. We encourage the Senate to only strengthen this provision, where possible, for the good of our nation's community banks and the countless neighborhoods and communities that they serve.

Thank you again.

Sincerely,

STEPHEN J. VERDIER,
Executive Vice President,
Congressional Relations.

Mr. KYL. Mr. President, I ask unanimous consent to have printed in the RECORD materials concerning the America Invents Act that were distributed by the Republican Policy Committee last week. These consist of a legislative notice describing the bill that was brought to the Senate floor, and a summary of the Senate managers' amendment that was adopted on Tuesday.

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

[From the Republican Policy Committee, U.S. Senate, Feb. 28, 2011]

Legislative Notice

S. 23—THE PATENT REFORM ACT OF 2011

Calendar #6

Reported by the Judiciary Committee with amendments on February 3, 2011 by a vote of 15–0. No written report.

NOTEWORTHY

At 3:30 p.m. today, the Senate will begin consideration of S. 23.

The Act adopts a ''First Inventor to File'' patent regime. Currently the United States is the only country in the world operating under a ''First to Invent'' regime.

The Act grants the U.S. Patent and Trademark Office (PTO) authority to set its own fees to better ensure proper funding for its operations.

The Act makes a variety of changes to improve the quality of patents, including allowing for greater submission of information by third parties while a patent application is pending and establishing a post-grant review procedure for promptly raised challenges to a patent.

Unlike prior patent reform bills, the Act does not disturb substantive damages law; but it does take steps to improve the consistency and predictability of the application of that law.

BACKGROUND/OVERVIEW

Innovation is a key facet of American economic power, as our Founders recognized in the Constitution by giving Congress the power to ''promote the progress of science and useful arts'' by granting inventors time limited monopolies—patents—on their discoveries. This basic framework set the course for centuries of American innovation, but the law has not been substantially updated since the Patent Act of 1952. Responding to concerns about the quality and timeliness of patents issued by the PTO, the last several Congresses have considered substantial patent reform measures. [In the 109th Congress Senators Hatch and Leahy introduced the Patent Reform Act of 2006 (S. 3818). The next year, Senators Leahy and Hatch introduced the Patent Reform Act of 2007 (S. 1145). This bill was reported from the Judiciary Committee, as amended, on January 24, 2008, with a Committee Report (S. Rep. 110–259), but it was not considered by the full Senate. On March 3, 2009, Senators Leahy and Hatch introduced the Patent Reform Act of 2009, which was reported with amendments on April 2, 2009, with a Committee Report (S. Rep. 111–18). Again the bill was not considered by the full Senate. During this time, the Senate Judiciary Committee has held eight hearings on patent reform, and the House has held hearings on the subject as well.]

Over the course of these Congresses the substance of the reform proposals evolved. On January 25, 2011, Senator Leahy and Senator Hatch introduced the current bill, the Patent Reform Act of 2011 (S. 23), which was reported with amendments on February 3, 2011. Significant features of the legislation include: a transition to a ''First Inventor to File'' patent regime consistent with other industrialized countries; PTO fee setting authority to ensure proper funding; and post-grant and supplemental review procedures to improve patent quality.

BILL PROVISIONS

Section 1. Title/Table of Contents
Section 2. First Inventor to File

The United States, alone among advanced economies, currently operates under a ''First to Invent'' rather than a ''First Inventor to File'' patent regime in which the date of filing with the patent office is the most important determinant of who is the legitimate patent holder. Defenders of the First to Invent regime claim that it has served America well, that it favors small inventors by allowing them to focus on inventing rather than paperwork, and that it avoids overburdening the PTO with prematurely filed applications.

However, the system poses challenges for American inventors who must operate under one regime domestically and another if they wish to profit from their innovation abroad. The First to Invent system also results in less certainty about the validity of patents and often leads to expensive and lengthy litigation. Many commentators and organizations, including the National Academy of Sciences, have urged the United States to

adopt a First Inventor to File system. S. 23 moves the United States to a First Inventor to File regime. As part of that, it creates an administrative proceeding to ensure that the first person to file is actually the true inventor. It also preserves and strengthens current law's grace period, by providing that disclosures made by the true inventor, or someone who got the information from the inventor, less than one year before the application is filed will not be held against their application.

Additionally, during the one-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 be used to invalidate the patent. Prior art is a term of art in intellectual property law. S. 23 defines ''prior art'' as actions by the patent owner or another (such as publication, public use, or sale) that make the invention available to the public.] This effectively creates a ''first to publish'' rule within the one year grace period. An inventor who publishes his invention retains 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 patent application.

Section 3. Inventor's Oath or Declaration

U.S. patent law requires oaths or declarations by inventors as part of the application process. This can be challenging when applications are pursued by company-assignees for whom a variety of past and present employees may have played a role in developing the invention. This section makes it easier for assignees to file and prosecute a patent application where the inventor is unable to do so or unwilling and contractually obligated to do so.

Section 4. Damages

The current damage statute is vague, and juries must evaluate up to 15 factors developed by the courts. This has led to inconsistent and unpredictable damage awards. Section 4 does not upset the existing substantive law, but it makes certain changes to increase predictability in damages by authorizing courts to play a gatekeeper role, in which they will provide detailed instructions to juries on what factors are most relevant to the case before them.

Section 5. Post-Grant Review

This section establishes a new administrative procedure for challenging the validity of granted patents within a nine-month post-grant window, providing an early opportunity to improve the quality of patents.

The bill also changes procedures for later challenges by third parties to the validity of patents (the so-called ''inter partes reexamination'' process, under current law). These reforms add additional procedural protections to the process by converting the reexamination into an adjudicative proceeding to be known as ''inter partes review.'' Inter partes review must be completed within one year of being instituted (though this deadline can be extended by six months for good cause). The proceedings will take place before a panel of three administrative judges whose decisions are appealable directly to the Federal Circuit.

Section 6. Patent Trial and Appeal Board

This section renames the Patent Board the ''Patent Trial and Appeal Board'' and clarifies its role in administering the new proceedings established by the Act.

Section 7. Pre-Issuance Submissions by Third Parties

Current law restricts what third parties can file with the PTO when they possess relevant information on pending patent applications. This section would permit third parties, typically another innovator in the same or a similar field, to submit relevant information and make statements explaining their submissions.

Section 8. Venue

Codifies the standard for transfers of venue established by the Federal Circuit in the case In re TS Tech USA Corp and applies it to patent cases generally. [551 F.3d 1315 (Fed. Cir. 2008).] That standard provides for transfer to the judicial district that is ''clearly more convenient'' for both the parties and witnesses. The section also clarifies that venue for litigation against the PTO is the Eastern District of Virginia, where the PTO is headquartered, rather than the District of Columbia, where it used to be based.

Section 9. Fee Setting Authority

In order to provide sufficient funding to the PTO's operations, this section grants the office the ability, and sets forth procedures, to set or adjust the fees it charges applicants.

Section 10. Supplemental Examination

This provision authorizes a supplemental examination process by which patent holders can correct errors or omissions in past proceedings with the PTO. During the process, additional information can be presented to the office and, if it does not undermine the original patent determination, the earlier omission of that information cannot be later used in a lawsuit alleging inequitable conduct.

Section 11. Residency Requirement for Federal Circuit Judges

This section repeals the requirement that judges on the Federal Circuit reside within 50 miles of Washington, DC. The duty station of Federal Circuit judges, however, will remain in Washington.

Section 12. Micro-Entity Defined

Under current law, the PTO charges small businesses and nonprofits lower fees than it charges large corporations. This section establishes an even smaller category—truly independent inventors—for which the PTO may make additional accommodations.

Section 13. Funding Agreements

This section changes the formula for what universities, nonprofits, and others may do with royalties or other income generated by inventions developed using federal funds. Under current law, if such royalties exceed the annual budget of the entity, 75 percent of the excess is returned to the government. In order to encourage innovation and commercialization, this section allows the entity to retain 85 percent of that excess for further research. The remainder would be paid to the government.

Section 14. Tax Strategies Deemed within Prior Art

This section ends the patentability of tax strategies. The bill, as reported, does not change the patentability of other forms of business method patents.

Section 15. Best Mode Requirement

As part of a patent application, an applicant must disclose the ''best mode'' for carrying out his or her invention. In subsequent litigation an accused infringer can offer as a defense that the best mode was not properly disclosed by the patent holder. This section eliminates that defense, which many consider subjective and possibly irrelevant, as the best mode may change over time. Best mode disclosure remains a requirement for patentability.

Section 16. Technical Amendments

This section contains technical amendments to reorganize the patent statute.

Section 17. Clarification of Jurisdiction

This section clarifies exclusive federal jurisdiction over patent claims.

Section 18. Effective Date

Except where otherwise provided by specific provisions in the Act, the effective date of the Act is 12 months after enactment, meaning it would apply to all patents issued on or after that date.

ADMINISTRATION POSITION

As of the publication of this Notice, no Statement of Administration Policy (SAP) has been issued.

COST

As of the publication of this Notice, no Congressional Budget Office cost estimate for S. 23 has been issued.

POSSIBLE AMENDMENTS

At this time, there is no unanimous consent agreement with respect to consideration of S. 23 or limiting the submission of amendments.

SUMMARY OF THE MANAGERS' AMENDMENT

The title is changed to the ''America Invents Act''.

The date of the repeal of statutory invention registrations, which are used only in first-to-invent, is changed to conform to the date of the switch to first to file.

All remaining damages language—gatekeeper, sequencing, and recodification of current law as subsection (a)—is struck. The bill now makes no changes to section 284.

In PGR, the subsection imposing a six-month deadline on filing after litigation is commenced is replaced with the ''shoot first'' provision requiring a court to consider a PI request without taking a PGR petition or its institution into account if the patent owner sues within 3 months of the issuance of patent. The six-month deadline did not work well here—PGR can only be requested within 9 months of patent issuance anyway, and no suit can be brought until the patent issues. Also, a much broader range of issues can be raised in PGR than in IPR, justifying more time for filing.

PGR is limited to only FTF patents—no FTI patents can be challenged in PGR. This is done because FTI patents raise discovery-intensive invention-date and secret-prior-art issues that would be difficult to address in an administrative proceeding. This also effectively gives PTO a much easier ramp up for PGR. In light of this change, the time for implementing PGR is moved back to 1 year after enactment, so that it is done at the same time as new IPR is implemented, which is PTO's preference.

During the first four years after new IPR is implemented, the Director has discretion to continue to use old inter partes reexam. This is done because the Director believes his reforms of the CRU have greatly improved old inter partes, and it may actually work more efficiently than new IPR during the ramp up. Old inter partes can also be used for PGR proceedings that are instituted only on the basis of patents and printed publications, which are the only issues that can be raised in old inter partes (as well as new IPR).

The codification of the TS Tech transfer-of-venue rule is struck. TS Tech already applies as a matter of caselaw in the Fifth Circuit. (The Federal Circuit applies regional circuit law to procedural matters, and reads Fifth Circuit law as applying the transfer of venue rule.) Complaints about venue generally focus on EDTX, so there is little need to apply TS Tech nationally, and it seemed odd for Congress to regulate such matters in any event.

A blue-slip fix to the Director's fee setting authority. The revised language identifies

with great specificity the sources of authority to impose patent and trademark user fees, in order to avoid a violation of the Origination Clause.

A new provision requiring the Director to charge reduced fees to small entities for use of accelerated examination.

Language is added making clear that the repeal of the Baldwin rule (which rule requires Federal Circuit judges to live within 50 miles of Washington, D.C.) shall not be construed to require the AOC to provide judges office space or staff outside of D.C.

A PTO-approved broadening of the definition of ''microentity,'' a status that entitles applicants to reduced fees.

In the tax patents section, language is added: [(1) clarifying that the language does not bar patenting of tax software that is novel as software—i.e., where the innovation is in the software] (this may be dropped); and (2) establishing that making tax strategies unpatentable shall not be construed to imply that other business methods are patentable or valid. In Bilski v. Kappos, (2010), the Supreme Court interpreted Congress's 1999 enactment of a prior-user right that only applied against business-method patents as implying that business methods qualify as patentable subject matter under section 101, which was enacted in 1793.

Language is added to the part of the Holmes Group fix allowing removal of patent cases from state to federal court to clarify that derivative jurisdiction is not required in such cases. Derivative jurisdiction is the doctrine that, even if a federal district court would have had original jurisdiction over an action, on removal, the district court can only have jurisdiction if the state court from which the action is removed properly had jurisdiction. (In other words, the federal court's removal jurisdiction is regarded as derivative of the state court's jurisdiction.) This silly form-over-substance doctrine was abrogated by Congress, but some courts have continued to read it into other parts of the law, and thus it was thought best to also make clear here that derivative jurisdiction is not required.

The Schumer-Kyl business-methods proceeding, as modified to accommodate industry concerns and PTO needs. In its 1998 State Street decision, the Federal Circuit greatly broadened the patenting of business methods. Recent court decisions, culminating in last year's Supreme Court decision in Bilski v. Kappos, have sharply pulled back on the patenting of business methods, emphasizing that these ''inventions'' are too abstract to be patentable. In the intervening years, however, PTO was forced to issue a large number of business-method patents, many or possibly all of which are no longer valid. The Schumer proceeding offers a relatively cheap alternative to civil litigation for challenging these patents, and will reduce the burden on the courts of dealing with the backwash of invalid business-method patents. The proceeding has been limited since mark up so that: (1) only defendants or accused infringers may invoke the proceeding; (2) prior art is limited to old 102(a), which must be publicly available, or prior art of old 102(a) scope that shall be presumed to beat old 102(a) invention-date limits but that falls outside the old 102(b) grace period (i.e., effectively, old 102(b) prior art but limited to old 102(a)'s publicly-available prior-art scope); (3) the proceeding may not be used to challenge a patent while it is eligible for a PGR challenge (i.e., an FTF patent during the first 9 months after its issue); (4) the proceeding is available only for four years; (5) district courts decide whether to stay litigation based on the four-factor Broadcast Innovation test, and the Federal Circuit reviews stay decision on interlocutory appeal to ensure consistent application of established precedent; (5) the definition of business-method patent, which tracks the language of Class 705, is limited to data processing relating to just a financial product or service (rather than also to an enterprise).

PTO is given greater flexibility in paying and compensating the travel of APJs. A large number of APJs will need to be recruited, trained, and retained to adjudicate PGR and new IPR. This change's enhancements will be paid for out of existing funds.

The Coburn end to fee diversion. Currently, PTO fees go into a Treasury account and are only available to the Office as provided in appropriations. In the last two decades, about $800 million in PTO user fees has been diverted from PTO to other federal spending. The Coburn amendment creates a revolving fund, giving PTO direct access to its fees without the need for enactment of an appropriations act.

Budget Committee paygo language is added at the end.

Mr. KOHL. Mr. President, I rise today in support of S. 23, the America Invents Act. This bipartisan bill is the product of a great deal of hard work and negotiation, and I congratulate Senators LEAHY, HATCH and GRASSLEY on their accomplishment. This bill is a reasonable compromise that will update and strengthen our U.S. Patent system so that American businesses can better compete in the 21st Century.

The American system of patenting inventions has helped make our country the center of innovation for more than two centuries. The America Invents Act will ensure that inventors and those who invest in their discoveries are able to rely on their most important asset—their patent. Patents are vital components in the research and development cycle that help create small businesses and jobs.

In my home State of Wisconsin, we have a strong tradition of invention and innovation—from the invention of the first practical typewriter in 1869 to a cure for Rickets disease in 1925 to cutting edge drug therapies for the 21st Century. More than 50 Wisconsin based startup companies have been fueled by patents that resulted from research at the University of Wisconsin. And there are countless other Wisconsin companies that rely on patents to sustain and grow their business.

I am able to support the Patent Reform Act because of the improvements made to the bill since it was first introduced. As is the nature of compromise, I recognize that we cannot all get every change we want. I thank Senator LEAHY for making substantial changes to accommodate many of my concerns.

Specifically, I appreciate your willingness to strike a major section of the bill regarding prior user rights—which would have done serious harm to the University of Wisconsin and its patent licensing business. The bill incorporates additional changes that were important to research universities, including provisions related to venue, grace period for first inventor to file, oath, and collaborative research.

Patent protection will be stronger with the inclusion of ''could have raised'' estoppel, strong administrative estoppel, and explicit statutory authority for the Patent and Trademark Office, PTO, to reject petitions by third parties and order joinder of related parties. Improvements have also been made regarding damages. Finally, I am pleased that we were able to address the PTO's funding needs in a way that maintains Congress' duty to carefully oversee the PTO while ensuring that it has the resources necessary to issue top quality patents in a timely manner.

Again, I commend Senator LEAHY for his many years of work on this bill, and I look forward to the House taking up this legislation.

Mr. LEVIN. Mr. President, I thank my colleagues, Senator LEAHY, who is the chairman of the Judiciary Committee, and Senator GRASSLEY, who is the ranking Republican, for including in the Patent Reform Act a provision that a number of us have been working on for several years to stop the granting of tax strategy patents.

The key provision contains the text of legislation that Senators BAUCUS, GRASSLEY and I, as well as others, introduced earlier this year, S. 139, the Equal Access to Tax Planning Act, to end the troubling practice of persons seeking patents for tax-avoidance strategies. Issuing such patents perverts the Tax Code by granting what some could see as a government imprimatur of approval for questionable or illegal tax strategies, while at the same time penalizing taxpayers seeking to use legitimate strategies.

Since 1998, when Federal courts ruled that business practices were eligible for patent protection, the Patent and Trademark Office has issued more than 130 patents for tax strategies, with more than 150 applications pending. These patents are a terrible idea for two reasons.

First, they may be providing unintended support for abusive tax shelters. Some unscrupulous tax shelter promoters may claim that the patent represents an official government endorsement of their tax scheme and evidence that the scheme would withstand IRS challenge. Given the well-documented problem we have with tax avoidance in this country, allowing persons to patent tax strategies is not only a waste of government resources needed elsewhere, but an invitation to wrongdoers to misuse those government resources to promote tax avoidance.

Second, the granting of tax patents threatens to penalize taxpayers seeking to use legal tax strategies to minimize their tax bills. If a tax practitioner is the first to discover a legal advantage and secures a patent for it, that person could then effectively charge a toll for all other taxpayers to use the same strategy, even though as a matter of public policy all persons ought to be able to take advantage of the law to minimize their taxes. Companies could even patent a legal method to minimize their taxes and then

refuse to license that patent to their competitors in order to prevent them from lowering their operating costs. Tax patents could be used to hinder productivity and competition rather than foster it.

Federal patent law is supposed to encourage innovation, productivity, and competition by encouraging inventors to innovate, secure in the knowledge that they can profit from their efforts. In the tax arena, there is already ample incentive for taxpayers to seek legitimate ways of reducing their tax burden, as the wealth of advice and consulting in this area demonstrates. Injecting patents into the mix encourages abusive tax avoidance while raising the cost of legal tax planning at the same time, both to society's detriment.

I introduced the first bill to ban tax patents back in 2007. Since then, Senators on both sides of the aisle have been trying to get this problem fixed. The language in the bill before us today is designed to put a halt to the issuance of patents for tax strategies once and for all, including for the 155 pending applications. Although the bill does not apply on its face to the 130-plus tax patents already granted, if someone tries to enforce one of those patents in court by demanding that a taxpayer provide a fee before using it to reduce their taxes, I hope a court will consider this bill's language and policy determination and refuse to enforce the patent as against public policy.

The tax patent provisions of this bill are significant, but they are not the only reasons to support passage. This legislation will create jobs, help keep our manufacturers competitive and strengthen and expand the ability of our universities to conduct research and turn that research into innovative products and processes that benefit Michigan and our Nation. It also will assist the new satellite Patent and Trade Office that will be established in Detroit by modernizing the patent system and improving efficiency of patent review and the hiring of patent examiners. One objective of the new office in Detroit is to recruit patent examiners to reduce the backlog of patent applications. This legislation is a huge step forward in that effort.

Mr. GRASSLEY. Mr. President, I want to discuss an important component of the patent reform legislation that protects against frivolous and vexatious litigation arising from qui tam suits for false patent markings. The bill before the Senate abolishes this qui tam procedure and I would like to discuss why I support doing so, even though I am generally a strong proponent of using the qui tam mechanism to protect American taxpayers.

The qui tam provisions of the False Claims Act specifically allow the government to intervene and control litigation when the government has been harmed through false or fraudulent billing. The qui tam provisions of the patent law do not.

In fact, a recent Federal court decision struck down the qui tam provisions of the patent law as unconstitutional because the false patent marking statute does not give the executive branch sufficient control over the litigation to ensure that the President can ''take Care that the Laws be faithfully executed.''

As I mentioned, the False Claims Act is completely different. The Justice Department has the right to intervene, to prosecute, or to dismiss a False Claims Act qui tam. I was instrumental in ensuring such controls on frivolous lawsuits were inserted into the False Claims Act and the absence of similar controls in the false patent marking law is problematic.

I would not want anyone watching the patent reform bill to conclude that Congress will weaken or undermine the False Claims Act qui tam statute because we have stricken a flawed qui tam provision in the patent bill. I will vigorously defend the False Claims Act and urge my colleagues to do the same. The False Claims Act is the Federal Government's strongest weapon to protecting the taxpayer dollars from fraud and abuse. It would be a serious miscalculation for anyone to imply or attempt to characterize my support for the removal of the patent qui tam as a starting point for striking or reforming the False Claims Act qui tam provisions.

The False Claims Act qui tam provisions have helped the Federal Government recover over $28 billion since I amended it to add the qui tam provisions in 1986. With the recent amendments to the False Claims Act that I, along with Senator LEAHY, included in the Fraud Enforcement and Recovery Act of 2009, the False Claims Act will continue to serve as the Federal Government's most valuable tool to combat fraud in government programs for decades to come.

Mr. KYL. Mr. President, I rise today to make a few comments about the present bill, which has now been retitled the ''America Invents Act.'' This bill is almost identical to the managers' amendment that was negotiated by Chairman LEAHY and then-Ranking Member Sessions during the last Congress and announced in March 2010. I cosponsored and strongly supported that managers' amendment, which substantially addressed all of the concerns that Senators Feingold, COBURN, and I raised in our Minority Report to the 2009 committee report for the bill, Senate Report 111-18, at pages 53 through 61. As the bill was renegotiated in the fall of 2009 and early 2010, improvements and corrections were made throughout the bill, and a number of new provisions were added. I would like to take a moment to comment on some of those changes and additions.

In section 2(a) of the bill, the definition of ''effective filing date'' in section 100(i) has been modified in several ways. In subparagraph (A), the word ''actual'' is added before ''filing date.'' When the word ''filing date'' is used in current law, it is sometimes used to mean the actual filing date and sometimes used to mean the effective filing date. Since section 100 is a definitional section, it should be clear in its language, and thus the word ''actual'' is added in order to avoid a lingering ambiguity. Also, the language of subparagraph (B) is streamlined to clarify that a patent gets the benefit or priority of an earlier application if it is entitled to such benefit or priority as to the invention in question under the relevant code sections, which require satisfaction of the requirements of section 112(a), a specific reference to the prior application, and copendency.

The new language makes it clear that the definition of effective-filing date does not create new rules for entitlement to priority or the benefit of an earlier filing date. Rather, the definition simply incorporates the rules created by existing code sections. Also, since those rules expressly require an enabling disclosure, there is no need to separately require such disclosure in this definition, and thus the reference at the end of subparagraph (B) to the first paragraph of section 112 that appeared in earlier versions of the bill is dropped. Keeping that citation would have created a negative implication that unless such a requirement of section 120 was expressly incorporated into the definition of effective-filing date, then such requirement need not be satisfied in order to secure the benefit of an earlier effective-filing date.

It should be noted that, for purposes of subparagraph (A) of section 100(i)(1), a patent or application for patent contains a claim to an invention even if the claim to the particular invention was added via an amendment after the application was filed. Of course, such an amendment may not introduce new matter into the application—it may only claim that which was disclosed in the application.

Finally, new section 100(i)(2) of title 35 governs the effective date of reissued patents. Consistent with section 251, this new paragraph effectively treats the reissue as an amendment to the patent, which is itself treated as if it were a still-pending application. It bears emphasis that the first paragraph of section 251, which is designated as subsection (a) by this bill, bars the introduction of new matter in an application for reissue. Moreover, paragraph (3) of section 251, now designated as section 251(c), makes the rules governing applications generally applicable to reissues. A reissue is treated as an amendment to the patent, and the last sentence of section 132(a) bars the introduction of new matter in an amendment. See In re Rasmussen, 650 F.2d 1212, 1214–15, CCPA 1981. Thus a claim that relies for its support on new matter introduced in a reissue would be invalid.

Section 2(b) of the bill recodifies section 102 of title 35. In the present bill, this recodification is reorganized by

consolidating all exceptions to the definition of prior art in section 102(b)—and excluding from subsection (b) provisions that do not define exceptions to prior art, such as the CREATE Act and the definition of the effective date of patents and applications cited as prior art. Thus what previously appeared as section 102(a)(1)(B) in earlier versions of the bill is now 102(b)(1)(A), and former paragraphs (3) and (4) of subsection (b) are now subsections (c) and (d), respectively.

Also, the wording of subparagraph (B) of section 102(b)(2), which appeared at the same place in earlier versions of the bill, is changed so that it tracks the wording of subparagraph (B) of subsection (b)(1). These two subparagraph (B)s are intended to operate in the same way, and their previous differences in wording, although not substantive, tended to create an implication that they were intended to operate in different ways.

Under the first subparagraph (B), at section 102(b)(1)(B), if an inventor publicly discloses his invention, no subsequent disclosure made by anyone, regardless of whether the subsequent discloser obtained the subject matter from the inventor, will constitute prior art against the inventor's subsequent application for patent in the United States. The parallel provision at section 102(b)(2)(B) applies the same rule to subsequent applications: if the inventor discloses his invention, a subsequently filed application by another will not constitute prior art against the inventor's later-filed application for patent in the United States, even if the other filer did not obtain the subject matter from the first-disclosing inventor. And of course, the inventor's earlier disclosure will constitute prior art that invalidates the other filer's subsequent application.

In other words, under the regime of the two subparagraph (B)s, an inventor's disclosure of his invention to the public not only invalidates anyone else's subsequently filed application, but no one else's subsequent disclosure or filing of an application during the 1-year grace period will constitute prior art against that inventor's application. The bill thus effectively creates a ''first to publish'' rule that guarantees patent rights in the United States to whoever discloses the invention to the public first.

Of course, until the Europeans and the Japanese adopt a more substantial grace period, an inventor's pre-filing disclosure will prevent patenting in Europe and Japan. An inventor who is concerned about protecting his invention from theft, but who also wants to preserve his rights overseas, can instead file a provisional application in the United States. This inexpensive alternative protects the inventor's rights both in the United States and abroad.

Another change that this bill makes to chapter 10 is that the CREATE Act, formerly at section 103(c) of title 35, has been moved to section 102(c). The present bill departs from earlier versions of the bill by giving the CREATE Act is own subsection and making several clarifying and technical changes. In particular, the citation at the end of the chapeau is made more specific, and in paragraph (1) the words ''was developed'' are added because subject matter is not always ''made,'' but is always ''developed.'' Also in the same paragraph, the reference to ''parties'' is replaced with ''1 or more parties'', to further clarify that not all parties to the joint research agreement need have participated in developing the prior art or making the invention. Finally, as noted previously, the definition of ''joint research agreement'' is moved to section 100, which contains other definitions relevant to CREATE. As section 2(b)(2) of this bill notes, these changes are made with the same ''intent'' to promote joint-research activities that animated the CREATE Act. None of the changes in this legislation alter the meaning of the original law.

The present bill's new subsection 102(d) of title 35 makes several changes to earlier bills' version of this provision. Specifically, the chapeau of this subsection, which defines the effective date of patents and applications cited as prior art, is modified in the first clause by expressly stating the purpose of this subsection, and by otherwise clarifying the language employed. In paragraph (1), a clause is added at the outset to make clear that the paragraph applies only if paragraph (2) does not apply. Paragraph (2) is unmodified save for the nonsubstantive addition of a comma.

Though the language of section 102(d)(2) remains unchanged from earlier versions of the bill, that language deserves some comment. Paragraph (2) is intended to overrule what remains of In re Wertheim, 646 F.2d 527 (CCPA 1981), which appeared to hold that only an application that could have become a patent on the day that it was filed can constitute prior art against another application or patent. See id. at 537, noting that:

> If, for example, the PTO wishes to utilize against an applicant a part of that patent disclosure found in an application filed earlier than the date of the application which became the patent, it must demonstrate that the earlier-filed application contains sections 120/112 support for the invention claimed in the reference patent. For if a patent could not theoretically have issued the day the application was filed, it is not entitled to be used against another as 'secret prior art,' the rationale of Milburn being inapplicable.

Wertheim, however, was already almost completely overruled by the American Inventors Protection Act of 1999, Public Law 106–113, which, by making any published application prior art, effectively displaced Wertheim's requirement that the application have been capable of becoming a patent on the day that it was filed. Two recent BPAI decisions, Ex parte Yamaguchi, 88 U.S.P.Q.2d 1606, BPAI 2008, and Ex parte Jo Anne Robbins, 2009 WL 3490271, BPAI October 26, 2009, confirm this overruling, holding that any application that is ultimately published is prior art as of its filing date, and that provisional applications—which typically cannot become patents as filed—also are prior art. See Robbins at page *4, noting that ''[i]n our opinion, a published patent application which is statutorily destined to be published constitutes prior art for all that it discloses on its earliest filing date,'' and Yamaguchi at page 9, noting that ''a provisional application—like a regular utility application—constitutes prior art for all that it teaches,'' and the same case at page 13, Judge Torczon concurring that ''[i]f [the majority] is correct, In re Wertheim is no longer tenable authority.'' Moreover, these BPAI decisions' holding that a patent has a patent-defeating effect as of the filing date of the provisional application to which it claims priority was recently affirmed by the Federal Circuit in In re Giacomini, 612 F.3d 1380 (Fed. Cir. 2010).

The caselaw also teaches that parent applications to the published application set the effective date of the prior art if they describe the invention and the invention is enabled before the filing of the patent under review, even if that prior-art description, standing alone, may not be adequate to show enablement. This point is illustrated by Application of Samour, 571 F.2d 559, CCPA 1978, which holds that prior art must be enabled before the effective filing date of the application or patent under review, but this enablement need not be disclosed at the same place and time as the primary reference relied on as prior art—and can even come later than the primary reference, so long as it still comes before the effective-filing date of the application under review. Samour at page 563, notes that:

> we do not believe that a reference showing that a method of preparing the claimed subject matter would have been known by, or would have been obvious to, one of ordinary skill in the pertinent art, must antedate the primary reference. The critical issue under 35 U.S.C. §102(b) is whether the claimed subject matter was in possession of the public more than one year prior to applicant's filing date, not whether the evidence showing such possession came before or after the date of the primary reference.

Technically, In re Wertheim still controls the prior-art effect of the limited universe of applications that are not published before they are patented, but the Office's examination guidelines ignore even this vestigial effect, and extend prior-art effect to all prior applications that describe an invention as of the date of their filing. MPEP 21360.03, part IV, which notes that:

> For prior art purposes, a U.S. patent or patent application publication that claims the benefit of an earlier filing date under 35 U.S.C. 120 of a prior nonprovisional application would be accorded the earlier filing date as its prior art date under 35 U.S.C. 102(e), provided the earlier-filed application properly supports the subject matter relied upon in any rejection in compliance with 35 U.S.C. §112, first paragraph.

A prior-art parent application, however, must be copendent, have some continuity of disclosure, and be specifically referred to in the patent or published application. The continuous disclosure must be a description of the subject matter that is relied on as prior art. That description can become narrower in the intervening applications. But so long as there is still some description of the subject matter in the intervening applications, the Office can rely on an earlier application's fuller description as prior art.

The language of paragraph (2) is somewhat indirect in its imposition of these requirements. They are mostly incorporated through the paragraph's mandate that the prior-art application be ''entitled to claim * * * priority or benefit'' under section 120 et al. In section 100(i), which defines the effective-filing date of the patent under review, the patent must be entitled to the priority or benefit itself under the relevant sections. Here again in section 102(d), however, the application need only be entitled to claim the benefit or priority under those sections. This difference in language, which offers an excellent example of why people hate lawyers, distinguishes between the core requirement of section 120 et al.—that the application include an enabling disclosure—and the ministerial requirements of that section—that the application be copendent and specifically referenced. In effect, an application that meets the ministerial requirements of copendency and specific reference is entitled to claim the benefit or priority, but only an application that also offers an enabling disclosure is actually entitled to the benefit or priority itself. The language of paragraph (2) also expressly requires that the earliest application ''describe'' the subject matter, and the Office has traditionally required that this disclosure be continuous, as discussed above.

Paragraph (2) can be criticized as codifying current BPAI common law and examination practice without fully describing that practice. However, a fully descriptive codification of the principles codified therein would be unduly long, requiring repetition of the already somewhat inelegant language of section 120.

Another aspect of the bill's changes to current section 102 also merits special mention. New section 102(a)(1) makes two important changes to the definition of non-patent prior art. First, it lifts current law's geographic limits on what uses, knowledge, or sales constitute prior art. And second, it limits all non-patent prior art to that which is available to the public. This latter change is clearly identified in Senate Report 110–259, the report for S. 1145, the predecessor to this bill in the 110th Congress. The words ''otherwise available to the public'' were added to section 102(a)(1) during that Congress's Judiciary Committee mark up of the bill. The word ''otherwise'' makes clear that the preceding clauses describe things that are of the same quality or nature as the final clause—that is, although different categories of prior art are listed, all of them are limited to that which makes the invention ''available to the public.'' As the committee report notes at page 9, ''the phrase 'available to the public' is added to clarify the broad scope of relevant prior art, as well as to emphasize the fact that it [i.e., the relevant prior art] must be publicly available.'' In other words, as the report notes, ''[p]rior art will be measured from the filing date of the application and will include all art that publicly exists prior to the filing date, other than disclosures by the inventor within one year of filing.''

The Committee's understanding of the effect of adding the words ''or otherwise available to the public'' is confirmed by judicial construction of this phraseology. Courts have consistently found that when the words ''or otherwise'' or ''or other'' are used to add a modifier at the end of a string of clauses, the modifier thus added restricts the meaning of the preceding clauses. *Strom* v. *Goldman, Sachs & Co.*, 202 F.3d 138, 146–47, Second Cir. 1999, states that:

> The position of the phrase 'or any other equitable relief' in the sentence in which it appears indicates that it modifies one or both of the two specific remedies referred to just before it in the same sentence * * * [T]he use of the words 'other' immediately after the reference to back pay and before 'equitable relief' demonstrated Congress' understanding that the back pay remedy is equitable in nature.

Strom construed the phrase ''may include * * * back pay, * * * or any other equitable relief.'' *Universal City Studios, Inc.* v. *Reimerdes*, 111 F.Supp.2d 294, 325, S.D.N.Y. 2000, holds that:

> The statute makes it unlawful to offer, provide or otherwise traffic in described technology. To 'traffic' in something is to engage in dealings in it, conduct that necessarily involves awareness of the nature of the subject of the trafficking. * * * The phrase 'or otherwise traffic in' modifies and gives meaning to the words 'offer' and 'provide.' In consequence, the anti-trafficking provision of the DMCA is implicated where one presents, holds out or makes a circumvention technology or device available, knowing its nature, for the purpose of allowing others to acquire it.

Reimerdes construed the phrase ''offer to the public, provide, or otherwise traffic in any technology.'' *Williamson* v. *Southern Regional Council, Inc.*, 223 Ga. 179, 184, 154 S.E.2d 21, 25 (Ga. 1967), noted that:

> The words 'carrying on propaganda' in this statute must be construed in connection with the words following it, 'or otherwise attempting to influence legislation.' The use of the word 'otherwise' indicates that 'carrying on propaganda' relates to 'attempting to influence legislation.'

Williamson construed the phrase ''carrying on propaganda, or otherwise attempting to influence legislation.''

In other words, the Judiciary Committee's design in adding the 2007 amendment to section 102(a)(1), as expressed in the relevant committee report, is consistent with the unanimous judicial construction of the same turn of phrase. It appears that every court that has considered this question agrees with the committee's understanding of the meaning of this language.

Moreover, the fact that the clause ''or otherwise available to the public'' is set off from its preceding clauses by a comma confirms that it applies to both ''public use'' and ''on sale.'' *Finisar Corp.* v. *DirecTV Group, Inc.*, 523 F.3d 1323, 1336, Fed. Cir. 2008, notes that ''when a modifier is set off from a series of antecedents by a comma, the modifier should be read to apply to each of those antecedents.'' Thus new section 102(a)(1) imposes a public-availability standard on the definition of all prior art enumerated by the bill—an understanding on which the remainder of the bill is predicated.

Whether an invention has been made available to the public is the same inquiry that is undertaken under existing law to determine whether a document has become publicly accessible, but is conducted in a more generalized manner to account for disclosures of information that are not in the form of documents.

> A document is publicly accessible if it has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it and recognize and comprehend therefrom the essentials of the claimed invention without need of further research or experimentation.

That is a quotation from *Cordis Corp.* v. *Boston Scientific Corp.*, 561 F.3d 1319, 1333, Fed. Cir. 2009. That decision also states that ''[i]n general, accessibility goes to the issue of whether interested members of the relevant public could obtain the information if they wanted to.'' See also In re Lister, 583 F.3d 1307, Fed. Cir. 2009.

Another important aspect of public availability or accessibility is the doctrine of inherency. ''Under the doctrine of inherency, if an element is not expressly disclosed in a prior art reference, the reference will still be deemed to anticipate a subsequent claim if the missing element is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill,'' a point noted in *Rosco, Inc.* v. *Mirror Lite Co.*, 304 F.3d 1373, 1380, Fed. Cir. 2002. This doctrine applies to products sold to the public as well as published references. Thus once a product is sold on the market, any invention that is inherent to the product becomes publicly available prior art and cannot be patented.

The present bill's elimination of the patent forfeiture doctrines in favor of a general public availability standard also limits and reconciles the various purposes that previously have been ascribed to section 102's definition of prior art. Current 102(b), which imposes the forfeiture doctrines, has been described as being ''primarily concerned

with the policy that encourages an inventor to enter the patent system promptly,'' a quotation from *Woodland Trust* v. *Flowertree Nursery, Inc.*, 148 F.3d 1368, 1370, Fed. Cir. 1998. And the ''overriding concern of the on-sale bar'' has been described as ''an inventor's attempt to commercialize his invention beyond the statutory term,'' as stated in *Netscape Communications Corp.* v. *Konrad*, 295 F.3d 1315, 1323, Fed. Cir. 2002.

By adopting the first-to-file system, however, the present bill already provides ample incentive for an inventor to enter the patent system promptly. There is no need to also require forfeiture of patents simply because the inventor has made some use of the invention that has not made the invention available to the public. And the current on-sale bar imposes penalties not demanded by any legitimate public interest. There is no reason to fear ''commercialization'' that merely consists of a secret sale or offer for sale but that does not operate to disclose the invention to the public.

The current forfeiture doctrines have become traps for unwary inventors and impose extreme results to no real purpose. In *Beachcombers International, Inc.* v. *Wildewood Creative Products, Inc.*, 31 F.3d 1154, 1159–60, Fed. Cir. 1994, for example, an improved kaleidoscope was held to be ''in public use'' within the meaning of current section 102(b) because the inventor had demonstrated the device to several guests at a party in her own home. And in *JumpSport, Inc.* v. *Jumpking, Inc.*, 2006 WL 2034498, Fed. Cir. July 21, 2006, the court of appeals affirmed the forfeiture of a patent for a trampoline enclosure on the ground that the enclosure had been in ''public use'' because neighbors had been allowed to use it in the inventor's back yard. Obviously, neither of these uses made the inventions accessible to persons interested and skilled in the subject matter. The only effect of rulings like these is to create heavy discovery costs in every patent case, and to punish small inventors who are unaware of the pitfalls of the current definition of prior art.

The present bill's new section 102(a) precludes extreme results such as these and eliminates the use of the definition of prior art to pursue varied goals such as encouraging prompt filing or limiting commercialization. Instead, the new definition of prior art will serve only one purpose: ''to prevent the withdrawal by an inventor of that which was already in the possession of the public,'' as noted in *Bruckelmyer* v. *Ground Heaters, Inc.*, 335 F.3d 1374, 1378, Fed. Cir. 2006. The new definition is ''grounded on the principle that once an invention is in the public domain, it is no longer patentable by anyone,'' as stated in *SRI International, Inc.* v. *Internet Security Systems, Inc.*, 511 F.3d 1186, 1194, Fed. Cir. 2008.

The present definition thus abrogates the rule announced in *Egbert* v. *Lippman*, 104 U.S. 333, 336 (1881), one of the more unusual patent cases to come before the Supreme Court. That case held that:

> whether the use of an invention is public or private does not necessarily depend upon the number of persons to whom its use is known. If an inventor, having made his device, gives or sells it to another, to be used by the donee or vendee, without limitation or restriction, or injunction of secrecy, and it is so used, such use is public, even though the use and knowledge of the use may be confined to one person.

Egbert v. Lippman is another case whose result can fairly be characterized as extreme. The invention there was an improved corset spring. The evidence showed only that the inventor had given the improved corset spring to one lady friend, who gave it to no other, and who used it in a corset, which of course was worn under her dress. The U.S. Supreme Court deemed this to be a ''public use'' of the invention within the meaning of section 102(b).

Justice Miller dissented. He began by noting that the word ''public'' in section 102(b) is ''an important member of the sentence.'' Justice Miller went on to conclude:

> A private use with consent, which could lead to no copy or reproduction of the machine, which taught the nature of the invention to no one but the party to whom such consent was given, which left the public at large as ignorant of this as it was before the author's discovery, was no abandonment to the public, and did not defeat his claim for a patent. If the little steep spring inserted in a single pair of corsets, and used by only one woman, covered by her outer-clothing, and in a position always withheld from public observation, is a public use of that piece of steel, I am at a loss to know the line between a private and a public use.

In this bill's revisions to section 102, vindication has finally come to Justice Miller, albeit 130 years late.

I emphasize these points about the bill's imposition of a general public availability standard and its elimination of secret prior art because they are no small matter. A contrary construction of section 102(a)(1), which allowed private and non-disclosing uses and sales to constitute invalidating prior art, would be fairly disastrous for the U.S. patent system. First, the bill's new post-grant review, in which any validity challenge can be raised, would be utterly unmanageable if the validity of all patents subject to review under the new system continued to depend on discovery-intensive searches for secret offers for sale and non-disclosing uses by third parties. Only patents issued under the new prior-art rules can be efficiently reviewed under chapter 32.

Second, a general public-availability standard is a necessary accompaniment to this bill's elimination of geographic restrictions on the definition of prior art. As unwieldy as the current rules may be, at least those rules allow only those secret sales and private third-party uses that occur in the United States to constitute prior art. Under the new regime, however, sales and uses occurring overseas will also constitute prior art. A sale or use that discloses an invention to the public is relatively hard to falsify. If the invention truly was made available to the public by sale or use, independent validation of that sale or use should be readily available. By contrast, the existence of a secret offer for sale, or a nondisclosing third-party use, largely will turn on the affidavits or statements of the parties to such an occurrence. Unfortunately, some foreign countries continue to have weak business ethics and few scruples about bending the rules to favor domestic interests over foreign competitors. A system that allowed foreign interests to invalidate a U.S. patent simply by securing statements from individuals that a secret offer for sale or non-disclosing third-party use of the invention had occurred in a foreign country would place U.S. inventors at grave risk of having their inventions stolen through fraud. That is not a risk that Congress is willing to accept.

In section 2(c), the present bill, for clarity's sake, changes the previous bills' recodification of section 103 of title 35 by replacing the word ''though'' with '', notwithstanding that''. The modified text reflects more conventional English usage. Also, in both the present bill and earlier versions, former subsection (b) of section 103 has been dropped, since it has already been subsumed in caselaw. And subsection (c), the CREATE Act, has been moved to subsection (d) of section 102.

In section 2(e) of the present bill, an effective date is added to the repeal of statutory invention registrations. SIRs are needed only so long as interferences exist. The bill repeals the authority to initiate interferences 18 months after the date of enactment. The added effective-date language also repeals SIRs 18 months after enactment, making clear that preexisting SIRs will remain effective for purposes of pending interferences, which may continue under this bill.

Section 2(e)(2) of the bill strikes the citation to section 115 from section 111(b)(8)'s enumeration of application requirements that do not apply to provisionals. This conforming change is made because, in section 3 of the bill, section 115 itself has been amended so that it only applies to nonprovisionals. In other words, there is no longer any need for section 111(b)(8) to except out the oath requirement because that requirement no longer extends to provisionals. There is no need for an exception to a requirement that does not apply.

Sections 2(h) and (i) of the present bill make a number of changes to the previous bills' treatment of remedies for derivation. These changes are made largely at the Patent Office's suggestion. In particular, the new section 135 proceeding is simplified, the Office is given authority to implement the proceeding through regulations, the Office is permitted to stay a derivation proceeding pending an ex parte

reexamintion, IPR, or PGR for the earlier-filed patent, and the Office is permitted but not required to institute a proceeding if the Office finds substantial evidence of derivation. In lieu of a section 135 proceeding, parties will be allowed to challenge a derived patent through a civil action under a revised section 291.

New section 2(k) of the bill eliminates the qui tam remedy for false marking, while allowing a party that has suffered a competitive injury as a result of such marking to seek compensatory damages. Section 292 of title 35 prohibits false patent marking and imposes a penalty of $500 for each such offense. Under current law, subsection (b) allows ''any person'' to sue for the penalty, and requires only that one half of the proceeds of the suit shall go to the United States. Current subsection (b) is, in effect, a qui tam remedy for false marking, but without any of the protections and government oversight that normally accompany qui tam actions.

The changes made by section 2(k) of the bill would allow the United States to continue to seek the $500-per-article fine, and would allow competitors to recover in relation to actual injuries that they have suffered as a result of false marking, but would eliminate litigation initiated by unrelated, private third parties.

In recent years, patent attorneys have begun to target manufacturers of high-volume consumer products with section 292(b) actions. Since the fine of up to $500 is assessed for each article that is falsely marked, such litigants have an incentive to target products that are sold in high volume. Though one might assume that section 292 is targeted at parties that assert fictitious patents in order to deter competitors, such a scenario is almost wholly unknown to false-marking litigation. False-marking suits are almost always based on allegations that a valid patent that did cover the product has expired, but the manufacturer continued to sell products stamped with the patent, or allegations that an existing patent used to mark products is invalid or unenforceable, or that an existing and valid patent's claims should not be construed to cover the product in question.

Indeed, a recent survey of such suits found that a large majority involved valid patents that covered the products in question but had simply expired. For many products, it is difficult and expensive to change a mold or other means by which a product is marked as patented, and marked products continue to circulate in commerce for some time after the patent expires. It is doubtful that the Congress that originally enacted this section anticipated that it would force manufacturers to immediately remove marked products from commerce once the patent expired, given that the expense to manufacturers of doing so will generally greatly outweigh any conceivable harm of allowing such products to continue to circulate in commerce.

Indeed, it is not entirely clear how consumers would suffer any tangible harm from false marking that is distinct from that suffered when competitors are deterred from entering a market. Patent marking's primary purpose is to inform competitors, not consumers, that a product is patented. I doubt that consumers would take any interest, for example, in whether a disposable plastic cup is subject to a patent, to take one case recently decided by the courts. Even less clear is how the consumer would be harmed by such marking, absent a deterrence of competition. Current section 292(b) creates an incentive to litigate over false marking that is far out of proportion to the extent of any harm actually suffered or the culpability of a manufacturer's conduct.

To the extent that false patent marking deters competition, the bill's revised section 292(b) allows those competitors to sue for relief. This remedy should be more than adequate to deter false marking that harms competition. And to the extent that false marking somehow harms the public in a manner distinct from any injury to competitors and competition, revised section 292(a) would allow the United States to seek relief on behalf of the public. The Justice Department can be expected to be more judicious in its use of this remedy than is a private qui tam litigant seeking recovery that will benefit him personally. These revisions to section 292 should restore some equilibrium to this field of litigation.

Finally, because the Federal Circuit's recent decision in *Forest Group, Inc.* v. *Bon Tool Co.*, 590 F.3d 1295, Fed Cir. 2009, appears to have created a surge in false-marking qui tam litigation, the changes made by paragraph (1) of section 2(k) of the bill are made fully retroactive by paragraph (2). Because the courts have had difficulty properly construing effective-date language in recent years, paragraph (2) employs the language of section 7(b) of Public Law 109–366, the Military Commissions Act of 2006, which recently was given an authoritative construction in *Boumediene* v. *Bush*, 476 F.3d 981, 987, D.C. Cir. 2007. As that court noted when construing effective-date language identical to that of section 2(k)(2):

> Section 7(b) could not be clearer. It states that ''the amendment made by subsection (a)''—which repeals habeas jurisdiction—applies to ''all cases, without exception'' relating to any aspect of detention. It is almost as if the proponents of these words were slamming their fists on the table shouting ''When we say 'all,' we mean all—without exception!''

It is anticipated that courts will find the same clarity in the language of section 2(k)(2), and will apply the revised section 292(b) to cases pending at any level of appeal or review.

Section 2(l) of the present bill modifies the statute of limitations for initiating a proceeding to exclude an attorney from practice before the Office. Under this provision, a section 32 proceeding must be initiated either within 10 years of when the underlying misconduct occurred, or within 1 year of when the misconduct is reported to that section of PTO charged with conducting section 32 proceedings, whichever is earlier.

It is not entirely clear how the time limitation applies under present law. A recent D.C. Circuit case, *3M* v. *Browner*, 17 F.3d 1461 D.C. Cir. 1994, effectively makes the 5-year statute of limitations that generally applies to enforcement of civil penalties, at 28 U.S.C. §2462, run from the date when a violation occurred, rather than from the date when the enforcement agency first learned of the violation or reasonably could have learned of it. A recent Federal Circuit case, *Sheinbein* v. *Dudas*, 465 F.3d 493, 496, Fed. Cir. 2006, applies the section 2462 5-year limitation to section 32 proceedings, and applies 3M v. Browner's general rule, as described by Sheinbein, that ''[a] claim normally accrues when the factual and legal prerequisites for filing suit are in place.'' However, another court case, *S.E.C.* v. *Koenig*, 557 F.3d 736, 739, 7th Cir. 2009, has recently held that when a fraud has occurred, section 2462 only runs from when the fraud ''could have been discovered by a person exercising reasonable diligence.''

Although the Federal Circuit appears to be inclined to follow 3M v. Browner, it is not entirely clear that it would reject Koenig's exception for cases of fraud, Koenig having been decided subsequently to Sheinbein. In any event, neither rule would be entirely satisfactory for section 32 proceedings. On the one hand, a strict five-year statute of limitations that runs from when the misconduct occurred, rather than from when it reasonably could have been discovered, would appear to preclude a section 32 proceeding for a significant number of cases of serious misconduct, since prosecution misconduct often is not discovered until a patent is enforced. On the other hand, a fraud exception that effectively tolls the statute of limitations until the fraud reasonably could have been discovered would be both overinclusive and underinclusive. Such tolling could allow a section 32 proceeding to be commenced more than two decades after the attorney's misconduct occurred. This is well beyond the time period during which individuals can reasonably be expected to maintain an accurate recollection of events and motivations. And yet, a fraud exception would also be underinclusive, since there is a substantial range of misconduct that PTO should want to sanction that does not rise to the level of fraud, which requires reliance on the perpetrator's misrepresentations.

Section 2(1) of the bill adopts neither 3M v. Browner nor Koenig's approach, but instead imposes an outward limit of 10 years from the occurrence of the misconduct for the initiation of a section 32 proceeding. A 10-year limit

would appear to allow a proceeding for the vast bulk of misconduct that is discovered, while also staying within the limits of what attorneys can reasonably be expected to remember.

Paragraph (2) of section 2(l) requires the Office to report to Congress every two years on incidents of misconduct that it becomes aware of and would have investigated but for the 10 year limit. By providing a description of the character and apparent seriousness of such incidents, these reports will alert a future Congress if there is a need to revisit the 10-year limit. If the number and seriousness of such incidents is substantial enough, it may outweigh the interest in repose with regard to such matters.

Section 2(m) of the present bill requires the Small Business Administration to report to Congress on the expected impact of the first-to-file system on small businesses. On the one hand, some parties have suggested that the first-to-file system will be relatively burdensome for small businesses because it will require patent applicants to file their applications earlier, and will require that more applications be filed for a complex invention. On the other hand, others have suggested that the first-to-file system will be far simpler and cleaner to administer, that the ability to file provisional applications mitigates the burden of filing earlier, and that by inducing American patent applicants to file earlier, the first-to-file system is more likely to result in American patents that are valid and have priority elsewhere in the industrialized world.

Under current law, even if an American small business or independent inventor is legally sophisticated enough to maintain the type of third-party validation that will preserve his priority under the first-to-invent system, if that American inventor relies on first-to-invent rules to delay filing his application, he runs a serious risk that someone in another country will file an application for the same invention before the American does. Because the rest of the world uses the first-to-file system, even if the American inventor can prove that he was the first to have possession of the invention, the foreign filer would obtain the patent rights to the invention everywhere outside of the United States. In today's world, patent rights in Europe and Asia are valuable and important and cannot be ignored.

Section 2(n) of the bill requires the Director to report on the desirability of authorizing prior-user rights, particularly in light of the adoption of a first-to-file system.

In section 2(o) of the bill, the time for implementing the first-to-file system has been moved to 18 months, so that Congress might have an opportunity to act on the conclusions or recommendations of the reports required by subsections (m) and (n) before first-to-file rules are implemented.

Subsection (o) generally adopts the Office's preferred approach to transitioning to the first-to-file system. Under this approach, if an application contains or contained a claim to an invention with an effective-filing date that is 18 months after the date of enactment of the Act, the entire application is subject to the first-to-file regime. As a practical matter, this allows applicants to flip their applications forward into the first-to-file system, but prevents them from flipping backward into the first-to-invent universe once they are already subject to first-to-file rules.

New section 100(i)(2) of title 35 ensures that reissues of first-to-invent patents will remain subject to first-to-invent rules. Also, continuations of first-to-invent applications that do not introduce new matter will remain subject to first-to-invent rules. This last rule is important because if a continuation filed 18 months after the enactment of the Act were automatically subject to first-to-file rules, even if it introduced no new matter, the Office likely would see a flood of continuation filings on the eve of the first-to-file effective date. Under subsection (o), an applicant who wants to add to his disclosure after this section's 18-month effective date can choose to pull the whole invention into the first-to-file universe by including the new disclosure in a continuation of his pending first-to-invent application, or he can choose to keep the pending application in the first-to-file world by filing the new disclosure as a separate invention.

Paragraph (2) of subsection (o) provides a remedy in situations in which interfering patents are issued, one of which remains subject to first-to-invent rules, and the other of which was filed earlier but has a later date of conception and has transitioned into the first-to-file system. Paragraph (2) subjects the latter patent to the first-to-invent rule, and allows the other patent owner and even third parties to seek invalidation of that later-conceived interfering patent on that basis.

In section 3(a) of the present bill, the language of section 115 of title 35, the inventor's oath requirement, has been tidied up from that appearing in earlier versions of the bill. A grammatical error is corrected, an unnecessary parenthetical is struck, and stylistic changes are made.

In the new section 115(g), a paragraph (2) has been added that allows the Director to require an applicant claiming the benefit of an earlier-filed application to include copies of previous inventor's oaths used in those applications. The Office cannot begin examining an application until it knows who those inventors are, since their identity determines which prior art counts as prior art against the claimed invention. However, a later-filed application is not currently required to name inventors. Such information is included in an application data sheet, but such data sheets are not always filed—the requirement is not statutory. Moreover, a later-filed application often will cite to multiple prior applications under section 120, each of which may list several inventors. Thus unless the Office can require the applicant to identify which oath or other statement applies to the later-filed application, the Office may not be able to figure out who the inventor is for that later application.

In new section 115(h)(2), the present bill replaces the word ''under'' with ''meeting the requirements of'' in order to conform to the formulation used later in the same sentence.

In section 3(a)(3) of the bill, the changes to section 111(a) are modified to reflect that either an oath or declaration may be submitted.

In section 3(b), the present bill adds a new paragraph (2) that modifies section 251 to allow an assignee who applied for a patent to also seek broadening reissue of the patent within two years of its issue. Notwithstanding the language of the fourth paragraph of current section 251, the Office currently does allow assignees to seek broadening reissue, so long as the inventor does not oppose the reissue. The Office views such unopposed applications for reissue as effectively being made ''in the name'' of the inventor. Expanding an assignee's right to seek broadening reissue is consistent with the bill's changes to sections 115 and 118, which expand assignees' rights by allowing assignees to apply for a patent against the inventor's wishes. If an assignee exercises his right to apply for a patent against the inventor's wishes, there is no reason not to allow the same assignee to also seek a broadening reissue within the section 251 time limits.

Turning to the issue of damages, at the end of the 110th Congress, I introduced a patent reform bill, S. 3600, that proposed restrictions on the use of some of the factors that are used to calculate a reasonable royalty. Discussions with patent-damages experts had persuaded me that several of the metrics that are employed by litigants are unsound, unduly manipulable and subjective, and prone to producing excessive awards. The most significant of the restrictions that I proposed in S. 3600 were limits on the use of supposedly comparable licenses for other patents to value the patent in suit, and limits on the use of standardized measures such as the so-called rule of thumb. These proposals are discussed in my statement accompanying the introduction of S. 3600, at 154 CONGRESSIONAL RECORD S9982, S9984-85, daily ed. September 27, 2008. I argued at the time that the only way to ensure that courts and juries would stop using these metrics ''is for Congress to tell the courts to disallow them.''

It appears that I underestimated the courts' ability and willingness to address these problems on their own. And I certainly did not anticipate the speed with which they might do so. Three recent decisions from the Federal Circuit

have sharply restricted the use of licenses for supposedly comparable patents to value the patent in suit. *Lucent Technologies, Inc.* v. *Gateway, Inc.*, 580 F.3d 1301, 1328, Fed. Cir. 2009, makes clear that mere ''kinship'' in a field of technology is not enough to allow use of evidence of licenses for other patents. Lucent bars the use of other-patent licenses where there is no showing of the significance of such other patented inventions to their licensed products, or no showing of how ''valuable or essential'' those other licensed inventions are. In a similar vein, *ResQNet.com, Inc.* v. *Lansa, Inc.*, 594 F.3d 860, 870, 872, Fed. Cir. 2010, condemns the use of ''unrelated'' licenses for other patents as a measure of value and makes clear that a supposedly comparable license must have ''an economic or other link to the technology in question.'' And *Wordtech Systems, Inc.* v. *Integrated Network Solutions, Inc.*, 609 F.3d 1308, 1320, Fed. Cir. 2010, recently reiterated that ''comparisons of past patent licenses to the infringement must account for the technological and economic differences between them.''

And just two months ago, I was particularly pleased to see the Federal Circuit announce, in *Uniloc USA, Inc.* v. *Microsoft Corp.*,_____ F.3d_____, 2011 WL 9738, Fed. Cir. 2011, that the ''court now holds as a matter of Federal Circuit law that the 25 percent rule of thumb is a fundamentally flawed tool for determining a baseline royalty rate in a hypothetical negotiation.'' The court ruled that testimony based on the rule of thumb is inadmissible under the Daubert standard.

The rule of thumb is a particularly arbitrary and inaccurate measure of patent value. I am glad to see that it will no longer be used.

The Lucent case that I quoted earlier also struck down a damages award that was based on the entire market value of the infringing product. The court did so because there was no substantial evidence that the patented invention was the basis for consumer demand for the product. See Lucent, 580 F.3d at 1337–38. This holding addresses one of the principal complaints that I have heard about patent-damages calculations. And it effects a reform that Congress itself cannot enact. Existing law already required that the invention be the basis for consumer demand before damages can be assessed on the whole product, and the law already required parties to support their contentions with legally sufficient evidence. Congress can change the underlying law, but it cannot make the courts enforce it. The Lucent case did so.

The limits that I had proposed in S. 3600 on the use of metrics such as the rule of thumb, and that bill's restrictions on the use of licenses for comparable patents to value the patent in suit, are rendered superfluous by these intervening judicial decisions. The present bill appropriately leaves patent-damages law to common law development in the courts.

The present bill also makes no changes to the standard for awards of treble damages. As noted in the Minority Report to the committee report for the 2009 bill, Senate Report 111-18 at pages 58-60, that bill's grounds for allowing awards of treble damages were exceedingly narrow, and its safe harbors were overly broad. That bill would have created immunity from willfulness damages even for an infringer who was fully aware of a patent and had no real doubts as to its validity. It also created immunity, in some cases, even for infringers who had engaged in wanton conduct such as deliberate copying.

Awards of enhanced damages play an important role in the U.S. patent system. It is not uncommon that a manufacturer will find itself in a situation where it feels great pressure to copy a competitor's patented invention. In a typical scenario, the sales staff report that they are losing sales because the competitor's product has a particular feature. The manufacturer's engineers discover that the feature is protected by a valid patent, and they find that they are unable to produce the same feature without infringing the patent. The company then has two choices. It can choose to continue to try to reproduce or substitute for the patented feature, and as it does so, continue to lose market share, and in some cases, lose convoyed sales of associated products or services. Or it can choose to infringe the competitor's patent.

Treble damages are authorized in order to deter manufacturers from choosing the second option. Absent the threat of treble damages, many manufacturers would find that their most financially reasonable option is simply to infringe patents. Lost-profits damages are often hard to prove or unavailable. The patent owner is always entitled to a reasonable royalty, but under that standard, the infringer often can keep even some of the profits produced by his infringing behavior. Without treble damages, many companies would find it economically rational to infringe valid patents. Section 284's authorization of treble damages is designed to persuade these companies that their best economic option is to respect valid patents.

If patents were routinely ignored and infringed, the patent system would cease to be of use to many companies and other entities that do some of our nation's most important research and development. These companies are profitable because people respect their patents and voluntarily pay a license. They would not be viable enterprises if they always had to sue in order to get paid for others' use of their patented inventions.

By dropping the 2009 bill's restrictions on treble-damages awards, the present bill preserves these awards' role as a meaningful deterrent to reckless or wanton conduct. Ultimately, we want a treble-damages standard that creates an environment where the most economically reasonable option for a party confronted by a strong patent is to take a license—and where no one thinks that he can get away with copying.

Section 4(c) of the present bill adds a new section 298 to title 35. This section bars courts and juries from drawing an adverse inference from an accused infringer's failure to obtain opinion of counsel as to infringement or his failure to waive privilege and disclose such an opinion. The provision is designed to protect attorney-client privilege and to reduce pressure on accused infringers to obtain opinions of counsel for litigation purposes. It reflects a policy choice that the probative value of this type of evidence is outweighed by the harm that coercing a waiver of attorney-client privilege inflicts on the attorney-client relationship. Permitting adverse inferences from a failure to procure an opinion or waive privilege undermines frank communication between clients and counsel. It also feeds the cottage industry of providing such opinions—an industry that is founded on an unhealthy relationship between clients and counsel and which amounts to a deadweight loss to the patent system. Some lawyers develop a lucrative business of producing these opinions, and inevitably become aware that continued requests for their services are contingent on their opinions' always coming out the same way—that the patent is invalid or not infringed. Section 298 reflects legislative skepticism of the probative value of such opinions.

Section 298 applies to findings of both willfulness and intent to induce infringement—and thus legislatively abrogates *Broadcom Corp.* v. *Qualcomm Inc.*, 543 F.3d 683, Fed. Cir. 2008. That case held, at page 699, that:

> Because opinion-of-counsel evidence, along with other factors, may reflect whether the accused infringer 'knew or should have known' that its actions would cause another to directly infringe, we hold that such evidence remains relevant to the second prong of the intent analysis. Moreover, we disagree with Qualcomm's argument and further hold that the failure to procure such an opinion may be probative of intent in this context.

Section 5 of the bill has been substantially reorganized and modified since the 2009 bill. In general, the changes to this part of the bill aim to make inter partes and post-grant review into systems that the Patent Office is confident that it will be able to administer. The changes also impose procedural limits on post-grant administrative proceedings that will prevent abuse of these proceedings for purposes of harassment or delay.

Accused infringers, however, also will benefit from some of the changes made by the present bill. The bill eliminates current law's requirement, at section 317(b) of title 35, that an inter partes reexamination be terminated if litigation results in a final judgment. It also removes the bar on challenging pre-1999 patents in inter partes proceedings. All patents can now be challenged in inter partes review.

In addition, the bill creates a new post-grant review in which a patent

can be challenged on any validity ground during the first nine months after its issue. Challengers who use this proceeding will be estopped in litigation from raising only those issues that were raised and decided in the post-grant review, rather than all issues that could have been raised, the standard employed in inter partes reexamination.

The present bill also softens the could-have-raised estoppel that is applied by inter partes review against subsequent civil litigation by adding the modifier ''reasonably.'' It is possible that courts would have read this limitation into current law's estoppel. Current law, however, is also amenable to the interpretation that litigants are estopped from raising any issue that it would have been physically possible to raise in the inter partes reexamination, even if only a scorched-earth search around the world would have uncovered the prior art in question. Adding the modifier ''reasonably'' ensures that could-have-raised estoppel extends only to that prior art which a skilled searcher conducting a diligent search reasonably could have been expected to discover.

Section 5(a) of the 2009 version of the bill, which would amend section 301, has been modified and moved to section 5(g) of the bill. This provision allows written statements of the patent owner regarding claim scope that have been filed in court or in the Office to be made a part of the official file of the patent, and allows those statements to be considered in reexaminations and inter partes and post-grant reviews for purposes of claim construction. This information should help the Office understand and construe the key claims of a patent. It should also allow the Office to identify inconsistent statements made about claim scope—for example, cases where a patent owner successfully advocated a claim scope in district court that is broader than the ''broadest reasonable construction'' that he now urges in an inter partes review.

The present bill preserves the agreement reached in the 2009 Judiciary Committee mark up to maintain the current scope of inter partes proceedings: only patents and printed publications may be used to challenge a patent in an inter partes review.

One important structural change made by the present bill is that inter partes reexamination is converted into an adjudicative proceeding in which the petitioner, rather than the Office, bears the burden of showing unpatentability. Section 5(c) of the previous bill eliminated language in section 314(a) that expressly required inter partes reexamination to be run as an examinational rather than adjudicative proceeding, but failed to make conforming changes eliminating provisions in section 314(b) that effectively would have required inter partes reexamination to still be run as an examinational proceeding. In the present bill, section 316(a)(4) gives the Office discretion in prescribing regulations governing the new proceeding. The Office has made clear that it will use this discretion to convert inter partes into an adjudicative proceeding. This change also is effectively compelled by new section 316(e), which assigns to the petitioner the burden of proving a proposition of unpatentability by a preponderance of the evidence. Because of these changes, the name of the proceeding is changed from ''inter partes reexamination'' to ''inter partes review.''

The present bill also makes changes to the petition requirements that appear in new sections 312(a)(5) and 322(a)(5). These sections have been modified to require petitioners to provide to the patent owner the same identification of any real parties in interest or privies that is provided to the Office. The Office anticipates that patent owners will take the initiative in determining whether a petitioner is the real party in interest or privy of a party that is barred from instituting a proceeding with respect to the patent.

Language that previously appeared as the last sentences of what are now sections 312(c) and 322(c), and which stated that failure to file a motion to seal will result in pleadings' being placed in the record, has been struck. At best this sentence was redundant, and at worst it created an ambiguity as to whether material accompanying the pleadings also would be made public absent a motion to seal.

Many of the procedural limits added to inter partes and post-grant review by the present bill are borrowed from S. 3600, the bill that I introduced in the 110th Congress. My comments accompanying the introduction of that bill, at 154 CONGRESSIONAL RECORD S9982–S9993, daily ed. Sept. 27, 2008, are relevant to those provisions of the present bill that are carried over from S. 3600, particularly to the extent that the comments disclose understandings reached with the Patent Office, conscious use of terms of art, or the reasoning behind various provisions. Relevant passages include page S9987's discussion of the use of the adjudicative or oppositional model of post-grant review and estoppel against parties in privity, and page S9988's discussion of what is now section 324(b)'s additional threshold for instituting a post-grant review, the expectation that the Director will identify the issues that satisfied the threshold for instituting an inter partes or post-grant review, the meaning of ''properly filed'' when used in the joinder provisions in sections 315(c) and 325(c), the authorization to consolidate proceedings in sections 315(d) and 325(d), and the standards for discovery in sections 316(a)(6) and 326(a)(5). Also relevant is page S9991's discussion of the excesses and effects of inequitable-conduct litigation, which informs this bill's provisions relating to that doctrine.

Among the most important protections for patent owners added by the present bill are its elevated thresholds for instituting inter partes and post-grant reviews. The present bill dispenses with the test of ''substantial new question of patentability,'' a standard that currently allows 95% of all requests to be granted. It instead imposes thresholds that require petitioners to present information that creates serious doubts about the patent's validity. Under section 314(a), inter partes review will employ a reasonable-likelihood-of-success threshold, and under section 324(a), post-grant review will use a more-likely-than-not-invalidity threshold.

Satisfaction of the inter partes review threshold of ''reasonable likelihood of success'' will be assessed based on the information presented both in the petition for review and in the patent owner's response to the petition. The ''reasonable likelihood'' test is currently used in evaluating whether a party is entitled to a preliminary injunction, and effectively requires the petitioner to present a prima facie case justifying a rejection of the claims in the patent.

Post-grant review uses the ''more likely than not invalid'' test. This slightly higher threshold is used because some of the issues that can be raised in post-grant review, such as enablement and section 101 invention issues, may require development through discovery. The Office wants to ensure that petitioners raising such issues present a complete case at the outset, and are not relying on obtaining information in discovery in the post-grant review in order to satisfy their ultimate burden of showing invalidity by a preponderance of the evidence.

Subsections (a) and (b) of sections 315 and 325 impose time limits and other restrictions when inter partes and post-grant review are sought in relation to litigation. Sections 315(a) and 325(a) bar a party from seeking or maintaining such a review if he has sought a declaratory judgment that the patent is invalid. This restriction applies, of course, only if the review petitioner has filed the civil action. These two subsections (a) do not restrict the rights of an accused infringer who has been sued and is asserting invalidity in a counterclaim. That situation is governed by section 315(b), which provides that if a party has been sued for infringement and wants to seek inter partes review, he must do so within 6 months of when he was served with the infringement complaint.

Section 325(b) provides that if a patent owner sues to enforce his patent within three months after it is granted, a court cannot refuse to consider a motion for a preliminary injunction on the basis that a post-grant review has been requested or instituted. A patent owner who sues during this period is likely to be a market participant who already has an infringer intruding on his market, and who needs an injunction in order to avoid irreparable harm.

This provision strengthens and carries over to post-grant review the rule of *Procter & Gamble Co.* v. *Kraft Foods Global, Inc.*, 549 F.3d 842, Fed. Cir. 2008.

Sections 315(c) and 325(c) allow joinder of inter partes and post-grant reviews. The Office anticipates that joinder will be allowed as of right—if an inter partes review is instituted on the basis of a petition, for example, a party that files an identical petition will be joined to that proceeding, and thus allowed to file its own briefs and make its own arguments. If a party seeking joinder also presents additional challenges to validity that satisfy the threshold for instituting a proceeding, the Office will either join that party and its new arguments to the existing proceeding, or institute a second proceeding for the patent. The Director is given discretion, however, over whether to allow joinder. This safety valve will allow the Office to avoid being overwhelmed if there happens to be a deluge of joinder petitions in a particular case.

In the second sentence of section 325(d), the present bill also authorizes the Director to reject any request for ex parte reexamination or petition for post-grant or inter partes review on the basis that the same or substantially the same prior art or arguments previously were presented to the Office. This will prevent parties from mounting attacks on patents that raise issues that are substantially the same as issues that were already before the Office with respect to the patent. The Patent Office has indicated that it currently is forced to accept many requests for ex parte and inter partes reexamination that raise challenges that are cumulative to or substantially overlap with issues previously considered by the Office with respect to the patent.

The second sentence of section 325(d) complements the protections against abuse of ex parte reexamination that are created by sections 315(e) and 325(e). The estoppels in subsection (e) will prevent inter partes and post-grant review petitioners from seeking ex parte reexamination of issues that were raised or could have been raised in the inter partes or post-grant review. The Office has generally declined to apply estoppel, however, to an issue that is raised in a request for inter partes reexamination if the request was not granted with respect to that issue. Under section 325(d), second sentence, however, the Office could nevertheless refuse a subsequent request for ex parte reexamination with respect to such an issue, even if it raises a substantial new question of patentability, because the issue previously was presented to the Office in the petition for inter partes or post-grant review.

Under paragraph (1) of sections 315(e) and 325(e), a party that uses inter partes or post-grant review is estopped from raising in a subsequent PTO proceeding any issue that he raised or reasonably could have raised in the post-grant or inter partes review. This effectively bars such a party or his real parties in interest or privies from later using inter partes review or ex parte reexamination against the same patent, since the only issues that can be raised in an inter partes review or ex parte reexamination are those that could have been raised in the earlier post-grant or inter partes review. The Office recognizes that it will need to change its regulations and require that ex parte reexamination requesters identify themselves to the Office in order for the Office to be able to enforce this new restriction.

The present bill also incorporates S. 3600's extension of the estoppels and other procedural limits in sections 315 and 325 to real parties in interest and privies of the petitioner. As discussed at 154 CONGRESSIONAL RECORD S9987, daily ed. Sept. 27, 2008, privity is an equitable rule that takes into account the ''practical situation,'' and should extend to parties to transactions and other activities relating to the property in question. Ideally, extending could-have-raised estoppel to privies will help ensure that if an inter partes review is instituted while litigation is pending, that review will completely substitute for at least the patents-and-printed-publications portion of the civil litigation. Whether equity allows extending privity estoppel to codefendants in litigation, however, will depend in large measure upon the actions of the patent owner, and whether he has made it reasonably and reliably clear which patent claims he is asserting and what they mean. If one defendant has instituted an inter partes review, but other defendants do not have an opportunity to join that review before it becomes reasonably clear which claims will be litigated and how they will be construed, it would be manifestly unfair to extend privity estoppel to the codefendants.

The Office also has the authority to address such scenarios via its authority under section 316(a)(5), which gives the Office discretion in setting a time limit for allowing joinder. The Office has made clear that it intends to use this authority to encourage early requests for joinder and to discourage late requests. The Office also has indicated that it may consider the following factors when determining whether and when to allow joinder: differences in the products or processes alleged to infringe; the breadth or unusualness of the claim scope that is alleged, particularly if alleged later in litigation; claim-construction rulings that adopt claim interpretations that are substantially different from the claim interpretation used in the first petition when that petition's interpretation was not manifestly in error; whether large numbers of patents or claims are alleged to be infringed by one or more of the defendants; consent of the patent owner; a request of the court; a request by the first petitioner for termination of the first review in view of strength of the second petition; and whether the petitioner has offered to pay the patent owner's costs.

Sections 316(a)(6) and 326(a)(5) prescribe standards for discovery. In inter partes review, discovery is limited to deposition of witnesses submitting affidavits or declarations, and as otherwise necessary in the interest of justice. In post-grant review, discovery is broader, but must be limited to evidence directly related to factual assertions advanced by either party. For commentary on these standards, which are adopted from S. 3600, see 154 CONGRESSIONAL RECORD S9988–89, daily ed. Sept. 27, 2008.

Sections 316(a)(12) and 326(a)(11) provide that inter partes and post-grant reviews must be completed within 12 months of when the proceeding is instituted, except that the Office can extend this deadline by 6 months for good cause. Currently, inter partes reexaminations usually last for 3 to 5 years. Because of procedural reforms made by the present bill to inter partes proceedings, the Patent Office is confident that it will be able to complete these proceedings within one year. Among the reforms that are expected to expedite these proceedings are the shift from an examinational to an adjudicative model, and the elevated threshold for instituting proceedings. The elevated threshold will require challengers to front load their case. Also, by requiring petitioners to tie their challenges to particular validity arguments against particular claims, the new threshold will prevent challenges from ''mushrooming'' after the review is instituted into additional arguments employing other prior art or attacking other claims.

Although sections 316 and 326 do not regulate when and how petitioners will be allowed to submit written filings once a review is instituted, the Office has made clear that it will allow petitioners to do so via the regulations implementing the proceedings. Sections 316 and 326 do clearly allow petitioners to obtain some discovery and to have an oral hearing. Obviously, it would make no sense to do so if petitioners were not also allowed to submit written arguments. The bill conforms to the Office's preference, however, that it be given discretion in determining the procedures for written responses and other filings, in order to avoid the formalism of current chapter 31, which adds substantially to the delays in that proceeding.

The bill also eliminates intermediate administrative appeals of inter partes proceedings to the BPAI, instead allowing parties to only appeal directly to the Federal Circuit. By reducing two levels of appeal to just one, this change will substantially accelerate the resolution of inter partes cases.

Sections 5(c)(2)(C) and 5(c)(3) of the bill provide for a transition from current inter partes reexamination to new inter partes review. To protect the Office from being overwhelmed by the

new inter partes and post-grant proceedings, sections 5(c)(2)(C) and 5(f)(2) allow the Director to place a limit on the number of post-grant and inter partes reviews that will be instituted during the first four years that the proceedings are in effect. It is understood that if the Office rejects a petition during this period because of this numerical limit, it will make clear that the rejection was made because of this limit and not on the merits of the validity challenges presented in the petition. Otherwise, even a challenger with strong invalidity arguments might be deterred from using inter partes or post-grant review by fear that his petition might be rejected because of the numerical limit, and the fact of the rejection would then be employed by the patent owner in civil litigation to suggest that the experts at the Patent Office found no merit in the challenger's arguments.

Similarly, under subsection (a)(2) of sections 316 and 326, the Office is required to implement the inter partes and post-grant review thresholds via regulations, and under subsection (b) of those sections, in prescribing regulations, the Office is required to take into account, among other things, the Office's ability ''to timely complete proceedings instituted under'' those chapters. It is expected that the Office will include in the threshold regulations a safety valve that allows the Office to decline to institute further proceedings if a high volume of pending proceedings threatens the Office's ability to timely complete all proceedings. The present bill's inclusion of this regulations consideration in subsection (b) reflects a legislative judgment that it is better that the Office turn away some petitions that otherwise satisfy the threshold for instituting an inter partes or post-grant review than it is to allow the Office to develop a backlog of instituted reviews that precludes the Office from timely completing all proceedings. Again, though, if the Office rejects a petition on the basis of this subsection (b) consideration, rather than on the basis of a failure to satisfy the substantive standards of the thresholds in section 314 or 324, it is expected that Office will make this fact clear when rejecting the petition.

Section 5(c)(3) of the present bill applies the bill's new threshold for instituting an inter partes review to requests for inter partes reexamination that are filed between the date of enactment of the bill and one year after the enactment of the bill. This is done to ensure that requesters seeking to take advantage of the lax standards of the old system do not overwhelm the Office with requests for inter partes reexamination during the year following enactment of the bill.

Finally, section 5(h)(2) of the bill addresses an issue raised by a recent publication, Charles E. Miller & Daniel P. Archibald, The Destructive Potential of the Senate Version of the Proposed Patent Reform Act of 2010: The Abolition of de novo Review in Ex parte Patent Reexaminations (circulated April 16, 2010). This article criticizes the draft managers' amendment that Senators LEAHY and SESSIONS circulated in March 2010 on the ground that it eliminates authority for a patent owner to have relief by civil action under section 145 from an adverse decision in the BPAI on review of an ex parte reexamination. It is fairly apparent, however, that this authority was intended to be eliminated by the amendments made by section 4605 of the American Inventors Protection Act of 1999, Public Law 106–113, to sections 134 and 141 of title 35. The 2010 managers' amendment simply maintained the AIPA's changes to sections 134 and 141.

The AIPA neglected, however, to eliminate a cross reference to section 145 in section 306 of title 35, which delineates the appeals available from ex parte reexaminations. The maintenance of this cross reference in section 306 created an ambiguity as to whether the AIPA did, in fact, eliminate a patent owner's right to seek remedy in the district court under section 145 from an adverse BPAI decision on review of an ex parte reexamination. See *Sigram Schindler Beteiligungsgesellschaft mbH* v. *Kappos*, 93 USPQ2d 1752, E.D. Va. 2009, (Ellis, J.), notes that ''the fact that §306 continues to cross-reference §141 to 145 following the AIPA's enactment appears to be in tension with the AIPA amendment to §141.''

Section 5(h)(2) of the present bill eliminates this ambiguity by striking the citation to section 145 from section 306 of title 35.

Section 6 of the bill includes all provisions of the bill addressing the jurisdiction of the Patent Trial and Appeal Board and administrative and judicial appeals. In section 6(a), the recodification of section 6 of title 35 is modified so that all members of the PTAB can participate in all proceedings. Also, subsection (d) is added to the recodification of section 6 of title 35. By omitting this provision, the 2009 bill would have effectively repealed the APJ ''appointments fix'' that had been enacted in 2008.

In section 6(c) of the bill, section 141 of title 35 is modified to allow appeals of PTAB decisions in inter partes and post-grant reviews, and the section is edited and reorganized. To address the continuing need to allow appeals of pending interferences, language has been added to section 5(f)(3) of the bill that deems references to derivation proceedings in the current appeals statutes to extend to interferences commenced before the effective date of the bill's repeal of interferences, and that allows the Director to deem the PTAB to be the BPAI for purposes of pending interferences and to allow the PTAB to conduct such interferences.

In section 6(c)(2) of the bill, section 1295(a)(4)(A) of title 28 is modified to authorize appeals of reexaminations and reviews. Interestingly, current 1295(a)(4)(A) only gives the Federal Circuit jurisdiction over appeals from applications and interferences. It appears that Congress never gave the Federal Circuit jurisdiction over appeals from reexaminations when it created those proceedings. The language of subparagraph (A) is also generalized and clarified, recognizing that the details of what is appealable will be in sections 134 and 141. Also, for logical consistency, language is added to subparagraph (A) making clear that section 145 and 146 proceedings are an exception to the Federal Circuit's otherwise exclusive appellate jurisdiction over applications and interferences under that subparagraph.

In section 6(c)(3) of the bill, section 143 of title 35 is modified to allow the Director to intervene in the appeal of a decision of the PTAB in an inter partes or post-grant review or a derivation proceeding.

In the effective-date provision at the end of section 6, various existing authorities are extended so that they may continue to apply to inter partes reexaminations commenced under the old system, and the apparent gap in current section 1295(a)(4)(A)'s authorization of jurisdiction is immediately filled with respect to all inter partes and ex parte reexaminations.

In section 7, the present bill makes several PTO-recommended changes to previous bill versions' authorization to make preissuance submissions of prior art. In paragraph (1) of new section 122(e) of title 35, the word ''person'' has been replaced with ''third party,'' so that submissions may only be submitted by third parties. This addresses the Office's concern that applicants might otherwise use section 122(e) to submit prior art and thereby evade other examination disclosure requirements.

In subparagraph (A) of section 122(e)(1), the word ''given'' has been added. This has the effect of including email notices of allowances.

In clause (i) of section 122(e)(1)(B), the word ''first'' has been added. This change was sought by the Office, which prefers to limit submissions to the first publication for two reasons. First, republications overwhelmingly only narrow the claims, and in such cases anyone who would want to submit prior art could have done so at the first publication. Second, and more importantly, most republications occur only after the first office action, when there is usually rapid back-and-forth action on the application between the applicant and the Office. Allowing third parties to make prior-art submissions at this point would require the Office to wait six months after the republication in order to allow such submissions, and would otherwise greatly slow down this otherwise relatively speedy final phase of prosecution.

Also in clause (i) of section 122(e)(1)(B), the words ''by the Office'' are added to ensure that only publication by the United States Patent and Trademark Office begins the period for

making pre-issuance submissions. The Office sought this change because a foreign publication can be deemed a publication under section 122, and the Office wants to ensure that it is only required to collect third-party submissions for an application if that application is actually filed in the United States.

Section 8 of the present bill omits provisions appearing in prior bills that would have created an expanded right to an interlocutory appeal from claim-construction rulings. Even as revised in the 2009 Judiciary Committee mark up, previous section 8(b) gave the Federal Circuit insufficient discretion to turn away such appeals and posed a serious risk of overwhelming the court. The 2009 mark-up revisions allowed the Federal Circuit to reject an interlocutory appeal if it found clear error in the district court's certification that there is a sufficient evidentiary record for an interlocutory appeal and that such an appeal may advance the termination of the litigation or will likely control the outcome of the case. It would be difficult in any case, however, to reject a finding that an interlocutory appeal of claim-construction rulings may lead to the termination of the litigation. Moreover, if a district judge has certified a case for interlocutory appeal, it is very unlikely that the record that he has created would support a finding that his decision is clearly erroneous. And finally, given the disdain for patent cases felt by a substantial number of district judges, there is a serious likelihood that a large number of judges would take advantage of a new authorization from Congress to send away such cases to the Federal Circuit, with the hope that they do not return. Current law's grant of discretion to the Federal Circuit to entertain interlocutory appeals of claim-construction rulings strikes the appropriate balance.

Section 10 of the present bill authorizes supplemental examination of a patent to correct errors or omissions in proceedings before the Office. Under this new procedure, information that was not considered or was inadequately considered or was incorrect can be presented to the Office. If the Office determines that the information does not present a substantial new question of patentability or that the patent is still valid, that information cannot be used as a basis for an inequitable-conduct attack on the surviving patent in civil litigation. New section 257(c)(1) follows the usual practice of referring to inequitable-conduct attacks in terms of unenforceability, rather than invalidity, though courts have in the past used the terms interchangeably when describing the effect of fraud or inequitable conduct on a patent. *J.P. Stevens & Co., Inc.* v. *Lex Tex Ltd., Inc.*, 747 F.2d 1553, 1560, Fed. Cir. 1984, notes that ''[w]hether the holding should be one of invalidity or unenforceability has had no practical significance in cases thus far presented to this court.'' The term should be considered to be used interchangeably with ''invalidity'' in this bill as well. Obviously, Congress would not create a procedure for reexamining patents that allowed them to be protected against subsequent inequitable-conduct challenges of unenforceability, only to allow the same patents to be challenged on the same basis and declared invalid on the basis of inequitable conduct.

While some critics of this proposal have suggested that it would immunize misconduct by inventors and practitioners, I would note that the Patent Office has ample authority to sanction such misconduct. Under section 32 of title 35, the Office can bar an attorney from appearing before the Office if he has engaged in misconduct in any proceeding before the Office. In section 2(l) of this bill, we have extended the statute of limitations for initiating such a proceeding. Under current regulations, the Office also sanctions misconduct by striking offending filings or reducing the weight that they are given. And the Federal Circuit has recognized that the Office also ''has inherent authority to govern procedure before the [Office],'' as noted in In re Bogese II, 303 F.3d 1362, 1368, Fed. Cir. 2002, and that inherent authority to sanction attorneys for misconduct is not restricted to Article III courts, a point noted in In re Bailey, 182 F.3d 860, 864 n.4, Fed. Cir. 1999.

Given the Office's existing tools for sanctioning misconduct, there is no need to make the courts into supervisors of attorney conduct in Office proceedings. It is doubtful that a practitioner who is discovered to have engaged in substantial misconduct in proceedings before the Office would escape adequate and effective sanction by the Office itself.

Section 11 of the bill repeals the so-called Baldwin rule, which requires judges on the Federal Circuit to live within 50 miles of Washington, D.C. Subsection (b) provides that the repeal of the Baldwin rule shall not be construed to imply that the Administrative Office of the Courts must provide court facilities or administrative support services to judges who choose to reside outside of the District of Columbia. This proviso does not affect the AOC's existing authority to provide services to judges outside of the District of Columbia. Its reference to ''court facilities'' means space within a courthouse or federal building, and the reference to ''administrative support services'' means those services that would be provided to judges within a courthouse or federal building.

In section 15 of the bill, a conforming subsection (b) has been added to ensure that the best-mode requirement cannot be used to challenge a patent's entitlement to a right of priority or to the benefit of an earlier filing date. In the new effective-date subsection, the section is made applicable to all ''proceedings'' commenced after enactment of the Act, in order to make clear that the section's changes to the law will be immediately applicable not just in litigation but also in post-grant reviews of patents under chapter 32.

At subsections (a) through (h), section 16 of the bill has been modified by reinserting language that eliminates various deceptive-intent requirements that relate to correcting the naming of the inventor or a joint inventor, obtaining a retroactive foreign filing license, seeking section 251 reissue, or enforcing remaining valid claims if a claim is invalidated. See generally *Kearney & Trecker Corp.* v. *Giddings & Lewis, Inc.*, 452 F.2d 579, 596, 7th Cir. 1971. These changes were first proposed in section 5 of the original Patent Reform Act of 2005, H.R. 2795, 109th Congress, and have been advocated by universities and their technology-transfer offices. For reasons that are not entirely clear, subsequent bills maintained this section and its addition of substructure and titles to the affected code sections, but struck the substantive part of the section—i.e., its elimination of the deceptive-intent requirements.

Eliminating the various deceptive-intent requirements moves the U.S. patent system away from the 19th century model that focused on the patent owner's subjective intent, and towards a more objective-evidence-based system that will be much cheaper to litigate and more efficient to administer.

Section 16(i) of the present bill corrects several errors and typos throughout title 35 that are noted in the reviser's notes to the U.S. Code.

Section 16(j) strikes unnecessary references to ''of this title'' that are sprinkled throughout title 35. The 1952 Act included such unnecessary references, but more recent additions to the code have not, and the current bill's changes omit such references. Because the unnecessary references greatly outnumber the necessary references, the provision is written to strike all references but then except out the necessary references.

The present bill's new section 17 enacts the so-called Holmes Group fix, H.R. 2955, 109th Congress, which was reported out of the House Judiciary Committee in 2006. The committee report accompanying that bill, House Report 109–407, explains the bill's reasons for abrogating *Holmes Group, Inc.* v. *Vornado Air Circulation Systems, Inc.*, 535 U.S. 826 (2002), and more fully precluding state court jurisdiction over patent legal claims.

Section 17 makes two modifications to the reported version of H.R. 2955. The first modification, at subsection (c), limits the bill's expansion of Federal Circuit jurisdiction to only compulsory counterclaims asserting patent rights, rather than the original bill's expansion of jurisdiction to include any counterclaim asserting patent rights. Compulsory counterclaims are defined at Rule 13(a) and basically consist of counterclaims that arise out of the same transaction or occurrence and that do not require the joinder of parties over whom the court would lack

jurisdiction. A compulsory counterclaim must be raised as a counterclaim in the case in question, and cannot be asserted in a later case. Without this modification, it is possible that a defendant could raise unrelated and unnecessary patent counterclaims simply in order to manipulate appellate jurisdiction. With the modification, a defendant with a permissive patent counterclaim who wanted to preserve Federal Circuit appellate review of that counterclaim could simply wait to assert it in a separate action.

The second modification, in subsection (d), corrects an error in H.R. 2955 that would have required remand of patent and other intellectual-property counterclaims after their removal. H.R. 2955's proposed removal statute, at section 1454(c)(1) of title 28, required a remand to the state court of all claims that are not within the original or supplemental jurisdiction of the district court. Since the bill no longer amends section 1338 to give district courts original jurisdiction over patent counterclaims, however—and since, pursuant to Holmes Group itself, patent counterclaims are not within the district courts' original jurisdiction—then under paragraph (1), district courts would be required to remand the patent counterclaims. Courts would probably strain to avoid reading the paragraph this way, since doing so defeats the only apparent purpose of the section, and the amendments to section 1338 strip the state courts of jurisdiction over patent counterclaims. But that is exactly what H.R. 2955's proposed 1454(c)(1) ordered the court to do. In the modified text of section 17(d) of this bill, the court is instructed to not remand those claims that were a basis for removal in the first place—that is, the intellectual-property counterclaims.

Section 18 of the bill creates an administrative mechanism for reviewing the validity of business-method patents. In 1998, the U.S. Court of Appeals for the Federal Circuit, in its decision in *State Street Bank & Trust Co.* v. *Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998), substantially expanded the patentability of business-method inventions in the United States, holding that any invention can be patented so long as it produces a ''useful, concrete, and tangible result'' and meets other requirements of title 35. In recent years, federal judicial decisions, culminating in the U.S. Supreme Court's decision in *Bilski* v. *Kappos*, 561 U.S. ____, 130 S.Ct. 3218 (2010), have overruled State Street and retracted the patentability of business methods and other abstract inventions. This judicial expansion and subsequent judicial retraction of U.S. patentability standards resulted in the issuance, in the interim, of a large number of business-method patents that are no longer valid. Section 18 creates a relatively inexpensive administrative alternative to litigation for addressing disputes concerning the validity of these patents.

This section grew out of concerns originally raised in the 110th Congress about financial institutions' inability to take advantage of the authority to clear checks electronically pursuant the Check Clearing for the 21st Century Act, at chapter 50 of title 12 of the U.S. Code, without infringing the so-called Ballard patents, patents number 5,910,988 and 6,032,137. See generally Senate Report 110–259 at pages 33 through 34. Once the committee began to examine this issue in greater depth, however, the question quickly turned from whether the Ballard patents should be allowed to disrupt compliance with the Check 21 Act, to how it is that the Ballard patents were issued in the first place. These patents consist of long recitations of technology created by others to implement the supposed ''invention'' of transmitting and processing checks and other business records electronically. The first of these patents was assigned to the class of cryptography inventions, but its specification itself concedes that the invention's ''controller'' will ''execute[] an encryption algorithm which is well known to an artisan of ordinary skill in the field.'' The second patent is assigned to Class 705, home to many of the most notorious business-method patents. Both of these patents are obviously business-method patents, and it is difficult to see how they were even novel and nonobvious and otherwise valid under the more liberal State Street standard, much less how they could survive the strictures of Bilski.

Section 18's definition of business-method patent, and its authorization to raise prior-art challenges in the petition for review, are designed to allow the Office to recognize a business-method patent as such despite its recitation of technological elements that are not colorably novel and nonobvious. This definition does not require the Office to conduct a merits inquiry into the nonobviousness of a technological invention, and should not be construed in a way that makes it difficult for the Office to administer. But if a technological element in a patent is not even assertedly or plausibly outside of the prior art, the Office should not rely on that element to classify the patent as not being a business-method patent. Thus when patents such as the Ballard patents recite elements incorporating off-the-shelf technology or other technology ''know to those skilled in the art,'' that should not preclude those patents' eligibility for review under this program.

At the request of other industry groups, section 18's definition of ''covered business-method patent'' has been limited to those patents that relate to a financial product or service. Given the protean nature of many business-method patents, it often will be unclear on the face of the patent whether it relates to a financial product or service. To make such a determination, the Office may look to how the patent has been asserted. Section 5(g) of the present bill modifies section 301 of title 35 to allow any person to submit to the Office the patent owner's statements in federal court or in any Office proceeding about the scope of the patent's claims. With this and other information, the Office should be able to determine whether the patent reads on products or services that are particular to or characteristic of financial institutions.

As the proviso at the end of the definition makes clear, business methods do not include ''technological inventions.'' In other words, the definition applies only to abstract business concepts and their implementation, whether in computers or otherwise, but does not apply to inventions relating to computer operations for other uses or the application of the natural sciences or engineering.

One feature of section 18 that has been the subject of prolonged discussion and negotiation between various groups during the last few weeks is its subsection (c), which concerns stays of litigation. The current subsection (c) reflects a compromise that requires a district judge to consider fixed criteria when deciding whether to grant a stay, and provides either side with a right to an interlocutory appeal of the district judge's decision. The appeal right has been modified to provide that such review ''may be de novo,'' and in every case requires the Federal Circuit to ensure consistent application of established precedent. Thus whether or not every case is reviewed de novo, the court of appeals cannot simply leave the stay decision to the discretion of the district court and allow different outcomes based on the predilections of different trial judges.

It is expected that district judges will liberally grant stays of litigation once a proceeding is instituted. Petitioners are required to make a high threshold showing in order to institute a proceeding, and proceedings are required to be completed within one year to 18 months after they are instituted. The case for a stay is particularly pronounced in a section 18 proceeding, given the expectation that most if not all true business-method patents are abstract and therefore invalid in light of the Bilski decision.

In pursuit of this congressional policy strongly favoring stays when proceedings are instituted under this section, subsection (c) incorporates the four-factor test for stays of litigation that was first announced in *Broadcast Innovation, L.L.C.* v. *Charter Communications*, 2006 WL 1897165, D. Colo. 2006. Broadcast Innovation includes, and gives separate weight to, a fourth factor that has often been ignored by other courts: ''whether a stay will reduce the burden of litigation on the parties and on the court.''

In order to ensure consistency in decisions whether to stay, regardless of the court in which a section 281 action is pending, paragraph (2) of subsection (c) requires consistent application of

''established precedent.'' This particular requirement is based on section 2245(d)(1) of title 28, which has been construed to require lower courts to look only to a fixed body of caselaw when making decisions under section 2254. Currently, district judge's decisions whether to stay litigation when a reexamination has been ordered are not appealable and therefore have never been reconciled by the Federal Circuit. Unsurprisingly, the resulting district-court caselaw is a dog's breakfast of different combinations of factors and different meanings ascribed to those factors. Although the cases applying Broadcast Innovation cite other opinions applying other tests as sources for some of its factors, by requiring application of ''established precedent,'' subsection (c) limits the relevant precedent to that applying the four factors of Broadcast Innovation in combination. By requiring courts to apply this limited and relatively consistent body of caselaw when determining whether to grant a stay, subsection (c) should ensure predictability and stability in stay decisions across different district courts, and limit the incentive to forum shop. The existence of forum shopping is an embarrassment to the legal system. Federal courts should apply equal justice, and give federal law the same meaning, regardless of where they are located.

Mr. President, I will conclude by noting that the present bill is the product of almost a decade of hard work. The path to this bill included three Senate Judiciary Committee mark ups, as well as the untold hours devoted by Chairman SMITH and other members of the House of Representatives to the development of the Patent Reform Act of 2005, the foundation of today's bill. The present bill will protect our heritage of innovation while updating the patent system for the current century. It will create clear and efficient rules for defining prior art and establishing patent priority. It will fix problems with current administrative proceedings, and create new means for improving patent quality. And it will 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.

Mr. GRASSLEY. Mr. President, I urge my colleagues to support final passage on the America Invents Act. The Judiciary Committee has held numerous hearings on the need for patent reform, and has done a lot of work over the past several Congresses. We have had a good process on the floor. We adopted several amendments to improve the bill. We had votes on amendments and a pretty good open process, which we have not seen much of in the last few years. We have a good bipartisan bill—the chairman of the Judiciary Committee has successfully brought Senators and industry together to craft this compromise legislation. Now I urge my colleagues to support final passage on this important bill so we can conclude our work in the Senate.

The America Invents Act will protect inventors' rights and encourage innovation and investment in our economy. It will improve transparency and third party participation in the patent review process, which will strengthen patent quality and reduce costs. The bill will institute beneficial changes to the patent approval and review process, and will curb litigation abuses and improve certainty for investors and innovators. It will help companies do business more efficiently on an international basis.

The America Invents Act will also help small entities in their patent applications and provide for reduced fees for microentities and small businesses. The bill will prevent patents from being issued on claims for tax strategies, which can add unwarranted fees on taxpayers simply for attempting to comply with the Tax Code.

Finally, the America Invents Act will enhance operations of the Patent and Trademark Office with administrative reforms and will give the Office fee setting authority to reduce backlogs. It will end fee diversion, which will improve the ability of the Patent and Trademark Office to manage its affairs and allocate resources where they are most needed.

I thank Chairman LEAHY and Senator HATCH for their hard work on this bill. Without their leadership, we would not be where we are today. I thank Senators KYL, SESSIONS, and COBURN. They were instrumental in making improvements to the bill. I also wish to acknowledge the Senate Judiciary Committee staff for their efforts on this bill: in particular, Bruce Cohen, Aaron Cooper, and Curtis LeGeyt of Chairman LEAHY's staff, Matt Sandgren of Senator HATCH's staff, Joe Matal of Senator KYL's staff, and Sarah Beth Groshart of Senator COBURN's staff. I especially thank Kolan Davis and Rita Lari Jochum of my staff for their good work on this bill.

In conclusion, I urge my colleagues to vote for the America Invents Act. This is a bill that will spur inventions, create innovative new products and services, and stimulate job creation. This bill will help upgrade and strengthen our patent system so America can stay competitive in an increasingly global environment. I urge my colleagues to support this carefully crafted bill.

Mr. LEAHY. Mr. President, the managers' amendment to the America Invents Act, adopted 97–2 on March 1, contained a rule of construction that nothing in section 14 of the act should be construed to imply that other business methods are patentable or that other business-method patents are valid. This provision was included merely as a clarification. No inference should be drawn in any way from any part of section 14 of the act about the patentability of methods of doing business.

Mr. President, I have discussed this with the Republican leadership, and we are prepared to yield back all time on both the Democratic and Republican sides.

The PRESIDING OFFICER. All time is yielded back.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will read the pay-go statement.

The bill clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 23, as amended.

Total Budgetary Effects of S. 23 for the 5-year statutory PAYGO Scorecard: net reduction in the deficit of $590 million.

Total Budgetary Effects of S. 23 for the 10-year statutory PAYGO Scorecard: net reduction in the deficit of $750 million.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR S. 23, THE AMERICA INVENTS ACT, WITH AMENDMENTS APPROVED BY THE SENATE THROUGH MARCH 8, 2010

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET DECREASE (−) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	−420	−90	−30	−20	−30	−30	−30	−30	−40	−30	−590	−750
Memorandum:													
Changes in Outlays	0	2,060	2,600	2,800	2,940	3,070	3,200	3,320	3,450	3,570	3,700	13,470	30,710
Changes in Revenues	0	2,480	2,690	2,830	2,960	3,100	3,230	3,350	3,480	3,610	3,730	14,060	31,460

Notes: Components may not sum to totals because of rounding.
The legislation would give the Patent and Trademark Office permanent authority to collect and spend fees.
Sources: Congressional Budget Office.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 95, nays 5, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—95

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

NAYS—5

Boxer	Crapo	Risch
Cantwell	Ensign	

The bill (S. 23), as amended, was passed, as follows:

S. 23

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''America Invents Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. First inventor to file.
Sec. 3. Inventor's oath or declaration.
Sec. 4. Virtual marking and advice of counsel.
Sec. 5. Post-grant review proceedings.
Sec. 6. Patent Trial and Appeal Board.
Sec. 7. Preissuance submissions by third parties.
Sec. 8. Venue.
Sec. 9. Fee setting authority.
Sec. 10. Supplemental examination.
Sec. 11. Residency of Federal Circuit judges.
Sec. 12. Micro entity defined.
Sec. 13. Funding agreements.
Sec. 14. Tax strategies deemed within the prior art.
Sec. 15. Best mode requirement.
Sec. 16. Technical amendments.
Sec. 17. Clarification of jurisdiction.
Sec. 18. Transitional program for covered business-method patents.
Sec. 19. Travel expenses and payment of administrative judges.
Sec. 20. Patent and Trademark Office funding.
Sec. 21. Satellite offices.
Sec. 22. Patent Ombudsman Program for small business concerns.
Sec. 23. Priority examination for technologies important to American competitiveness.
Sec. 24. Designation of Detroit satellite office.
Sec. 25. Effective date.
Sec. 26. Budgetary effects.

SEC. 2. FIRST INVENTOR TO FILE.

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

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

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

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

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

''(A) if subparagraph (B) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention; or

''(B) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c).

''(2) The effective filing date for a claimed invention in an application for reissue or reissued patent shall be determined by deeming the claim to the invention to have been contained in the patent for which reissue was sought.

''(j) The term 'claimed invention' means the subject matter defined by a claim in a patent or an application for a patent.''.

(b) CONDITIONS FOR PATENTABILITY.—

(1) IN GENERAL.—Section 102 of title 35, United States Code, is amended to read as follows:

''§ 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.

''(2) DISCLOSURES APPEARING IN APPLICATIONS AND PATENTS.—A disclosure shall not be prior art to a claimed invention under subsection (a)(2) if—

''(A) the subject matter disclosed was obtained directly or indirectly from the inventor or a joint inventor;

''(B) the subject matter disclosed had, before such subject matter was effectively filed under subsection (a)(2), 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; or

''(C) the subject matter disclosed and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

''(c) COMMON OWNERSHIP UNDER JOINT RESEARCH AGREEMENTS.—Subject matter disclosed and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person in applying the provisions of subsection (b)(2)(C) if—

''(1) the subject matter disclosed was developed and the claimed invention was made by, or on behalf of, 1 or more parties to a joint research agreement that was in effect on or before the effective filing date of the claimed invention;

''(2) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(3) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(d) PATENTS AND PUBLISHED APPLICATIONS EFFECTIVE AS PRIOR ART.—For purposes of determining whether a patent or application for patent is prior art to a claimed invention under subsection (a)(2), such patent or application shall be considered to have been effectively filed, with respect to any subject matter described in the patent or application—

''(1) if paragraph (2) does not apply, as of the actual filing date of the patent or the application for patent; or

''(2) if the patent or application for patent is entitled to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c), based upon 1 or more prior filed applications for patent, as of the filing date of the earliest such application that describes the subject matter.''.

(2) CONTINUITY OF INTENT UNDER THE CREATE ACT.—The enactment of section 102(c) of title 35, United States Code, under the preceding paragraph is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108–453; the ''CREATE Act''), the amendments of which are stricken by subsection (c). The United States Patent and Trademark Office shall administer section 102(c) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.

(3) CONFORMING AMENDMENT.—The item relating to section 102 in the table of sections for chapter 10 of title 35, United States Code, is amended to read as follows:

''102. Conditions for patentability; novelty.''.

(c) CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.—Section 103 of title 35, United States Code, is amended to read as follows:

''§ 103. Conditions for patentability; non-obvious subject matter

''A patent for a claimed invention may not be obtained, notwithstanding that the

claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.''.

(d) REPEAL OF REQUIREMENTS FOR INVENTIONS MADE ABROAD.—Section 104 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 10 of title 35, United States Code, are repealed.

(e) REPEAL OF STATUTORY INVENTION REGISTRATION.—

(1) IN GENERAL.—Section 157 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 14 of title 35, United States Code, are repealed.

(2) REMOVAL OF CROSS REFERENCES.—Section 111(b)(8) of title 35, United States Code, is amended by striking ''sections 115, 131, 135, and 157'' and inserting ''sections 131 and 135''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 18 months after the date of the enactment of this Act, and shall apply to any request for a statutory invention registration filed on or after that date.

(f) EARLIER FILING DATE FOR INVENTOR AND JOINT INVENTOR.—Section 120 of title 35, United States Code, is amended by striking ''which is filed by an inventor or inventors named'' and inserting ''which names an inventor or joint inventor''.

(g) CONFORMING AMENDMENTS.—

(1) RIGHT OF PRIORITY.—Section 172 of title 35, United States Code, is amended by striking ''and the time specified in section 102(d)''.

(2) LIMITATION ON REMEDIES.—Section 287(c)(4) of title 35, United States Code, is amended by striking ''the earliest effective filing date of which is prior to'' and inserting ''which has an effective filing date before''.

(3) INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES: EFFECT.—Section 363 of title 35, United States Code, is amended by striking ''except as otherwise provided in section 102(e) of this title''.

(4) PUBLICATION OF INTERNATIONAL APPLICATION: EFFECT.—Section 374 of title 35, United States Code, is amended by striking ''sections 102(e) and 154(d)'' and inserting ''section 154(d)''.

(5) PATENT ISSUED ON INTERNATIONAL APPLICATION: EFFECT.—The second sentence of section 375(a) of title 35, United States Code, is amended by striking ''Subject to section 102(e) of this title, such'' and inserting ''Such''.

(6) LIMIT ON RIGHT OF PRIORITY.—Section 119(a) of title 35, United States Code, is amended by striking ''; but no patent shall be granted'' and all that follows through ''one year prior to such filing''.

(7) INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Section 202(c) of title 35, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking ''publication, on sale, or public use,'' and all that follows through ''obtained in the United States'' and inserting ''the 1-year period referred to in section 102(b) would end before the end of that 2-year period''; and

(ii) by striking ''the statutory'' and inserting ''that 1-year''; and

(B) in paragraph (3), by striking ''any statutory bar date that may occur under this title due to publication, on sale, or public use'' and inserting ''the expiration of the 1-year period referred to in section 102(b)''.

(h) DERIVED PATENTS.—Section 291 of title 35, United States Code, is amended to read as follows:

''§ 291. Derived patents

''(a) IN GENERAL.—The owner of a patent may have relief by civil action against the owner of another patent that claims the same invention and has an earlier effective filing date if the invention claimed in such other patent was derived from the inventor of the invention claimed in the patent owned by the person seeking relief under this section.

''(b) FILING LIMITATION.—An action under this section may only be filed within 1 year after the issuance of the first patent containing a claim to the allegedly derived invention and naming an individual alleged to have derived such invention as the inventor or joint inventor.''.

(i) DERIVATION PROCEEDINGS.—Section 135 of title 35, United States Code, is amended to read as follows:

''§ 135. Derivation proceedings

''(a) INSTITUTION OF PROCEEDING.—An applicant for patent may file a petition to institute a derivation proceeding in the Office. The petition shall set forth with particularity the basis for finding that an inventor named in an earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. Any such petition may only be filed within 1 year after the first publication of a claim to an invention that is the same or substantially the same as the earlier application's claim to the invention, shall be made under oath, and shall be supported by substantial evidence. Whenever the Director determines that a petition filed under this subsection demonstrates that the standards for instituting a derivation proceeding are met, the Director may institute a derivation proceeding. The determination by the Director whether to institute a derivation proceeding shall be final and nonappealable.

''(b) DETERMINATION BY PATENT TRIAL AND APPEAL BOARD.—In a derivation proceeding instituted under subsection (a), the Patent Trial and Appeal Board shall determine whether an inventor named in the earlier application derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed. The Director shall prescribe regulations setting forth standards for the conduct of derivation proceedings.

''(c) DEFERRAL OF DECISION.—The Patent Trial and Appeal Board may defer action on a petition for a derivation proceeding until 3 months after the date on which the Director issues a patent that includes the claimed invention that is the subject of the petition. The Patent Trial and Appeal Board also may defer action on a petition for a derivation proceeding, or stay the proceeding after it has been instituted, until the termination of a proceeding under chapter 30, 31, or 32 involving the patent of the earlier applicant.

''(d) EFFECT OF FINAL DECISION.—The final decision of the Patent Trial and Appeal Board, if adverse to claims in an application for patent, shall constitute the final refusal by the Office on those claims. The final decision of the Patent Trial and Appeal Board, if adverse to claims in a patent, shall, if no appeal or other review of the decision has been or can be taken or had, constitute cancellation of those claims, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation.

''(e) SETTLEMENT.—Parties to a proceeding instituted under subsection (a) may terminate the proceeding by filing a written statement reflecting the agreement of the parties as to the correct inventors of the claimed invention in dispute. Unless the Patent Trial and Appeal Board finds the agreement to be inconsistent with the evidence of record, if any, it shall take action consistent with the agreement. Any written settlement or understanding of the parties shall be filed with the Director. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents or applications, and shall be made available only to Government agencies on written request, or to any person on a showing of good cause.

''(f) ARBITRATION.—Parties to a proceeding instituted under subsection (a) may, within such time as may be specified by the Director by regulation, determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9, to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Director from determining the patentability of the claimed inventions involved in the proceeding.''.

(j) ELIMINATION OF REFERENCES TO INTERFERENCES.—(1) Sections 41, 134, 145, 146, 154, 305, and 314 of title 35, United States Code, are each amended by striking ''Board of Patent Appeals and Interferences'' each place it appears and inserting ''Patent Trial and Appeal Board''.

(2)(A) Sections 146 and 154 of title 35, United States Code, are each amended—

(i) by striking ''an interference'' each place it appears and inserting ''a derivation proceeding''; and

(ii) by striking ''interference'' each additional place it appears and inserting ''derivation proceeding''.

(B) The subparagraph heading for section 154(b)(1)(C) of title 35, United States Code, as amended by this paragraph, is further amended by—

(i) striking ''OR'' and inserting ''OF''; and

(ii) striking ''SECRECY ORDER'' and inserting ''SECRECY ORDERS''.

(3) The section heading for section 134 of title 35, United States Code, is amended to read as follows:

''§ 134. Appeal to the Patent Trial and Appeal Board''.

(4) The section heading for section 146 of title 35, United States Code, is amended to read as follows:

''§ 146. Civil action in case of derivation proceeding''.

(5) Section 154(b)(1)(C) of title 35, United States Code, is amended by striking ''INTERFERENCES'' and inserting ''DERIVATION PROCEEDINGS''.

(6) The item relating to section 6 in the table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''6. Patent Trial and Appeal Board.''.

(7) The items relating to sections 134 and 135 in the table of sections for chapter 12 of title 35, United States Code, are amended to read as follows:

''134. Appeal to the Patent Trial and Appeal Board.

''135. Derivation proceedings.''.

(8) The item relating to section 146 in the table of sections for chapter 13 of title 35, United States Code, is amended to read as follows:

''146. Civil action in case of derivation proceeding.''.

(k) FALSE MARKING.—

(1) IN GENERAL.—Section 292 of title 35, United States Code, is amended—

(A) in subsection (a), by adding at the end the following:

''Only the United States may sue for the penalty authorized by this subsection.''; and

(B) by striking subsection (b) and inserting the following:

''(b) Any person who has suffered a competitive injury as a result of a violation of this section may file a civil action in a district court of the United States for recovery of damages adequate to compensate for the injury.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to all cases, without exception, pending on or after the date of the enactment of this Act.

(l) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Section 32 of title 35, United States Code, is amended by inserting between the third and fourth sentences the following: ''A proceeding under this section shall be commenced not later than the earlier of either 10 years after the date on which the misconduct forming the basis for the proceeding occurred, or 1 year after the date on which the misconduct forming the basis for the proceeding is made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D).''.

(2) REPORT TO CONGRESS.—The Director shall provide on a biennial basis to the Judiciary Committees of the Senate and House of Representatives a report providing a short description of incidents made known to an officer or employee of the Office as prescribed in the regulations established under section 2(b)(2)(D) of title 35, United States Code, that reflect substantial evidence of misconduct before the Office but for which the Office was barred from commencing a proceeding under section 32 of title 35, United States Code, by the time limitation established by the fourth sentence of that section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in all cases in which the time period for instituting a proceeding under section 32 of title 35, United State Code, had not lapsed prior to the date of the enactment of this Act.

(m) SMALL BUSINESS STUDY.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Chief Counsel'' means the Chief Counsel for Advocacy of the Small Business Administration;

(B) the term ''General Counsel'' means the General Counsel of the United States Patent and Trademark Office; and

(C) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) STUDY.—

(A) IN GENERAL.—The Chief Counsel, in consultation with the General Counsel, shall conduct a study of the effects of eliminating the use of dates of invention in determining whether an applicant is entitled to a patent under title 35, United States Code.

(B) AREAS OF STUDY.—The study conducted under subparagraph (A) shall include examination of the effects of eliminating the use of invention dates, including examining—

(i) how the change would affect the ability of small business concerns to obtain patents and their costs of obtaining patents;

(ii) whether the change would create, mitigate, or exacerbate any disadvantage for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns, and whether the change would create any advantages for applicants for patents that are small business concerns relative to applicants for patents that are not small business concerns;

(iii) the cost savings and other potential benefits to small business concerns of the change; and

(iv) the feasibility and costs and benefits to small business concerns of alternative means of determining whether an applicant is entitled to a patent under title 35, United States Code.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Chief Counsel shall submit to the Committee on Small Business and Entrepreneurship and the Committee on the Judiciary of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report regarding the results of the study under paragraph (2).

(n) REPORT ON PRIOR USER RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Director shall report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, the findings and recommendations of the Director on the operation of prior user rights in selected countries in the industrialized world. The report shall include the following:

(A) A comparison between patent laws of the United States and the laws of other industrialized countries, including members of the European Union and Japan, Canada, and Australia.

(B) An analysis of the effect of prior user rights on innovation rates in the selected countries.

(C) An analysis of the correlation, if any, between prior user rights and start-up enterprises and the ability to attract venture capital to start new companies.

(D) An analysis of the effect of prior user rights, if any, on small businesses, universities, and individual inventors.

(E) An analysis of legal and constitutional issues, if any, that arise from placing trade secret law in patent law.

(F) An analysis of whether the change to a first-to-file patent system creates a particular need for prior user rights.

(2) CONSULTATION WITH OTHER AGENCIES.—In preparing the report required under paragraph (1), the Director shall consult with the United States Trade Representative, the Secretary of State, and the Attorney General.

(o) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this section shall take effect on the date that is 18 months after the date of the enactment of this Act, and shall apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time—

(A) a claim to a claimed invention that has an effective filing date as defined in section 100(i) of title 35, United States Code, that is 18 months or more after the date of the enactment of this Act; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

(2) INTERFERING PATENTS.—The provisions of sections 102(g), 135, and 291 of title 35, United States Code, in effect on the day prior to the date of the enactment of this Act, shall apply to each claim of an application for patent, and any patent issued thereon, for which the amendments made by this section also apply, if such application or patent contains or contained at any time—

(A) a claim to an invention having an effective filing date as defined in section 100(i) of title 35, United States Code, earlier than 18 months after the date of the enactment of this Act; or

(B) a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.

SEC. 3. INVENTOR'S OATH OR DECLARATION.

(a) INVENTOR'S OATH OR DECLARATION.—

(1) IN GENERAL.—Section 115 of title 35, United States Code, is amended to read as follows:

''§ 115. Inventor's oath or declaration

''(a) NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.—An application for patent that is filed under section 111(a) or commences the national stage under section 371 shall include, or be amended to include, the name of the inventor for any invention claimed in the application. Except as otherwise provided in this section, each individual who is the inventor or a joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

''(b) REQUIRED STATEMENTS.—An oath or declaration under subsection (a) shall contain statements that—

''(1) the application was made or was authorized to be made by the affiant or declarant; and

''(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

''(c) ADDITIONAL REQUIREMENTS.—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

''(d) SUBSTITUTE STATEMENT.—

''(1) IN GENERAL.—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

''(2) PERMITTED CIRCUMSTANCES.—A substitute statement under paragraph (1) is permitted with respect to any individual who—

''(A) is unable to file the oath or declaration under subsection (a) because the individual—

''(i) is deceased;

''(ii) is under legal incapacity; or

''(iii) cannot be found or reached after diligent effort; or

''(B) is under an obligation to assign the invention but has refused to make the oath or declaration required under subsection (a).

''(3) CONTENTS.—A substitute statement under this subsection shall—

''(A) identify the individual with respect to whom the statement applies;

''(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

''(C) contain any additional information, including any showing, required by the Director.

''(e) MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment executed by the individual, in lieu of filing such statements separately.

''(f) TIME FOR FILING.—A notice of allowance under section 151 may be provided to an applicant for patent only if the applicant for patent has filed each required oath or declaration under subsection (a) or has filed a substitute statement under subsection (d) or recorded an assignment meeting the requirements of subsection (e).

''(g) EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.—

''(1) EXCEPTION.—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and who claims the benefit under section 120, 121, or 365(c) of the filing of an earlier-filed application, if—

''(A) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

''(B) a substitute statement meeting the requirements of subsection (d) was filed in the earlier filed application with respect to the individual; or

''(C) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

''(2) COPIES OF OATHS, DECLARATIONS, STATEMENTS, OR ASSIGNMENTS.—Notwithstanding paragraph (1), the Director may require that a copy of the executed oath or declaration, the substitute statement, or the assignment filed in the earlier-filed application be included in the later-filed application.

''(h) SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.—

''(1) IN GENERAL.—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations under which such additional statements may be filed.

''(2) SUPPLEMENTAL STATEMENTS NOT REQUIRED.—If an individual has executed an oath or declaration meeting the requirements of subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

''(3) SAVINGS CLAUSE.—No patent shall be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

''(i) ACKNOWLEDGMENT OF PENALTIES.—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration or statement is punishable under section 1001 of title 18 by fine or imprisonment of not more than 5 years, or both.''.

(2) RELATIONSHIP TO DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended by striking ''If a divisional application'' and all that follows through ''inventor.''.

(3) REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.—Section 111(a) of title 35, United States Code, is amended—

(A) in paragraph (2)(C), by striking ''by the applicant'' and inserting ''or declaration'';

(B) in the heading for paragraph (3), by inserting ''OR DECLARATION'' after ''AND OATH''; and

(C) by inserting ''or declaration'' after ''and oath'' each place it appears.

(4) CONFORMING AMENDMENT.—The item relating to section 115 in the table of sections for chapter 11 of title 35, United States Code, is amended to read as follows:

''115. Inventor's oath or declaration.''.

(b) FILING BY OTHER THAN INVENTOR.—

(1) IN GENERAL.—Section 118 of title 35, United States Code, is amended to read as follows:

''§ 118. Filing by other than inventor

''A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent. A person who otherwise shows sufficient proprietary interest in the matter may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.''.

(2) CONFORMING AMENDMENT.—Section 251 of title 35, United States Code, is amended in the third undesignated paragraph by inserting ''or the application for the original patent was filed by the assignee of the entire interest'' after ''claims of the original patent''.

(c) SPECIFICATION.—Section 112 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''The specification'' and inserting ''(a) IN GENERAL.—The specification''; and

(B) by striking ''of carrying out his invention'' and inserting ''or joint inventor of carrying out the invention'';

(2) in the second paragraph—

(A) by striking ''The specification'' and inserting ''(b) CONCLUSION.—The specification''; and

(B) by striking ''applicant regards as his invention'' and inserting ''inventor or a joint inventor regards as the invention'';

(3) in the third paragraph, by striking ''A claim'' and inserting ''(c) FORM.—A claim'';

(4) in the fourth paragraph, by striking ''Subject to the following paragraph,'' and inserting ''(d) REFERENCE IN DEPENDENT FORMS.—Subject to subsection (e),'';

(5) in the fifth paragraph, by striking ''A claim'' and inserting ''(e) REFERENCE IN MULTIPLE DEPENDENT FORM.—A claim''; and

(6) in the last paragraph, by striking ''An element'' and inserting ''(f) ELEMENT IN CLAIM FOR A COMBINATION.—An element''.

(d) CONFORMING AMENDMENTS.—

(1) Sections 111(b)(1)(A) is amended by striking ''the first paragraph of section 112 of this title'' and inserting ''section 112(a)''.

(2) Section 111(b)(2) is amended by striking ''the second through fifth paragraphs of section 112,'' and inserting ''subsections (b) through (e) of section 112,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to patent applications that are filed on or after that effective date.

SEC. 4. VIRTUAL MARKING AND ADVICE OF COUNSEL.

(a) DEFENSE TO INFRINGEMENT BASED ON EARLIER INVENTOR.—Section 273(b)(6) of title 35, United States Code, is amended to read as follows:

''(6) PERSONAL DEFENSE.—The defense under this section may be asserted only by the person who performed or caused the performance of the acts necessary to establish the defense as well as any other entity that controls, is controlled by, or is under common control with such person and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates. Notwithstanding the preceding sentence, any person may, on its own behalf, assert a defense based on the exhaustion of rights provided under paragraph (3), including any necessary elements thereof.''.

(b) VIRTUAL MARKING.—Section 287(a) of title 35, United States Code, is amended by inserting '', or by fixing thereon the word 'patent' or the abbreviation 'pat.' together with an address of a posting on the Internet, accessible to the public without charge for accessing the address, that associates the patented article with the number of the patent'' before '', or when''.

(c) ADVICE OF COUNSEL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

''§ 298. Advice of Counsel

''The failure of an infringer to obtain the advice of counsel with respect to any allegedly infringed patent or the failure of the infringer to present such advice to the court or jury may not be used to prove that the accused infringer willfully infringed the patent or that the infringer intended to induce infringement of the patent.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

SEC. 5. POST-GRANT REVIEW PROCEEDINGS.

(a) INTER PARTES REVIEW.—Chapter 31 of title 35, United States Code, is amended to read as follows:

''CHAPTER 31—INTER PARTES REVIEW

''Sec.
''311. Inter partes review.
''312. Petitions.
''313. Preliminary response to petition.
''314. Institution of inter partes review.
''315. Relation to other proceedings or actions.
''316. Conduct of inter partes review.
''317. Settlement.
''318. Decision of the board.
''319. Appeal.

''§ 311. Inter partes review

''(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition to institute an inter partes review for a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the review.

''(b) SCOPE.—A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and only on the basis of prior art consisting of patents or printed publications.

''(c) FILING DEADLINE.—A petition for inter partes review shall be filed after the later of either—

''(1) 9 months after the grant of a patent or issuance of a reissue of a patent; or

''(2) if a post-grant review is instituted under chapter 32, the date of the termination of such post-grant review.

''§ 312. Petitions

''(a) REQUIREMENTS OF PETITION.—A petition filed under section 311 may be considered only if—

''(1) the petition is accompanied by payment of the fee established by the Director under section 311;

''(2) the petition identifies all real parties in interest;

''(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

''(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

''(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on expert opinions;

''(4) the petition provides such other information as the Director may require by regulation; and

''(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

''(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 311, the Director shall make the petition available to the public.

''§ 313. Preliminary response to petition

''(a) PRELIMINARY RESPONSE.—If an inter partes review petition is filed under section 311, the patent owner shall have the right to file a preliminary response within a time period set by the Director.

''(b) CONTENT OF RESPONSE.—A preliminary response to a petition for inter partes review shall set forth reasons why no inter partes review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

''§ 314. Institution of inter partes review

''(a) THRESHOLD.—The Director may not authorize an inter partes review to commence unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

''(b) TIMING.—The Director shall determine whether to institute an inter partes review under this chapter within 3 months after receiving a preliminary response under section 313 or, if none is filed, within three months after the expiration of the time for filing such a response.

''(c) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a), and shall make such notice available to the public as soon as is practicable. Such notice shall list the date on which the review shall commence.

''(d) NO APPEAL.—The determination by the Director whether to institute an inter partes review under this section shall be final and nonappealable.

''§ 315. Relation to other proceedings or actions

''(a) INFRINGER'S ACTION.—An inter partes review may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

''(b) PATENT OWNER'S ACTION.—An inter partes review may not be instituted if the petition requesting the proceeding is filed more than 6 months after the date on which the petitioner, real party in interest, or his privy is served with a complaint alleging infringement of the patent. The time limitation set forth in the preceding sentence shall not apply to a request for joinder under subsection (c).

''(c) JOINDER.—If the Director institutes an inter partes review, the Director, in his discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

''(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

''(e) ESTOPPEL.—

''(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not request or maintain a proceeding before the Office with respect to a claim on any ground that the petitioner raised or reasonably could have raised during an inter partes review of the claim that resulted in a final written decision under section 318(a).

''(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in an inter partes review under this chapter, or his real party in interest or privy, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission that a claim in a patent is invalid on any ground that the petitioner raised or reasonably could have raised during an inter partes review of the claim that resulted in a final written decision under section 318(a).

''§ 316. Conduct of inter partes review

''(a) REGULATIONS.—The Director shall prescribe regulations—

''(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall be accompanied by a motion to seal, and such petition or document shall be treated as sealed pending the outcome of the ruling on the motion;

''(2) setting forth the standards for the showing of sufficient grounds to institute a review under section 314(a);

''(3) establishing procedures for the submission of supplemental information after the petition is filed;

''(4) in accordance with section 2(b)(2), establishing and governing inter partes review under this chapter and the relationship of such review to other proceedings under this title;

''(5) setting a time period for requesting joinder under section 315(c);

''(6) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to—

''(A) the deposition of witnesses submitting affidavits or declarations; and

''(B) what is otherwise necessary in the interest of justice;

''(7) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

''(8) providing for protective orders governing the exchange and submission of confidential information;

''(9) allowing the patent owner to file a response to the petition after an inter partes review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

''(10) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

''(11) providing either party with the right to an oral hearing as part of the proceeding; and

''(12) requiring that the final determination in an inter partes review be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 315(c).

''(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

''(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each proceeding authorized by the Director.

''(d) AMENDMENT OF THE PATENT.—

''(1) IN GENERAL.—During an inter partes review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

''(A) Cancel any challenged patent claim.

''(B) For each challenged claim, propose a reasonable number of substitute claims.

''(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 317, or as permitted by regulations prescribed by the Director.

''(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

''(e) EVIDENTIARY STANDARDS.—In an inter partes review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

''§ 317. Settlement

''(a) IN GENERAL.—An inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the inter partes review is terminated with respect to a petitioner under this section, no estoppel under section 315(e) shall apply to that petitioner. If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).

''(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of an inter partes review under this section shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of the inter partes review as between the parties. If any party filing such agreement or understanding so requests, the copy shall be kept separate from the file of the inter partes review, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

''§ 318. Decision of the board

''(a) FINAL WRITTEN DECISION.—If an inter partes review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 316(d).

''(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

''(c) DATA ON LENGTH OF REVIEW.—The Patent and Trademark Office shall make available to the public data describing the length of time between the commencement of each inter partes review and the conclusion of that review.

''§ 319. Appeal

''A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) may appeal the decision pursuant to sections 141 through 144. Any party to the inter partes review shall have the right to be a party to the appeal.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by striking the item relating to chapter 31 and inserting the following:

''31. Inter Partes Review ..... 311.''.

(c) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 31 of title 35, United States Code, as amended by subsection (a) of this section.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply to all patents issued before, on, or after the effective date of subsection (a).

(B) EXCEPTION.—The provisions of chapter 31 of title 35, United States Code, as amended by paragraph (3), shall continue to apply to requests for inter partes reexamination that are filed prior to the effective date of subsection (a) as if subsection (a) had not been enacted.

(C) GRADUATED IMPLEMENTATION.—The Director may impose a limit on the number of inter partes reviews that may be instituted during each of the first 4 years following the effective date of subsection (a), provided that such number shall in each year be equivalent to or greater than the number of inter partes reexaminations that are ordered in the last full fiscal year prior to the effective date of subsection (a).

(3) TRANSITION.—

(A) IN GENERAL.—Chapter 31 of title 35, United States Code, is amended—

(i) in section 312—

(I) in subsection (a)—

(aa) in the first sentence, by striking ''a substantial new question of patentability affecting any claim of the patent concerned is raised by the request,'' and inserting ''the information presented in the request shows that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request,''; and

(bb) in the second sentence, by striking ''The existence of a substantial new question of patentability'' and inserting ''A showing that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request''; and

(II) in subsection (c), in the second sentence, by striking ''no substantial new question of patentability has been raised,'' and inserting ''the showing required by subsection (a) has not been made,''; and

(ii) in section 313, by striking ''a substantial new question of patentability affecting a claim of the patent is raised'' and inserting ''it has been shown that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request''.

(B) APPLICATION.—The amendments made by this paragraph shall apply to requests for inter partes reexamination that are filed on or after the date of the enactment of this Act, but prior to the effective date of subsection (a).

(d) POST-GRANT REVIEW.—Part III of title 35, United States Code, is amended by adding at the end the following:

''CHAPTER 32—POST-GRANT REVIEW

''Sec.
''321. Post-grant review.
''322. Petitions.
''323. Preliminary response to petition.
''324. Institution of post-grant review.
''325. Relation to other proceedings or actions.
''326. Conduct of post-grant review.
''327. Settlement.
''328. Decision of the board.
''329. Appeal.

''§ 321. Post-grant review

''(a) IN GENERAL.—Subject to the provisions of this chapter, a person who is not the patent owner may file with the Office a petition to institute a post-grant review for a patent. The Director shall establish, by regulation, fees to be paid by the person requesting the review, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the post-grant review.

''(b) SCOPE.—A petitioner in a post-grant review may request to cancel as unpatentable 1 or more claims of a patent on any ground that could be raised under paragraph (2) or (3) of section 282(b) (relating to invalidity of the patent or any claim).

''(c) FILING DEADLINE.—A petition for a post-grant review shall be filed not later than 9 months after the grant of the patent or issuance of a reissue patent.

''§ 322. Petitions

''(a) REQUIREMENTS OF PETITION.—A petition filed under section 321 may be considered only if—

''(1) the petition is accompanied by payment of the fee established by the Director under section 321;

''(2) the petition identifies all real parties in interest;

''(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim, including—

''(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

''(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on other factual evidence or on expert opinions;

''(4) the petition provides such other information as the Director may require by regulation; and

''(5) the petitioner provides copies of any of the documents required under paragraphs (2), (3), and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

''(b) PUBLIC AVAILABILITY.—As soon as practicable after the receipt of a petition under section 321, the Director shall make the petition available to the public.

''§ 323. Preliminary response to petition

''(a) PRELIMINARY RESPONSE.—If a post-grant review petition is filed under section 321, the patent owner shall have the right to file a preliminary response within 2 months of the filing of the petition.

''(b) CONTENT OF RESPONSE.—A preliminary response to a petition for post-grant review shall set forth reasons why no post-grant review should be instituted based upon the failure of the petition to meet any requirement of this chapter.

''§ 324. Institution of post-grant review

''(a) THRESHOLD.—The Director may not authorize a post-grant review to commence unless the Director determines that the information presented in the petition, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

''(b) ADDITIONAL GROUNDS.—The determination required under subsection (a) may also be satisfied by a showing that the petition raises a novel or unsettled legal question that is important to other patents or patent applications.

''(c) TIMING.—The Director shall determine whether to institute a post-grant review under this chapter within 3 months after receiving a preliminary response under section 323 or, if none is filed, the expiration of the time for filing such a response.

''(d) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a) or (b), and shall make such notice available to the public as soon as is practicable. The Director shall make each notice of the institution of a post-grant review available to the public. Such notice shall list the date on which the review shall commence.

''(e) NO APPEAL.—The determination by the Director whether to institute a post-grant review under this section shall be final and nonappealable.

''§ 325. Relation to other proceedings or actions

''(a) INFRINGER'S ACTION.—A post-grant review may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

''(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.

''(c) JOINDER.—If more than 1 petition for a post-grant review is properly filed against the same patent and the Director determines that more than 1 of these petitions warrants the institution of a post-grant review under section 324, the Director may consolidate such reviews into a single post-grant review.

''(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding. In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.

''(e) ESTOPPEL.—

''(1) PROCEEDINGS BEFORE THE OFFICE.—The petitioner in a post-grant review under this chapter, or his real party in interest or

privy, may not request or maintain a proceeding before the Office with respect to a claim on any ground that the petitioner raised or reasonably could have raised during a post-grant review of the claim that resulted in a final written decision under section 328(a).

''(2) CIVIL ACTIONS AND OTHER PROCEEDINGS.—The petitioner in a post-grant review under this chapter, or his real party in interest or privy, may not assert either in a civil action arising in whole or in part under section 1338 of title 28 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 post-grant review of the claim that resulted in a final written decision under section 328(a).

''(f) REISSUE PATENTS.—A post-grant review may not be instituted if the petition requests cancellation of a claim in a reissue patent that is identical to or narrower than a claim in the original patent from which the reissue patent was issued, and the time limitations in section 321(c) would bar filing a petition for a post-grant review for such original patent.

''§ 326. Conduct of post-grant review

''(a) REGULATIONS.—The Director shall prescribe regulations—

''(1) providing that the file of any proceeding under this chapter shall be made available to the public, except that any petition or document filed with the intent that it be sealed shall be accompanied by a motion to seal, and such petition or document shall be treated as sealed pending the outcome of the ruling on the motion;

''(2) setting forth the standards for the showing of sufficient grounds to institute a review under subsections (a) and (b) of section 324;

''(3) establishing procedures for the submission of supplemental information after the petition is filed;

''(4) in accordance with section 2(b)(2), establishing and governing a post-grant review under this chapter and the relationship of such review to other proceedings under this title;

''(5) setting forth standards and procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding;

''(6) prescribing sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding;

''(7) providing for protective orders governing the exchange and submission of confidential information;

''(8) allowing the patent owner to file a response to the petition after a post-grant review has been instituted, and requiring that the patent owner file with such response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response;

''(9) setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims, and ensuring that any information submitted by the patent owner in support of any amendment entered under subsection (d) is made available to the public as part of the prosecution history of the patent;

''(10) providing either party with the right to an oral hearing as part of the proceeding; and

''(11) requiring that the final determination in any post-grant review be issued not later than 1 year after the date on which the Director notices the institution of a proceeding under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 325(c).

''(b) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings instituted under this chapter.

''(c) PATENT TRIAL AND APPEAL BOARD.—The Patent Trial and Appeal Board shall, in accordance with section 6, conduct each proceeding authorized by the Director.

''(d) AMENDMENT OF THE PATENT.—

''(1) IN GENERAL.—During a post-grant review instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

''(A) Cancel any challenged patent claim.

''(B) For each challenged claim, propose a reasonable number of substitute claims.

''(2) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 327, or upon the request of the patent owner for good cause shown.

''(3) SCOPE OF CLAIMS.—An amendment under this subsection may not enlarge the scope of the claims of the patent or introduce new matter.

''(e) EVIDENTIARY STANDARDS.—In a post-grant review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.

''§ 327. Settlement

''(a) IN GENERAL.—A post-grant review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the post-grant review is terminated with respect to a petitioner under this section, no estoppel under section 325(e) shall apply to that petitioner. If no petitioner remains in the post-grant review, the Office may terminate the post-grant review or proceed to a final written decision under section 328(a).

''(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of a post-grant review under this section shall be in writing, and a true copy of such agreement or understanding shall be filed in the Office before the termination of the post-grant review as between the parties. If any party filing such agreement or understanding so requests, the copy shall be kept separate from the file of the post-grant review, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

''§ 328. Decision of the board

''(a) FINAL WRITTEN DECISION.—If a post-grant review is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner and any new claim added under section 326(d).

''(b) CERTIFICATE.—If the Patent Trial and Appeal Board issues a final written decision under subsection (a) and the time for appeal has expired or any appeal has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent by operation of the certificate any new or amended claim determined to be patentable.

''(c) DATA ON LENGTH OF REVIEW.—The Patent and Trademark Office shall make available to the public data describing the length of time between the commencement of each post-grant review and the conclusion of that review.

''§ 329. Appeal

''A party dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 328(a) may appeal the decision pursuant to sections 141 through 144. Any party to the post-grant review shall have the right to be a party to the appeal.''.

(e) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by adding at the end the following:

''32. Post-Grant Review ..... 321.''.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Director shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 32 of title 35, United States Code, as added by subsection (d) of this section.

(2) APPLICABILITY.—The amendments made by subsection (d) shall take effect on the date that is 1 year after the date of the enactment of this Act and, except as provided in section 18 and in paragraph (3), shall apply only to patents that are described in section 2(o)(1). The Director may impose a limit on the number of post-grant reviews that may be instituted during each of the 4 years following the effective date of subsection (d).

(3) PENDING INTERFERENCES.—The Director shall determine the procedures under which interferences commenced before the effective date of subsection (d) are to proceed, including whether any such interference is to be dismissed without prejudice to the filing of a petition for a post-grant review under chapter 32 of title 35, United States Code, or is to proceed as if this Act had not been enacted. The Director shall include such procedures in regulations issued under paragraph (1). For purposes of an interference that is commenced before the effective date of subsection (d), the Director may deem the Patent Trial and Appeal Board to be the Board of Patent Appeals and Interferences, and may allow the Patent Trial and Appeal Board to conduct any further proceedings in that interference. The authorization to appeal or have remedy from derivation proceedings in sections 141(d) and 146 of title 35, United States Code, and the jurisdiction to entertain appeals from derivation proceedings in section 1295(a)(4)(A) of title 28, United States Code, shall be deemed to extend to final decisions in interferences that are commenced before the effective date of subsection (d) and that are not dismissed pursuant to this paragraph.

(g) CITATION OF PRIOR ART AND WRITTEN STATEMENTS.—

(1) IN GENERAL.—Section 301 of title 35, United States Code, is amended to read as follows:

''§ 301. Citation of prior art and written statements

''(a) IN GENERAL.—Any person at any time may cite to the Office in writing—

''(1) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent; or

''(2) statements of the patent owner filed in a proceeding before a Federal court or the Office in which the patent owner took a position on the scope of any claim of a particular patent.

''(b) OFFICIAL FILE.—If the person citing prior art or written statements pursuant to subsection (a) explains in writing the pertinence and manner of applying the prior art or written statements to at least 1 claim of the patent, the citation of the prior art or written statements and the explanation thereof shall become a part of the official file of the patent.

''(c) ADDITIONAL INFORMATION.—A party that submits a written statement pursuant to subsection (a)(2) shall include any other documents, pleadings, or evidence from the proceeding in which the statement was filed that addresses the written statement.

''(d) LIMITATIONS.—A written statement submitted pursuant to subsection (a)(2), and additional information submitted pursuant to subsection (c), shall not be considered by the Office for any purpose other than to determine the proper meaning of a patent claim in a proceeding that is ordered or instituted pursuant to section 304, 314, or 324. If any such written statement or additional information is subject to an applicable protective order, it shall be redacted to exclude information that is subject to that order.

''(e) CONFIDENTIALITY.—Upon the written request of the person citing prior art or written statements pursuant to subsection (a), that person's identity shall be excluded from the patent file and kept confidential.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 1 year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(h) REEXAMINATION.—

(1) DETERMINATION BY DIRECTOR.—

(A) IN GENERAL.—Section 303(a) of title 35, United States Code, is amended by striking ''section 301 of this title'' and inserting ''section 301 or 302''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect 1 year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that effective date.

(2) APPEAL.—

(A) IN GENERAL.—Section 306 of title 35, United States Code, is amended by striking ''145'' and inserting ''144''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the date of enactment of this Act and shall apply to appeals of reexaminations that are pending before the Board of Patent Appeals and Interferences or the Patent Trial and Appeal Board on or after the date of the enactment of this Act.

SEC. 6. PATENT TRIAL AND APPEAL BOARD.

(a) COMPOSITION AND DUTIES.—Section 6 of title 35, United States Code, is amended to read as follows:

''§ 6. Patent Trial and Appeal Board

''(a) There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary, in consultation with the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

''(b) The Patent Trial and Appeal Board shall—

''(1) on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a);

''(2) review appeals of reexaminations pursuant to section 134(b);

''(3) conduct derivation proceedings pursuant to section 135; and

''(4) conduct inter partes reviews and post-grant reviews pursuant to chapters 31 and 32.

''(c) Each appeal, derivation proceeding, post-grant review, and inter partes review shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings.

''(d) The Secretary of Commerce may, in his discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge. It shall be a defense to a challenge to the appointment of an administrative patent judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer.''.

(b) ADMINISTRATIVE APPEALS.—Section 134 of title 35, United States Code, is amended—

(1) in subsection (b), by striking ''any reexamination proceeding'' and inserting ''a reexamination''; and

(2) by striking subsection (c).

(c) CIRCUIT APPEALS.—

(1) IN GENERAL.—Section 141 of title 35, United States Code, is amended to read as follows:

''§ 141. Appeal to the Court of Appeals for the Federal Circuit

''(a) EXAMINATIONS.—An applicant who is dissatisfied with the final decision in an appeal to the Patent Trial and Appeal Board under section 134(a) may appeal the Board's decision to the United States Court of Appeals for the Federal Circuit. By filing such an appeal, the applicant waives his right to proceed under section 145.

''(b) REEXAMINATIONS.—A patent owner who is dissatisfied with the final decision in an appeal of a reexamination to the Patent Trial and Appeal Board under section 134(b) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

''(c) POST-GRANT AND INTER PARTES REVIEWS.—A party to a post-grant or inter partes review who is dissatisfied with the final written decision of the Patent Trial and Appeal Board under section 318(a) or 328(a) may appeal the Board's decision only to the United States Court of Appeals for the Federal Circuit.

''(d) DERIVATION PROCEEDINGS.—A party to a derivation proceeding who is dissatisfied with the final decision of the Patent Trial and Appeal Board on the proceeding may appeal the decision to the United States Court of Appeals for the Federal Circuit, but such appeal shall be dismissed if any adverse party to such derivation proceeding, within 20 days after the appellant has filed notice of appeal in accordance with section 142, files notice with the Director that the party elects to have all further proceedings conducted as provided in section 146. If the appellant does not, within 30 days after the filing of such notice by the adverse party, file a civil action under section 146, the Board's decision shall govern the further proceedings in the case.''.

(2) JURISDICTION.—Section 1295(a)(4)(A) of title 28, United States Code, is amended to read as follows:

''(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to patent applications, derivation proceedings, reexaminations, post-grant reviews, and inter partes reviews at the instance of a party who exercised his right to participate in a proceeding before or appeal to the Board, except that an applicant or a party to a derivation proceeding may also have remedy by civil action pursuant to section 145 or 146 of title 35. An appeal under this subparagraph of a decision of the Board with respect to an application or derivation proceeding shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;''.

(3) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended—

(A) by striking the third sentence and inserting the following: ''In an ex parte case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all of the issues raised in the appeal. The Director shall have the right to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board in a derivation proceeding under section 135 or in an inter partes or post-grant review under chapter 31 or 32.''; and

(B) by repealing the second of the two identical fourth sentences.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date, except that—

(1) the extension of jurisdiction to the United States Court of Appeals for the Federal Circuit to entertain appeals of decisions of the Patent Trial and Appeal Board in reexaminations under the amendment made by subsection (c)(2) shall be deemed to take effect on the date of enactment of this Act and shall extend to any decision of the Board of Patent Appeals and Interferences with respect to a reexamination that is entered before, on, or after the date of the enactment of this Act;

(2) the provisions of sections 6, 134, and 141 of title 35, United States Code, in effect on the day prior to the date of the enactment of this Act shall continue to apply to inter partes reexaminations that are requested under section 311 prior to the date that is 1 year after the date of the enactment of this Act;

(3) the Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of appeals of inter partes reexaminations that are requested under section 311 prior to the date that is 1 year after the date of the enactment of this Act; and

(4) the Director's right under the last sentence of section 143 of title 35, United States Code, as amended by subsection (c)(3), to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board shall be deemed to extend to inter partes reexaminations that are requested under section 311 prior to the date that is 1 year after the date of the enactment of this Act.

SEC. 7. PREISSUANCE SUBMISSIONS BY THIRD PARTIES.

(a) IN GENERAL.—Section 122 of title 35, United States Code, is amended by adding at the end the following:

''(e) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—

''(1) IN GENERAL.—Any third party may submit for consideration and inclusion in the record of a patent application, any patent, published patent application, or other printed publication of potential relevance to the examination of the application, if such submission is made in writing before the earlier of—

''(A) the date a notice of allowance under section 151 is given or mailed in the application for patent; or

''(B) the later of—

''(i) 6 months after the date on which the application for patent is first published under section 122 by the Office, or

''(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent.

''(2) OTHER REQUIREMENTS.—Any submission under paragraph (1) shall—

''(A) set forth a concise description of the asserted relevance of each submitted document;

''(B) be accompanied by such fee as the Director may prescribe; and

''(C) include a statement by the person making such submission affirming that the submission was made in compliance with this section.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to patent applications filed before, on, or after that effective date.

SEC. 8. VENUE.

(a) TECHNICAL AMENDMENTS RELATING TO VENUE.—Sections 32, 145, 146, 154(b)(4)(A), and 293 of title 35, United States Code, and section 21(b)(4) of the Act entitled ''An 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 (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act''; 15 U.S.C. 1071(b)(4)), are each amended by striking ''United States District Court for the District of Columbia'' each place that term appears and inserting ''United States District Court for the Eastern District of Virginia''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act and shall apply to civil actions commenced on or after that date.

SEC. 9. FEE SETTING AUTHORITY.

(a) FEE SETTING.—

(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.

(2) SMALL AND MICRO ENTITIES.—The fees established under paragraph (1) for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents shall be reduced by 50 percent with respect to their application to any small entity that qualifies for reduced fees under section 41(h)(1) of title 35, United States Code, and shall be reduced by 75 percent with respect to their application to any micro entity as defined in section 123 of that title.

(3) REDUCTION OF FEES IN CERTAIN FISCAL YEARS.—In any fiscal year, the Director—

(A) shall consult with the Patent Public Advisory Committee and the Trademark Public Advisory Committee on the advisability of reducing any fees described in paragraph (1); and

(B) after the consultation required under subparagraph (A), may reduce such fees.

(4) ROLE OF THE PUBLIC ADVISORY COMMITTEE.—The Director shall—

(A) submit to the Patent Public Advisory Committee or the Trademark Public Advisory Committee, or both, as appropriate, any proposed fee under paragraph (1) not less than 45 days before publishing any proposed fee in the Federal Register;

(B) provide the relevant advisory committee described in subparagraph (A) a 30-day period following the submission of any proposed fee, on which to deliberate, consider, and comment on such proposal, and require that—

(i) during such 30-day period, the relevant advisory committee hold a public hearing related to such proposal; and

(ii) the Director shall assist the relevant advisory committee in carrying out such public hearing, including by offering the use of Office resources to notify and promote the hearing to the public and interested stakeholders;

(C) require the relevant advisory committee to make available to the public a written report detailing the comments, advice, and recommendations of the committee regarding any proposed fee;

(D) consider and analyze any comments, advice, or recommendations received from the relevant advisory committee before setting or adjusting any fee; and

(E) notify, through the Chair and Ranking Member of the Senate and House Judiciary Committees, the Congress of any final rule setting or adjusting fees under paragraph (1).

(5) PUBLICATION IN THE FEDERAL REGISTER.—

(A) IN GENERAL.—Any rules prescribed under this subsection shall be published in the Federal Register.

(B) RATIONALE.—Any proposal for a change in fees under this section shall—

(i) be published in the Federal Register; and

(ii) include, in such publication, the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change.

(C) PUBLIC COMMENT PERIOD.—Following the publication of any proposed fee in the Federal Register pursuant to subparagraph (A), the Director shall seek public comment for a period of not less than 45 days.

(6) CONGRESSIONAL COMMENT PERIOD.—Following the notification described in paragraph (3)(E), Congress shall have not more than 45 days to consider and comment on any final rule setting or adjusting fees under paragraph (1). No fee set or adjusted under paragraph (1) shall be effective prior to the end of such 45-day comment period.

(7) RULE OF CONSTRUCTION.—No rules prescribed under this subsection may diminish—

(A) an applicant's rights under title 35, United States Code, or the Trademark Act of 1946; or

(B) any rights under a ratified treaty.

(b) FEES FOR PATENT SERVICES.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005—

(1) in subsections (a), (b), and (c) of section 801, by—

(A) striking ''During'' and all that follows through '' 2006, subsection'' and inserting ''Subsection''; and

(B) striking ''shall be administered as though that subsection reads'' and inserting ''is amended to read'';

(2) in subsection (d) of section 801, by striking ''During'' and all that follows through ''2006, subsection'' and inserting ''Subsection''; and

(3) in subsection (e) of section 801, by—

(A) striking ''During'' and all that follows through ''2006, subsection'' and inserting ''Subsection''; and

(B) striking ''shall be administered as though that subsection''.

(c) ADJUSTMENT OF TRADEMARK FEES.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 802(a) by striking ''During fiscal years 2005, 2006 and 2007'', and inserting ''Until such time as the Director sets or adjusts the fees otherwise,''.

(d) EFFECTIVE DATE, APPLICABILITY, AND TRANSITION PROVISIONS.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 803(a) by striking ''and shall apply only with respect to the remaining portion of fiscal year 2005, 2006 and 2007''.

(e) STATUTORY AUTHORITY.—Section 41(d)(1)(A) of title 35, United States Code, is amended by striking '', and the Director may not increase any such fee thereafter''.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any other provision of Division B of Public Law 108–447, including section 801(c) of title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005.

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

(3) 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).

(h) ELECTRONIC FILING INCENTIVE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a fee of $400 shall be established for each application for an original patent, except for a design, plant, or provisional application, that is not filed by electronic means as prescribed by the Director. The fee established by this subsection shall be reduced 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code. All fees paid under this subsection shall be deposited in the Treasury as an offsetting receipt that shall not be available for obligation or expenditure.

(2) EFFECTIVE DATE.—This subsection shall become effective 60 days after the date of the enactment of this Act.

(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.

(j) EFFECTIVE DATE.—Except as provided in subsection (h), the provisions of this section shall take effect upon the date of the enactment of this Act.

SEC. 10. SUPPLEMENTAL EXAMINATION.

(a) IN GENERAL.—Chapter 25 of title 35, United States Code, is amended by adding at the end the following:

''§ 257. Supplemental examinations to consider, reconsider, or correct information

''(a) IN GENERAL.—A patent owner may request supplemental examination of a patent in the Office to consider, reconsider, or correct information believed to be relevant to

the patent. Within 3 months of the date a request for supplemental examination meeting the requirements of this section is received, the Director shall conduct the supplemental examination and shall conclude such examination by issuing a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

''(b) REEXAMINATION ORDERED.—If a substantial new question of patentability is raised by 1 or more items of information in the request, the Director shall order reexamination of the patent. The reexamination shall be conducted according to procedures established by chapter 30, except that the patent owner shall not have the right to file a statement pursuant to section 304. During the reexamination, the Director shall address each substantial new question of patentability identified during the supplemental examination, notwithstanding the limitations therein relating to patents and printed publication or any other provision of chapter 30.

''(c) EFFECT.—

''(1) IN GENERAL.—A patent shall not be held unenforceable on the basis of conduct relating to information that had not been considered, was inadequately considered, or was incorrect in a prior examination of the patent if the information was considered, reconsidered, or corrected during a supplemental examination of the patent. The making of a request under subsection (a), or the absence thereof, shall not be relevant to enforceability of the patent under section 282.

''(2) EXCEPTIONS.—

''(A) PRIOR ALLEGATIONS.—This subsection shall not apply to an allegation pled with particularity, or set forth with particularity in a notice received by the patent owner under section 505(j)(2)(B)(iv)(II) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)(B)(iv)(II)), before the date of a supplemental-examination request under subsection (a) to consider, reconsider, or correct information forming the basis for the allegation.

''(B) PATENT ENFORCEMENT ACTIONS.—In an action brought under section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)), or section 281 of this title, this subsection shall not apply to any defense raised in the action that is based upon information that was considered, reconsidered, or corrected pursuant to a supplemental-examination request under subsection (a) unless the supplemental examination, and any reexamination ordered pursuant to the request, are concluded before the date on which the action is brought.

''(d) FEES AND REGULATIONS.—The Director shall, by regulation, establish fees for the submission of a request for supplemental examination of a patent, and to consider each item of information submitted in the request. If reexamination is ordered pursuant to subsection (a), fees established and applicable to ex parte reexamination proceedings under chapter 30 shall be paid in addition to fees applicable to supplemental examination. The Director shall promulgate regulations governing the form, content, and other requirements of requests for supplemental examination, and establishing procedures for conducting review of information submitted in such requests.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to preclude the imposition of sanctions based upon criminal or antitrust laws (including section 1001(a) of title 18, the first section of the Clayton Act, and section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition);

''(2) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

''(3) to limit the authority of the Director to promulgate regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.''.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act and shall apply to patents issued before, on, or after that date.

SEC. 11. RESIDENCY OF FEDERAL CIRCUIT JUDGES.

(a) IN GENERAL.—Section 44(c) of title 28, United States Code, is amended—

(1) by repealing the second sentence; and

(2) in the third sentence, by striking ''state'' and inserting ''State''.

(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.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

SEC. 12. MICRO ENTITY DEFINED.

Chapter 11 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 123. Micro entity defined

''(a) IN GENERAL.—For purposes of this title, the term 'micro entity' means an applicant who makes a certification that the applicant—

''(1) qualifies as a small entity, as defined in regulations issued by the Director;

''(2) has not been named on 5 or more previously filed patent applications, 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;

''(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

''(4) has not assigned, granted, conveyed, and is not under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to an entity that had 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 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.

''(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).

''(d) STATE INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, a micro entity shall include an applicant who certifies that—

''(A) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is a State public institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); or

''(B) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to such State public institution.

''(2) DIRECTOR'S AUTHORITY.—The Director may, in the Director's discretion, impose income limits, annual filing limits, or other limits on who may qualify as a micro entity pursuant to this subsection if the Director determines that such additional limits are reasonably necessary to avoid an undue impact on other patent applicants or owners or are otherwise reasonably necessary and appropriate. At least 3 months before any limits proposed to be imposed pursuant to this paragraph shall take effect, the Director shall inform the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate of any such proposed limits.''.

SEC. 13. FUNDING AGREEMENTS.

(a) IN GENERAL.—Section 202(c)(7)(E)(i) of title 35, United States Code, is amended—

(1) by striking ''75 percent'' and inserting ''15 percent''; and

(2) by striking ''25 percent'' and inserting ''85 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to patents issued before, on, or after that date.

SEC. 14. TAX STRATEGIES DEEMED WITHIN THE PRIOR ART.

(a) IN GENERAL.—For purposes of evaluating an invention under section 102 or 103 of title 35, United States Code, any strategy for reducing, avoiding, or deferring tax liability, whether known or unknown at the time of the invention or application for patent, shall be deemed insufficient to differentiate a claimed invention from the prior art.

(b) DEFINITION.—For purposes of this section, the term ''tax liability'' refers to any liability for a tax under any Federal, State, or local law, or the law of any foreign jurisdiction, including any statute, rule, regulation, or ordinance that levies, imposes, or assesses such tax liability.

(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.

(d) EFFECTIVE DATE; APPLICABILITY.—This section shall take effect on the date of enactment of this Act and shall apply to any patent application pending and any patent issued on or after that date.

(e) EXCLUSION.—This section does not apply to that part of an invention that is a method, apparatus, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data related to such filing.

SEC. 15. BEST MODE REQUIREMENT.

(a) IN GENERAL.—Section 282 of title 35, United State Code, is amended in its second undesignated paragraph by striking paragraph (3) and inserting the following:

''(3) Invalidity of the patent or any claim in suit for failure to comply with—

''(A) any requirement of section 112, except that the failure to disclose the best mode

shall not be a basis on which any claim of a patent may be canceled or held invalid or otherwise unenforceable; or

''(B) any requirement of section 251.''.

(b) CONFORMING AMENDMENT.—Sections 119(e)(1) and 120 of title 35, United States Code, are each amended by striking ''the first paragraph of section 112 of this title'' and inserting ''section 112(a) (other than the requirement to disclose the best mode)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act and shall apply to proceedings commenced on or after that date.

SEC. 16. TECHNICAL AMENDMENTS.

(a) JOINT INVENTIONS.—Section 116 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking ''When'' and inserting ''(a) JOINT INVENTIONS.—When'';

(2) in the second paragraph, by striking ''If a joint inventor'' and inserting ''(b) OMITTED INVENTOR.—If a joint inventor''; and

(3) in the third paragraph—

(A) by striking ''Whenever'' and inserting ''(c) CORRECTION OF ERRORS IN APPLICATION.—Whenever''; and

(B) by striking ''and such error arose without any deceptive intent on his part,''.

(b) FILING OF APPLICATION IN FOREIGN COUNTRY.—Section 184 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''Except when'' and inserting ''(a) FILING IN FOREIGN COUNTRY.—Except when''; and

(B) by striking ''and without deceptive intent'';

(2) in the second paragraph, by striking ''The term'' and inserting ''(b) APPLICATION.—The term''; and

(3) in the third paragraph, by striking ''The scope'' and inserting ''(c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope''.

(c) FILING WITHOUT A LICENSE.—Section 185 of title 35, United States Code, is amended by striking ''and without deceptive intent''.

(d) REISSUE OF DEFECTIVE PATENTS.—Section 251 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''Whenever'' and inserting ''(a) IN GENERAL.—Whenever''; and

(B) by striking ''without any deceptive intention'';

(2) in the second paragraph, by striking ''The Director'' and inserting ''(b) MULTIPLE REISSUED PATENTS.—The Director'';

(3) in the third paragraph, by striking ''The provisions'' and inserting ''(c) APPLICABILITY OF THIS TITLE.—The provisions''; and

(4) in the last paragraph, by striking ''No reissued patent'' and inserting ''(d) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent''.

(e) EFFECT OF REISSUE.—Section 253 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking ''Whenever, without any deceptive intention'' and inserting ''(a) IN GENERAL.—Whenever''; and

(2) in the second paragraph, by striking ''in like manner'' and inserting ''(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a),''.

(f) CORRECTION OF NAMED INVENTOR.—Section 256 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''Whenever'' and inserting ''(a) CORRECTION.—Whenever''; and

(B) by striking ''and such error arose without any deceptive intention on his part''; and

(2) in the second paragraph, by striking ''The error'' and inserting ''(b) PATENT VALID IF ERROR CORRECTED.—The error''.

(g) PRESUMPTION OF VALIDITY.—Section 282 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''A patent'' and inserting ''(a) IN GENERAL.—A patent''; and

(B) by striking the third sentence;

(2) in the second undesignated paragraph, by striking ''The following'' and inserting ''(b) DEFENSES.—The following''; and

(3) in the third undesignated paragraph, by striking ''In actions'' and inserting ''(c) NOTICE OF ACTIONS; ACTIONS DURING EXTENSION OF PATENT TERM.—In actions''.

(h) ACTION FOR INFRINGEMENT.—Section 288 of title 35, United States Code, is amended by striking '', without deceptive intention,''.

(i) REVISER'S NOTES.—

(1) Section 3(e)(2) of title 35, United States Code, is amended by striking ''this Act,'' and inserting ''that Act,''.

(2) Section 202 of title 35, United States Code, is amended—

(A) in subsection (b)(3), by striking ''the section 203(b)'' and inserting ''section 203(b)''; and

(B) in subsection (c)(7)—

(i) in subparagraph (D), by striking ''except where it proves'' and all that follows through ''; and'' and inserting: ''except where it is determined to be infeasible following a reasonable inquiry, a preference in the licensing of subject inventions shall be given to small business firms; and''; and

(ii) in subparagraph (E)(i), by striking ''as described above in this clause (D);'' and inserting ''described above in this clause;''.

(3) Section 209(d)(1) of title 35, United States Code, is amended by striking ''nontransferrable'' and inserting ''nontransferable''.

(4) Section 287(c)(2)(G) of title 35, United States Code, is amended by striking ''any state'' and inserting ''any State''.

(5) Section 371(b) of title 35, United States Code, is amended by striking ''of the treaty'' and inserting ''of the treaty.''.

(j) UNNECESSARY REFERENCES.—

(1) IN GENERAL.—Title 35, United States Code, is amended by striking ''of this title'' each place that term appears.

(2) EXCEPTION.—The amendment made by paragraph (1) shall not apply to the use of such term in the following sections of title 35, United States Code:

(A) Section 1(c).

(B) Section 101.

(C) Subsections (a) and (b) of section 105.

(D) The first instance of the use of such term in section 111(b)(8).

(E) Section 157(a).

(F) Section 161.

(G) Section 164.

(H) Section 171.

(I) Section 251(c), as so designated by this section.

(J) Section 261.

(K) Subsections (g) and (h) of section 271.

(L) Section 287(b)(1).

(M) Section 289.

(N) The first instance of the use of such term in section 375(a).

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act and shall apply to proceedings commenced on or after that effective date.

SEC. 17. CLARIFICATION OF JURISDICTION.

(a) SHORT TITLE.—This section may be cited as the ''Intellectual Property Jurisdiction Clarification Act of 2011''.

(b) STATE COURT JURISDICTION.—Section 1338(a) of title 28, United States Code, is amended by striking the second sentence and inserting the following: ''No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights.''.

(c) COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a)(1) of title 28, United States Code, is amended to read as follows:

''(1) of an appeal from a final decision of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, in any civil action arising under, or in any civil action in which a party has asserted a compulsory counterclaim arising under, any Act of Congress relating to patents or plant variety protection;''.

(d) REMOVAL.—

(1) IN GENERAL.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1454. Patent, plant variety protection, and copyright cases

''(a) IN GENERAL.—A civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights may be removed to the district court of the United States for the district and division embracing the place where such action is pending.

''(b) SPECIAL RULES.—The removal of an action under this section shall be made in accordance with section 1446 of this chapter, except that if the removal is based solely on this section—

''(1) the action may be removed by any party; and

''(2) the time limitations contained in section 1446(b) may be extended at any time for cause shown.

''(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.

''(d) REMAND.—If a civil action is removed solely under this section, the district court—

''(1) shall remand all claims that are neither a basis for removal under subsection (a) nor within the original or supplemental jurisdiction of the district court under any Act of Congress; and

''(2) may, under the circumstances specified in section 1367(c), remand any claims within the supplemental jurisdiction of the district court under section 1367.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 28, United States Code, is amended by adding at the end the following new item:

''1454. Patent, plant variety protection, and copyright cases.''.

(e) TRANSFER BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1632. Transfer by the Court of Appeals for the Federal Circuit

''When a case is appealed to the Court of Appeals for the Federal Circuit under section 1295(a)(1), and no claim for relief arising under any Act of Congress relating to patents or plant variety protection is the subject of the appeal by any party, the Court of Appeals for the Federal Circuit shall transfer the appeal to the court of appeals for the regional circuit embracing the district from which the appeal has been taken.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

''1632. Transfer by the Court of Appeals for the Federal Circuit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil

action commenced on or after the date of the enactment of this Act.

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.

SEC. 21. SATELLITE OFFICES.

(a) ESTABLISHMENT.—Subject to available resources, the Director may establish 3 or more satellite offices in the United States to carry out the responsibilities of the Patent and Trademark Office.

(b) PURPOSE.—The purpose of the satellite offices established under subsection (a) are to—

(1) increase outreach activities to better connect patent filers and innovators with the Patent and Trademark Office;

(2) enhance patent examiner retention;

(3) improve recruitment of patent examiners; and

(4) decrease the number of patent applications waiting for examination and improve the quality of patent examination.

(c) REQUIRED CONSIDERATIONS.—In selecting the locale of each satellite office to be established under subsection (a), the Director—

(1) shall ensure geographic diversity among the offices, including by ensuring that such offices are established in different States and regions throughout the Nation;

(2) may rely upon any previous evaluations by the Patent and Trademark Office of potential locales for satellite offices, including any evaluations prepared as part of the Patent and Trademark Office's Nationwide Workforce Program that resulted in the 2010 selection of Detroit, Michigan as the first ever satellite office of the Patent and Trademark Office; and

(3) nothing in the preceding paragraph shall constrain the Patent and Trademark Office to only consider its prior work from 2010. The process for site selection shall be open.

(d) PHASE-IN.—The Director shall satisfy the requirements of subsection (a) over the 3-year period beginning on the date of enactment of this Act.

(e) REPORT TO CONGRESS.—Not later than the end of the first fiscal year that occurs after the date of the enactment of this Act, and each fiscal year thereafter, the Director shall submit a report to Congress on—

(1) the rationale of the Director in selecting the locale of any satellite office required under subsection (a);

(2) the progress of the Director in establishing all such satellite offices; and

(3) whether the operation of existing satellite offices is achieving the purposes required under subsection (b).

(f) 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) PATENT AND TRADEMARK OFFICE.—The term ''Patent and Trademark Office'' means the United States Patent and Trademark Office.

SEC. 22. 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.

SEC. 23. 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 without recovering the aggregate extra cost of providing such prioritization, notwithstanding section 41 or any other provision of law;''.

SEC. 24. 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. 25. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.

SEC. 26. 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. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, it has been many years getting to this point. I cannot tell you the amount of pride I have in my fellow Senators, both Republicans and Democrats. I thank the Senator from Iowa who has been here with me and so many others I mentioned earlier. It is nice to finally have this bill through the Senate.

Mr. KYL. Mr. President, I rise today to recognize and thank the patent lawyers and Senate staff who have played a critical role in the drafting and enactment of the present bill.

Among the Senate staff who have played a role with regard to this bill are Chip Roy, Holt Lackey, and Zina Bash of Senator CORNYN's staff, David Barlow and Rob Porter of Senator LEE's staff, Walt Kuhn of Senator GRAHAM's staff, and Danielle Cutrona and Bradley Hayes of Senator SESSIONS's staff. Special mention is merited for Matt Sandgren of Senator HATCH's staff, who fought tenaciously for the bill's supplemental examination provision, and who worked hard to defeat the amendment to strip the bill of its adoption of the first-to-file system, and Sarah Beth Groshart of Senator COBURN's staff, who helped draft the Coburn amendment, which will create a revolving fund for the PTO and put an end to fee diversion. Past staff who played an important role include Jennifer Duck of Senator FEINSTEIN's staff, and Ryan Triplette, who managed the bill for Senator HATCH while he was chairman and for Senator Specter while he was the lead Republican on the committee. Miss Duck and Miss Triplette negotiated the managers' amendment that was adopted during the bill's 2009 committee mark up, and which represented a major breakthrough on this bill, resolving the contentious issues of damages and venue. In the House of Representatives, key staff include Blaine Merritt and Vishal Amin of Chairman LAMAR SMITH's staff, and Christal Sheppard of Mr. CONYERS's staff. Bob Schiff of Senator Feingold's staff worked with my staff to develop minority views for the bill's 2009 committee report—I believe that this is the only time that Senator Feingold and I ever submitted a minority report together. I should also acknowledge Tim Molino of Senator KLOBUCHAR's staff, Rebecca Kelly of Senator SCHUMER's staff, Caroline Holland of Senator KOHL's staff, and Galen Roehl, who worked in past Congresses for Senator Brownback, and who currently staffs Senator TOOMEY. Much of S. 3600 was drafted in Senator Brownback's conference room. Let me also recognize the work of Rob Grant of Senate Legislative Counsel, who has drafted literally hundreds of versions of and amendments to this bill. And finally, I must acknowledge Rita Lari, who managed this bill for Senator GRASSLEY on the Senate floor this past week, and the indispensable Aaron Cooper, who has managed the bill for the chairman since the beginning of 2009.

Among those outside the Senate, I recognize and thank Hayden Gregory of the American Bar Association, Laurie Self and Rod McKelvie of Covington & Burling, and Hans Sauer, Mike Schiffer, Bruce Burton, Matt Rainey, David Korn, Carl Horton, Steve Miller, Doug Norman, and Stan Fendley. The Wisconsin Alumni Research Foundation has played an important role, particularly with regard to the bill's enhanced grace period. I thank Carl Gulbrandsen, Howard Bremmer, Andy Cohn, and Mike Remington. I thank Todd Dickinson and Vince Garlock of AIPLA, and Jim Crowne, who was willing to come to the Senate to double check the draft enrolled bill. I should also mention Herb Wamsley of Intellectual Property Owners, as well as Dana Colarulli, who has worn two hats during the course of his work on this bill, first with IPO, and subsequently as the head of legislative affairs at the PTO. Key participants at the PTO have also included Mike Fleming, John Love, Jim Toupin, and Rob Clarke. And of course I must mention the current Director, David Kappos, without whose effort and dedication the passage of the present bill would not have been possible.

Finally, allow me to acknowledge the key members of the 21st Century Coalition for Patent Reform, who have devoted countless hours to this bill, and stuck with it through thick and thin. They have also formed an important ''kitchen cabinet'' that has been indispensable to the committee's drafting of this bill and to the resolution of difficult technical questions. I thus acknowledge and thank Phil Johnson, Gary Griswold, Bob Armitage, and Mike Kirk for their key role in the creation of the America Invents Act.

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

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

The legislative 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.

MORNING BUSINESS

Mr. LEAHY. 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. LEAHY. 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. MENENDEZ. 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. MENENDEZ. Mr. President, I understand we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak for 20 minutes.

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

THE FEDERAL DEFICIT

Mr. MENENDEZ. Mr. President, as someone who voted to freeze salaries, to end earmarks in this budget process, as someone who has already voted to cut $45 billion from the budget, I rise today in recognition that business as usual cannot continue. I recognize the critical importance of addressing our Federal deficit—a deficit, I would add, inherited by this administration, a deficit driven by two wars, both unpaid for, and the unprecedented need for governmental action to mitigate the wild excesses of Wall Street and American financial markets, excesses that were effectively condoned by the last administration, whose policies took this Nation to the brink of a second Great Depression and cost millions of American jobs.

I never forget that time in late 2008 when Chairman Bernanke, the Chairman of the Federal Reserve, came before members of the Banking Committee and members of the leadership and described the circumstances that were unfolding in the country in which a series of financial institutions, according to Chairman Bernanke and then-Secretary Paulson, the Secretary of the Treasury—they said: We are going to have a series of financial institutions collapse, and if they collapse, they will create systemic risk to the entire country's economy, and every American will feel the consequences of that collapse. I remember how hushed that room was.

I remember also the question being put to Chairman Bernanke: Surely you must have enough tools at the Federal Reserve to get us through this period of time. I remember the response to that question, which was basically: Senator, if you and your colleagues do not act in a matter of days, maybe a week, we will have a global financial meltdown, which really meant a new depression.

Chairman Bernanke is an academician. His expertise is in depression-era economics, how this Nation got into the last depression, how Roosevelt got us out of it. So when he made that statement, it was all the more chilling. It is from that moment in 2008, before this President took office and Democrats were in full control here, that, in fact, we were facing the challenges we are today.

Those of us who believe in a free market also know you cannot have a free-for-all market. We had economic policies for the Bush 8 years, two wars raging abroad, an unregulated market that allowed for the free-for-all that brought us on the brink of a new depression, and that is what we are meeting the challenges of today.

Those choices then and the choices we make, what we choose to cut and what we determine is in our interest, will speak volumes about our values, our priorities as a people and as a Nation.

Mr. President, I favor smart cuts, not dangerous ones. In an independent analysis of H.R. 1, which we are going to be voting on tomorrow—the Republican vision of where we should take the country—shows we are losing about 700,000 jobs. But we are trying to grow jobs in America. We have finally gotten into positive gross domestic product of our Nation's economy. We are seeing job growth. I would like to see it be even more robust, but H.R. 1 takes us back the opposite way and threatens the very essence of this economic recovery—700,000 jobs.

Don't believe what I say because I say it is so, but because those in the know say it—Ben Bernanke: ''The GOP's plan will cut jobs.'' Economist Mark Zandi: ''The GOP plan would cost 700,000 jobs.'' Here is another analysis: House spending cuts will hurt economic growth. So what we have is economist after economist telling us that H.R. 1 is a recipe for disaster when it comes to the question of jobs in America.

That analysis which says we would slash 700,000 jobs directly impacts the lives of middle-class and working families struggling to get back on their feet. They are severe cuts that run roughshod over the green shoots of economic recovery just to satisfy a political agenda. I favor smart commonsense cuts—cuts made with a surgeon's knife not a meat ax; cuts that are thoughtful, surgically precise cuts that actually reduce the deficit, not cuts that eliminate jobs and disinvest in educational opportunities for millions of promising young Americans, not cuts that hurt middle-class families struggling to make ends meet, make our workforce less competitive, our communities less safe, and strip away basic protections Americans have come to take for granted.

In my view, we can preserve our values and invest in the future, invest in out-educating, out-innovating, out-greening, and out-growing the world and still cut the deficit. To begin with, Secretary Gates of the Department of Defense has identified $78 billion in defense spending cuts alone. He has identified $178 billion in program reductions over 5 years, including delaying or terminating high-profile weapon systems.

I agree with Secretary Gates that we can live without the Marine Corps variant of the F–35 Joint Strike Fighter as well as the Marine Corps Expeditionary Fighting Vehicle. The Secretary has identified $54 billion in cuts in overhead costs and improved efficiency across defense agencies and the civilian

bureaucracy by reducing the number of defense contractors and wholly redundant intelligence organizations, among other improvements. Again, these are smart decisions that do not burden military families or affect our defensive capabilities.

I would add to that list of smart defense cuts the elimination of $1.75 billion for the F–22 aircraft and $439 million for an alternative engine for the F–35 Joint Strike Fighter Program, a cut for which I voted. These, among others, are smart cuts. But I think it is a mistake to pursue a budget-cutting strategy that costs this Nation 700,000 jobs through 2012, as the Republican plan will do—20,000 of those jobs from my home State of New Jersey, including more than 3,000 community health center jobs and 3,400 transportation and infrastructure jobs.

Another smart cut would be to do away with corporate subsidies that do nothing but pad the profits of companies that do not need them to be profitable and grow. We can repeal, for example, oil subsidies, as I have proposed, that would save $33 billion over 10 years on a windfall giveaway program to big oil that hardly needs a government handout. Over the past decade, BP, Exxon, Chevron, Shell, and Conoco have had combined profits of just under $1 trillion. Yet we have a system that provides them billions in subsidies every year. That is simply outrageous.

Even traditional oil industry supporters, such as former President George W. Bush and Shell's former CEO, have admitted when oil prices are this high oil companies do not need subsidies. They have the economic incentive they need to explore and drill. In 2010 alone, last year, they made over $75 billion, and that includes the $41 billion BP has spent trying to clean up the spill in the gulf—cleaning up the environment and paying for the economic damage they caused.

The fact is, cutting unnecessary defense programs and cutting oil subsidies are among the smart cuts that will save money while doing no harm to middle-class families. But the Republican plan, on the other hand, will take money away from the one thing that will allow millions of young people to reach their goals and prepare them to help America meet its competitive future; namely, a good education. That is a terrible mistake.

It is a mistake to cut the average New Jersey undergraduate's Pell grant by more than $845, an 11-percent cut. It is a mistake to take $115 million in Pell grants from 183,000 promising students in my State, as the Republican cuts would do. It is a mistake to cut funding to 18,000 students in Union County, NJ, or 16,500 in Middlesex County and 15,500 in Essex County, and to continue to cut Pell grants by $56 billion over the next 10 years. It is simply a mistake not to invest in education.

We are globally challenged for human capital in the delivery of a service or the production of a product. The boundaries of mankind have largely been erased in pursuit of that human capital so that an engineer's report is done in India and sent back to the United States for a fraction of its cost, a radiologist's report is done in Northern Ireland and read to your local hospital by your doctor, or if you have a problem with your credit card—as I recently did because there was a charge that wasn't mine—you end up with a call center in South Africa.

In the pursuit of human capital for the delivery of a service or a product we are globally challenged, which means for the Nation to continue to be a global economic leader it needs to be, at the apex of the curve of intellect, the most highly educated generation of Americans the Nation has ever had. That is how we will grow this economy and prosper and compete in the world. Yet the Republican budget moves us exactly the opposite way.

It is wrong to leave 4,000 New Jersey children without access to Head Start while at the same time continuing tax cuts for millionaires and multimillionaires. It is shortsighted to cut job training.

I went to a job training site in one of our counties. The place was packed—packed with individuals who have worked in the past but are unemployed now and looking to get the additional training that will make them competitive in a tough job market. So instead of helping our fellow Americans be as competitive as they can be for the job opportunities that may exist, we are going to cut job training for 70,000 New Jerseyans rather than seriously look at cutting farm subsidies. We need to be smarter about the cuts we make.

I think we would all agree that there are certain farm subsidies that are no longer needed, and we could certainly make smart cuts in some of those programs. We are all well aware that farm subsidies are not about the small American farm. I want to nurture that small American farm, including back home in New Jersey. We call New Jersey the Garden State. We are proud we are No. 2 in blueberries, No. 4 in asparagus. If you had cranberry for Thanksgiving last year, it probably came from the pine barrens of New Jersey with cranberry bogs. But that small farmer is not who we are talking about. This is about systematic efforts to move land from small farms to large corporate farms that mass-produce commodity crops such as cotton.

We pay out billions in agricultural subsidies every year that have created problems such as the ones we saw in Brazil earlier this year. Brazil went to the World Trade Organization and complained that what we were doing was an unfair trade practice, and the World Trade Organization agreed. So to avoid retaliatory tariffs—in essence, taxes against our products by Brazil—the United States agreed to pay $147 million in assistance to Brazilian producers. Yes, you heard me right—$147 million that American taxpayers are now paying to subsidize not American farmers but, because of our unfair trade practice, we are now subsidizing Brazilian farmers with our tax dollars. Something is wrong about that process.

We need to put an end to such ridiculous policies and save taxpayers billions of dollars. But instead of saving billions in smart cuts like that, the Republican plan under H.R. 1 goes after homeland security funding. That bill will cut homeland security investments by $3 million in my home State of New Jersey alone—home, according to the FBI, of the two most dangerous miles in America because of the chemical causeway along the Hudson waterfront that creates a real challenge—directly affecting the budgets of first responders such as the courageous men and women who responded on September 11. It is dangerous to cut more than $22 million in port security grants and more than $16 million in transit security grants from the Port Authority of New York and New Jersey.

I have worked hard, from implementing the 9/11 recommendations to fighting for port cargo screening. We don't need a nuclear or biological weapon coming into our ports or a threat like we saw from the terrorists in Mumbai in our transit systems that would result in a devastating attack and then further threaten our economy. Yet that is exactly what the Republican budget does.

I believe it is dangerous to cut $4.5 million in transit security grants for northern New Jersey, more than $3.5 million from the Philadelphia area and southern New Jersey, leaving families in my State and throughout that corridor who travel between States less safe.

I have a different take than my Republican colleagues on how we achieve deficit reduction. Quite simply, it comes down to one truism that we should keep in mind during this budget process, and that is this: You show me your budget, and I will show you your values.

We have that in our own family budgets. Families struggle together to have a place to call home for their families, to educate their children, to put food on the table, to be able to realize their hopes and dreams and aspirations. And how we spend our money as families speaks to our values, and, of course, the work we do to earn that money. That is true about the Nation's budget. The Nation's budget is a reflection of our collective values as a country. Those values are clearly evident in what we choose to fund and what we choose to cut.

I would remind my colleagues this debate is about more than numbers on a page. It is a portrait of America, a reflection of who we are and what we want this Nation to be. To make cuts simply to reach a numerical goal that isn't established by any sound science is to say that we care more about the

bottom line than about investing in people, investing in jobs, in education, in infrastructure, in building and growing this economy, and protecting a safe, clean way of life that we have too often come to take for granted.

I want to talk about that for a moment.

From the moment we get up in the morning, to the moment we go to bed at night, the Republican plan would make cuts that affect the daily lives of millions of Americans and millions of jobs in every economic sector.

In America, when you turn on the tap for a glass of water or take your child fishing at a local lake, someone is at work—someone with a family—who is making sure the water is safe to drink and the lake is not polluted.

But the Republican plan cuts $700 million from the Clean Water State Revolving Fund and $250 million from the Drinking Water State Revolving Fund that have helped municipalities and communities put people to work on water quality protection projects.

The Republican plan cuts almost $1 billion from clean water and that means cutting not just funding, but jobs of those whose work is to keep our water safe and clean.

Is that a smart cut? Does that reflect who we are and what we want this Nation to be?

If you live on a river, a flood plain, or on the coast and a storm strikes, you know that in America there will be someone there to help if there is a flood or a coastal emergency.

The Republican plan, even after the disastrous experience in the wake of Katrina, cuts $30 million from flood control and coastal emergencies. Is that what we learned from New Orleans? Is that what we, as a nation, believe is a smart cut?

If you wake up in the middle of the night and your child is sick and you don't know why, or you think that child may have accidently ingested something poisonous, or your child is diagnosed with a life-threatening disease, in America you can call the Poison Control Center, take your child to a community health center, know that the Centers for Disease Control is doing its job.

In America you know that the National Institutes of Health is working every day to find the next treatment or cure that affects our families, friends, and neighbors, $300 million of that in New Jersey, bringing thousands of new 21st century jobs to my State to help continue our economic recovery.

But the Republican plan cuts $755 million from the CDC; $1 billion from the National Institutes of Health; $27 million from Poison Control Centers; $1.3 billion from community health centers and 3,400 community health center jobs in my State of New Jersey—3,400 more unemployed New Jerseyans.

We may not immediately make the connection between what these cuts mean and our lives, but they have consequences to our lives, to our families, to our prosperity. It also means some people will lose their jobs.

This morning millions of Americans got up and scrambled a few eggs and made some bacon for breakfast.

Fortunately, in this country we know it was someone's job to inspect those eggs. It was someone's job to inspect that bacon and make sure it was safe to eat. The Republican plan cuts $53 million from Food Safety and Inspection Service, the loss of more safety inspectors at a time when we have heard numerous reports of tainted food and the need for more, not fewer, food inspectors keeping our food supply safe.

Is that reflective of our values? Is that what we think of as life in America?

If you were a middle-class New Jerseyan who, after a year of looking for a job, finally had an interview and wanted to take the train because you thought it would be a faster, easier, and more convenient way to get to that interview, you may find there are not as many opportunities because the Republican budget cuts $224 million from Amtrak. In a post-September 11 world in which multiple modes of transportation are critical to our security, for so we learned on September 11 that when there are no trans-Hudson crossings through the tunnels or through PATH, which is the rail connection between New York and New Jersey, we had ferries that took people out of Lower Manhattan and to New Jersey hospitals. Multiple modes of transportation is not only about economic opportunity, it is about security in the post-September 11 world. Yet the budget cuts $224 million from Amtrak, which is how we send our businesspeople to sell their products between cities, go to great research universities and to hospitals to be cured. You would be forced to take the car, buy the gas, burn the fuel, fight the traffic, and park in the city to get to your interview. Is that how we invest in our infrastructure? Is that the type of smart growth that will help us achieve a greener, cleaner future?

When you park the car and walk to your interview you expect to have enough police on the street to protect you from gangs and criminals.

Well, this Republican plan cuts the National Drug Intelligence Center by $11 million; law enforcement wireless communications by $52 million; the U.S. Marshals Service by $10 million; the FBI that deals with domestic terrorism by $74 million; State and local law enforcement assistance by $256 million; juvenile justice by $2.3 million; and the COPS Program that puts police on the street and provides them with state-of-the-art equipment they need by $600 million; $600 million from the COPS Program means fewer cops on the beat.

Are those the kind of cuts that we want.

Are those the kind of cuts that will keep our communities safe? Are they smart cuts that reflect our values in a post 9–11 world?

Let me also mention one thing that is not specifically a cut in the Republican plan, but something it does that runs contrary to our belief as a nation that the air we breathe should be clean and safe.

The legislation presented by the Republicans eliminates many environmental protections with cuts to the EPA's budget, but it is also loaded with policy riders designed specifically to gut the Clean Air Act.

I believe that is wrong. I believe it runs contrary to American values, and I consider any attack on the Clean Air Act to be an attack on New Jersey.

Because of the emissions of dirty, old out of state coal plants, every county in my State is deemed to be out of compliance with the Clean Air Act. One of these coal powerplants is the Portland Generation Station just across the Delaware River in Pennsylvania. It emitted 30,000 tons of sulfur dioxide in 2009—almost three times the amount of all seven of New Jersey's coal plants combined.

This sulfur dioxide wafts into Warren, Sussex, Hunterdon and Morris counties and acts to cause and exacerbate a whole host of respiratory illnesses from asthma to heart disease.

We simply cannot gut the one piece of legislation that protects the very air we breathe and makes it safe for our children to go out and play without fear of being sick. This Republican plan that guts the Clean Air Act does not reflect our values as a Nation. It is simply not reflective of who we are, what we want this Nation to be, or what we want for our children's future.

The list of H.R. 1's short-sighted disinvestments in this Nation's future goes on and on. ''Show me your budget and I'll show you your values.''

The Republican proposal before us is, in my view, an affront to American values, not a reflection of them.

I for one do not believe for one second that it reflects who we are and what we want this Nation to be. I do believe that at a time that we are finally growing this economy, these indiscriminate cuts, as many economists have said, will throw this economy right back to the deep recession we are coming out of. That means fewer jobs here in America. That certainly cannot be part of our values. That is why I will be voting against H.R. 1, to protect American values and protect American jobs.

I yield the floor.

INTERNATIONAL AFFAIRS BUDGET

Mr. KERRY. Mr. President, we are living through one of the most important transformations in the history of the modern world. Some have likened the wave of protests sweeping the Middle East to the revolutions of 1848, which changed Europe's political landscape forever. They certainly call to mind the dramatic events of 1989, when

the nations of Eastern Europe threw off the yoke of communism to embrace free markets and democracy. Like those upheavals, there is no doubt that the events of this year will be studied for decades to come.

The challenges we face are great. We are being called upon to forge new relationships in a part of the world that has been and will remain vital to our national security. And we have been given the opportunity to demonstrate conclusively to the young men and women of the Muslim world and beyond that al-Qaida's belief that change requires violence and radicalization is wrong.

But, even as we try to navigate these momentous developments, we are contemplating drastic cuts to our international affairs programs. I understand that we face a budget crisis in our own country. But we can either pay now to help brave people build a better, democratic future for themselves, or we will certainly pay later with increased threats to our own national security.

The international affairs budget lays the foundation for our ability to fulfill our responsibilities abroad. The approximately $50 billion that funds all our diplomats, development professionals, embassies, missions, consular services, global health programs, food aid, and disaster relief is a tiny investment for the great return we receive. Consider that this year we will spend approximately $700 billion on our military. By contrast, the international affairs budget is less than one-tenth of the Pentagon's. As Secretary Gates once pointed out, if you took the entire Foreign Service roster, you could barely crew one aircraft carrier.

And yet our diplomats are serving on the frontlines of multiple revolutions and wars. They are making vital contributions in Afghanistan, and in Iraq they are planning the transition from a military mission to a diplomatic one so that we can cement the political progress that has cost hundreds of billions of dollars and thousands of American lives.

In Africa, they are helping to midwife the birth of a new nation in South Sudan, to resolve the situation in Darfur, and, as we make progress on those fronts, to forge a new relationship with the government in Khartoum. They are leading the fight against global challenges, like nuclear proliferation and climate change. And in countless communities around the world they are providing essential humanitarian assistance preventing the spread of cholera in Haiti, distributing food to refugees in northern Kenya, and providing shelter to flood victims in Pakistan.

This is not a time for America to pull back from the world. This is a time to step forward.

Yet H.R. 1 imposes draconian cuts that would completely undermine our core national security priorities and our humanitarian commitments. The bill threatens our ability to stabilize Afghanistan, Pakistan, and Iraq by slashing economic support funds by $2.2 billion, or nearly 30 percent below fiscal year 2011 levels. In Afghanistan, for example, these cuts would make it extremely difficult to support high-priority infrastructure programs that are critical to our counterinsurgency and stabilization efforts. And they would curtail our ability to support governance, economic development programs, and basic services to districts cleared by the military.

H.R. 1 would also threaten our efforts in Afghanistan and Pakistan by zeroing out funding to meet our obligation to take up the U.S. shares in the Asian Development Bank, ADB. If we don't provide funding by April of this year, we will give up our leadership position at ADB and allow Chinese influence at the bank to surpass our own. The impact of that loss of influence cannot be overstated. The ADB funds projects throughout Pakistan and Afghanistan, supporting U.S. efforts in this critical region. GEN David Petraeus himself wrote to Treasury Secretary Timothy Geithner to praise the Asian Development Bank for supporting U.S. interests, stating that ''strong partnership with the ADB is part of our overall United States purpose and goals in these areas of critical importance.''

The House bill also cuts our humanitarian aid by 50 percent, decimating our ability to provide food, shelter, and medicine after natural disasters and putting hundreds of thousands of lives at risk. In Pakistan, USAID would be unable to meet emergency and recovery needs in the south, where an estimated 4 million people remain displaced and require critical support. In Haiti, over 1 million displaced persons living in transitional shelters may lose funding and support. And with these cuts, more than 1.6 million internally displaced persons in Darfur will not receive critical health care, access to water, or help in meeting other basic needs.

H.R. 1 decreases global health funding by over $1 billion, which means that over 400,000 people who would have been able to enroll in life-saving treatment programs through PEPFAR will now linger on waiting lists as their HIV diagnosis becomes a death sentence. It also means that 300,000 orphans and children will not receive care and support, and that 100,000 women who would have received medication to prevent the transmission of HIV to their newborn children will not, resulting in tens of thousands of babies that will be born HIV-positive.

H.R. 1 also slashes support for the Global Fund to Fight AIDS, Tuberculosis, and Malaria. The Global Fund is a public-private partnership where every American tax dollar is leveraged twice over by the rest of the world. Its programs are also deeply intertwined with U.S. efforts: In Haiti, for example, Global Fund grants support the purchase of anti-retroviral drugs for AIDS patients, while PEPFAR ensures their delivery to patients. Thus, these drastic reductions to the Global Fund will affect U.S. efforts as well.

Our global health programs represent some of our most successful and effective international policies. In Pakistan, as I discussed today with Bill Gates, working with the government there, we could eliminate polio entirely. Our malaria programs have already virtually eliminated that killer of children in parts of Africa. The Centers for Disease Control are working to reduce the spread of drug-resistant diseases, such as tuberculosis, before they come to our own shores. Cutting off these programs is poor foreign policy, it is poor public health policy, and it stands in sharp contradiction to American values.

The House bill also cuts nearly two-thirds of the funds devoted to promoting clean energy and increasing resilience to climate change in the most vulnerable regions of the world. This includes eliminating funding for the climate investment funds, which support exports of clean energy technology, help developing countries respond to the impacts of climate change, and promote increased carbon sequestration from forests. H.R. 1 also eliminates government positions needed to negotiate international agreements on climate change that are favorable to the United States, while ensuring that other nations live up to their commitments to limit greenhouse gas emissions.

H.R. 1 also slashes food and education for the world's poorest children by 50 percent. It eliminates feeding programs for 18 million of the world's poorest and hungriest people, and approximately 2.5 million young children benefiting from the McGovern-Dole program would lose their daily school meal. Another 15 million people, primarily women and children, would lose access to the sustenance provided through title II. These cuts are not abstractions. These are people.

The House bill would even eliminate fiscal year 2011 funding for the United States Institute of Peace, USIP. USIP is more than a Washington think tank. Created by Congress and President Ronald Reagan, it is a working instrument, utilized by the Department of Defense as well as the Department of State. Defunding USIP would significantly reduce America's ability to find nonviolent solutions to conflict, just as we are trying to resolve wars in Afghanistan and Iraq. USIP's personnel operate on the ground in dangerous areas where America's security is threatened. For example, in 2007 USIP's reconciliation efforts between Shia authorities and Sunni sheiks helped dramatically reduce U.S. troop deaths in the ''Triangle of Death'' near Baghdad. That in turn allowed the U.S. Army to reduce its presence in the area by about 2,000 troops and save a significant amount of money. In a letter to the Office of Management and Budget, General Petraeus called this a ''striking success story.''

I have long been impressed with USIP's work in Sudan, where the Institute's training in electoral violence prevention contributed to the relatively peaceful referendum and the low levels of violence in its aftermath. USIP is now actively assisting in the development of a new constitution for Southern Sudan through its Rule of Law Program. Recognizing the volatility of the north/south border areas and the potential for an outbreak of contagious violence, USIP has instituted a cross-border grazing corridor project and designed a popular consultations process in the troubled border states of Blue Nile and Southern Kordofan.

In Pakistan, another area of great concern to me, USIP is developing a network of conflict management facilitators to work at the local level, training Pakistani parliamentarians and women leaders in conflict resolution and developing a curriculum for schools based on principles of gender equality, tolerance, pluralism, and peace.

Under the Senate substitute, USIP's funding would be reduced by almost 20 percent. But any greater reduction would threaten this Federal institute that has proven it saves American lives and money. The drastic action of the House to defund USIP must not stand.

These sorts of severe cuts, which will reduce our capacity from Afghanistan to Sudan, from war zones to earthquake zones, will do almost nothing to rein in our budget deficit. But they will costs thousands of lives overseas, and they will increase the threats to our own country. At a time of great challenge to American interests abroad, we must step up at home and provide the vital funds that our diplomats need.

Mr. President, I ask unanimous consent that a letter be printed in the RECORD.

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

U.S. CENTRAL COMMAND,
OFFICE OF THE COMMANDER,
MacDill AFB, FL, February 11, 2009.

Mr. ROB GOLDBERG,
Director, International Affairs Division, National Security Programs, The Office of Management and Budget, 17th Street, NW., Washington, DC.

DEAR MR. GOLDBERG, I would like to underscore the importance of the U.S. Institute for Peace (USIP) to the missions the United States is currently pursuing in Iraq and Afghanistan. While I have long been an avid reader of USIP's analytical products, which are second to none in tracking the challenges we face in both countries and in outlining policy options, I have more recently been impressed with USIP's on-the-ground peacebuilding efforts.

In Iraq, the Institute stepped up to the plate beginning in August 2007 to assist the 10th Mountain Division in a reconciliation effort in Mahmoudiya, a community on the southern edge of Baghdad that was once known as the ''Triangle of Death.'' Since then, General Odierno and I have often cited Mahmoudiya as a striking success story. USIP's continuing reconciliation efforts at the community level, especially in Diyala and Ninewa, as well as at the national level in Baghdad, hold great promise for the future.

In Afghanistan, USIP's work on the informal justice system has been invaluable as we work toward improving the rule of law at the provincial level. Their plans for reconciliation efforts at the community level on the Afghanistan/Pakistan border are likewise a potential key to success in the enormous challenges we face.

USIP's experience working closely with the U.S. military will be a great asset in developing stronger unity of effort between civilian and military elements of government In fact, I hope soon to see U.S. military officers training alongside civilian governmental and nongovernmental counterparts in USIP's headquarters at 23rd and Constitution. Their facility is not just an important symbol of our nation's commitment to peace; it is also home to a wonderful training center that we hope to leverage to increase understanding and unity of effort in today's complex operations.

We can be proud of what USIP has done in the past, and I look forward with confidence to the contributions the Institute will make in the future.

Sincerely,

DAVID H. PETRAEUS,
General, United States Army, Commanding.

9/11 HEALTH FUNDING

Mrs. GILLIBRAND. Mr. President, we rise today to engage in a colloquy regarding funding for the 9/11 health program. The chairman has been a tireless supporter of the 9/11 World Trade Center health program at the Centers for Disease Control and Prevention's, CDC, National Institute for Occupational Safety and Health, NIOSH. This program has helped our first responders who bravely rushed in on September 11 and thousands of others who were in the area on that terrible day.

The 2011 continuing resolution proposed by Senator INOUYE that the Senate will vote on today makes fiscally prudent adjustments to our Nation's spending, but I wanted to clarify with the Senator, through this colloquy, that none of the spending reductions in the CR will impact the current health care screening and treatment for first responders, survivors, residents, students and others related to the September 11, 2001, terrorist attacks on the World Trade Center.

Mr. LAUTENBERG. As the Senator knows, we successfully enacted a bipartisan bill to provide mandatory funding to take care of the first responders and others who became sick from toxic fumes, dust, and smoke after the 2001 attack on the World Trade Center. This new law was our Christmas miracle. It is very important to me and my constituents that there is no disruption in the care that eligible responders and victims can receive.

Mr. HARKIN. I thank the Senators. The Senator is absolutely correct, the 2011 continuing resolution that was proposed by Senator INOUYE will not reduce any services or treatment available to responders in the World Trade Center Health Program. In fact, we have been assured by the staff at HHS that there are sufficient funds for treatment and screening of the responders and victims to continue without interruption.

Mr. SCHUMER. It's my understanding that the fiscal year 2010 appropriation included $70.7 million for the World Trade Center Health Program, but that the 2011 continuing resolution proposed by Senator INOUYE does not specify an amount for the implementation of the new law.

Mr. HARKIN. Yes, the $70.7 million provided to the program in the fiscal year 2010 omnibus remains available to NIOSH to use until expended. It is our understanding that $13 million remains of that $70.7 million and that it will be used to continue access to the program.

Mr. MENENDEZ. I thank the Senator for that clarification. I too am very concerned about continuity in the World Trade Center Health Program. The mandatory funding will start on July 1, 2011, and it is critically important that the transition be as smooth as possible. I would like to thank the Senator for ensuring that this program will be able to continue under the 2011 CR, and I would like to ask, on behalf of all of us and our constituents, that we work together to ensure that the fiscal year 2011 discretionary funds support the full and timely implementation of the mandatory program. It is very important that funding is provided to ensure that NIOSH and the World Trade Center monitoring and treatment programs can seamlessly continue their work.

Mr. HARKIN. Yes, I commit to working with the Senator. I commit to the Senators that we will specifically allocate in the CR that will pass the Senate the amount of funds that are necessary to ensure a smooth transition in July.

Mrs. GILLIBRAND. I thank the Chairman for that clarification and for ensuring that these American heroes were not forgotten. I hope we can all work together each year on this important program.

ARGENTINA'S DEBTS

Mr. WICKER. Mr. President, I rise today to discuss the treatment of American creditors by the Republic of Argentina. Almost 10 years ago, the Argentine government defaulted on over $81 billion in sovereign debt. Nearly $9 billion of this debt was held by the U.S. Government and American citizens. Following its default, Argentina made take-it-or-leave-it settlement offers well below international norms for settling sovereign debt defaults.

I am glad to report that recently Argentina has shown a willingness to negotiate in settling some of this debt. Argentina recently informed the Paris Club, a group of sovereign governments that includes the United States and represents 19 creditor countries, that it will pay its outstanding sovereign debt,

including $360 million owed to the United States. Argentina's willingness to pay its debts to the Paris Club demonstrates its capacity to go further and compensate private American creditors, who have been trying to collect outstanding debt from Argentina for years. The fact that Argentina has agreed to pay its public debts to other sovereign nations is a welcomed first step. However, private U.S. creditors are still owed billions of dollars.

As I mentioned before in this Chamber, these private creditors have won over 100 U.S. Federal court judgments against Argentina. Now that Argentina has shown that it can and will pay its debts through the Paris Club negotiations, the administration should work to get this issue resolved for the remaining American bondholders and taxpayers.

I hope my colleagues will join me in urging the administration to protect the well-being of the American citizens impacted by Argentina's failure to pay its debts.

Rx IMPACT DAY

Mr. JOHNSON of South Dakota. Mr. President, I rise today in advance of the Third Annual National Association of Chain Drug Stores RxIMPACT Day to recognize pharmacy contributions to the American health care system. Over the course of the next 2 days, over 300 members of the pharmacy community, including practicing pharmacists, pharmacy school faculty and students, State pharmacy leaders and pharmacy company executives, will visit Capitol Hill to share their views with Congress about the importance of protecting access to neighborhood pharmacies and utilizing pharmacists to improve quality and reduce health costs.

Pharmacists play an important role in improving our health care system by providing services and expertise that help patients manage their medications and overall health. In many communities, pharmacists are the most accessible health care provider group. Today's pharmacies offer a variety of preventive healthcare services including immunizations and vaccinations, health screening services, disease management services and routine advice on the best and most effective over-the-counter products for patients' specific needs.

Through medication therapy management, MTM, pharmacists reduce medical errors and help patients manage and adhere to their prescribed therapies. Drug therapy management services can play a critical role in improving the quality of care and containing health care costs, as these services help patients make the best possible use of their medications. MTM services require a partnership of the pharmacist, the patient or their caregiver, and other health professionals to promote the safe and effective use of medications and help patients achieve targeted health outcomes. I am pleased the Affordable Care Act recognized the health benefits and cost savings associated with MTM and includes a series of grant programs to encourage MTM as part of coordinated care models and chronic disease initiatives. Reform also improves the MTM benefit in Medicare Part D and establishes a bonus payment for Medicare Advantage plans that promote MTM.

Analysis conducted by the New England Healthcare Institute estimates that the overall cost of incorrect use of medication is as much as $290 billion per year, not to mention the avoidable loss of quality of life for patients and their loved ones. With increasing evidence this benefit can improve patient health outcomes, I support community pharmacy's efforts to strengthen the MTM benefit. I joined colleagues earlier this year in introducing the Medication Therapy Management Empowerment Act. In addition to extending MTM services to seniors and others struggling with chronic conditions, this bill provides appropriate reimbursement for pharmacists' time and service. The bill also establishes standards for data collection to evaluate and improve the Part D MTM benefit.

Throughout my service in Congress, I have been a strong supporter of pharmacies and recognize their important role in our health care system. Today, I celebrate the value of pharmacy and support efforts to protect access to neighborhood pharmacies and utilize pharmacies to improve the quality and reduce the costs of health care. I commend pharmacy leaders, pharmacists, students, and executives and the pharmacy community for their contributions to improving the health of the American people.

INTERNATIONAL WOMEN'S DAY

Mr. BENNET. Mr. President, I rise today, March 8, to celebrate International Women's Day, on which we honor the economic, political, and social achievements of women in Colorado and across the world. It also happens to be the 100-year anniversary of International Women's Day. For 100 years, diverse nations have spoken as one to honor the achievements of women and look forward hopefully to a future with greater economic opportunities for all women, including my three daughters, Caroline, Halina, and Anne.

I would like to celebrate today by discussing ways that we can build toward that future and create better economic opportunities for women in all countries—from Afghanistan to Zambia, two countries which, incidentally, celebrate International Women's Day as an official holiday.

All too often, in many developing countries, women represent a disproportionate number of the poor. According to the United Nations Development Program, women represent 60 percent of the 1.4 billion people living on less than $1.25 a day. They also lack access to the same educational and health services as men. For example, two-thirds of the world's illiterate people are women.

These disparities are stark, and their causes are the product of historical second-class citizenship for women. Such historical disadvantages are pervasive and systemic. Only with the determined effort of the international community can we begin to break down these barriers and foster true economic opportunities for women.

Many women and girls are trapped in the vicious cycle of poverty because of their limited access to basic financial services. Women often manage the household and produce food for the entire family, but they are unable to save money, protect against calamity, or obtain a small loan—simple banking tools you and I take for granted.

For example, 75 percent of the world's women cannot obtain formal bank loans, partly because they lack permanent employment, capital, and assets, such as land. In some countries, like Burkina Faso, laws do not specifically discriminate against women, but they do establish landowner criteria that effectively exclude women.

One way to bridge this gap is to connect women with access to financial services and microfinance. Very small loans can help some women start and expand small businesses. Others need a safe place to store money as they save for school fees and health care services for their children. Some small businesswomen and female heads of households wish to purchase simple forms of insurance to protect against unexpected illnesses, which can often wipe a family out. By increasing women's access to such basic financial services, we can help countless women weather unexpected storms and gain agency over their economic well-being.

Creating economic and financial opportunities for women worldwide is the right thing to do, and it is also the smart thing to do. In countries like Pakistan and Yemen, supporting women can lead to measurable progress in the economic success of families and the direction of tomorrow's youth. In sub-Saharan Africa, for instance, these efforts can help small-scale, subsistence farmers, most of whom are women, prevent future food crises and help stabilize struggling democracies.

Mr. President and all other Members here today, please join me in celebrating International Women's Day by supporting efforts to expand economic opportunities for women around the world.

TEACHING GEOGRAPHY IS FUNDAMENTAL ACT

Ms. MIKULSKI. Mr. President, I rise in strong support of the Teaching Geography is Fundamental Act, introduced by Senator COCHRAN and myself last week. Increasing geography literacy is essential to STEM education, and investing in our children's science

education is essential to making America smarter and more innovative. This bill would authorize the Secretary of Education to meet that critical need by doling out competitive grants to proven nonprofits with a track record of promoting geography literacy in our schools through activities such as teacher professional development and research. As chairwoman of the appropriation subcommittee that funds National Science Foundation, NSF, I have directed National Science Foundation's education team to work with experts like National Geographic to strengthen geography education. NSF is now working with National Geographic Society to explore new ways to improve geography teaching, training, and research in our schools. This pilot program has proven successful and deserves national support.

For a number of years, I have promoted geography locally in my home State of Maryland by working with geographic trailblazers like National Geographic Society's Chesapeake watershed education programs and Pat Noonan's Chesapeake Bay Interpretive Buoys—bringing real-time environmental information to Maryland schoolchildren in a meaningful and understandable way. I can tell that making geography education local is where to start. Hook a child's interest with what they know, and their geographic knowledge will open up to the rest of the world.

I strongly support this bill because I know it can enhance tremendous work already being done. National Geographic is a great example of an organization that could partner with the Department of Education to provide schools with the intellectual and organizational capacity to effectively teach geography literacy. It is an institution whose members have explored the world's tallest peaks and discovered our ocean's deepest depths. They support exploration and discovery—from Peary and Hanson's expedition to the North Pole in 1906 to Ballard's discovery of the Titanic in 1985. But they also fund geography education programming through grants to educational organizations and by providing professional development to classroom teachers. Their magazine alone has an incredible impact because of its loyal and massive readership of more than 360 million people. There is no need for the administration to reinvent the wheel when there are willing geographic partners ready and willing to take this Teaching Geography is Fundamental bill and run with it.

We live in an age when our innovative economy is becoming ever more global and new cyber technology connects schoolchildren not only to their friend across the street but to their friend across the ocean, Better geography literacy at a young age—along with an understanding and appreciation of other cultures—is so important nowadays. I think it is both fitting and appropriate that we continue to encourage that curiosity with our children, and this bill helps us get there. That is why I am proud to cosponsor this bill, and I encourage my colleagues to support it as well.

NOTICE OF ISSUANCE

Mr. INOUYE. Mr. President, the following regulations were printed in the RECORD on January 25, 2011. Due to errors in the initial printing, I ask unanimous consent that the notice be reprinted in the RECORD.

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

OFFICE OF COMPLIANCE TEXT OF REGULATIONS FOR THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix ''H.'' When approved by the Senate for the Senate, these regulations will have the prefix ''S.'' When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix ''C.''

In this draft, ''H&S Regs'' denotes the provisions that would be included in the regulations applicable to be made applicable to the House and Senate, and ''C Reg'' denotes the provisions that would be included in the regulations to be made applicable to other employing offices.

PART 1—Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch (section 4(c) of the Veterans Employment Opportunities Act of 1998)

Subpart A—Matters of General Applicability to All Regulations Promulgated under Section 4 of the VEOA

Sec.
1.101 Purpose and scope.
1.102 Definitions.
1.103 Adoption of regulations.
1.104 Coordination with section 225 of the Congressional Accountability Act.

SEC. 1.101. PURPOSE AND SCOPE.

(a) Section 4(c) of the VEOA. The Veterans Employment Opportunities Act of 1998 (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 U.S.C., to certain covered employees within the Legislative branch.

(b) Purpose of regulations. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of the VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA (2 U.S.C. §1384). The purpose of subparts B, C and D of these regulations is to define veterans' preference and the administration of veterans' preference as applicable to Federal employment in the Legislative branch. (5 U.S.C. §2108, as applied by the VEOA). The purpose of subpart E of these regulations is to ensure that the principles of the veterans' preference laws are integrated into the existing employment and retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans' preference in covered appointment and retention decisions. Provided, nothing in these regulations shall be construed so as to require an employing office to reduce any existing veterans' preference rights and protections that it may afford to preference eligible individuals.

H Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of the CAA, 2 U.S.C. §1301(9)(A–C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

S Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made or directed by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of the CAA, 2 U.S.C. §1301(9)(A–C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (4) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1978; or (5) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

C Regs: (c) Scope of Regulations. The definition of ''covered employee'' in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term ''covered employee'' excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (3) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

SEC. 1.102. DEFINITIONS.

Except as otherwise provided in these regulations, as used in these regulations:

(a) ''Accredited physician'' means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices. The phrase ''authorized to practice by the State'' as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

(b) ''Act'' or ''CAA'' means the Congressional Accountability Act of 1995, as amended (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(c) ''Active duty'' or ''active military duty'' means full-time duty with military pay and allowances in the armed forces, except (1) for training or for determining physical fitness and (2) for service in the Reserves or National Guard.

(d) ''Appointment'' means an individual's appointment to employment in a covered position, but does not include any personnel action that an employing office takes with regard to an existing employee of the employing office.

(e) ''Armed forces'' means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(f) ''Board'' means the Board of Directors of the Office of Compliance.

H Regs: (g) ''Covered employee'' means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (dd) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

S Regs: (g) ''Covered employee'' means any employee of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; or (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made or directed by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (dd) who is appointed pursuant to section 105(a) of the Second Supplemental Appropriations Act, 1978; or (ee) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

C Regs: (g) ''Covered employee'' means any employee of (1) the Office of Congressional Accessibility Services; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include an employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; or (bb) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

(h) ''Covered position'' means any position that is or will be held by a covered employee.

(i) ''Disabled veteran'' means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(j) Employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol or the Botanic Gardens.

(k) Employee of the Capitol Police includes any member or officer of the Capitol Police.

H Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) section 1.102 of the regulations classified with an ''H'' classification.

S Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) of section 1.102 of the regulations classified with an ''H'' classification.

C Regs: (l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) of section 1.102 of the regulations classified with an ''H'' classification.

H Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

S Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

C Regs: (m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) of section 1.102 of the regulations classified with an ''S'' classification.

H Regs: (n) ''Employing office'' means: (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

S Regs: (n) ''Employing office'' means: (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, or be directed by a Member of Congress to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

C Regs: (n) ''Employing office'' means: the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(o) ''Office'' means the Office of Compliance.

(p) ''Preference eligible'' means veterans, spouses, widows, widowers or mothers who meet the definition of ''preference eligible'' in 5 U.S.C. §2108(3)(A)–(G).

(q) ''Qualified applicant'' means an applicant for a covered position whom an employing office deems to satisfy the requisite minimum job-related requirements of the position. Where the employing office uses an entrance examination or evaluation for a covered position that is numerically scored, the term ''qualified applicant'' shall mean that the applicant has received a passing score on the examination or evaluation.

(r) ''Separated under honorable conditions'' means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

(s) ''Uniformed services'' means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(t) ''VEOA'' means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(u) ''Veterans'' means persons as defined in 5 U.S.C. §2108(1), or any superseding legislation.

SEC. 1.103. ADOPTION OF REGULATIONS.

(a) Adoption of regulations. Section 4(c)(4)(A) of the VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, section 4(c)(4)(B) of the VEOA directs the Board to promulgate regulations that are ''the same as the most relevant substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of the VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of the VEOA that need be adopted.

(b) Modification of substantive regulations. As a qualification to the statutory obligation to issue regulations that are ''the same as the most substantive regulations (applicable with respect to the Executive branch)'', section 4(c)(4)(B) of the VEOA authorizes the Board to ''determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under'' section 4(c) of the VEOA.

(c) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate regulations accommodating the human resource systems existing in the Legislative branch; and that such regulations must take into account the fact that the Board does not possess the statutory and Executive Order based government-wide policy making authority underlying OPM's counterpart VEOA regulations governing the Executive branch. OPM's regulations are designed for the competitive service (defined in 5 U.S.C. 2102(a)(2)), which does not exist in the employing offices subject to this regulation. Therefore, to follow the OPM regulations would create detailed and complex rules and procedures for a workforce that does not exist in the Legislative branch, while providing no VEOA protections to the covered Legislative branch employees. We have chosen to propose specially tailored regulations, rather than simply to adopt those promulgated by OPM, so that we may effectuate Congress's intent in extending the principles of the veterans' preference laws to the Legislative branch through the VEOA.

SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CONGRESSIONAL ACCOUNTABILITY ACT.

Statutory directive. Section 4(c)(4)(C) of the VEOA requires that promulgated regulations must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be considered to authorize enforcement of the CAA by the Executive branch.

Subpart B—Veterans' Preference—General Provisions

Sec.
1.105 Responsibility for administration of veterans' preference.
1.106 Procedures for bringing claims under the VEOA.

SEC. 1.105. RESPONSIBILITY FOR ADMINISTRATION OF VETERANS' PREFERENCE.

Subject to section 1.106, employing offices with covered employees or covered positions are responsible for making all veterans' preference determinations, consistent with the VEOA.

SEC. 1.106. PROCEDURES FOR BRINGING CLAIMS UNDER THE VEOA.

Applicants for appointment to a covered position and covered employees may contest adverse veterans' preference determinations, including any determination that a preference eligible applicant is not a qualified applicant, pursuant to sections 401–416 of the CAA, 2 U.S.C. §§1401–1416, and provisions of law referred to therein; 206a(3) of the CAA, 2 U.S.C. §§1401, section 4(c)(3) of the Veterans Employment Opportunities Act of 1998; and the Office's Procedural Rules.

Subpart C—Veterans' Preference in Appointments

Sec.
1.107 Veterans' preference in appointments to restricted covered positions.
1.108 Veterans' preference in appointments to non-restricted covered positions.
1.109 Crediting experience in appointments to covered positions.
1.110 Waiver of physical requirements in appointments to covered positions.

SEC. 1.107. VETERANS' PREFERENCE IN APPOINTMENTS TO RESTRICTED POSITIONS.

In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in these regulations as restricted covered positions) employing offices shall restrict competition to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply to the appointment of a preference eligible applicant to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a restricted covered position, in the event that there is more than one preference eligible applicant for the position.

Custodian—One whose primary duty is the performance of cleaning or other ordinary routine maintenance duties in or about a government building or a building under Federal control, park, monument, or other Federal reservation.

Elevator operator—One whose primary duty is the running of freight or passenger elevators. The work includes opening and closing elevator gates and doors, working elevator controls, loading and unloading the elevator, giving information and directions to passengers such as on the location of offices, and reporting problems in running the elevator.

Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property; or required to stand watch at or to patrol a Federal reservation, industrial area, or other area designated by Federal authority, in order to protect life and property; make observations for detection of fire, trespass, unauthorized removal of public property or hazards to Federal personnel or property. The term guard does not include law enforcement officer positions of the Capitol Police.

Messenger—One whose primary duty is the supervision or performance of general messenger work (such as running errands, delivering messages, and answering call bells).

SEC. 1.108. VETERANS' PREFERENCE IN APPOINTMENTS TO NON-RESTRICTED COVERED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing scores in an entrance examination, in a manner that is proportionately comparable to the points prescribed in 5 U.S.C. §3309. For example, five preference points shall be granted to preference eligible applicants in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving appointment to a covered position, employing offices shall consider veterans' preference eligibility as an affirmative factor in the employing office's determination of who will be appointed from among qualified applicants.

SEC. 1.109. CREDITING EXPERIENCE IN APPOINTMENTS TO COVERED POSITIONS.

When considering applicants for covered positions in which experience is an element of qualification, employing offices shall provide preference eligible applicants with credit:

(a) for time spent in the military service (1) as an extension of time spent in the position in which the applicant was employed immediately before his/her entrance into the military service, or (2) on the basis of actual duties performed in the military service, or (3) as a combination of both methods. Employing offices shall credit time spent in the military service according to the method that will be of most benefit to the preference eligible applicant; and

(b) for all experience material to the position for which the applicant is being considered, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he/she received pay therefor.

SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN APPOINTMENTS TO COVERED POSITIONS.

(a) Subject to (c) below, in determining qualifications of a preference eligible for appointment, an employing office shall waive:

(1) with respect to a preference eligible applicant, requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) with respect to a preference eligible applicant to whom it has made a conditional offer of employment, physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, the preference eligible applicant is physically able to perform efficiently the duties of the position;

(b) Subject to (c) below, if an employing office determines, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, that an applicant to whom it has made a conditional offer of employment is preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(C) and who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible applicant of the reasons for the determination and of the right to respond and to submit additional information to the employing office, within 15 days of the date of the notification. The head of the employing office may, by providing written notice to the preference eligible applicant, shorten the period for submitting a response with respect to an appointment to a particular covered position, if necessary because of a need to fill the covered position immediately. Should the preference eligible applicant make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office shall render a final determination of the physical ability of the preference eligible applicant to perform the duties of the position, taking into account the response and any additional information provided by the preference eligible applicant. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible applicant.

(c) Nothing in this section shall relieve an employing office of any obligations it may have pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C. §1302(a)(3).

Subpart D—Veterans' preference in reductions in force

Sec.

1.111 Definitions applicable in reductions in force.
1.112 Application of preference in reductions in force.
1.113 Crediting experience in reductions in force.
1.114 Waiver of physical requirements in reductions in force.
1.115 Transfer of functions.

SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCTIONS IN FORCE.

(a) Competing covered employees are the covered employees within a particular position or job classification, at or within a particular competitive area, as those terms are defined below.

(b) Competitive area is that portion of the employing office's organizational structure, as determined by the employing office, in which covered employees compete for retention. A competitive area must be defined solely in terms of the employing office's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an employing office. The minimum competitive area is a department or subdivision of the employing office within the local commuting area.

(c) Position classifications or job classifications are determined by the employing office, and shall refer to all covered positions within a competitive area that are in the same grade, occupational level or classification, and which are similar enough in duties, qualification requirements, pay schedules, tenure (type of appointment) and working conditions so that an employing office may reassign the incumbent of one position to any of the other positions in the position classification without undue interruption.

(d) Preference Eligibles. For the purpose of applying veterans' preference in reductions in force, except with respect to the application of section 1.114 of these regulations regarding the waiver of physical requirements, the following shall apply:

(1) ''active service'' has the meaning given it by section 101 of title 37;

(2) ''a retired member of a uniformed service'' means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his/her service as such a member; and

(3) a preference eligible covered employee who is a retired member of a uniformed service is considered a preference eligible only if

(A) his/her retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 1101 of title 38;

(B) his/her service does not include twenty or more years of full-time active service, regardless of when performed but not including periods of active duty for training; or

(C) on November 30, 1964, he/she was employed in a position to which this subchapter applies and thereafter he/she continued to be so employed without a break in service of more than 30 days.

The definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 and section 1.102(p) of these regulations shall apply to waivers of physical requirements in determining an employee's qualifications for retention under section 1.114 of these regulations.

H&S Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term ''reduction in force'' does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis, or (3) attributable to a change in party leadership or majority party status within the House of Congress where the employee is employed.

C Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term ''reduction in force'' does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis.

(f) Undue interruption is a degree of interruption that would prevent the completion of required work by a covered employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, work generally would not be considered to be unduly interrupted if a covered employee needs more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a program accorded low priority by the employing office, or to a vacant position.

SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS IN FORCE.

Prior to carrying out a reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees within a particular group of competing covered employees are entitled to veterans' preference eligibility status in accordance with these regulations. In determining which covered employees will be retained, employing offices will treat veterans' preference as the controlling factor in retention decisions among such competing covered employees, regardless of length of service or performance, provided that the preference eligible employee's performance has not been determined to be unacceptable. Provided, a preference eligible employee who is a ''disabled veteran'' under section 1.102(i) above who has a compensable service-connected disability of 30 percent or more and whose performance has not been determined to be unacceptable by an employing office is entitled to be retained in preference to other preference eligible employees. Provided, this section does not relieve an employing office of any greater obligation it may be subject to pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) as applied by section 102(a)(9) of the CAA, 2 U.S.C. §1302(a)(9).

SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN FORCE.

In computing length of service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) a preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3501(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN REDUCTIONS IN FORCE.

(a) If an employing office determines, on the basis of evidence before it, that a covered employee is preference eligible, the employing office shall waive, in determining the covered employee's retention status in a reduction in force:

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the employee, the preference eligible covered employee is physically able to perform efficiently the duties of the position.

(b) If an employing office determines that a covered employee who is a preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(C) and has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible covered employee of the reasons for the determination and of the right to respond and to submit additional information to the employing office within 15 days of the date of the notification. Should the preference eligible covered employee make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office, shall render a final determination of the physical ability of the preference eligible covered employee to perform the duties of the covered position, taking into account the evidence before it, including the response and any additional information provided by the preference eligible. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible covered employee.

(c) Nothing in this section shall relieve an employing office of any obligation it may have pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected

position classifications or job classifications in the function that is to be transferred shall be transferred to the receiving employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another source to that position.

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she is qualified before the replacing employing office may make an appointment from another source to that position.

Subpart E—Adoption of Veterans' preference policies, recordkeeping & informational requirements

Sec.
1.116 Adoption of veterans' preference policy.
1.117 Preservation of records made or kept.
1.118 Dissemination of veterans' preference policies to applicants for covered positions.
1.119 Information regarding veterans' preference determinations in appointments.
1.120 Dissemination of veterans' preference policies to covered employees.
1.121 Written notice prior to a reduction in force.

SEC. 1.116. ADOPTION OF VETERANS' PREFERENCE POLICY.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the veterans' preference requirements of the Veterans Employment Opportunities Act of 1998 and these regulations into its employment and retention processes. Each such employing office will make its policies available to applicants for appointment to a covered position and to covered employees in accordance with these regulations. The act of adopting a veterans' preference policy shall not relieve any employing office of any other responsibility or requirement of the Veterans Employment Opportunities Act of 1998 or these regulations. An employing office may amend or replace its veterans' preference policies as it deems necessary or appropriate, so long as the resulting policies are consistent with the VEOA and these regulations.

SEC. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.

An employing office that employs one or more covered employees or that seeks applicants for a covered position shall maintain any records relating to the application of its veterans' preference policy to applicants for covered positions and to workforce adjustment decisions affecting covered employees for a period of at least one year from the date of the making of the record or the date of the personnel action involved or, if later, one year from the date on which the applicant or covered employee is notified of the personnel action. Where a claim has been brought under section 401 of the CAA against an employing office under the VEOA, the respondent employing office shall preserve all personnel records relevant to the claim until final disposition of the claim. The term ''personnel records relevant to the claim'', for example, would include records relating to the veterans' preference determination regarding the person bringing the claim and records relating to any veterans' preference determinations regarding other applicants for the covered position the person sought, or records relating to the veterans' preference determinations regarding other covered employees in the person's position or job classification. The date of final disposition of the charge or the action means the latest of the date of expiration of the statutory period within which the aggrieved person may file a complaint with the Office or in a U.S. District Court or, where an action is brought against an employing office by the aggrieved person, the date on which such litigation is terminated.

SEC. 1.118. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO APPLICANTS FOR COVERED POSITIONS.

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans' preference eligible applicants, provided that in doing so:

(1) the employing office shall state clearly on any written application or questionnaire used for this purpose or make clear orally, if a written application or questionnaire is not used, that the requested information is intended for use solely in connection with the employing office's obligations and efforts to provide veterans' preference to preference eligible applicants in accordance with the VEOA;

(2) the employing office shall state clearly that disabled veteran status is requested on a voluntary basis, that it will be kept confidential in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse treatment except the possibility of an adverse determination regarding the individual's status as a preference eligible applicant as a disabled veteran under the VEOA, and that any information obtained in accordance with this section concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3); and

(3) the employing office shall state clearly that applicants may request information about the employing office's veterans' preference policies as they relate to appointments to covered positions, and shall describe the employing office's procedures for making such requests.

(c) Upon written request by an applicant for a covered position, an employing office shall provide the following information in writing:

(1) the VEOA definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition in a manner designed to be understood by applicants, along with the statutory citation; and

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employees;

(3) the employing office may provide other information to applicants regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(d) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.119. INFORMATION REGARDING VETERANS' PREFERENCE DETERMINATIONS IN APPOINTMENTS.

Upon written request by an applicant for a covered position, the employing office shall promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's appointment decision regarding that applicant. Such explanation shall include at a minimum:

(a) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement of the reasons for the employing office's determination that the applicant is not preference eligible.

SEC. 1.120. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans' preference under the VEOA, as set forth in subsection (b) of this regulation.

(b) Written guidance described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of ''preference eligible'' as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation; and

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to reductions in force, including the procedures the employing office shall take to identify preference eligible employees.

(3) the employing office may provide other information in its guidance regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(c) Employing offices are also expected to answer questions from covered employees that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE.

(a) Except as provided under subsection (c), a covered employee may not be released due to a reduction in force, unless the covered employee and the covered employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the effective date of the action;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee's competitive area;

(5) the covered employee's eligibility for veterans' preference in retention and how that preference eligibility was determined;

(6) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee's competitive area, by providing:

(A) a list of all covered employee(s) in the covered employee's position classification or

job classification and competitive area who will be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible, and

(B) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will not be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(7) a description of any appeal or other rights which may be available.

(c) The head of the employing office may, in writing, shorten the period of advance notice required under subsection (a), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(d) No notice period may be shortened to less than 30 days under this subsection.

ADDITIONAL STATEMENTS

TRIBUTE TO TAMIKA JORDAN

• Mr. BOOZMAN. Mr. President, today I pay tribute to an outstanding Arkansas educator, Tamika Jordan.

A curriculum technology specialist at Avondale Elementary School in West Memphis, Tamika is a recipient of the 2010 Milken Educator Award.

This prestigious award is the Nation's preeminent teacher recognition program that has honored 2,500 teachers, principals and specialists with individual $25,000 awards. Selection of this award is based on several criteria including exceptional educational talent as evidenced by outstanding instructional practices in the classroom, school and professional and policy leadership, and an engaging and inspiring presence that motivates and impacts students, colleagues and the community. Tamika surpasses these standards. Her outstanding contributions and commitment to education have been noticed by her students, their parents as well as her colleagues.

Tamika's passion for educating not only helps students, but also inspires those who work with her to do their best to encourage further development in the classroom. This truly is a major accomplishment in her career and something of which to be very proud.

I would like to offer my appreciation for Tamika Jordan's determination and devotion to provide a quality educational experience for students as we continue to shape the eager young minds of West Memphis and work to keep America globally competitive.•

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN THAT WAS DECLARED IN EXECUTIVE ORDER 12957 ON MARCH 15, 1995—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication stating that the national emergency with respect to Iran that was declared on March 15, 1995, is to continue in effect beyond March 15, 2011.

The crisis between the United States and Iran resulting from the actions and policies of the Government of Iran has not been resolved. The actions and policies of the Government of Iran are contrary to the interests of the United States in the region and continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

BARACK OBAMA.

THE WHITE HOUSE, *March 8, 2011*.

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–829. A communication from the Principal Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, a report entitled ''National Defense Stockpile Annual Materials Plan for Fiscal Year 2011 and for the Succeeding 4 Years''; to the Committee on Armed Services.

EC–830. A communication from the Assistant Secretary, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, a report relative to the Department's Alternative Fuel Vehicle program for fiscal year 2010; to the Committee on Energy and Natural Resources.

EC–831. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' (Docket No. KY–252–FOR) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Energy and Natural Resources.

EC–832. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Replacement of Schedule SSA with From 8955–SSA'' (Announcement 2011–21) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–833. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax-Free Exchange of Life Insurance Contract that is Expected from the Pro Rata Interest Disallowance Rule'' (Announcement 2011–9) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–834. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice 2011–22) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–835. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Exclusion of Certain Intercompany Income or Gain Items from Gross Income'' (RIN1545–BH20) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–836. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Exclusions of Income—I.R.C. Sec. 118—State and Local Location Tax Incentive'' (UIL: 61.00–00, 164.00–00 and 118.01–02) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–837. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Exclusions of Income—Non-Corporate Entities and Contributions to Capital'' (UIL 118.01–02) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Finance.

EC–838. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2011–0022–2011–0027); to the Committee on Foreign Relations.

EC–839. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development (USAID), transmitting, pursuant to law, the Agency's response to the GAO report entitled ''Afghanistan Development: U.S. Efforts to Support Afghan Water Sector Increasing, but Improvements Needed in Planning and Coordination''; to the Committee on Foreign Relations.

EC–840. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development (USAID), transmitting, pursuant to law, the Agency's response to the GAO report entitled ''Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees''; to the Committee on Foreign Relations.

EC–841. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development (USAID), transmitting, pursuant to law, the Agency's response to the GAO report entitled ''Information Security: Federal Agencies Have Taken Steps to Secure Wireless Networks, but Further Actions Can Mitigate Risk''; to the Committee on Foreign Relations.

EC–842. A communication from the Chairman of the Nuclear Regulatory Commission,

transmitting, pursuant to law, the Commission's Annual Report of the Administration of the Government in the Sunshine Act for Calendar Year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–843. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, an annual report on crime victims' rights; to the Committee on the Judiciary.

EC–844. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''Second Report of the Judicial Conference of the United States on the Adequacy of Privacy Rules Prescribed Under the E-Government Act of 2002''; to the Committee on the Judiciary.

EC–845. A communication from the Secretary, Bureau of Trade Analysis, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Non-Vessel-Operating Common Carrier Negotiated Rate Arrangements'' (RIN3072-AC38) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–846. A communication from the Chief, Satellite Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Second Order on Reconsideration, 'In the Matter of Telesat Canada Petitions for Reconsideration; The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3–17.7 GHz Frequency Band and at the 17.7–17.8 GHz Frequency Band Internationally . . .'''' (FCC 10–188) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–847. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Kualapuu, Hawaii)'' (MB Docket No. 09–189) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–848. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Willow Creek, California)'' (MB Docket No. 10–189) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Commerce, Science, and Transportation.

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. THUNE:

S. 501. A bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies; to the Committee on Finance.

By Mr. BROWN of Ohio:

S. 502. A bill for the relief of Maha Dakar; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 503. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a uniform rule of naturalization under article I, section 8, of the Constitution; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEMINT (for himself, Mr. COBURN, Mr. HATCH, Mr. LEE, Mr. PAUL, Mr. TOOMEY, Mr. VITTER, and Mr. RISCH):

S. 504. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 505. A bill to amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response; to the Committee on the Judiciary.

By Mr. CASEY (for himself, Mr. KIRK, Mr. KERRY, Mr. BROWN of Ohio, Mr. DURBIN, Mr. LAUTENBERG, Ms. KLOBUCHAR, Mr. SANDERS, Mrs. MURRAY, Mr. MERKLEY, Mr. WYDEN, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Mrs. BOXER, Mrs. GILLIBRAND, Mr. SCHUMER, Mr. CARDIN, Mr. BLUMENTHAL, and Ms. MIKULSKI):

S. 506. A bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 507. A bill to provide for increased Federal oversight of prescription opioid treatment and assistance to States in reducing opioid abuse, diversion, and deaths; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNET (for himself and Mr. UDALL of Colorado):

S. 508. A bill to establish the Chimney Rock National Monument in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. UDALL of Colorado (for himself, Ms. SNOWE, Mr. SCHUMER, Mrs. BOXER, Mr. BROWN of Ohio, Ms. COLLINS, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. LEAHY, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. REED, Mr. WHITEHOUSE, and Mr. WYDEN):

S. 509. A bill to amend the Federal Credit Union Act, to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. UDALL of New Mexico (for himself, Mr. CORKER, Mr. BROWN of Ohio, Mr. BEGICH, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 510. A bill to prevent drunk driving injuries and fatalities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BLUNT (for himself, Mr. KIRK, Mr. WICKER, Mr. CORKER, Mr. COBURN, Mr. LEE, Mr. SESSIONS, Mr. MCCONNELL, Mr. THUNE, Mr. CORNYN, Mr. HATCH, Mr. ENSIGN, Mr. DEMINT, Mr. TOOMEY, Mr. KYL, Mr. MCCAIN, Mr. ALEXANDER, Mr. HOEVEN, Mr. JOHNSON of Wisconsin, Mr. COATS, Mr. BOOZMAN, Mr. CHAMBLISS, Mr. RUBIO, Mr. ISAKSON, Mr. JOHANNS, Mr. CRAPO, Mr. ROBERTS, Mr. LUGAR, Mr. COCHRAN, Mr. BARRASSO, Mr. GRASSLEY, Mr. PORTMAN, Ms. MURKOWSKI, Mr. RISCH, Ms. AYOTTE, Mr. BROWN of Massachusetts, Mr. SHELBY, and Mr. BURR):

S. 511. A bill to amend the Clean Air Act to provide for a reduction in the number of boutique fuels, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. UDALL of Colorado, Mr. PRYOR, and Ms. LANDRIEU):

S. 512. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 513. A bill to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. AKAKA):

S. 514. A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service; to the Committee on Homeland Security and Governmental Affairs.

By Mr. TESTER:

S. 515. A bill to rescind amounts made available for water treatment improvements for the Flathead County Water and Sewer District and make the amounts available for Federal deficit reduction; to the Committee on Appropriations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WICKER (for himself, Mr. COATS, Mr. JOHANNS, Mr. ISAKSON, Mr. THUNE, Mr. PORTMAN, Mr. BARRASSO, Mr. CORNYN, Mr. INHOFE, Mr. ENZI, Mr. BROWN of Massachusetts, Mr. CHAMBLISS, Mr. CORKER, and Mr. MANCHIN):

S. Res. 94. A resolution to express the sense of the Senate in support of reducing its budget by at least 5 percent; to the Committee on Rules and Administration.

By Mr. BURR:

S. Res. 95. A resolution increasing awareness of and recognizing the life-saving role of ostomy care and prosthetics in the daily lives of hundreds of thousands of people in the United States; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 146

At the request of Mr. BAUCUS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 146, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 325

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 325, a bill to amend title 10, United States Code, to require the provision of behavioral health services to members of the reserve components of the Armed Forces necessary to meet pre-deployment and post-deployment readiness and fitness standards, and for other purposes.

S. 398

At the request of Mr. BINGAMAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Delaware (Mr. COONS) were added as cosponsors of 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.

S. 471

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 471, a bill to require the Secretary of the Army to study the feasibility of the hydrological separation of the Great Lakes and Mississippi River Basins.

S. 474

At the request of Ms. SNOWE, the names of the Senator from Florida (Mr. RUBIO) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 474, a bill to reform the regulatory process to ensure that small businesses are free to compete and to create jobs, and for other purposes.

S. 489

At the request of Mr. REED, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 489, a bill to require certain mortgagees to evaluate loans for modifications, to establish a grant program for State and local government mediation programs, and for other purposes.

S. 499

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 499, a bill to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project.

S. 500

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 500, a bill to direct the Secretary of the Interior to convey certain Federal features of the electric distribution system to the South Utah Valley Electric Service District, and for other purposes.

S. CON. RES. 7

At the request of Mr. BARRASSO, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 51

At the request of Mr. MENENDEZ, the names of the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. CASEY), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 51, a resolution recognizing the 190th anniversary of the independence of Greece and celebrating Greek and American democracy.

S. RES. 65

At the request of Mr. WICKER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 65, a resolution expressing the sense of the Senate that the conviction by the Government of Russia of businessman Mikhail Khodorkovsky and Platon Lebedev constitutes a politically motivated case of selective arrest and prosecution that flagrantly undermines the rule of law and independence of the judicial system of Russia.

S. RES. 87

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 87, a resolution designating the year of 2012 as the ''International Year of Cooperatives''.

AMENDMENT NO. 143

At the request of Mr. REID, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of amendment No. 143 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 Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 505. A bill to amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, I rise today to join my colleague, Senator LIEBERMAN, in introducing the See Something, Say Something Act of 2011.

The number of thwarted and failed attacks in the past few years and the Fort Hood attack, which left 13 people dead and wounded dozens, are sobering reminders that terrorists continue to threaten our nation. We have seen, however, that an alert citizenry can be our first line of defense against terrorist attacks as evidenced by events only a few weeks ago in Texas.

Tips from alert citizens led to an investigation and the eventual arrest of Khalid Aldawsari on a federal charge of attempted use of a weapon of mass destruction. Specifically, an alert chemical supplier reported Aldawsari's suspicious attempt to purchase a toxic chemical called phenol to the FBI. Shipping company personnel also notified local police officers about related suspicious behavior. Without these calls to law enforcement, it is possible that a person who wrote in his diary ''it is time for Jihad'' would have carried out an attack or attacks on his numerous intended targets, including dams, nuclear power plants, and former President George W. Bush.

Individuals must be protected from frivolous lawsuits when they report, in good faith, suspicious behavior that may indicate terrorist activity. That is why I am again introducing legislation, along with Senator LIEBERMAN, that will provide these important protections.

In the 2007 homeland security law, Senator LIEBERMAN and I authored a provision to encourage people to report potential terrorist threats directed against transportation systems. This legislation would expand those protections to reports of suspicious behavior in sectors other than transportation. For example, reports of suspicious activity could be equally important in detecting terrorist plans to attack ''soft targets'' like hotels, shopping malls, restaurants, and religious institutions.

In December 2008, a Federal jury convicted five men from New Jersey of conspiring to murder American soldiers at Fort Dix. According to law enforcement officials, the report of an alert store clerk, who stated that a customer had brought in a video showing men firing weapons and shouting in Arabic, triggered their investigation. If not for the report of this vigilant store clerk, law enforcement may not have disrupted this plot against military personnel at Fort Dix. Real life examples like these highlight the need for this bill.

That store clerk's action likely saved hundreds of lives. It reveals a core truth of the dangerous times in which we live. Our safety depends on more than just police officers, intelligence analysts, and soldiers. It also depends on the alertness and civic responsibility of all Americans. So we must encourage citizens to be watchful and to report suspicious activity whenever it occurs.

As a result of the devastating 2008 Mumbai terrorist attacks, Senator LIEBERMAN and I convened hearings held by the Homeland Security and Governmental Affairs Committee to examine lessons learned from those attacks. These hearings helped bring to light the reality that terrorists might shift their attention from high-value, high-security targets to less secure commercial facilities, where there remains the potential for mass casualties and widespread panic.

Many of the Committee's witnesses during these hearings endorsed the idea of expanding the 2007 law beyond the transportation sector. Indeed, NYPD Commissioner Ray Kelly said that the 2007 law ''made eminently good sense'' and recommended ''that it be expanded [to other sectors] if at all possible.''

The threat is real, and we must encourage citizens to be watchful and to report suspicious activity whenever it occurs. Our legal system, however, can be misused to chill the willingness of citizens to come forward and report possible dangers. As widely reported by the media in 2006, US Airways removed 6 Islamic clerics from a flight after other passengers expressed concerns that some of the clerics had moved out of the their assigned seats and had requested, but were not using, seat belt extenders that could possibly double as weapons. In response to these concerns, US Airways officials removed these individuals from the plane so that they could further investigate.

For voicing their reasonable fears that these passengers could be rehearsing or preparing to execute a hijacking, these concerned citizens found themselves as defendants in a civil rights lawsuit and accused of bigotry.

The existence of this lawsuit illustrates how unfair it is to allow private citizens to be intimidated into silence by the threat of litigation. Would the passengers have spoken up if they had anticipated that there would be a lawsuit filed against them? Even if such suits fail, they can expose citizens to heavy costs in time and legal fees.

The bill we introduce today would provide civil immunity in American courts for any person acting in good faith who reports any suspicious transaction, activity, or occurrence related to an act of terrorism. Specifically, the bill would encourage people to pass on information to federal officials with responsibility for preventing, protecting against, disrupting, or responding to a terrorist act, or to Federal, State, and local law enforcement officials, without fear of being sued for doing their civic duty. Only disclosures made to those responsible officials would be protected by the legislation.

Once a report is received, those officials would be responsible for assessing its reasonableness and determining whether further action is required. If they take reasonable action to mitigate the reported threat, they, too, would be protected from lawsuits. Just as we should not discourage reporting suspicious incidents, we also should not discourage reasonable responses to them.

Let me be very clear that this bill does not offer any protection whatsoever if an individual makes a statement that he or she knows to be false. No one will be able to use this protection as cover for mischievous, vengeful, or biased falsehoods.

Our laws and legal system must not intimidate people into silence or prevent our officials from responding to terrorist threats. Protecting citizens who make good faith reports—and that's an important condition in this bill—of potentially lethal activities is essential to maintaining homeland security. Our bill offers protection in a measured way that discourages abuses.

Each of us has an important responsibility in the fight against terrorism. It is not a fight that can be left to law enforcement alone. The police simply can't be everywhere all the time. Whether at a hotel, a mall, or an arena, homeland security and law enforcement officials need all citizens to alert them to unattended packages and behavior that appears out of the ordinary.

Along these lines, I applaud DHS Secretary Napolitano for establishing the Department's ''If you see something, say something'' campaign and the recent partnerships with various organizations including the NFL. The Department is taking steps to expand this effort with public education and materials for businesses, communities, and citizens. As the Department's campaign continues to grow, there will be a greater need for this legislation as our citizens become better educated.

The National Sheriffs' Association, the National Association of Town Watch, and other national organizations have endorsed this legislation.

If someone ''sees something'' suspicious, Congress should encourage him or her to ''say something'' about it. This bill promotes and protects that civic duty. I urge my colleagues to support it.

By Mr. ROCKEFELLER:

S. 507. A bill to provide for increased Federal oversight of prescription opioid treatment and assistance to States in reducing opioid abuse, diversion, and deaths; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce an important piece of legislation, the Prescription Drug Abuse Prevention and Treatment Act of 2011—an important bill that is needed to address the rapid increase in deaths and overdoses from methadone and other opioid prescription drugs in the United States. These deaths have hit my home state of West Virginia particularly hard, but I know that every State is struggling with this serious problem.

In the 111th Congress, Senator CORKER and I, along with our colleague, the late Senator Kennedy, introduced the Methadone Treatment and Protection Act of 2009 a similar piece of legislation that stemmed from a disturbing rise in deaths due to methadone, a synthetic opioid prescription drug that had been increasingly used for pain management. Before 1990, it was used primarily to treat opioid addiction. Because of its high efficacy and low cost, methadone is frequently used for pain management. However, if not used correctly, methadone can be a powerful and deadly drug because it works differently than other painkillers. Methadone stays in a person's body for a longer period of time than the pain relief lasts so a person who does not know better might take far too much of the drug, possibly leading to respiratory distress, cardiac arrhythmia and even death.

Methadone prescriptions for pain management grew from about 531,000 in 1998 to about 4.1 million in 2006—nearly eightfold. During that time, poisoning deaths involving methadone increased nearly sevenfold, from almost 790 in 1999 to 5,420 in 2006. Deaths from other opioids have also skyrocketed in the last decade. And, these deaths may actually be underreported, because there is no comprehensive reporting system for opioid-related deaths in the United States.

Overdoses from methadone are part of a larger disturbing trend of overdoses and deaths from prescription painkillers, or opioid drugs—a trend driven by a knowledge gap about how to treat serious pain in a safe and effective manner, by misperceptions about the safety of prescription drugs, and by the diversion of prescription drugs for illicit uses. In 2009, there were nearly 4.6 million drug-related emergency department, ED, visits of which nearly ½, 45.1 percent, or 2.1 million, were attributed to prescription drug misuse or abuse, according to data from the Drug Abuse Warning Network, DAWN. And, emergency department visits involving misuse or abuse of pharmaceuticals nearly doubled between 2004 and 2009, to over 1.2 million visits.

This bill begins to address these problems. First, with respect to the knowledge gap about safe pain management, the bill for the first time includes a training requirement for health care professionals to be licensed to prescribe these powerful drugs. Currently, the Controlled Substances Act requires that every person who dispenses or who proposes to dispense controlled narcotics, including methadone, whether for pain management or opioid treatment, obtain a registration from the Drug Enforcement Administration, DEA. Unfortunately there is no requirement as a condition of receiving the registration that these practitioners receive any education on the use of these controlled narcotics, including methadone. Physicians struggle every day with determining who has a real need for pain treatment, and who is addicted or at risk. And yes, they struggle with our failure to provide adequate treatment facilities for those who are addicted. This bill will help physicians get the information they need to prescribe safely and better recognize the signs of addiction in their patients.

Second, this bill addresses the knowledge gap among consumers—with a competitive grant program to states to distribute culturally sensitive educational materials about proper use of methadone and other opioids, and how to prevent opioid abuse, such as through safe disposal of prescription drugs. Preference will be given to states with a high incidence of overdoses and deaths.

Third, this bill creates a Controlled Substances Clinical Standards Commission to establish patient education guidelines, appropriate and safe dosing standards for all forms of methadone and other opioids, benchmark guidelines for the reduction of methadone abuse, appropriate conversion factors for transition patients from one opioid to another, and guidelines for the initiation of methadone and other opioids for pain management. A standards commission will provide much-needed evidence-based information to improve guidance for the safe and effective use of these powerful and dangerous controlled substances.

Fourth, this bill provides crucial support to state prescription drug monitoring programs. As of 2008, 38 states had enacted legislation requiring prescription drug monitoring programs

and many states were able to fund these initiatives in part from grants available through the Harold Rogers Prescription Drug Monitoring Program. A second program created in 2005 through the National All Schedules Prescription Electronic Reporting Act, NASPER, would provide even more assistance, and requires interoperability between states to reduce doctor shopping across state lines and diversion. Unfortunately, NASPER has only recently been funded with $2 million in the fiscal year 2009 Omnibus legislation and $2 million in fiscal year 2010.

Here is just one example of why NASPER funding matters: recently, the governor of Florida announced a budget that would not fund a planned prescription monitoring program in his state, due to state budget difficulties. This directly affects states in Appalachia because of the rampant drug trafficking between the two regions. In fact, the road from West Virginia to Florida is so well-travelled by drug traffickers and people seeking pain medication that it has been renamed the ''OxyContin Highway,'' and flights from Huntington to Florida have been nicknamed ''the Oxy Express.'' It is crucial to finally give NASPER the funding it needs, and this legislation would do so, with $25 million a year to establish interoperable prescription drug monitoring programs within each state.

Finally, this bill would help solve the data gap when it comes to opioid-related deaths. Right now there is no comprehensive national database of drug-related deaths in the United States, nor is there a standard form for medical examiners to fill out with regard to opioid-related deaths. Since there is no comprehensive database of methadone-related deaths, the number of deaths may actually be underreported. In order to truly reduce the number of methadone-related deaths, quality data must be collected and made available. This bill would create a National Opioid Death Registry to track all opioid-related deaths and related information, and establish a standard form for medical examiners to fill out which would include information for the National Opioid Death Registry.

Today we have an opportunity to change the harrowing statistics and stem the rising tide of deaths from methadone and other opioids by supporting the Prescription Drug Abuse Prevention and Treatment Act of 2011. This legislation provides a multifaceted approach to preventing tragic overdoses and deaths from methadone and other opioids. This is exactly what we need to improve the coordination of efforts and resources at the local, state, and federal level.

I urge my colleagues to support this timely and important piece of legislation. In doing so, we will be on our way to saving lives and reducing the needless deaths that otherwise will continue to cause so much suffering among the people of this country.

By Mr. UDALL of New Mexico (for himself, Mr. CORKER, Mr. BROWN of Ohio, Mr. BEGICH, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 510. A bill to prevent drunk driving injuries and fatalities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. UDALL of New Mexico. Mr. President, I rise to introduce the ROADS SAFE Act of 2011. I am pleased to be joined in introducing this legislation by my colleague, the Senator from Tennessee, Mr. CORKER and 7 other colleagues.

This legislation will encourage the development of new tools to fight drunk driving. It has the potential to save 8,000 lives every year by ensuring that no one celebrating Fat Tuesday or St. Patrick's Day—or at any other time of the year—drives home drunk.

Tragic drunk driving crashes often prompt communities to more to prevent drunk driving. This was the case in my home State of New Mexico back in December of 1992. That is when a drunk driver killed a mother and her three girls on Christmas Eve. He was speeding down the highway 90 miles an hour, going the wrong way down an interstate highway.

This crash helped change attitudes in my State. I was the state Attorney General back then and I went after drunk drivers. I worked to impose stronger penalties for repeat drunk driver offenders, a lower legal limit for intoxication, and shut down drive-through liquor windows. I was successful in these efforts, in part, due to the new focus, throughout the state on eliminating drunk driving.

We made progress in New Mexico on drunk driving, but we have a long way to go and it should not take yet another tragedy for us to do even more to prevent drunk driving.

In 2009, drunk driving killed nearly 11,000 Americans, including 114 people in New Mexico. That is an average of 30 people killed every day by drunk driving. This death toll is unacceptable. And it is all the more shocking when you consider that each one of those deaths was preventable.

The United States has made significant progress in reducing drunk driving over the years. Compared to 20 years ago, our roads are much safer today. Yet even as the overall number of people killed on our highways has declined, drunk driving still accounts for about one-third of all traffic fatalities.

It is even more worrisome that a drunk driver has just a 2 percent chance of being caught. In fact, one study found that a first-time drunk driving offender has, on average, driven drunk 87 times before being arrested. Imagine, 87 times. Something must be done to prevent these drivers from getting on the road in the first place.

The good news is there are potential technologies out there that could do just that, which is why Senator CORKER and I are introducing the ROADS SAFE Act today. New safety technology has already transformed the automobile and saved countless lives. For example, airbags and antilock brakes are now standard features in many vehicles. These safety devices are built into the car and are unobtrusive to the driver. Such technologies are an important reason we have fewer traffic fatalities today.

Imagine a future where vehicles could detect whether a driver is drunk when he gets behind the wheel—before he even starts his vehicle. That would mean no drunk driving crashes if it were impossible for drunk drivers to drive. If such technology were widely deployed in cars, approximately 8,000 lives could be saved every year.

I realize many may think this is a farfetched idea. But consider this: vehicles today can already give driving directions, thanks to GPS satellite navigation devices. Some cars can even parallel park themselves. New Mexico and other states require convicted drunk drivers to use an ignition interlock, a breathalyzer device they blow into before their vehicle's engine will start. The success of ignition interlocks for preventing repeat drunk driving offenses suggests a better technology could be used to prevent all drunk driving.

In 2008, the National Highway Traffic Safety Administration partnered with leading automakers to explore the feasibility of in-vehicle technologies to prevent drunk driving. The Driver Alcohol Detection System for Safety Program—or DADSS—is a great example of how we can leverage federal funds with private investment to improve the safety of our transportation system. The goal of DADSS is to explore the feasibility, potential benefits, and public policy challenges associated with using in-vehicle technology to prevent drunk driving. The recent progress of this cooperative effort fuels optimism that such technology could be deployed within 5 to 10 years.

Clearly, such advanced technologies must win widespread public acceptance in order to be effective. They must be moderately priced, absolutely reliable, and unobtrusive to sober drivers.

Some of the industry groups will claim that this initiative is meant to stop all social alcohol consumption. They claim that you will no longer be able to enjoy a glass of wine with dinner. They are wrong. The aim is to stop drunk driving, not discourage responsible social drinking. If deployed the technology will be set to detect drunk drivers, those with a BAC of 0.08 or higher.

Development of this technology is also widely supported by the public, many of whom have a glass of wine with dinner. A recent Insurance Institute for Highway Safety poll found that 64 percent of Americans believe advanced alcohol detection technology is a good idea and that it is reliable.

So, what would the ROADS SAFE Act do? This legislation would authorize $12 million annually for the DADSS program. This is not new spending. Funding for this program would come from the existing, and often unspent, Seat Belt Incentive grants program.

This is a smart investment in public safety. In addition to the human costs, drunk driving also has direct and indirect economic costs. Those include damaged property, medical bills, and lost productivity. In economic terms, drunk driving costs $129 billion dollars per year. Of course, such monetary costs cannot be compared to the value of saving 8,000 lives every year.

Several organizations dedicated to fighting drunk driving already support this bipartisan proposal. Mothers Against Drunk Driving, the Century Council, and the Distilled Spirits Council all have signed on in support of the ROADS SAFE Act.

I urge my Senate colleagues to join me, Senator CORKER, and these important organizations in the fight against drunk driving. We urge you to support the ROADS SAFE Act. We have made much progress in our efforts to prevent drunk driving, but there is so much more to be done.

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. 510

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Research of Alcohol Detection Systems for Stopping Alcohol-related Fatalities Everywhere Act of 2011'' or the ''ROADS SAFE Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Alcohol-impaired driving fatalities represent approximately ⅓ of all highway fatalities in the United States in a given year.

(2) In 2009, there were 10,839 alcohol-impaired driving fatalities.

(3) An estimated 9,000 road traffic deaths could be prevented every year if alcohol detection technologies were more widely used to prevent alcohol-impaired drivers from operating their vehicles.

(4) The National Highway Traffic Safety Administration has partnered with automobile manufacturers to develop alcohol detection technologies that could be installed in vehicles to prevent drunk driving.

(5) Alcohol detection technologies will not be widely accepted by the public unless they are moderately priced, absolutely reliable, and set at a level that would not prevent a driver whose blood alcohol content is less than the legal limit from operating a vehicle.

SEC. 3. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

Section 410 of title 23, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

''(h) DRIVER ALCOHOL DETECTION SYSTEM.—

''(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49 to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

''(2) REPORT.—The Administrator shall annually submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that—

''(A) describes progress in carrying out the collaborative research effort; and

''(B) includes an accounting of the use of Federal funds obligated or expended in carrying out that effort.

''(3) APPLICATION WITH OTHER LAWS.—Nothing in this subsection may be construed to modify or otherwise affect any Federal, State, or local government law (civil or criminal), with respect to the operation of a motor vehicle.

''(4) FUNDING.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, $12,000,000 of any amounts made available to the Secretary under section 406 for each of the fiscal years 2012 through 2016 shall be made available to carry out this subsection in place of any other amounts that are otherwise available to carry out this section.

''(B) LIMITATION.—No amount of funding shall be made available under this paragraph for any fiscal year in which no funds are made available to carry out any program authorized under section 406.''; and

(3) in subsection (j), as redesignated—

(A) by redesignating paragraph (3) as paragraph (7);

(B) by redesignating paragraph (2) as paragraph (3);

(C) by redesignating paragraphs (4) and (5) as paragraphs (5) and (4), respectively;

(D) by inserting after paragraph (1) the following:

''(2) ALCOHOL-IMPAIRED DRIVING.—The term 'alcohol-impaired driving' means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49) by an individual whose blood alcohol content is at or above the legal limit.''; and

(E) by inserting after paragraph (5), as redesignated, the following:

''(6) LEGAL LIMIT.—The term 'legal limit' means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of this title) or such other percentage limitation as may be established by applicable Federal, State, or local law.''.

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 513. A bill to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce, along with Senator GRASSLEY, the Saving Kids From Dangerous Drugs Act of 2011.

For years, law enforcement has seen drug dealers flavoring and marketing their illegal drugs to entice minors, using techniques like combining drugs with chocolate and fruit flavors, and even packaging them to look like actual candy and soda. This bill would address this serious and dangerous problem by providing stronger penalties when drug dealers alter controlled substances by combining them with beverages or candy products, marketing or packaging them to resemble legitimate products, or flavoring or coloring them with the intent to sell them to minors.

Recent media reports demonstrate the need for this legislation. The Santa Cruz Sentinel had an article earlier this month about someone who is planning to market sodas laced with THC, the psychoactive component in marijuana. Some of his planned sodas include orange-flavored ''Orange Krush'' and grape-flavored ''Grape Ape'' which actually was the name of a children's cartoon character!

Regrettably, this is a problem that has persisted for many years, with drug dealers trying various methods of luring kids to try many dangerous drugs. For example, in March of 2008, Drug Enforcement Administration, DEA, agents seized cocaine near Modesto, California, that had been flavored like cinnamon, coconut, lemon and strawberry.

Similarly, there have been many incidents involving methamphetamine. In a 2007 article entitled Flavored Meth Use on the Rise, USA Today stated that ''reports of candy-flavored methamphetamine are emerging around the nation, stirring concern among police and abuse prevention experts that drug dealers are marketing the drug to younger people.''

The size and sophistication of some of these operations is particularly alarming. In March of 2006, DEA discovered large-scale marijuana cultivation and production facilities in Emeryville and Oakland, California. Thousands of marijuana plants, and thousands of marijuana-related soda, candy, and other products were seized from the drug dealers' facilities. The products were designed and packaged to look like legitimate products, including an item called ''Munchy Way'' candy bars.

Current law already provides an enhanced penalty if someone distributes drugs to a minor. Under this provision, the maximum sentence for the underlying distribution offense is doubled, and tripled if it is a repeat offense.

Similarly, this bill would provide an enhanced penalty in those situations where drug dealers are altering controlled substances in ways that could make them more appealing to minors. Someone who is altering a controlled substance in ways prohibited by the legislation would be subject to a penalty of up to ten years, in addition to the penalty for the underlying offense. If someone commits a second offense prohibited by the act, they would be face an additional penalty of up to 20 years.

This bill sends a strong and clear message to drug dealers—if you flavor or candy up your drugs to try to entice our children, there will be a very heavy price to pay. It will help stop drug dealers from engaging in these activities, and punish them appropriately if they don't.

The Senate passed a similar version of this legislation in the last Congress, but it was not considered in the House.

I urge my colleagues to join me in supporting this bill.

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. 513

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 ''Saving Kids From Dangerous Drugs Act of 2011''.

SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

''(h) OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.—

''(1) UNLAWFUL ACTS.—Except as authorized under this title, including paragraph (3), it shall be unlawful for any person at least 18 years of age to knowingly or intentionally manufacture or create, with intent to manufacture, create, distribute, or dispense, a controlled substance listed in schedule I or II that is—

''(A) combined with a beverage or candy product;

''(B) marketed or packaged to appear similar to a beverage or candy product; or

''(C) modified by flavoring or coloring the controlled substance with the intent to distribute, dispense, or sell the controlled substance to a person under 18 years of age.

''(2) PENALTIES.—Except as provided in section 418, 419, or 420, any person who violates paragraph (1) of this subsection shall be subject to—

''(A) an additional term of imprisonment of not to exceed 10 years for a first offense involving the same controlled substance and schedule; and

''(B) an additional term of imprisonment of not to exceed 20 years for a second or subsequent offense involving the same controlled substance and schedule.

''(3) EXCEPTIONS.—Paragraph (1) shall not apply to any controlled substance that—

''(A) has been approved by the Secretary under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), if the contents, marketing, and packaging of the controlled substance have not been altered from the form approved by the Secretary; or

''(B) has been altered at the direction of a practitioner who is acting for a legitimate medical purpose in the usual course of professional practice.''.

SEC. 3. SENTENCING GUIDELINES.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review its guidelines and policy statements to ensure that the guidelines provide an appropriate additional penalty increase to the sentence otherwise applicable in Part D of the Guidelines Manual if the defendant was convicted of a violation of section 401(h) of the Controlled Substances act, as added by section 2 of this Act.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator FEINSTEIN, in cosponsoring the Saving Kids from Dangerous Drugs Act of 2011. I believe we have an ongoing moral obligation to ensure our young people have every opportunity to grow up without being accosted by drug pushers at every turn, whether on TV, in the movies, or on the way to school.

This bipartisan legislation—which has previously passed the Senate with unanimous consent—comes in response to ongoing warnings issued by the Drug Enforcement Administration, DEA, and the White House's Office of National Drug Control Policy, ONDCP, about highly addictive and dangerous drugs being colored, packaged, and flavored in ways that appear to be designed to attract use by children. As ranking member of the Committee on the Judiciary and cochairman of the Senate Drug Caucus, I can tell you that the most at-risk population for drug abuse is our young people. Sadly, recent youth surveys are indicating youth drug use is increasing. Research has shown time and again that if you can keep a child drug free until they turn 20, chances are very slim that they will ever try or become addicted to drugs. Unfortunately, unscrupulous drug dealers are all too aware of statistics like these and have developed new techniques and marketing gimmicks to lure in younger users. As a parent and grandparent, this is extremely troubling.

Drug dealers are now flavoring and disguising drugs to make them appear and taste like candy. For instance, some drugs that have been recovered by the DEA and local law enforcement have been flavored to taste like strawberry and are known on the street as ''Strawberry Quick.'' Other flavors, such as lemon, coconut, cinnamon and chocolate are clearly being used to make highly addictive drugs like meth and cocaine seem less harmful and more appealing. Soft drinks are also being laced with THC, the active ingredient in marijuana, and marketed with names like ''Canna Cola'' and ''Doc Weed.'' Law enforcement has also recovered drugs that have unique designs which could be appealing to children. For example, Ecstasy pills imprinted with President Obama's likeness or with images of popular cartoon characters have been seized in raids. These flavored and disguised drugs are also being marketed in smaller amounts, making it cheaper and more accessible to children. According to an article in USA Today, at least 8 States have reported instances involving candy flavored drugs, and many law enforcement officials are expecting these deadly substances to infiltrate their States in the near future.

The DEA has made an effort to stop these practices. For example, the DEA arrested three men in an undercover operation in California where candy flavored cocaine was being distributed. The DEA seized at least four different flavors of cocaine along with other dangerous substances. The estimated street value of the flavored cocaine seized in this operation was $272,400. The DEA also arrested 12 people in connection to a marijuana-laced candy and soft drink operation in 2006. The marijuana-laced candy that was seized in this operation was packaged to look like well known brand name candy bars. These drug busts further illustrate the fact that drug dealers will stop at nothing to hook a new generation on these deadly substances.

Currently, Federal law enhances the criminal penalties that apply when a person sells drugs to anyone under the age of 21. When this occurs, the Federal penalties are doubled—or tripled for a repeat offense—and a mandatory minimum of at least 1 year must also apply. However, this penalty applies only to someone who actually sells drugs to someone under 21.

The Saving Kids from Dangerous Drugs Act would increase the prison sentence to anyone who knowingly or intentionally manufactures or creates with the intent to distribute a controlled substance that has been flavored, colored, packaged or otherwise altered in a way that is designed to make it more appealing to a person under 18 years of age. The DEA busts are prime examples of why we need this bipartisan bill to keep drug dealers from peddling their poison to our children.

The fight against deadly drugs is an ongoing struggle. In light of the fact that youth drug use is increasing we must do all we can to protect the most vulnerable among us. We must send a clear message to those wishing to prey on our youth that you risk serious prison time when you target our future.

Although this bill was passed out of the Senate unanimously in 2010, the House never passed the bill in the 111th Congress. I ask that my colleagues join us again in support of this important legislation and pass the Saving Kids from Dangerous Drugs Act, and I encourage the House of Representatives to take up this important bill and help remove these dangerous candy flavored drugs from our communities.

By Mr. WYDEN (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. AKAKA)

S. 514. A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service; to the Committee on Homeland Security and Governmental Affairs.

Mr. WYDEN. Mr. President, the sacrifices of military families all too often go unrecognized. For every one of the 186,000 troops currently deployed in Iraq and Afghanistan, there is a family that patiently waits for their servicemember's safe return. There are countless wives and husbands, separated by a deployment, who celebrate anniversaries over email and deployed parents who see their children age in photographs. None of these military families ask for recognition, but their sacrifices deserve our respect.

I am pleased by the President and First Lady's recent efforts to recognize the challenges facing military families. Their leadership on this issue will help

ensure that all agencies and departments of the Federal Government will lend a hand to servicemembers, veterans, and their families.

Our Nation asks a lot of military families. Military families must provide support in innumerable ways during a deployment. From child care, to paying bills, dealing with legal issues and household repairs, military families work together to deal with the absence of the servicemember. Should a servicemember return home wounded or weakened by the tolls of war, we ask military families to help take care of their son or daughter, husband or wife.

We hope and pray that all those who are sent to war will return safely to the arms of their loved ones. However, we know that this is not always the case. Since the wars in Iraq and Afghanistan began, there have been far too many funerals of talented and patriotic Oregonians who have died in service to their country.

Although nothing the Government can do will ever make up for the loss of a loved one, we do extend certain benefits to the parents of those who are killed in war. Today, along with Senators LIEBERMAN, COLLINS, AKAKA, I am introducing the Gold Star Fathers Act to update one of those benefits; the preferences for Federal hiring to ensure that the parents of fallen servicemembers have no barriers to Federal service.

The Office of Personnel Management currently allows unmarried mothers of fallen soldiers to claim a 10-point veterans' preference when applying for Federal jobs. The Gold Star Fathers Act would simply extend this preference to unmarried fathers of fallen soldiers. This legislation will expand opportunities for Gold Star families to bring their dedication, compassion, and patriotism to the Federal Government. It is my hope that this legislation can be passed quickly.

These Gold Star Mothers and Gold Star Fathers have sacrificed more than we as a country can ever hope to repay. All we can ever hope to do is to ensure that these sacrifices are never made in vain.

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. 514

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 ''Gold Star Fathers Act of 2011''.

SEC. 2. PREFERENCE ELIGIBLE TREATMENT FOR FATHERS OF CERTAIN PERMANENTLY DISABLED OR DECEASED VETERANS.

Section 2108(3) of title 5, United States Code, is amended by striking subparagraphs (F) and (G) and inserting the following:

''(F) the parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

''(i) the spouse of that parent is totally and permanently disabled; or

''(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse;

''(G) the parent of a service-connected permanently and totally disabled veteran, if—

''(i) the spouse of that parent is totally and permanently disabled; or

''(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse; and''.

SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall take effect 90 days after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 94—TO EXPRESS THE SENSE OF THE SENATE IN SUPPORT OF REDUCING ITS BUDGET BY AT LEAST 5 PERCENT

Mr. WICKER (for himself, Mr. COATS, Mr. JOHANNS, Mr. ISAKSON, Mr. THUNE, Mr. PORTMAN, Mr. BARRASSO, Mr. CORNYN, Mr. INHOFE, Mr. ENZI, Mr. BROWN of Massachusetts, Mr. CHAMBLISS, Mr. CORKER, and Mr. MANCHIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 94

Whereas, the current level Federal spending is unsustainable and action to reverse this course should not be delayed;

Whereas, in 2010 Federal spending was nearly 24 percent of the value of all the goods and services produced in the United States;

Whereas, the Federal deficit was over $1 trillion in fiscal year 2010;

Whereas, Federal spending is at its highest percentage since World War II;

Whereas, the Congressional Budget Office estimates if the United States maintains its current track of Federal spending, the Federal debt would reach 90 percent of the value of all the goods and services produced in the United States by 2020;

Whereas, the national debt exceeds $13.9 trillion dollars;

Whereas, the United States borrows $44,000 for every person in the country;

Whereas, the unemployment rate was 9.8 percent in December;

Whereas, the American people have responded to the economic downturn by making hard choices and trimming their family budgets;

Whereas, spending in the legislative branch rose nearly 50 percent over the last 10 years; and

Whereas, in order to address the nation's fiscal crisis, the Senate should lead by example and reduce its own legislative budget: Now, therefore, be it

Resolved, That it is the sense of the Senate that it should lead by example and reduce the budget of the Senate by at least 5 percent.

SENATE RESOLUTION 95—INCREASING AWARENESS OF AND RECOGNIZING THE LIFE-SAVING ROLE OF OSTOMY CARE AND PROSTHETICS IN THE DAILY LIVES OF HUNDREDS OF THOUSANDS OF PEOPLE IN THE UNITED STATES

Mr. BURR submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 95

Whereas over 700,000 individuals in the United States, from young children to senior citizens, have an ostomy, a surgical procedure that creates an artificial opening from the abdomen to the intestines or urinary system to allow for the elimination of bodily wastes;

Whereas active duty military personnel who are wounded in battle often receive an ostomy as a result of penetrating colorectal injuries;

Whereas an ostomy procedure can be essential to many patients who suffer on a daily basis from serious, chronic, or life-threatening traumatic injury to the abdomen, or other illnesses and conditions, such as colorectal or bladder cancer, Crohn's disease, ulcerative colitis, birth defects, or other intestinal or urinary medical conditions;

Whereas following ostomy surgery, patients may need specially-fitted medical products to manage intestinal or urinary system function, temporarily or permanently restore intestinal or urinary system function, or re-establish activities of daily living, and improve quality of life;

Whereas ostomy products are prosthetic devices prescribed by health care providers, and ostomy products are prosthetic devices, as defined in section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8));

Whereas policy and reimbursement approaches to ostomy products may affect access for patients in need;

Whereas ostomy products are customized to the clinical needs of individual patients and are not the same as other easily interchangeable medical supplies, such as gauze or bandages;

Whereas ostomy care and prosthetics can be important to restoring function and improving quality of life for patients in need of this care;

Whereas ongoing advances and innovation in ostomy prosthetics technology can dramatically improve the lives of individuals who undergo ostomy surgery by helping to normalize the intestinal or urinary system function of such individuals, improve physical well-being, and often enable the individual to rejoin the workforce; and

Whereas Congress recognizes the importance of encouraging and facilitating the development and use of new medical technologies: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the life-saving role of ostomy care and prosthetics in the daily lives of hundreds of thousands of people in the United States;

(2) recognizes that if a surgical procedure results in a patient needing a prosthetic that manages or restores intestinal or urinary system function, specifically the control of the elimination of the body's waste products, it is important for such patient to have access to the care that will best meet the patient's needs; and

(3) encourages innovation of, and access to, medical devices that restore or improve intestinal or urinary system function of people in the United States with an ostomy.

AMENDMENTS SUBMITTED AND PROPOSED

SA 158. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1, 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; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 158. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1, 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; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. _____. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the debt of the United States exceeds $14,000,000,000,000;

(2) it is important for Congress to use all tools at its disposal to address the national debt crisis;

(3) Congress will not earmark funds for projects requested by Members of Congress; and

(4) the earmark ban should be utilized to realize actual savings.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should reduce spending by the amount resulting from the recently announced earmark moratorium.

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 classified meeting has been scheduled before the Senate Committee on Energy and Natural Resources. The meeting will be held on Tuesday, March 15, 2011, at 10 a.m., in room SVC–217, U.S. Capitol Building in Washington, DC.

The purpose of the meeting will be to receive information regarding cyber security and critical electric infrastructure.

For further information, please contact Kevin Huyler at (202) 224–6689 or Meagan Gins at (202) 224–0883.

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 17, 2011, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine current global investment trends in clean energy technologies and the impact of domestic policies on that investment.

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, DC 20510–6150, or by e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Mike Carr at (202) 224–8164 or Abigail Campbell at (202) 224–1219.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 8, 2011, at 9:45 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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 8, 2011, at 10 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 8, 2011, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 8, 2011, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 8, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Does the Tax System Support Economic Efficiency, Job Creation and Broad-Based Economic Growth?''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 8, 2011, at 2:30 p.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on March 8, 2011. The Committee will meet in room 345 of the Cannon House Office Building beginning at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 8, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 8, 2011, at 10:30 a.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on March 8, 2011, at 10 a.m., to conduct a hearing entitled ''State Department Training: Investing in the Workforce to Address 21 Century Challenges.''

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

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, MARCH 9, 2011

Mr. BENNET. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Wednesday, March 9; that following the prayer and 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 10:40 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 majority controlling the first half and the Republicans controlling the final half; that at 10:40 a.m., the Senate recess

until 12 noon for a joint meeting with the Honorable Julia Gillard, Prime Minister of Australia; that following the joint meeting, the Senate reconvene at 12 noon and proceed to the consideration of H.R. 1, as provided under the previous order.

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

PROGRAM

Mr. BENNET. Mr. President, Senators are encouraged to gather in the Senate Chamber at 10:40 a.m., and we will proceed as a body to the Hall of the House at 10:45, for the joint meeting of Congress.

Furthermore, Senators should expect two rollcall votes at 3 p.m. tomorrow on passage of H.R. 1, the Defense appropriations and long-term continuing resolution for fiscal year 2011 and the Democratic alternative offered by Senator INOUYE, which is amendment No. 149.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. 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 7:02 p.m., adjourned until Wednesday, March 9, 2011, at 9:30 a.m.

EXTENSIONS OF REMARKS

HONORING RICH KOSSUTH

HON. LOU BARLETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. BARLETTA. Mr. Speaker, today I rise to honor and acknowledge Mr. Rich Kossuth, this year's Sunday Dispatch 2010 Person of the Year.

Rich is a Greater Pittston area resident. A co-owner of Rock Street Music, the drummer in Pittston's local band Flaxy Morgan, and part of the rock duo CNR, Rich has grown up working in Pittston's music scene. He started out as an employee of local music businesses and eventually formed Rock Street Music with his mother and brothers. Through these affiliations, Rich has unselfishly donated his time and efforts to various facets of our community.

Mr. Kossuth founded 12/24, a Christmas holiday seasonal band dedicated to raising funds for autism research. In 2010, he volunteered his talents, time, and equipment to over 40 benefits for causes ranging from supporting local recreational groups to helping local heroes in need of assistance in their fights against cancer. Rich has dedicated himself to improving the lives of our children, making appearances as Santa Claus and the Easter Bunny at local events, as well as serving as an assistant scout manager.

Mr. Kossuth never asks for anything in return. In fact, when Rich was informed he'd be receiving the Person of the Year Award, he promptly named others he felt deserving of recognition before finally graciously accepting the acknowledgement of all he has done to serve the Greater Pittston area.

Mr. Speaker, Rich Kossuth is a compassionate, generous humanitarian who truly cares about our community and his fellow citizens. His kindness has touched the lives of countless people. We could never thank Mr. Kossuth enough for the service he provides and the spirit he instills in the Greater Pittston area. He is truly an inspiring individual. Mr. Speaker, today, I ask my colleagues to join me in congratulating Mr. Kossuth and recognizing his being named the Sunday Dispatch's 2010 Person of the Year.

HONORING THE HONOREES OF THE MID-MAINE CHAMBER OF COMMERCE AWARDS

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. MICHAUD. Mr. Speaker, I rise today to recognize the Honorees of the 2011 Mid-Maine Chamber of Commerce Annual Awards Dinner. The Mid-Maine Chamber of Commerce serves the people and business community of the greater Waterville area, working with the business community to strengthen economic opportunity throughout the region and the state.

Each year, the Mid-Maine Chamber recognizes some of the outstanding businesses and individuals that make Maine "the way life should be" for all Mainers and Maine businesses. These individuals and businesses are committed to strengthening opportunity and prosperity in Maine.

This year's award recipients include Robert Martin, recipient of the Distinguished Community Service Award; Fortin's Home Furniture, Business of the Year; Bill Mitchell of GHM Insurance, Business Person of the Year; Barbara Haynes, recipient of the Elias A. Joseph award; David Holden of Bangor Savings Bank, Outstanding Professional of the Year; the Maine Children's Home for Little Wanderers, Community Service Project of the Year; Matthew Clark of Weeks & Hutchins, LLC and Sarah Sugden, of the Waterville Public Library, both recipients of the "Rising Star" Award; and Valley Distributors' Flint Collier, recipient of the Customer Service Stardom Award.

These nine recipients are among the best that Maine has to offer. Through their leadership and incredible commitment to their communities and the region, Maine is a better place to live and do business.

Mr. Speaker, please join me in congratulating the Mid-Maine Chamber of Commerce and these individuals on their outstanding service and achievement.

HONORING AMBASSADOR TERENCE A. TODMAN

HON. DONNA M. CHRISTENSEN

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mrs. CHRISTENSEN. Mr. Speaker, I rise to pay tribute to an outstanding leader from my congressional district in the U.S. Virgin Islands, the Honorable Terence A. Todman, a Career Ambassador who served our country across the globe for almost 50 years.

On Saturday, March 12, 2011, my community will honor Career Ambassador Todman on the occasion of his 85th birthday. A native son, he began his distinguished career with service in the U.S. Army from 1945 to 1949, including a tour as a Commissioned Officer in Japan. He went on to diplomatic service as a Desk Officer for India-Ceylon-Nepal Affairs in 1952 and as a U.S. Government Intern on the United Nations Secretariat in 1954. From 1954 to 1957, he served as an Advisor to U.S. Delegations to the United Nations General Assembly and U.S. Representative on various Trusteeship Council committees. He ended the decade of the 1950s as a Political Officer in New Delhi from 1957 to 1959.

Career Ambassador Todman, who is fluent in many languages, served as the Arabic Language and Area Specialist in Beirut from 1960 to 1961. From 1961 to 1964, he served as the Political Officer in Tunis, from 1965 to 1968 as the Deputy Chief of Mission and Charge d'Affaires in Togo and as the Country Director for East African Affairs from 1961 to 1969.

Mr. Speaker, as United States Ambassador, Terrence Todman served in Chad from 1969 to 1972, in Guinea from 1972 to 1975, in Costa Rica from 1957 to 1971, in Spain from 1978 to 1983, in Denmark from 1983 to 1989, and finally in Argentina from 1989 to 1993.

Although retired since 1993, Ambassador Todman has remained active serving on corporate and community boards from Argentina to the U.S. Virgin Islands. I recall that during one of Haiti's many crises and during the Aristide presidency, he was called back into service to share his expertise and experience as a special advisor to the Organization of American states. His recent focus has been on establishing joint ventures between U.S. and foreign companies with special emphasis on transportation and the environment. He is one of the Directors of the American Academy on Diplomacy, the Association for Diplomatic Studies and Training, the Constituency for Africa and the Atlantic Council of the United States. He is a Fellow of the National Academy of Public Administration and a member of its International Panel and many other organizations in the diplomatic field.

He serves on the board of Syracuse University, the Duke University Provost Advisory Council and the Advisory Board of the African Studies Program at Georgetown University.

Ambassador Todman has received the Presidential Distinguished Service Award, the National Public Service Award, the Department of State's Superior Service Honor Award and the Secretary of State's Distinguished Service Award. He has been decorated by the governments of Argentina, Denmark, Spain, Chad and the U.S. Virgin Islands. In 1997, he received the U.S. Department of State's Director General's Cup.

Mr. Speaker, as an ambassador extraordinaire who is credited with guiding our country through some difficult relationships and challenges, Ambassador Todman paved the way for other people of color to excel at and eventually lead the U.S. State Department. He is a trailblazer, and has opened many doors for young people who aspire to his level of excellence and dedication to country.

Mr. Speaker, on behalf of the people of the U.S. Virgin Islands, I wish Ambassador Todman a very happy 85th birthday and I extend my best wishes to his wife Doris and their 4 children, Terence, Patricia, Kathryn and Michael and his wider circle of family and friends. May God continue to bless him with good health and long life and on behalf of the Congress of the United States, thank him for his long, dedicated and distinguished service to our country.

HONORING FERNANDO ''CHITO'' SALINAS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the late Fernando "Chito" Salinas for his dedication and contributions to the City of Laredo and South Texas.

Mr. Salinas was born in 1924 in Laredo, Texas. "Chito", as he was known by friends, attended Christen Junior High School and later graduated from Martin High School in 1942. After he graduated, he attended Texas A&M University in College Station, Texas. He transferred to Tulane University in New Orleans, Louisiana where he pursued a medical career. However, he found that his true calling was in fashion and retail. After moving back to Laredo, he helped his father run the family retail business, Los Dos Laredos. In 1952, Mr. Salinas opened his own store, Don Antonio's Men's Wear. After a brief trip to Europe in the 1960s, Mr. Salinas added the Castilian room to Don Antonio's that would specialize in high-end styles and hats. He was known both locally and internationally for the quality of clothes, but especially for the unique hats that his store carried. Mr. Salinas would travel regularly around the world to fashion hot spots, such as New York, Los Angeles, and Europe, to bring high-end fashion back to southern Texas.

Aside from his impact on the fashion industry in Laredo, Mr. Salinas started the Fernando A. Salinas Charitable Trust in 2005 to benefit Laredo and Webb County. This Trust was designed to provide funding to charitable programs around Laredo and has made donations to over 75 different charitable organizations and government agencies. Mr. Salinas had a commitment to improve his community, especially its education, religion and health programs. The Trust has made it possible for the youth in Laredo to go to college through the scholarship portion and also provided healthcare services to the underserved. Javier B. Santos, trustee for the Salinas Trust on behalf of Fernando Salinas, will continue to provide services to Laredo and Webb County.

In December of 2008, Mr. Salinas was honored as a "Paul Harris Fellow". He also worked heavily with the South Texas Food Bank and helped start Kids Cafes in El Cenizo, Rio Bravo and at the Main Boys and Girls Club in Laredo. He renovated the main building and set up an endowment for its maintenance for one million dollars. He has continued his philanthropic efforts with all organizations and institutions qualifying as 501 agencies in the community and completed the renovation of the Saint Anthony de Padua Chapel at St. Augustine High School. In 2008, he pledged one million dollars to Texas A&M International University for its College of Business Administration.

At the time of his passing, his trust had initiated his contract for Laredo property that will serve as an off campus site of Laredo Community College. The property, a landmark home, will house special events, small classes and receptions, and allow for easier registration and information.

Mr. Speaker, I am honored to have had the time to recognize the dedication, accomplishments, and commitment of the late Fernando "Chito" Salinas.

HONORING NICOLLE AMOS

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievement of Nicolle Amos, a nurse practitioner in Mason City, Iowa. Nicolle was recently named the Iowa Nurse Practitioner of the Year by the American Academy of Nurse Practitioners (AANP).

Established in 1985, the AANP was the first national organization to organize and advocate for issues affecting nurse practitioners. It currently serves eleven different regions and represents over 135,000 nurse practitioners in the United States. In addition to promoting education and research, the AANP advocates at all levels of government to shape various health policies and to recognize "NPs as providers of high-quality, cost-effective, and personalized healthcare." The AANP gives the Nurse Practitioner of the Year Award to a nurse practitioner in each state who demonstrates excellence in their area of practice.

Nicolle has a degree as a family nurse practitioner as well as a master's degree in nursing. She worked for seven years as a registered nurse before becoming a nurse practitioner. In November 2005, Nicolle opened her own practice, North Iowa Family Health Care. Although initially staffed only by herself, Nicolle now employs three other individuals—a receptionist, a medical assistant and a licensed practical nurse. She sees an average of 13–16 patients every day, and on Wednesdays she provides health services to local jail inmates. She believes that "God gives you a purpose in life," and that that purpose is to meet her patients' needs to the best of her ability.

I commend Nicolle on the hard work and quality of care she is providing to her patients in Iowa. I know that my colleagues in the United States Congress will join me in congratulating her for the receipt of this award. I wish nothing but success and happiness to Nicolle, her husband Matt, and children Olivia and John.

RECOGNIZING PHARMACY'S CONTRIBUTION TO THE AMERICAN HEALTH CARE SYSTEM

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PITTS. Mr. Speaker, today I would like to recognize pharmacy's contribution to the American health care system. This week, over 300 members of the pharmacy community—including practicing pharmacists, pharmacy school faculty and students, state pharmacy leaders and pharmacy company executives—are here on Capitol Hill for the Third Annual National Association of Chain Drug Stores RxIMPACT Day.

These important health care providers are here to urge Congress to recognize the value of pharmacists and promote access to these medication experts throughout our health care delivery system.

Nearly all Americans live within five miles of a community pharmacy, making pharmacists one of our most accessible health care provider groups. As my colleagues know, one of the most important functions of local pharmacies is to assist individuals in the communities where they operate with their health care needs. While the convenient, safe and efficient dispensing of prescription medicines is a core function of the modern neighborhood pharmacy—and one they take very seriously—pharmacies do much more that positively impacts the lives of their customers and patients. Today's pharmacies offer a variety of preventive health care services including immunizations and vaccinations, health screening services, disease management services and routine advice on the best and most effective over-the-counter products for patients' specific needs. Americans trust their neighborhood pharmacies to provide these services, which is one reason pharmacists have ranked in the top three each of the past eight years in Gallup's annual survey of integrity across all professions.

As the face of neighborhood health care, pharmacies across the nation offer these and other cost-saving programs and services to help patients take medicines they need to achieve positive results from appropriate use of their medications.

Today, I celebrate the value of pharmacy and support efforts to protect access to neighborhood pharmacies and utilize pharmacies to improve the quality and reduce the costs of health care.

CONGRATULATING THE STRAITS EXCHANGE FOUNDATION

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. WU. Mr. Speaker, I rise to congratulate the Straits Exchange Foundation (SEF) of the Republic of China (Taiwan) as it marks its 20th anniversary.

Twenty years ago, the SEF was established as a semi-official organization with the mission of negotiating with mainland Chinese authorities. Soon thereafter, China established its own Association for Relations Across the Taiwan Strait (ARATS). These two organizations have enabled officials from their respective governments to negotiate directly without affirming each other's sovereign status.

Despite the suspension of negotiations for nearly a decade, SEF–ARATS talks resumed in Beijing in June 2008. The subsequent talks held in Taipei, Nanjing, Taichung, and Chongqing resulted in several agreements designed to promote economic and social relations between the two sides. Taiwan and China established direct flights for shipping and postal services, built a framework for financial cooperation and investment, agreed to increase tourism, and enhanced law enforcement coordination.

I congratulate Taiwan for the achievements of the Straits Exchange Foundation. I look forward to the SEF's continued contributions in cultivating peace and prosperity across the Taiwan Strait for many years to come.

OBSTETRIC FISTULA PREVENTION, TREATMENT, HOPE AND DIGNITY RESTORATION ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mrs. MALONEY. Mr. Speaker, today, along with Representatives BALDWIN, HIRONO, MOORE, and STARK, I am reintroducing comprehensive legislation to both prevent new obstetric fistulas and treat existing ones. The "Fistula Prevention, Treatment, Hope and Dignity Restoration Act" will bring new hope and opportunities to finally end this preventable condition. On the 100th anniversary of International Women's Day, this is a fitting bill that will help millions of women achieve their maximum potential.

Pregnancy shouldn't leave a woman with a disability and ostracized from her community. Congress should ensure investments for the more than two million women worldwide that have obstetric fistula and we do what we can to prevent new cases. Fistula results from prolonged labor without medical attention due to the pressure created internally from obstructed delivery, which kills tissue where a hole between the woman's vagina and rectum develops, leaving her without control of her bladder and/or bowels for the rest of her life if she goes untreated. It often results in the death of the infant. Many women with obstetric fistula are abandoned by their husbands and families because they are considered "unclean" due to leaking excrement. Left without support, the women are forced to beg or turn to sex work to survive.

Fistula was once common throughout the world, but over the last century has been eradicated in Europe and North America through medical care. For example, New York's hospital for fistula patients, now the site of the Waldorf Astoria Hotel, closed in 1895 due to diminishing cases. But still in 2011, from Bangladesh to Botswana, women continue to face these challenging deliveries and the complications associated with them, including obstetric fistulas.

Fortunately, multilateral organizations such as UNFPA, the United Nations Population Fund, and its partners in the Campaign to End Fistula, as well as bilateral organizations such as USAID are working with partners on a global campaign to prevent and treat fistula with the goal of making the condition as rare in sub-Saharan Africa and Asia as it is in the United States. Being able to repair a fistula is life changing—and it will have a direct impact on a woman and her family if she is able to stay in her community, rather than to be shunned. At this point, the global community can do just that for about $300 for each repair.

This bill authorizes the President to provide assistance to prevent and treat fistula. This legislation allows for a comprehensive, three pronged approach of prevention, treatment and reintegration which includes: increasing access to prenatal care, emergency obstetric care, postnatal care, and voluntary family planning; building local capacity and improving national health systems; addressing underlying social and economic inequities such as reducing the incidence of child marriage and increasing access to formal and informal education; and supporting reintegration and training programs to help women who have undergone treatment return to full and productive lives. These essential investments create a multiplier effect of benefits in the lives of women and their communities. The legislation also supports coordination among the community working to prevent and treat obstetric fistula through the International Obstetric Fistula Working Group. Support for monitoring, evaluation, and research to measure the effectiveness and efficiency of such programs throughout their planning and implementation phases will ensure the most efficient and effective use of U.S. foreign assistance dollars.

I urge my colleagues to support this important, meaningful legislation.

HONORING CHRISTOPHER FILLYAW

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. MICHAUD. Mr. Speaker, I rise today to recognize 12-year-old Christopher Fillyaw, of Waterville, Maine, and his participation in Civic Day 2010 at the Alfond Youth Center, in Waterville, Maine.

On Civic Day 2010, 8 students from Benton Elementary School shadowed civic leaders to learn about the important work that they do to serve their communities. I was very impressed with Christopher's comments during a ceremony honoring our troops and would like to enter his remarks into the RECORD:

> I would like to start out by saying Thank You to all of our brave men and women and their families in the military. They risk their lives and the lives of their families and fight everyday to ensure the freedoms that we as Americans enjoy and sometimes take for granted. If it were not for these brave men and women who serve our country so well, who knows where we would be today.
>
> We really owe them so much more than they receive, for every day is a struggle and the hardships they have to endure while they are in enemy's territory away from loved ones and unfamiliar grounds and then here at home getting readjusted to fit back into their own surroundings. There are no words to describe how important of a job they have and the sacrifices they have to make to do their jobs. It is really amazing. This is one of the hardest and most unbearable jobs in the world to risk the life of your own and the stability of your own family in hopes to save and secure the American way.
>
> I hope that when I grow up I can pay a little something back in some way to show how much I thank them for making my life and my family's life safer.

Chris's comments ring true and showcase the next generation's respect for the sacrifice made by those who keep all of us safe here at home.

Mr. Speaker, please join me in recognizing the words of Christopher Fillyaw and his commitment to public service.

IN RECOGNITION OF THE 130TH ANNIVERSARY OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN AND THE 125TH ANNIVERSARY OF THE NEW YORK CITY BRANCH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. RANGEL. Mr. Speaker, I rise today in celebration of Women's History Month to recognize the 125th Anniversary of the American Association of University Women New York City Branch. Since 1881 the American Association of University Women, AAUW, has been the nation's leading voice promoting education and equity for women and girls. Through its vital nationwide network, AAUW influences public debate on critical social issues such as education, civil rights, and health care.

AAUW sponsors community programs; publishes groundbreaking research on women, girls and education; provides the world's largest source of funding exclusively for graduate women; and fights sex discrimination in education. AAUW's work extends globally through its membership in the International Federation of University Women, 72 national federations and associations worldwide.

The New York City Branch was founded in 1886 and is the second oldest established Chapter in the nation. In 1949, the New York City chapter purchased their Victorian Italianate Brownstone headquarters at 111 East 37th Street in the historic Murray Hill district of Manhattan. Under the leadership of President Dr. Nkechi Agwu, the Association continues to carry out the mission, value statement, vision and diversity of this great institution.

In 1951, under the Presidency of Dr. Ruth Wright, the New York City Branch began to honor women who have contributed immensely to the city, nation and the world. These were women who made outstanding contributions in many fields—education, the arts, business, science, medicine, anthropology, law and journalism. Some notable past "Woman of Achievement" honorees include African American trailblazing history makers like operatic and concert singer, Marian Anderson; American journalist and former foreign news correspondent, Charlayne Hunter-Gault, who was also one of the first Black students to attend the University of Georgia and graduate; and "The Mother of Medicine in Harlem," Dr. Muriel Petioni, who founded the Susan Smith McKinney Steward Medical Society for Black women physicians.

This year's theme, "She Touched Me," will salute distinguished women who have played an important role in spearheading women and girl issues throughout this Nation and around the world. Please join in recognizing the 130th Anniversary of the American Association of University Women and the 125th Anniversary of the New York City Branch Chapter.

PERSONAL EXPLANATION

HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. JORDAN. Mr. Speaker, I was absent from the House Floor during two rollcall votes taken on Thursday, March 3.

Had I been present, I would have voted "aye" on rollcalls 161 and162.

HONORING 8TH GRADERS AT CARLISLE MIDDLE SCHOOL

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of the eighth-grade students at Carlisle Middle School in Carlisle, Iowa. These students recently finished first in the nation in the FBI's Safe Online Surfing (SOS) Internet Challenge in December 2010.

The SOS Internet Challenge is a national competition that seeks to educate elementary and middle school students about the importance of safety when using the internet. The topics include protecting personal information, online predators, cyberbullying, instant messaging, social networking, copyright, and more. Scores in this competition are determined by a series of web-based quizzes the students take after completing the program. Over 1,000 eighth-grade students from 47 schools in 17 states participated in the December SOS Internet Challenge.

The Carlisle Middle School eighth-grade students completed the SOS Internet Challenge under the direction of their technology instructor Julie Thompson. While the class as a whole placed first in the challenge, those students who received the top scores were Bailey Garner, Kaleigh Haus, Max Becker, Lynn Huang, and Josh Hagedorn. These five students were awarded FBI bags that included school supplies and certificates.

I commend the eighth-grade students at Carlisle Middle School for their exemplary work in the SOS Internet Challenge. In this world of advanced technology that allows for increased networking, it is imperative that our children know how to keep themselves and their personal information safe.

I know that my colleagues in the United States Congress will join me in congratulating these students on their accomplishments. It is an honor to serve as their representative, and I wish them the best of luck in the future.

IN RECOGNITION OF JOE BURNS

HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Ms. SPEIER. Mr. Speaker, I rise to honor Joe Burns, a U.S. Navy Hospital Corpsman from San Bruno who will celebrate his 20th birthday on March 5, 2011. This is an extraordinary birthday for Joe, not only because he is entering the second decade of his life, but because it's a miracle that he is alive.

Joe's job was to provide medical care for Marines with Delta Company, 1st Battalion, 1st Marine Division in Afghanistan. On February 17, 2011 he and three Marines were in an armored vehicle in Helmand Province, when they struck an Improvised Explosive Device. The IED literally blew up underneath Joe's feet. The vehicle went up in the air and was propelled forward. Joe broke five bones in his heel and suffered a concussion. One Marine also suffered a heel injury, the other two were not hurt.

It is absolutely miraculous that everyone survived the ambush. The vehicle was Mine Resistant Ambush Protected, or MRAP. Joe's mother Lori Burns is convinced that it was that technology that saved her son's life. She recalls how she first learned about the incident. The hospital corpsman treating Joe handed him a phone and he said: "Mom, I'm ok, I broke my heel, they blew me up. I got to fly in a helo and I think I'm getting a Purple Heart."

Joe was treated in hospitals in Afghanistan, Germany and San Diego and received a cast on his foot in each place. This young man did not want to leave Afghanistan; he wanted to continue serving his country despite his injury. I want to thank Joe for his service. He represents the courage and bravery of our troops.

Joe grew up in San Bruno, California and went to St. Roberts Elementary School. After he graduated from Burlingame High School in June 2009, he was enlisted in the Navy in October of the same year.

On January 1, 2011, Joe was deployed on his first tour to Afghanistan—not exactly what he expected. When you enlist in the Navy, his mother quotes Joe as saying, you think you are going to be on water, not sand. It was on day 47 of his deployment that the IED blew up underneath him and sent him back home.

Mr. Speaker, I ask this body to rise with me to celebrate the life and 20th birthday of Joe Burns on this day, March 5, 2011.

CELEBRATING INTERNATIONAL WOMEN'S DAY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. HINCHEY. Mr. Speaker, I rise today to pay tribute to International Women's Day, which recognizes and celebrates the economic, political, and social achievements of women throughout our global community. Since 1911, millions of women and men have gathered together on this date to campaign for the right of women to vote, work, hold public office and be treated without discrimination. This year marks the Global Centenary of International Women's Day and I am proud to help commemorate this anniversary by recognizing the incomparable achievements that women here in the United States and throughout the world have thus far achieved.

Over the years, women have made great strides in their quest for equality and we should applaud these advances. However, we must also recognize that our work is not over. While women now hold positions in the highest ranks of government, work as doctors, scientists and attorneys, their wages still lag behind those of men performing the same work. The passage of the Lilly Ledbetter Fair Pay Act moved us one step closer to equality in the workplace, but there is still progress to be made. And though it is encouraging that crimes against women are now treated with the seriousness they deserve, the rate of crimes committed against women continues to exceed that of those committed against men. Although we must view the advances that have been achieved as heartening and important strides forward, we must continue to labor until full equality and equal access to opportunity for women is achieved.

In New York's 22nd Congressional District, which I proudly represent, the Dutchess County Regional Chamber of Commerce and Women's Leadership Alliance, along with their partners in all of the other area Chambers, have been engaged in promoting, supporting and encouraging the leadership, professional growth and economic success of women throughout the Hudson Valley region. Their successes are clearly a shining example of the creative accomplishments that have been realized by women worldwide. I wish to compliment the Chamber on the excellent leadership in supporting women to succeed.

Mr. Speaker, it gives me great pleasure to recognize the women of the Hudson Valley, all of the members of the Dutchess Regional Chamber of Commerce, as well as women throughout the world as they celebrate the 100th anniversary of International Women's Day. I am proud to stand with them as they continue to work tirelessly toward full equality for women everywhere.

HONORING CASIMIR PULASKI, POLISH-AMERICAN HERO OF THE REVOLUTIONARY WAR AND HONORARY AMERICAN CITIZEN, AND CELEBRATING PULASKI DAY

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the life of Polish and American freedom fighter Casimir Pulaski. Yesterday in my home state of Illinois, we celebrated Casimir Pulaski Day, which is observed on the first Monday of March. Prior to the Pulaski Day celebration at the Polish Museum of America in Chicago, I joined with Representative MIKE QUIGLEY and Senator MARK KIRK to announce the introduction of a new bill to push for Poland's inclusion in the Visa Waiver Program. Certainly there is no better day than the one honoring Casimir Pulaski to promote the strengthening of America's ties with Poland.

Born in Warsaw, Poland, on March 6, 1745, Casimir Pulaski was a skilled commander who fought against Russian forces in Poland. Based upon his work fighting for freedom in Poland, Pulaski was recruited by Benjamin Franklin to join in the American Revolution. In his first correspondence to George Washington, Pulaski famously wrote, "I came here, where freedom is being defended, to serve it, and to live or die for it." In his first battle of the Revolution, the Battle of Brandywine on September 11, 1777, Pulaski helped alter the course of history by rallying a counterattack

against advancing British forces that afforded Washington and countless American troops the time needed to successfully retreat. As a result, Washington promoted Pulaski to brigadier general of the American cavalry.

His influence on American independence did not end there. Pulaski organized the Continental Army's first successful cavalry unit, often using his own money to finance equipment for his men. He introduced modern military tactics to the Americans and led troops in numerous battles and sieges up and down the eastern seaboard.

On October 9, 1779, during the Battle of Savannah, Pulaski was struck by grapeshot while attempting to lead a secondary charge against the entrenched British. He was taken aboard the USS *Wasp* and died from his wounds two days later. On October 15, he was buried at sea. Today Pulaski is remembered as the father of the American cavalry and one of the heroes of the American Revolution.

In 2009, on the 230th anniversary of his death, Congress honored Pulaski posthumously as an honorary citizen of the United States, marking only the seventh time in America's history that an individual has been granted such an honor. Today, I ask all Americans to remember a true Polish-American hero who devoted and ultimately sacrificed his life to the pursuit of freedom.

30TH ANNIVERSARY OF BILLY BOB'S TEXAS

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Ms. GRANGER. Mr. Speaker, I rise today to offer my congratulations to the 30th anniversary of Billy Bob's Texas, which opened on April 1, 1981 and is proud to be known as the World's Largest Honky-Tonk. The building known as Billy Bob's was built over a century ago in 1910 as a cattle barn in Fort Worth's historic Stockyards. This Fort Worth landmark has been an invaluable attraction for both local residents and visitors from around the world. But this iconic building does not only contribute to the Texas culture in Fort Worth, but also to the economic prosperity of the neighborhood and the city. It has entertained more than 17 million visitors, served as a venue to tens of thousands of music artists including the greatest names in country and classic rock, and is proud to have bucked more than 46,000 bulls in its indoor arena. Billy Bob's truly does preserve Fort Worth's western heritage. I want to congratulate owners Holt Hickman, Don Jury, Steve Murrin, and Billy and Pam Minick.

HONORING FIRE CAPTAIN SCOTT CARNEVALE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. STARK. Mr. Speaker, I rise today with my colleague, Rep. LYNN WOOLSEY, to honor the memory of a man who gave his life serving the people of the San Francisco Bay Area. Alameda Fire Captain Scott Carnevale, a resident of Mill Valley, California, died at the age of 42 on January 3, 2011, of occupational cancer.

Cpt. Carnevale was a proud Mill Valley native. He attended Mill Valley Middle School and Tamalpais High School, and it was at Tam High that he first met his future wife, Elizabeth. Mill Valley is also where Cpt. Carnevale took an early interest in firefighting, volunteering with the Mill Valley Fire Department in 1992. Cpt. Carnevale then attended the fire academy in Santa Rosa and graduated the following year.

Early in his career, Cpt. Carnevale served as a seasonal firefighter in Marin and worked for the Tamalpais Fire District before finally joining the Alameda Air Station as a full-time firefighter. When the airbase closed in 1997, Cpt. Carnevale was hired by the city of Alameda, where he was promoted to Apparatus Operator in 2001 and Captain of Station Two in 2007.

Cpt. Carnevale was also dedicated to his fellow firefighters. He served as an Executive Board Trustee and Shift Vice President for the International Association of Fire Fighters Local 689. He was also an active member of the Fire Labor Management Team, and he organized Alameda Fire Department's participation in the California Professional Firefighters Exposure Reporting Program.

Cpt. Carnevale had many outside passions and skills, including craftsmanship and the outdoors. He helped design and build his family's home in Mill Valley. He also helped to restore the fire department's two antique fire rigs, and he took it on himself to repaint the insignia at the front door of Station Three. Even a diagnosis of cancer could not slow him down, as he continued to enjoy spending time with his family, traveling, and kayaking.

Cpt. Carnevale is survived by his wife Elizabeth Carnevale and his eight-year-old son.

Mr. Speaker, it is with a profound sense of loss that we ask you to join us in honoring the life of Cpt. Scott Carnevale. Family and friends remember Cpt. Carnevale as an adventurer who was loved and respected for his integrity, selflessness, and dependability. The people of the Bay Area remember him as a true hero.

HONORING THE 100TH ANNIVERSARY OF THE CITY OF WALDPORT, OREGON

HON. KURT SCHRADER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. SCHRADER. Mr. Speaker, I rise today to honor the City of Waldport, Oregon on the occasion of its 100th Anniversary. Nestled along Oregon's beautiful coast line, Waldport has long been known for its pristine beaches, premier fishing, and forest products.

The first settlers traveled to the town by means of the Alsea River in the late 1870's and named it Waldport. The name comes from the German word for forest "wald" and "port" for the town site's location. The town had long been home to several Native American coastal tribes and would come to lay upon an old Indian burial ground. Its founders, David and Orlena Ruble would map out the city, using only the evening stars as their guide. By 1890 the city would be chartered and would go on to see decades of robust economic growth.

In 1918, Waldport would build its very own railroad which was used by the United States Army to log and transport spruce for its airplanes. After World War I ended, communities throughout the Pacific Northwest would weather a small recession as the demand for such materials declined.

Prior to the last two decades, Waldport's economy was driven by logging, timber products, fishing, and dairy and would be home to sawmills and salmon canneries. Salmon, trout, and surf fishing is at its best in this quaint coastal community.

Today, Waldport is as resilient as ever and maintains is coastal charm. When the tide goes out visitors and residents alike can dig for clams, comb the city's pristine beaches, and rake crabs. Waldport is a quiet city where one can escape the hustle and bustle of daily life and enjoy everything life has to offer.

Mr. Speaker, I am honored to represent the City of Waldport, Oregon and its residents. I congratulate the citizens of Waldport on their centennial and I look forward to sharing in the celebration.

RECOGNIZING THE 100TH ANNIVERSARY OF INTERNATIONAL WOMEN'S DAY

HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. SARBANES. Mr. Speaker, today I rise in recognition of the 100th anniversary of International Women's Day. Created in 1911 to demand equality, today's International Women's Day is a reminder of all of the glass ceilings that have been broken in the past century. But it is also a day to remember how far we have left to go. Nowhere is this more evident than in the maternal mortality rates in some parts of the world. As many as one in eight women die because of childbirth related complications in some parts of Afghanistan. A full third of women in the developing world deliver without a skilled attendant present. And we lose approximately half a million women every year in childbirth, or one woman every minute.

Pregnancy should not be a death sentence, and on this International Women's Day I recommit to meeting the challenges laid out in the 5th Millennium Development Goal (MDG). The 5th MDG states that the global community is committed to reducing maternal mortality rates by 75 percent by 2015; today we are only a third of the way there, and it will take action from us all in order to succeed. We know how to prevent maternal deaths. Women need a skilled birth attendant present when they deliver. They need access to life-saving and inexpensive medications in case something goes wrong. And they need sanitary conditions to prevent the spread of infection. One organization in my district is committed to making sure that every woman has access to these services when they deliver.

For nearly 40 years and in more than 150 countries, Jhpiego, an international health nonprofit affiliated with Johns Hopkins University, has worked to prevent the needless deaths of women and families. Working with

health ministries, community organizations, and USAID, Jhpiego prepares local health care workers with the latest in maternal and newborn health skills, building sustainable local capacity that will stay on the ground long after they leave.

Together with partner organizations, Jhpiego helped develop the national midwifery education program in Afghanistan that has educated and graduated more than 2,000 skilled midwives. When the 2010 earthquake devastated Haiti, Jhpiego was on the ground to ensure that pregnant women had access to the care they needed. And, Jhpiego is leading the way in finding innovative solutions for the developing world's most pressing medical problems—like an inexpensive way to diagnose cervical cancer in places that lack electricity and access to lab tests.

I commend the work of Jhpiego and others who are working day and night to end the dangers of childbirth. Childbirth is one of life's great moments, and together we can ensure that more women survive that day and live to see the 101st anniversary of International Women's Day.

HONORING MR. AND MRS. ALLAN AND ANN ROSE

HON. LOU BARLETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. BARLETTA. Mr. Speaker, today I rise to honor and acknowledge Mr. and Mrs. Allan and Ann Rose, this year's recipients of the Joseph Saporito Lifetime of Service Award.

Allan and Ann have not only been married for 50 years, but they have been serving our community for just as long. Faithful church goers, Allan and Ann have been largely active in their respective parishes. Allan serves on the Administrative Board, which he has previously chaired, of the United Methodist Church of Pittston and the Board of Methodist Homes. Ann is a member of the Pastoral Advisory Council and Altar & Rosary Society of the Parish Community of St. John the Evangelist in Pittston. Both Allan and Ann credit their love of God for their drive to serve and give back to the community.

Allan Rose, a retired administrator at Abington Heights School District, is the chair of Local Development for Wesley Village. He is treasurer and past president of the Chanters of Irem Temple. Allan has been involved in the West Pittston Lions Club, the West Pittston Ambulance Association, the West Pittston Library Board, and the Shrine Club of Greater Wilkes-Barre, of which he is a past president. Ann Rose is a member of the JLW Mountain Laurel Lions Club, where her duties include volunteering at the local VA Hospital once a month. She is also a member and the past secretary of the Lithuanian Women's Club of Wyoming Valley, a volunteer with the Care and Concern Food Pantry and Kids' Kloset, and a member of the Blooms and Bubbles Chapter of the Red Hat Society. Together, Allan and Ann volunteer with Meals on Wheels of Greater Pittston and help at the annual summer bazaar of St. John the Evangelist Church and the United Methodist hoagie sale. They have always supported each other's selfless efforts, and have greatly enjoyed sharing their ability to give to others.

Mr. Speaker, Allan and Ann Rose are not only extraordinary individuals, but they are a remarkable couple. Their loving and kind nature has emanated throughout the community. Their altruistic spirit and devotion to our community will never be forgotten, and is enormously appreciated. Mr. Speaker, today, I ask my colleagues to join me in congratulating Mr. and Mrs. Rose on receiving the Joseph Saporito Lifetime of Service Award and recognizing what an inspiring couple they have become to our community.

HONORING HENRY D. MOORE PARISH HOUSE AND LIBRARY

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. MICHAUD. Mr. Speaker, I rise today to honor the Henry D. Moore Parish House and Library as it celebrates 100 years serving the community of Steuben, Maine.

Henry D. Moore, a native of Steuben, was a philanthropist who donated the library and parish house for use by the people of Steuben. Opened in 1911, the donation of the Parish House and Library was monumental to the towns and communities in rural, downeast Maine. Many towns in the region did not have a library, and the new building helped provide access to new information and resources in Washington County.

Today, the Parish House and Library serves as a non-profit community center, meeting house and venue for classes, arts and performances. The Moore Library also boasts an impressive 12,000 item collection, featuring many rare pieces of literature and other works collected over the years.

The Parish House and Library are a central part of Steuben and Washington County. The facility continues to serve the community, including the Kindergarten through Grade 8 students and teachers at the Steuben Ella Lewis School across the street.

Mr. Speaker, I hope that you will join me in celebrating the centennial of the Henry D. Moore Parish House and Library in Steuben, Maine.

THE EDUCATION IMPROVEMENT TAX CUT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PAUL. Mr. Speaker, I rise to introduce the Education Improvement Tax Cut Act. This act, a companion to my Family Education Freedom Act, takes a further step toward returning control over education resources to private citizens by providing a $5,000 tax credit for donations to scholarship funds to enable low-income children to attend private schools. It also encourages private citizens to devote more of their resources to helping public schools, by providing a $5,000 tax credit for cash or in-kind donations to public schools to support academic or extra curricular programs.

I need not remind my colleagues that education is one of the top priorities of the American people. After all, many members of Congress have proposed education reforms and a great deal of time is spent debating these proposals. However, most of these proposals expand federal control over education. Many proposals that claim to increase local control over education actually extend federal power by holding schools "accountable" to federal bureaucrats and politicians. Of course, schools should be held accountable for their results, but they should be held accountable to parents and school boards not to federal officials. Therefore, I propose we move in a different direction and embrace true federalism by returning control over the education dollar to the American people.

One of the major problems with centralized control over education funding is that spending priorities set by Washington-based Representatives, staffers, and bureaucrats do not necessarily match the needs of individual communities. In fact, it would be a miracle if spending priorities determined by the wishes of certain politically powerful representatives or the theories of Education Department functionaries match the priorities of every community in a country as large and diverse as America. Block grants do not solve this problem as they simply allow states and localities to choose the means to reach federally-determined ends.

Returning control over the education dollar for tax credits for parents and for other concerned citizens returns control over both the means and ends of education policy to local communities. People in one community may use this credit to purchase computers, while children in another community may, at last, have access to a quality music program because of community leaders who took advantage of the tax credit contained in this bill.

Children in some communities may benefit most from the opportunity to attend private, parochial, or other religious schools. One of the most encouraging trends in education has been the establishment of private scholarship programs. These scholarship funds use voluntary contributions to open the doors of quality private schools to low-income children. By providing a tax credit for donations to these programs, Congress can widen the educational opportunities and increase the quality of education for all children. Furthermore, privately-funded scholarships raise none of the concerns of state entanglement raised by publicly-funded vouchers.

There is no doubt that Americans will always spend generously on education, the question is, "who should control the education dollar—politicians and bureaucrats or the American people?" Mr. Speaker, I urge my colleagues to join me in placing control of education back in the hands of citizens and local communities by sponsoring the Education Improvement Tax Cut Act.

IN SUPPORT OF INTERNATIONAL WOMEN'S DAY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. FARR. Mr. Speaker, I rise today to honor the 100th Anniversary of International Women's Day. Around the world, this global milestone is marked as a time to celebrate

women and their achievements throughout history. It is also a time to reaffirm our commitment to ending discrimination and violence against women and pursuing policies to guarantee the basic rights of every woman and girl.

Over the past century, tremendous progress has been made in achieving full gender equality. Internationally, women account for 80 percent of the 70 million micro-borrowers, 67 countries have gender equity laws on their books, and women have been elected to government leadership roles in every country. Here in the U.S., women continue to play an important role in caring for their families, but now, more than 50% of college students are women and nearly 60% of the American workforce is female. I am also extremely proud that today in the United States, more women than ever before are being elected to public office. I was honored to serve with the first woman Speaker of the U.S. House of Representatives, and the 18 women Members of Congress from California.

But there is still more work to be done. At this very moment, there are too many parts of the world where women and girls are denied access to education, lack adequate health care, die from preventable causes, or are targets of sexual and physical violence. Even here, in our own country, women on average still earn 77 cents for every dollar earned by their male counterparts. In the midst of our recession, pay parity is no longer solely a question of gender equity; it is an issue of economic necessity.

Mr. Speaker, I am proud to be a cosponsor of Rep. JAN SCHAKOWSKY's International Women's Day Resolution. And while this day is of unique importance, I believe that we can and must treat every day as an opportunity to fight for gender equality around the world.

SMALL BUSINESS PAPERWORK MANDATE ELIMINATION ACT OF 2011

SPEECH OF

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 2011

Mr. BISHOP of Georgia. Madam Speaker, I have heard complaints from farmers and small business owners across the 2nd congressional district who believe that having to file this onerous 1099 form for any payment greater than $600 is an unnecessary bureaucratic nightmare that needs to be repealed. Small businesses are the engines that drive our nation's economy, and they should focus on creating jobs, not filling out paperwork. Now is the time to reduce the obstacles for small business growth, not increase them, and repealing this provision would help accomplish that goal.

If action is not taken, the 1099 reporting requirements set to be enacted in 2012 will bury our country's farmers and small businesses owners in excessive paperwork. It ultimately will raise the cost of doing business and create an economic burden through increased prices for goods and services. Meanwhile, the IRS will be swamped in 1099 Forms while other vital enforcement activities are not met.

It is undisputed that these requirements are unacceptable. There is nearly unanimous agreement in Congress around repealing this onerous provision. Already the Senate has taken action and approved bipartisan legislation that would fix this problem. Nevertheless, the House Majority has decided to poison the legislation at hand with an offset containing a severe tax increase aimed squarely at middle income Americans. It would raise taxes on middle-income families who simply get a new job, work extra shifts, or receive a bonus for good performance. It is insensitive and even more onerous due to the fact it would place a greater burden on working families trying to purchase health care.

While I support repealing the overly burdensome 1099 requirements—and while I will reluctantly vote for this legislation—I find the choice that the Majority has put in front of us to be truly objectionable. The current offset will raise taxes and will hurt Americans' access to health care. This choice is unacceptable, and I look forward to working with the Senate and the Administration to ensure that this divisive and unnecessary attack on middle-income Americans is taken out of the final legislation and that a more suitable offset is found.

WE THE PEOPLE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PAUL. Mr. Speaker, I rise to introduce the We the People Act. The We the People Act forbids federal courts, including the Supreme Court, from adjudicating cases concerning state laws and polices relating to religious liberties or "privacy," including cases involving sexual practices, sexual orientation or reproduction. The We the People Act also protects the traditional definition of marriage from judicial activism by ensuring the Supreme Court cannot abuse the equal protection clause to redefine marriage. In order to hold federal judges accountable for abusing their powers, the act also provides that a judge who violates the act's limitations on judicial power shall either be impeached by Congress or removed by the president, according to rules established by the Congress.

The United States Constitution gives Congress the authority to establish and limit the jurisdiction of the lower federal courts and limit the jurisdiction of the Supreme Court. The Founders intended Congress to use this authority to correct abuses of power by the federal judiciary.

Some may claim that an activist judiciary that strikes down state laws at will expands individual liberty. Proponents of this claim overlook the fact that the best guarantor of true liberty is decentralized political institutions, while the greatest threat to liberty is concentrated power. This is why the Constitution carefully limits the power of the federal government over the states.

In recent years, we have seen numerous abuses of power by federal courts. Federal judges regularly strike down state and local laws on subjects such as religious liberty, sexual orientation, family relations, education, and abortion. This government by federal judiciary causes a virtual nullification of the Tenth Amendment's limitations on federal power. Furthermore, when federal judges impose their preferred polices on state and local governments, instead of respecting the polices adopted by those elected by, and thus accountable to, the people, republican government is threatened. Article IV, section 4 of the United States Constitution guarantees each state a republican form of government. Thus, Congress must act when the executive or judicial branch threatens the republican governments of the individual states. Therefore, Congress has a responsibility to stop federal judges from running roughshod over state and local laws. The Founders would certainly have supported congressional action to reign in federal judges who tell citizens where they can and can't place manger scenes at Christmas.

Mr. Speaker, even some supporters of liberalized abortion laws have admitted that the Supreme Court's Roe v. Wade decision, which overturned the abortion laws of all fifty states, is flawed. The Supreme Court's Establishment Clause jurisdiction has also drawn criticism from across the political spectrum. Perhaps more importantly, attempts to resolve, by judicial fiat, important issues like abortion and the expression of religious belief in the public square increase social strife and conflict. The only way to resolve controversial social issues like abortion and school prayer is to restore respect for the right of state and local governments to adopt polices that reflect the beliefs of the citizens of those jurisdictions. I would remind my colleagues and the federal judiciary that, under our Constitutional system, there is no reason why the people of New York and the people of Texas should have the same policies regarding issues such as marriage and school prayer.

Unless Congress acts, a state's authority to define and regulate marriage may be the next victim of activist judges. After all, such a decision would simply take the Supreme Court's decision in the Lawrence case, which overturned all state sodomy laws, to its logical conclusion. Congress must launch a preemptive strike against any further federal usurpation of the states' authority to regulate marriage by removing issues concerning the definition of marriage from the jurisdiction of federal courts.

Although marriage is licensed and otherwise regulated by the states, government did not create the institution of marriage. Government regulation of marriage is based on state recognition of the practices and customs formulated by private individuals interacting in civil institutions, such as churches and synagogues. Having federal officials, whether judges, bureaucrats, or congressmen, impose a new definition of marriage on the people is an act of social engineering profoundly hostile to liberty.

It is long past time that Congress exercises its authority to protect the republican government of the states from out-of-control federal judges. Therefore, I urge my colleagues to cosponsor the We the People Act.

THE K–9 COMPANION CORPS ACT OF 2011

HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Ms. HIRONO. Mr. Speaker, I rise today to introduce legislation that would establish a

grant program to encourage the use of assistance dogs by members of our Armed Forces and veterans.

Tens of thousands of our service members and veterans are struggling to cope with physical or mental health disabilities. Assistance dogs help these men and women lead more independent lives, assisting with mobility and balance, retrieving and carrying objects, responding to sounds, getting help, and providing social interaction and companionship. Trained dogs also offer many therapeutic benefits to soldiers and veterans with Post-Traumatic Stress Disorder by elevating their moods, building confidence, and reducing stress, all of which assist them in their transition back to civilian life.

Nonprofit organizations that train and provide assistance dogs to help our military personnel and veterans are receiving more and more requests. Groups throughout the country—including Hawaii Fi-Do Service Dogs in my congressional district—train and provide dogs for returning soldiers and veterans but rely on fundraising and volunteer staff to meet the growing demand.

The K–9 Companion Corps Act would provide competitive grants to build the capacity of nonprofit organizations whose mission is to address the physical and mental health needs of the men and women who have served our nation so honorably through the dogs they train and provide.

I thank my former colleague, Congressman Ron Klein of Florida, for his work on this bill last Congress and for his unwavering commitment to our military personnel, veterans, and their families.

TRIBUTE TO GREAT COMEBACKS TONY SNOW WINNER JUSTIN BLUM

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. CLYBURN. Mr. Speaker, I rise today to recognize one of my constituents, Justin Blum of Florence, South Carolina. Justin has been selected as the Great Comebacks Tony Snow Public Service Award recipient for 2010. This award, named in memory of the former White House advisor and news broadcaster who passed away from colon cancer, was created to honor extraordinary individuals who are passionate about serving their country while dealing courageously with debilitating intestinal diseases and ostomy surgery.

The Great Comebacks Program is sponsored by ConvaTec in partnership with the Crohn's & Colitis Foundation (CCFA), the United Ostomy Associations of America, Inc. (UOAA) and the Intestinal Disease Education and Awareness Society (IDEAS). Each year, Great Comebacks presents awards to individuals throughout the United States who have struggled with a chronic intestinal condition and have exhibited extraordinary strength and courage for managing to live full and productive lives despite daily struggles. Today, there are more than 700,000 men, women and children throughout our country affected by the very conditions that can result in an ostomy.

Following a 21-year history of ulcerative colitis, Mr. Blum opted for ostomy surgery while a Major on active duty in the Army. The words "I can't" have never been part of Mr. Blum's vocabulary and he uses his ostomy to set an example to others that anything is possible in life if you set your mind to it. This drive allowed Mr. Blum to complete 21 years of active Army service before retiring with the rank of Lieutenant Colonel and to tackle his next goal of becoming a JROTC instructor. He is currently in his 15th year as a JROTC instructor at Marlboro County High School in Bennettsville, South Carolina and in this capacity has worked with more than 5,000 at-risk students.

Mr. Blum credits his wife for providing him with the emotional and physical support needed to transition to "life" as a permanent ostomate. He also credits his Wound Ostomy Care (WOC) nurse, Cindy Norris with performing selfless acts on behalf of her clients and for always being available to him.

Commenting on his ostomy, Justin says, "The best advice I have given other ostomates is that they are very fortunate and are now in a position to accomplish anything. As an ostomate, they are cured from previous inflictions like colitis or Crohns' and they have been provided a second chance for life. They can set an example for all to emulate by making a difference in the lives of others who do not have the motivation and self-esteem they are experiencing."

I urge my colleagues to take the time to meet with some of the Great Comebacks award recipients. Their personal stories, like Justin's, are inspirational and will heighten your awareness about some of the huge strides being made by people living with intestinal diseases or recovering from ostomy surgery.

THE FAMILY EDUCATION FREEDOM ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PAUL. Mr. Speaker, I rise today to introduce the Family Education Freedom Act, a bill to empower millions of working and middle-class Americans to choose a non-public education for their children, as well as making it easier for parents to actively participate in improving public schools. The Family Education Freedom Act accomplishes its goals by allowing American parents a tax credit of up to $5,000 for the expenses incurred in sending their child to private, public, parochial, other religious school, or for home schooling their children.

The Family Education Freedom Act returns the fundamental principal of a truly free economy to America's education system: what the great economist Ludwig von Mises called "consumer sovereignty". Consumer sovereignty simply means consumers decide who succeeds or fails in the market. Businesses that best satisfy consumer demand will be the most successful. Consumer sovereignty is the means by which the free market maximizes human happiness.

Currently, consumers are less than sovereign in the education "market." Funding decisions are increasingly controlled by the federal government. Because "he who pays the piper calls the tune," public, and even private schools, are paying greater attention to the dictates of federal "educrats" while ignoring the wishes of the parents to an ever-greater degree. As such, the lack of consumer sovereignty in education is destroying parental control of education and replacing it with state control. Loss of control is a key reason why so many of America's parents express dissatisfaction with the educational system.

According to a survey conducted by Education Next/Harvard PEPG, the majority of Americans support education tax credits. This poll also found strong support for education tax credits among liberals, moderates, conservatives, low-income individuals, African-Americans, and public-school employees. This is just one of numerous studies and public opinion polls showing that Americans want Congress to get the federal bureaucracy out of the schoolroom and give parents more control over their children's education.

Today, Congress can fulfill the wishes of the American people for greater control over their children's education by simply allowing parents to keep more of their hard-earned money to spend on education rather than force them to send it to Washington to support education programs reflective only of the values and priorities of Congress and the federal bureaucracy.

The $5,000 tax credit will make a better education affordable for millions of parents. Madam Speaker, many parents who would choose to send their children to private, religious, or parochial schools are unable to afford the tuition, in large part because of the enormous tax burden imposed on the American family by Washington.

The Family Education Freedom Act also benefits parents who choose to send their children to public schools. Parents of children in public schools may use this credit to help improve their local schools by helping finance the purchase of educational tools such as computers or to ensure their local schools can offer enriching extracurricular activities such as music programs. Parents of public school students may also wish to use the credit to pay for special services, such as tutoring, for their children.

Increasing parental control of education is superior to funneling more federal tax dollars, followed by greater federal control, into the schools. A recent review of the relevant research conducted by Andrew J. Coulson of the CATO Institute shows that increasing parental controls increases academic achievement, efficiency, the orderliness of the classrooms, and the quality of school facilities. Not surprisingly, graduates of education system controlled by parents tend to achieve higher levels of education and earn more than their counterparts in bureaucratically controlled education systems.

Clearly, enactment of the Family Education Freedom Act is the best thing this Congress could do to improve public education. Furthermore, a greater reliance on parental expenditures rather than government tax dollars will help make the public schools into true community schools that reflect the wishes of parents and the interests of the students.

The Family Education Freedom Act will also aid those parents who choose to educate their children at home. Home schooling has become an increasingly popular, and successful, method of educating children. Home schooled children out-perform their public school peers

by 30 to 37 percentile points across all subjects on nationally standardized achievement exams. Home schooling parents spend thousands of dollars annually, in addition to the wages forgone by the spouse who forgoes outside employment, in order to educate their children in the loving environment of the home.

Ultimately, Mr. Speaker, this bill is about freedom. Parental control of child rearing, especially education, is one of the bulwarks of liberty. No nation can remain free when the state has greater influence over the knowledge and values transmitted to children than the family.

By moving to restore the primacy of parents to education, the Family Education Freedom Act will not only improve America's education, it will restore a parent's right to choose how best to educate one's own child, a fundamental freedom that has been eroded by the increase in federal education expenditures and the corresponding decrease in the ability of parents to provide for their children's education out of their own pockets. I call on all my colleagues to join me in allowing parents to devote more of their resources to their children's education and less to feed the wasteful Washington bureaucracy by supporting the Family Education Freedom Act.

TWO WEEKS CONTINUING RESOLUTION

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Ms. BROWN of Florida. Mr. Speaker, just last week, Congress passed a two-week Continuing Resolution to cut spending and keep the government running. Now, in all my years as an elected official I have never seen a CR (Continuing Resolution) last as little as two weeks!

I clearly see that on Capitol Hill these days it is only the big dogs that get to eat at the table! The Republican Party, while slamming through tax cuts for the rich last December is leading the charge for tens of billions of dollars in budget cuts for job training programs, environmental protection, disease control, programs to assist homeless veterans; transportation and infrastructure (including cuts to high speed rail and Amtrak), crime protection, education programs and dozens of other critical Extension of Remarks areas for our country.

As always, if these cuts do pass, they will fall on the shoulders on the working poor and middle class. It is obvious that Republican lawmakers in the House remain indifferent to the suffering the cuts could bring to the American people. Moreover, as shown in a study conducted by Moody's Analytics, their budget plan also jeopardizes American jobs and our country's economic future by rolling back investments that would help the private sector to grow and put people back to work!

RECOGNIZING YVONNE AUSTIN

HON. STEVE STIVERS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. STIVERS. Mr. Speaker, I rise today to recognize Yvonne Austin of Grove City, Ohio. Yvonne has been selected as a 2010 Great Comebacks Award recipient for the Central Region. Each year, Great Comebacks presents regional awards to 12 individuals throughout the United States who have struggled with a chronic intestinal condition and have exhibited extraordinary strength and courage for managing to live full and productive lives despite daily struggles.

An 18-year-old freshman in college, Yvonne was balancing two jobs with her education, while secretly struggling with symptoms she could not explain. A year later, she finally sought medical advice and was diagnosed with Crohn's disease. Despite this diagnosis Yvonne was determined not to let the disease hinder her tenacious work ethic or interrupt her active lifestyle.

With a great desire for travel, Yvonne set out to explore the world. Her adventurous spirit led her to the Great Barrier Reef, spending her time scuba diving, swimming with sharks, and even taking up waterskiing. However, Crohn's disease continued to invade her life with painful flare-ups and numerous hospitalizations. After 15 years of managing her symptoms with medications, Yvonne consented to a temporary ostomy in 2002 and opted for a permanent ileostomy in 2004.

Three friends nominated Yvonne for the Great Comebacks Award, describing her as a confident and inspirational woman who radiates positive energy and goes the extra mile for her family and friends. Yvonne's friends also recalled how she quickly rushed to the aid of a friend's mother who had received an emergency ostomy.

Today, Yvonne is a successful mortgage banker, and led by her adventurous spirit has for the past three years been a nationally-ranked competitive water skier. She is also an avid golfer, fundraises for the Crohn's and Colitis Foundation, and volunteers at a local children's hospital to provide support to parents and children who are living with an intestinal disease and/or an ostomy. Yvonne believes faith, humor and a positive attitude can overcome any adversity.

MAKE COLLEGE AFFORDABLE ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PAUL. Mr. Speaker, I rise to help millions of Americans afford higher education by introducing the Make College Affordable Act of 2011, which makes college tuition tax deductible. Today the average cost of a college education is over 30 thousand dollars per year! These high costs have left many middle class American families struggling to afford college for their children, who are often ineligible for financial aid. Therefore, middle class students have no choice but to obtain student loans, and thus leave college saddled with massive debt.

Even families who plan and save well in advance for their children's education may have a difficult time because their savings are eroded by taxation and inflation. The Make College Affordable Act will help these middle class students by allowing them, or their parents or guardians who claim them as dependents, to deduct the cost of college tuition as well as the cost of student loan repayments.

The Make College Affordable Act will also help older or nontraditional students looking to improve their job skills or prepare for a career change, by pursuing higher education. In today's economy, the average American worker can expect to change jobs, and even careers, several times during his or her working life, making it more important than ever that working Americans be able to devote their resources to continuing their educations.

Helping the American people use their own money to ensure every qualified American can receive a college education is one of the best investments this Congress can make in the future. I therefore urge my colleagues to help strengthen America by ensuring more Americans can obtain college educations by cosponsoring the Make College Affordable Act.

RECOGNIZING GREG SEGHEZZI

HON. TOM McCLINTOCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. McCLINTOCK. Mr. Speaker, I rise today to remember Greg Seghezzi of Grass Valley, California.

Greg was well-known in the Grass Valley community, and it would be hard to find many who didn't know and care for him. He was a member of the Grass Valley Rotary Club, the Chamber of Commerce and an active member of the men's ministry at Twin Cities Church. Greg had an uncompromising and uncommon work ethic: having owned a wine store and catering business as well as working as a realtor in Nevada County. He was the quintessential example of the American entrepreneur and innovator. Going far beyond being a successful businessman, Greg was also a dedicated servant to his community: donating food, supplies and hundreds of hours in the kitchen cooking for local fundraisers and special events.

For all of his success in the public arena, the single greatest joy in Greg's life was his family. Greg and Angie, his wife of 26 years, raised four outstanding children: Antonio, Gianna, Roman and Dominica. Whether it was driving across the state chasing volleyball matches and diving meets, or providing a strong and guiding example of hard work and fine values, Greg's largest investment of his time and energy went to loving and caring for his family in every way possible.

Mr. Speaker, men like Greg Seghezzi don't quickly fade from memory, nor can they ever be replaced. Whether through his professional life, or his personal dedication to his family and community, Greg touched many lives in our community; lives that he undoubtedly changed for the better and it is my honor to rise in his memory today.

THE 20TH ANNIVERSARY OF TAIWAN'S STRAITS EXCHANGE FOUNDATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. ENGEL. Mr. Speaker, on March 9, 2011, we celebrate the 20th anniversary of Taiwan's Straits Exchange Foundation (SEF). This Foundation was established as a vehicle to allow Taiwan and mainland China to work together on business matters, and other related issues.

Twenty years ago, when the Straits Exchange Foundation was formed, there was a great deal of tension between China and Taiwan. Flash forward to present day and the relationship between the two neighbors across the Taiwan Strait has improved dramatically.

These improved relations since President Ma Ying-jeou took office are most evident in The Economic Cooperation Framework Agreement (ECFA) that was signed between China and Taiwan in 2010, and allows for greater trade and commercial exchanges between the two countries.

Other significant agreements signed between Taiwan and China include: Direct Air and Sea Transport Agreements, which facilitate the free flow of people, goods and trade; Judicial Cooperation Agreement, by which the two sides agree to exchange law enforcement information to combat crime; Intellectual Property Rights (IPR) Protection and Cooperation Agreement, which allows for better enforcement of IPR laws; plus an agreement to allow tourists from China to visit Taiwan. All these agreements and measures have resulted in increased trade flow, more cultural and tourism exchanges, and most of all, reduced tension along the Taiwan Strait.

While the Straits Exchange Foundation has improved the means of communication between Taipei and Beijing, I remain concerned about the excessive Chinese military build-up off the coast of Taiwan. For the dialogue between China and Taiwan to have its intended effect—to promote peaceful and productive relations—then militarization of the region is not helpful.

Nevertheless, my colleagues and I are very encouraged to see the efforts between Taiwan and China to maintain peace and stability in East Asia. On the 20th Anniversary of the Straits Exchange Foundation, we congratulate the SEF on its achievement in promoting exchanges and better understanding across the Taiwan Strait.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. COFFMAN of Colorado. Mr. Speaker, today our national debt is $14,186,168,803,680.47.

On January 6th, 2009, the start of the 111th Congress, the national debt was $10,638,425,746,293.80.

This means the national debt has increased by $3,547,743,057,386.60 since then.

This debt and its interest payments we are passing to our children and all future Americans.

THE TEACHER TAX CUT ACT AND THE PROFESSIONAL EDUCATORS TAX RELIEF ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 2011

Mr. PAUL. Mr. Speaker, I am pleased to introduce two pieces of legislation that raise the pay of teachers and other educators by cutting their taxes. I am sure that all my colleagues agree that it is long past time to begin treating those who have dedicated their lives to educating America's children with the respect they deserve. Compared to other professionals, educators are under-appreciated and underpaid. This must change if America is to have the finest education system in the world!

Quality education is impossible without quality teaching. If we continue to undervalue educators, it will become harder to attract, and keep, good people in the education profession. While educators' pay is primarily a local issue, Congress can, and should, help raise educators' take home pay by reducing educators' taxes.

This is why I am introducing the Teachers Tax Cut Act. This legislation provides every teacher in America with a $3,000 tax credit. I am also introducing the Professional Educators Tax Relief Act, which extends the $3,000 tax credit to counselors, librarians, and all school personnel involved in any aspect of the K–12 academic program.

The Teacher Tax Cut Act and the Professional Educators Tax Relief Act increase the salaries of teachers and other education professionals without raising federal expenditures. By raising the take-home pay of professional educators, these bills encourage highly qualified people to enter, and remain in, education. These bills also let America's professional educators know that the American people and the Congress respect their work.

I hope all my colleagues join me in supporting our nation's teachers and other professional educators by cosponsoring the Teacher Tax Cut Act and the Professional Educators Tax Relief Act.

Daily Digest

HIGHLIGHTS

Senate passed S. 23, Patent Reform Act, as amended.

Senate

Chamber Action

Routine Proceedings, pages S1335–S1414

Measures Introduced: Fifteen bills and two resolutions were introduced, as follows: S. 501–515, and S. Res. 94–95. **Page S1406**

Measures Passed:

Patent Reform Act: By 95 yeas to 5 nays (Vote No. 35), Senate passed S. 23, to amend title 35, United States Code, to provide for patent reform, after taking action on the following amendments proposed thereto: **Pages S1348–52, S1360–94**

Adopted:

Reid/Ensign Modified Amendment No. 143, to include public institutions of higher education in the definition of a micro entity. **Page S1362**

Withdrawn:

Reid Amendment No. 152 (to Reid Amendment No. 143), to provide an effective date. **Page S1362**

Full-Year Continuing Appropriations Act—Agreement: A unanimous-consent-time agreement was reached providing that at 12 noon, on Wednesday, March 9, 2011, Senate proceed to the immediate consideration of H.R. 1, making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011; that there be three hours of debate on the bill and the Democratic alternative—Inouye Amendment No. 149, with the time equally divided between the two Leaders, or their designees, prior to a vote on passage of the bill; that the vote on passage of the bill be subject to a 60 vote threshold; that if the bill achieves 60 affirmative votes, the bill be read a third time and passed; that if the bill does not achieve 60 affirmative votes, the Majority Leader be recognized to offer Inouye Amendment No. 149; the Senate then proceed to a vote on or in relation to the substitute amendment; that the substitute amendment be subject to a 60 vote threshold; if the substitute amendment achieves 60 affirmative votes, the substitute amendment be agreed to, the bill, as amended, be read a third time and passed; if the substitute amendment does not achieve 60 affirmative votes, H.R. 1, be returned to the calendar; that no motions or amendments be in order to the substitute amendments, or to the bill prior to the votes; provided further, that all of the above occur with no intervening action or debate. **Page S1362**

A unanimous-consent agreement was reached providing that the cloture vote with respect to the motion to proceed to consideration of H.R. 1, be vitiated. **Page S1362**

Joint Meeting—Agreement: A unanimous-consent agreement was reached providing that at 10:40 a.m., on Wednesday, March 9, 2011, Senate recess until 12 noon for a Joint Meeting with the Honorable Julia Gillard, Prime Minister of Australia; that following the Joint Meeting, the Senate reconvene at 12 noon, and proceed to consideration of H.R. 1, as provided for under the previous order. **Pages S1413–14**

Message from the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report of the continuation of the national emergency with respect to Iran that was declared in Executive Order 12957 on March 15, 1995; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM—7) **Page S1405**

Executive Communications: **Pages S1405–06**

Additional Cosponsors: **Pages S1406–07**

Statements on Introduced Bills/Resolutions: **Pages S1407–12**

Additional Statements: **Page S1405**

Amendments Submitted: **Page S1413**

Notices of Hearings/Meetings: **Page S1413**

Authorities for Committees to Meet: **Page S1413**

Record Votes: One record vote was taken today. (Total—35) **Page S1381**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 7:02 p.m., until 9:30 a.m. on Wednesday, March 9, 2011. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S1414.)

Committee Meetings

(Committees not listed did not meet)

DEFENSE AUTHORIZATION REQUEST AND FUTURE YEARS DEFENSE PROGRAM

Committee on Armed Services: Committee concluded a hearing to examine the Department of the Navy in review of the Defense Authorization request for fiscal year 2012 and the Future Years Defense Program, after receiving testimony from Ray Mabus, Secretary of the Navy, Admiral Gary Roughead, Chief of Naval Operations, and General James F. Amos, Commandant of the Marine Corps, all of the Department of Defense.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the nominations of Peter A. Diamond, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System, and Katharine G. Abraham, of Iowa, and Carl Shapiro, of California, both to be a Member of the Council of Economic Advisers, Executive Office of the President, after the nominees testified and answered questions in their own behalf.

NATIONAL COMMISSION ON FISCAL RESPONSIBILITY AND REFORM

Committee on the Budget: Committee concluded a hearing to examine the report of the National Commission on Fiscal Responsibility and Reform, after receiving testimony from former Senator Simpson, and Erskine Bowles, both a Co-Chair, National Commission on Fiscal Responsibility and Reform.

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard concluded a hearing to examine implementation of the "Magnuson-Stevens Fishery Conservation and Management Act," after receiving testimony from Eric Schwaab, Assistant Administrator, and Douglas DeMaster, Acting Director, Scientific Programs, and Chief Science Advisor, both of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; William Hogarth, University of South Florida Institute of Oceanography, St. Petersburg; Stephanie Madsen, At-sea Processors Association (APA), Juneau, Alaska; Vito Giacalone, Northeast Seafood Coalition, Gloucester, Massachusetts; and Bill Bird, Coastal Conservation Association (CCA), Orlando, Florida.

DEPARTMENT OF TRANSPORTATION BUDGET

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine the President's proposed budget request for fiscal year 2012 for the Department of Transportation, after receiving testimony from Ray LaHood, Secretary of Transportation.

NOMINATION

Committee on Energy and Natural Resources: Committee concluded a hearing to examine the nomination of Peter Bruce Lyons, of New Mexico, to be Assistant Secretary of Energy for Nuclear Energy, after the nominee testified and answered questions in his own behalf.

TAX SYSTEM

Committee on Finance: Committee concluded a hearing to examine if the tax system supports economic efficiency, job creation and broad-based economic growth, after receiving testimony from Alan J. Auerbach, University of California, Berkeley; Glenn Hubbard, Columbia University Graduate School of Business, and Michael J. Graetz, Columbia University Law School, both of New York, New York; and James K. Galbraith, University of Texas, Austin.

STATE DEPARTMENT TRAINING

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded a hearing to examine State Department training, focusing on investing in the workforce to address 21st century challenges, after receiving testimony from Nancy J. Powell, Director General, Foreign Service, and Director, Human Resources, and Ruth A. Whiteside, Director, Foreign Service Institute, both of the Department of State; Jess T. Ford, Director, International Affairs and Trade, Government Accountability Office; and Ronald E. Neumann, American Academy of Diplomacy, and Susan Rockwell Johnson, American Foreign Service Association, both of Washington, DC.

NOMINATION

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine the nomination of Heather A. Higginbottom, of the

District of Columbia, to be Deputy Director of the Office of Management and Budget, Executive Office of the President, after the nominee, who was introduced by Senator Kerry, testified and answered questions in her own behalf.

VETERANS OF FOREIGN WARS

Committee on Veterans' Affairs: Committee concluded a joint hearing with the House Committee on Veterans' Affairs to examine the legislative presentation from Veterans of Foreign Wars, after receiving testimony from Richard L. Eubank, Robert E. Wallace, and Raymond C. Kelley, all of the Veterans of Foreign Wars (VFW), all of Washington, DC.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 26 public bills, H.R. 938–963; and 8 resolutions, H.J. Res. 47; H. Con. Res. 27; and H. Res. 147–149, 152–154 were introduced. **Pages H1618–19**

Additional Cosponsors: **Pages H1620–21**

Reports Filed: Reports were filed on March 7, 2011 as follows:

H.R. 830, to rescind the unobligated funding for the FHA Refinance Program and to terminate the program, with an amendment (H. Rept. 112–25) and

H.R. 836, to rescind the unobligated funding for the Emergency Mortgage Relief Program and to terminate the program, with an amendment (H. Rept. 112–26).

Reports were filed today as follows:

H. Res. 150, providing for consideration of the bill (H.R. 830) to rescind the unobligated funding for the FHA Refinance Program and to terminate the program (H. Rept. 112–27) and

H. Res. 151, providing for consideration of the bill (H.R. 836) to rescind the unobligated funding for the Emergency Mortgage Relief Program and to terminate the program (H. Rept. 112–28). **Page H1618**

Speaker: Read a letter from the Speaker wherein he appointed Representative Yoder to act as Speaker pro tempore for today. **Page H1583**

Recess: The House recessed at 2:23 p.m. and reconvened at 4 p.m. **Page H1597**

Committee Resignations: Read a letter from Representative Christensen, wherein she resigned from the Committees on Natural Resources and Homeland Security. **Page H1598**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Dental Emergency Responder Act of 2011: H.R. 570, to amend the Public Health Service Act to enhance the roles of dentists and allied dental personnel in the Nation's disaster response framework, by a ⅔ yea-and-nay vote of 401 yeas to 12 nays, Roll No. 163 and **Pages H1598–H1600, H1601–02**

Veterinary Public Health Amendments Act of 2011: H.R. 525, to amend the Public Health Service Act to enhance and increase the number of veterinarians trained in veterinary public health, by a ⅔ yea-and-nay vote of 280 yeas to 138 nays, Roll No. 164. **Pages H1600–01, H1602–03**

Recess: The House recessed at 4:31 p.m. and reconvened at 6:30 p.m. **Page H1601**

Committee Election: The House agreed to H. Res. 149, electing a Member to a certain standing committee of the House of Representatives. **Page H1603**

Presidential Message: Read a message from the President wherein he notified Congress that the national emergency declared with respect to Iran is to continue in effect beyond March 15, 2011—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 112–13). **Page H1601**

Quorum Calls—Votes: Two yea-and-nay votes developed during the proceedings of today and appear on pages H1602, H1602–03. There were no quorum calls.

Adjournment: The House met at 2 p.m. and adjourned at 8:08 p.m.

COMMITTEE MEETINGS

INTERIOR, ENVIRONMENT

Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies held a

hearing on the Department of the Interior FY 2012 Budget Oversight Hearing. Testimony was heard from the following Department of the Interior officials: Ken Salazar, Secretary; David Hayes, Deputy Secretary; and Pamela Haze, Deputy Assistant Secretary, Budget, Finance, Performance and Acquisition.

FINANCIAL SERVICES AND GENERAL GOVERNMENT

Committee on Appropriations: Subcommittee on Financial Services and General Government held a hearing on FY 2012 Budget—Small Business Administration. Testimony was heard from Karen G. Mills, Small Business Administration.

CLIMATE, SCIENCE AND GREENHOUSE GAS

Committee on Energy and Commerce: Subcommittee on Energy and Power held a hearing entitled ''Climate Science and EPA's Greenhouse Gas Regulations''. Testimony was heard from public witnesses.

DEMOCRATIC REPUBLIC OF CONGO

Committee on Foreign Affairs: Subcommittee on Africa, Global Health, and Human Rights held a hearing on the Democratic Republic of the Congo: Securing Peace in the Midst of Tragedy. Testimony was heard from Donald Y. Yamamoto, Principal Deputy Assistant Secretary, Bureau of African Affairs, Department of State; Rajakumari Jandhyala, Deputy Assistant Administrator Bureau for Africa, Agency for International Development; and public witnesses.

EXECUTIVE IN NEED OF SCRUTINY

Committee on the Judiciary: Subcommittee on Courts, Commercial and Administrative Law held a hearing on H.R. 10, the ''Regulations From the Executive in Need of Scrutiny Act of 2011''. Testimony was heard from public witnesses.

FEDERAL SPENDING AND NATIVE AMERICAN PROGRAMS

Committee on Natural Resources: Subcommittee on Indian and Alaska Native Affairs held an oversight hearing on ''The effectiveness of federal spending on Native American programs, and on the President's FY 2012 budget request for the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians.'' Testimony was heard from Larry EchoHawk, Assistant Secretary for Indian Affairs; and Ray A. Joseph, Principal Deputy Special Trustee for American Indians.

FY 2012 BUDGET—BUREAU OF LAND MANAGEMENT AND FOREST SERVICE

Committee on Natural Resources: Subcommittee on Indian and Alaska Native Affairs held a hearing on Examining the Spending, Priorities and the Missions of the Bureau of Land Management and the U.S. Forest Service and the President's FY 2012 Budget Proposal. Testimony was heard from Tom Tidwell, Chief, Forest Service, Department of Agriculture; and Robert Abbey, Director, Bureau of Land Management, Department of the Interior.

FHA REFINANCE PROGRAM TERMINATION ACT

Committee on Rules: Granted, by record vote of 7 to 4, a modified open rule providing one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill. The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Financial Services as original text for purpose of amendment, and provides that each section shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute. The rule makes in order only those amendments that have been submitted for printing in the Congressional Record not later than March 9, 2011 or pro forma amendments for the purpose of debate. The rule provides that each amendment submitted for printing in the Congressional Record may be offered only by the Member who submitted it for printing or their designee, and that each such amendment shall be considered as read if printed. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Biggert, Frank of Massachusetts and Cardoza.

EMERGENCY MORTGAGE RELIEF PROGRAM TERMINATION ACT

Committee on Rules: Granted, by record vote of 7 to 4, a modified open rule providing one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill. The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Financial Services as original text for purpose of amendment, and provides that each section shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute. The rule makes in order only those amendments that have been submitted for printing in the Congressional Record not later than March 9, 2011 or pro forma amendments for the purpose of debate. The rule provides that each amendment submitted for printing in the Congressional Record may be offered only by the Member

who submitted it for printing or their designee, and that each such amendment shall be considered as read if printed. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Biggert, Frank of Massachusetts and Cardoza.

FY 2012 BUDGET—ARMY CORPS OF ENGINEERS

Committee on Transportation: Subcommittee on Water Resources and Environment held a hearing entitled "Review of the FY 2012 Budget and Priorities of the Army Corps of Engineers, Tennessee Valley Authority, and the Natural Resources Conservation Service: Finding Ways To Do More With Less." Testimony was heard from Jo Ellen Darcy, USA, Assistant Secretary of the Army—Civil Works; Robert Van Antwerp, U.S. Army Corps of Engineers, Chief of Engineers, Lieutenant General; Thomas Christensen, Natural Resources Conservation Service, Regional Conservationist, Central Region, Department of Agriculture; and public witnesses.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR WEDNESDAY, MARCH 9, 2011

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations; Subcommittee on Departments of Labor, Health and Human Services, and Education, and Related Agencies, to hold hearings to examine funding for the Social Security Administration in fiscal years 2011 and 2012, 9:30 a.m., SD–124.

Subcommittee on Department of the Interior, Environment, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2012 for the Department of the Interior, 3:30 p.m., SD–124.

Committee on Banking, Housing, and Urban Affairs; to hold hearings to examine the state of the housing market, 2:30 p.m., SD–538.

Committee on the Budget; to hold hearings to examine distribution and efficiency of spending in the tax code, 10 a.m., SD–608.

Committee on Environment and Public Works; to hold hearings to examine the President's proposed budget request for fiscal year 2012 for the Federal Highway Administration, 2:15 p.m., SD–406.

Committee on Finance; to hold hearings to examine the President's 2011 trade agenda, 9:30 a.m., SD–215.

Committee on Homeland Security and Governmental Affairs; Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, to hold hearings to examine new tools for curbing waste and fraud in Medicare and Medicaid, 2:30 p.m., SD–342.

Committee on the Judiciary; to hold an oversight hearing to examine the Department of Homeland Security, 10 a.m., SD–226.

Committee on Small Business and Entrepreneurship; business meeting to mark up the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Reauthorization Act of 2011, 10 a.m., SR–428A.

House

Committee on Agriculture, Full Committee, hearing on H.R. 872, The Reducing Regulatory Burdens Act of 2011, 10 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies on National Park Service FY 2012 Budget Oversight, 9:30 a.m., B–308 Rayburn.

Subcommittee on Defense on FY 2012 Navy/Marine Corps Budget Overview, 9:30 a.m., H–140 Capitol.

Subcommittee on Energy and Water Development, and Related Agencies on Army Corps of Engineers FY 2012 Budget Requests 2 p.m., 2362–B Rayburn.

Subcommittee on Homeland Security on FY 2012 Oversight and Budget Department of Homeland Security 9:30 a.m., B–318 Rayburn.

Subcommittee on Military Construction, Veterans Affairs, and Related Agencies on Oversight of Veterans Programs 2 p.m., HT–2 Capitol.

Subcommittee on State, Foreign Operations and Related Programs on FY 2012 Budget Request for the Department of the Treasury International Programs 1:30 p.m., 2359 Rayburn.

Committee on Armed Services, Subcommittee on Tactical Air and Land Forces hearing on Army modernization 1:30 p.m., 2118 Rayburn.

Subcommittee on Seapower and Projection Forces hearing on Navy shipbuilding acquisition programs and budget requirements of the Navy's shipbuilding and construction plan, 3 p.m., 2212 Rayburn.

Committee on Education and the Workforce, Full Committee hearing on The Budget and Policy Proposals of the U.S. Department of Education 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Communications and Technology hearing on H.J. Res 37, Disapproving the rule submitted by the Federal Communications Commission with respect to regulating the Internet and broadband industry practices. 10:30 a.m., 2123 Rayburn. The subcommittee will hold a mark-up of the bill immediately after the hearing.

Subcommittee on Health hearing entitled "Setting Fiscal Priorities in Health Care Funding." 10:30 a.m., 2322 Rayburn.

Committee on Financial Services, Full Committee, continued mark-up of the following: H.R. 839, the HAMP Termination Act of 2011 and H.R. 861, the NSP Termination Act, 10 a.m., 2128 Rayburn.

Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade, hearing on China's Indigenous Innovation Trade and Investment Policies: How Great a Threat? 2 p.m., 2172 Rayburn.

Committee on Homeland Security, Subcommittee on Emergency Preparedness, Response, and Communications, hearing entitled ''Ensuring Effective Preparedness and Response—An Assessment of the Fiscal Year 2012 Budget Request for the Federal Emergency Management Agency'', 9:30 a.m., 311 Cannon.

Subcommittee on Transportation Security, hearing entitled ''Securing Air Commerce From the Threat of Terrorism'', 2 p.m., 311 Cannon.

Committee on House Administration, Full Committee, mark-up on the Omnibus Committee Funding Resolution, 1 p.m., 1310 Longworth.

Committee on the Judiciary, Subcommittee on Intellectual Property, Competition and the Internet hearing on Driving American Innovation: Creating Jobs and Boosting our Economy 10 a.m., 2141 Rayburn.

Subcommittee on Crime, Terrorism and Homeland Security hearing on the Reauthorization of the PATRIOT Act, 1:30 p.m., 2141 Rayburn.

Committee on Natural Resources, Subcommittee on Energy and Mineral Resources will hold an oversight hearing to ''Examine the Spending Priorities and the Missions of the U.S. Geological Survey and the President's FY 2012 Budget Proposal.'' 2 p.m., 1324 Longworth.

Committee on Oversight and Government Reform, Subcommittee on Government Organization, Efficiency and Financial Management hearing entitled ''A Look at the FY10 Consolidated Financial Report of the U.S. Government.'' 9:30 a.m., 2247 Rayburn.

Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending hearing entitled ''Assessing the Cumulative Impact of Regulation on U.S. Manufacturers.'' 9:30 a.m., 2154 Rayburn.

Subcommittee on Federal Workforce, U.S. Postal Service and Labor Policy hearing entitled ''Are Federal Workers Underpaid?'' 1:30 p.m., 2154 Rayburn.

Next Meeting of the SENATE

9:30 a.m., Wednesday, March 9

Senate Chamber

Program for Wednesday: Senate will be in a period of morning business until 10:40 a.m. Following the Joint Meeting, Senate will begin consideration of H.R. 1, Full-Year Continuing Appropriations Act, and after a period of debate, vote on passage of H.R. 1, and Inouye Amendment No. 149, at approximately 3 p.m.

(At 10:40 a.m., Senate will recess until 12 noon for a Joint Meeting of Congress with the Honorable Julia Gillard, Prime Minister of Australia.)

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, March 9

House Chamber

Program for Wednesday: Joint Meeting with the Senate to receive The Honorable Julia Gillard, Prime Minister of Australia.

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