and why 80,000 people are basically today not going to be able to go to work tomorrow.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, September 6, 2011, at 5 p.m., the Senate proceed to Executive Session to consider Calendar No. 109; that there be 30 minutes of debate equally divided in the usual form; that upon the use or yielding back of that time the Senate proceed to vote with no intervening action or debate on Calendar No. 109, the motion to reconsider be laid upon the table, with no intervening action or debate; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate’s action and the Senate resume legislative session.

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

THE LEAHY-SMITH AMERICA INVENTS ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 87, H.R. 1249.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read the motion.

The PRESIDING OFFICER. The motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read the motion as follows:

Motion to proceed to the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read the motion as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 87, H.R. 1249, the Leahy-Smith America Invents Act.


Mr. REID. I now ask unanimous consent that on Monday, August 1, 2011, at 4:30 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to Calendar No. 87, H.R. 1249; further that a quorum be present.

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

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the following Environment and Public Works bills, en bloc: Calendar No. 72, S. 710; and Calendar No. 117, S. 1302. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is my understanding that the unanimous consent for the Senate to proceed to the consideration of those two bills; is that right? The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that the bills be read a second time and, en bloc, the motions to reconsider be laid upon the table en bloc, and any relevant statements be printed in the RECORD.

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

HAZARDOUS WASTE ELECTRONIC MANIFEST ESTABLISHMENT ACT

The bill (S. 710) to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 710  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 “Hazardous Waste Electronic Manifest Establishment Act”.

SEC. 2. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

SEC. 3024. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ‘Board’ means the Hazardous Waste Electronic Manifest Establishment Act”.

(2) FUND.—The term ‘Fund’ means the Hazardous Waste Electronic Manifest Establishment Act”.

(3) PERSON.—The term ‘person’ includes an individual, corporation (including a Government corporation), company, association, firm, partnership, society, joint stock company, trust, municipality, commission, Federal agency, State, political subdivision of a State, or interstate body.

(4) SYSTEM.—The term ‘system’ means the hazardous waste electronic manifest system established under subsection (b).

(b) USER.—The term ‘user’ means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that—

(A) is required to use a manifest to comply with any Federal or State requirement to track the shipment, transportation, and receipt of hazardous waste or other material that is shipped from the site of generation to an off-site facility for treatment, storage, disposal, or recycling; and

(B)(i) elects to use the system to complete and transmit an electronic manifest format; or

(ii) submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with such regulations as the Administrator may promulgate to require such a submission.

(c) USER FEES.—

(1) IN GENERAL.—The Administrator may impose on users such reasonable service fees as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system after the date on which the system enters operation.

(2) COLLECTION OF FEES.—The Administrator shall—

(A) collect the fees described in paragraph (1) from the users in advance of, or as reimbursement for, the provision by the Administrator of system-related services; and

(B) deposit the fees in the Fund for use in accordance with this subsection.

(3) FEE STRUCTURE.—

(A) IN GENERAL.—The Administrator, in consultation with information technology vendors, shall determine through the contract award process described in subsection (c) the fee structure for hazardous waste electronic manifest system.

(B) USER FEES.—

(1) IN GENERAL.—The Administrator, in consultation with the Board, shall specify, or decrease amount of a service fee determined under the fee structure described in subparagraph (A) to a level that will—

(I) result in the collection of an aggregate amount of a service fee that does not exceed $2,000,000, during the 3-year period beginning on the date on which the system enters operation.

(II) result in the collection of an aggregate amount of a service fee that does not exceed $2,000,000, during the 3-year period beginning on the date on which the system enters operation.

(III) minimize, to the maximum extent practicable, the accumulation of unused amounts in the Fund.

(II) EXCEPTION FOR INITIAL PERIOD OF OPERATION.—The requirement described in clause (i) shall not apply to any additional fees that accumulate in the Fund, in an amount that does not exceed $2,000,000, during the 3-year period beginning on the date on which the system enters operation.

(iii) 김형철

(iv) 김성지

(v) 김다현

(vi) 김인성

(vii) 김재성

(viii) 김주성

(ix) 김해성

(x) 김재성

(xi) 김재성

(xii) 김재성

(xiii) 김재성

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(xviii) 김재성

(xix) 김재성

(xx) 김재성

(III) FUNDING OF ADJUSTMENTS.—Adjustments to service fees described in clause (i) shall be made—

(1) initially, at the time at which initial development costs of the system have been recovered by the Administrator such that the service fee may be reduced to reflect the elimination of the system development component of the fee; and

(2) periodically thereafter, upon receipt and acceptance of the findings of any annual accounting or auditing report under subsection (c).

(2) Deposit of fees in the Fund.—As soon as practicable after the end of each fiscal year, the Administrator shall deposit in the Fund any amounts appropriated to the Administrator for any fiscal year and any amounts in the Fund that are not appropriated to the Administrator for any fiscal year.
subsection for the fiscal year and expenditures made for the fiscal year to provide for system-related services:—

`(d) HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM FUND.—

`(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Hazardous Waste Electronic Manifest System Fund', consisting of—

`(A) such amounts as are appropriated to the Fund under paragraph (2); and

`(B) any interest earned on investment of amounts in the Fund under paragraph (4).

`(2) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to amounts collected as fees and received by the Administrator under subsection (c).

`(3) EXPENDITURES FROM FUND.—

`(A) IN GENERAL.—Subject to paragraph (2), on request by the Administrator, the Secretary of the Treasury shall transfer from the Fund to the Administrator amounts as the Administrator determines to meet current and projected costs of the system.

`(B) USE OF FUNDS.—

`(i) IN GENERAL.—Fees collected by the Administrator and deposited in the Fund under this section shall be available to the Administrator for use in accordance with this section without fiscal year limitation and without further appropriation.

`(ii) OVERSIGHT.—The Administrator shall carry out all necessary measures to ensure that amounts in the Fund are used only to carry out the goals of establishing, operating, maintaining, upgrading, managing, supporting, and overseeing the system.

`(4) INVESTMENT OF AMOUNTS.—

`(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the amounts collected as fees by the Administrator (referred to in this subsection as 'contractor') as are not, in the judgment of the Secretary, required to meet current and projected costs of the system.

`(B) INTEREST-BEARING OBLIGATIONS.—In the case of amounts invested in obligations, participations, or other investments, the interest earned thereon shall be considered proceeds from the Fund as is not, in the judgment of the Secretary, required to meet current and projected costs of the system.

`(5) SALES OF SECURITIES.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

`(E) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.

`(F) TRANSFERS OF AMOUNTS.—

`(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred to the Fund on the basis of the estimates made by the Secretary of the Treasury.

`(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

`(6) ACCOUNTING AND AUDITING.—

`(A) ACCOUNTING.—For each 2-fiscal-year period, the Administrator shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

`(i) an accounting of the funds paid to the Administrator under subsection (c) and disbursed from the Fund for that period covered by the report, as reflected by financial statements provided in accordance with—

`(I) the Chief Financial Officers Act of 1990 (Public Law 101–500; 104 Stat. 2088) and amendments made by that Act; and

`(II) the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3110) and amendments made by that Act; and

`(ii) an accounting describing actual expenditures from the Fund for the period covered by the report for costs described in subsection (c)(1).

`(B) AUDITING.—

`(i) IN GENERAL.—For the purpose of section 3515(c) of title 31, United States Code, the Fund shall be considered a component of an Executive agency.

`(ii) COMPONENTS OF AUDIT.—The annual audit required in accordance with sections 3515(b) and 3521 of title 31, United States Code, of the financial statements of activities carried out using amounts from the Fund shall include an analysis of—

`(I) the fees collected and disbursted under this section;

`(II) the reasonableness of the fee structure in place as of the date of the audit to meet current and projected costs of the system;

`(III) the level of use of the system by users; and

`(IV) the success to the date of the system in operating on a self-sustaining basis and improving the efficiency of tracking waste shipments and transmitting waste shipment data.

`(iii) FEDERAL RESPONSIBILITY.—The Inspector General of the Environmental Protection Agency shall—

`(A) conduct the annual audit described in clause (ii); and

`(B) submit to the Administrator a report that describes the findings and recommendations of the Inspector General resulting from the audit.

`(c) CONTRACTS.—

`(1) AUTHORITY TO ENTER INTO CONTRACTS FUNDING SYSTEM.—The Administrator may enter into 1 or more information technology contracts with entities determined to be appropriate by the Administrator (for purposes of this subsection as 'contractors') under which—

`(A) the Administrator agrees to award a contract for the provision of system-related services; and

`(B) the contractor agrees to assume the initial risk of the information technology investment, and to obtain reimbursement for investments, operating costs, and other fees, by receiving as payment an agreed-upon share of the amounts collected as fees by the Administrator under subsection (c). The contractor shall be subject to the terms of a contract entered into under this subsection if the contract is—

`(i) for a term of not more than 10 years.

`(2) ACHIEVEMENT OF GOALS.—The Administrator shall ensure, to the maximum extent practicable, that a contract awarded under this subsection—

`(A) is performance-based;

`(B) identifies objectives and outcomes; and

`(C) contains performance standards that may be used to measure achievement and goals to evaluate the success of a contractor in performing the contract, and the right of the contractor to payment for services under the contract, taking into consideration that a primary measure of successful performance is the development of a hazardous waste electronic manifest system that—

`(i) meets the needs of the user community (including States that rely on data contained in manifests);

`(ii) attracts sufficient user participation and service fee revenues to ensure the viability of the system;

`(iii) decreases the administrative burden on the user community; and

`(iv) provides the waste receipt data applicable to the biennial reports required by section 3002(a)(6).

`(3) PAYMENT STRUCTURE.—Each contract awarded under this subsection shall include a provision that specifies—

`(A) the service fee structure of the contractor that will form the basis for payments to the contractor;

`(B) the fixed-share ratio of monthly service fee revenues from which the Administrator shall reimburse the contractor for system-related development, operation, and maintenance costs and provide an additional profit or fee commensurate with the risk undertaken by the contractor in performing in accordance with the contract;

`(C) the amount of additional transactional costs attributed to the ancillary costs of the Administrator in implementing and managing the system, including the costs of integrating the applications of the contractor with the Federal data exchange and the Office of the Environmental Protection Agency;

`(D) the direct and indirect personnel costs incurred by the Administrator to employ personnel dedicated to the implementation and management of the system; and

`(E) expenses incurred in procuring any independent contractor services to assist the Administrator in the preparation of financial statements and reports and the conduct of regular user group and government meetings necessary for the oversight of the system.

`(4) CANCELLATION AND TERMINATION.—

`(A) IN GENERAL.—If the Administrator determines that sufficient funds are not made available for the continuation in a subsequent fiscal year of a contract entered into under this subsection, the Administrator shall cancel or terminate the contract.

`(B) COSTS.—The costs of cancellation or termination under subparagraph (A) may be paid from—

`(i) appropriations available for performance of the contract;

`(ii) unobligated appropriations available for the purpose of identifying and implementing the technology procured under the contract; or

`(iii) funds subsequently appropriated for payment of costs of the cancellation or termination.

`(C) NEGOTIATION OF AMOUNTS.—The amount payable in the event of cancellation or termination of a contract entered into under this subsection shall be negotiated with the contractor at the time at which the contract is awarded.

`(D) AUTHORITY TO ENTER INTO CONTRACTS.—The Administrator may enter into a contract under this subsection for any fiscal year, regardless of whether funds are made specifically available for the full costs of cancellation or termination of the contract, if—

`(i) funds are available at the time at which the contract is awarded to make payments with respect to a contract as determined by the Administrator; or

`(ii) funds described in clause (i) are not available as described in that clause, but the contract—

`(I) meets the needs of the user community (including States that rely on data contained in manifests);
(II) agrees to perform the contract despite the unfunded contingent liability.

(6) No effect on ownership.—Regardless of whether the Administrator enters into a contract or subcontract, the parcel shall be owned by the Federal Government.

(f) Hazardous waste electronic manifest system advisory board.—

(1) Establishment.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a board to be known as the ‘Hazardous Waste Electronic Manifest System Advisory Board.’

(2) Composition.—The board shall be composed of members, of whom—

(A) 1 member shall be the Administrator (or a designee), who shall serve as Chairperson of the board; and

(B) there shall be individuals appointed by the Administrator—

(i) at least 2 of whom shall have expertise in information technology,

(ii) at least 3 of whom shall have experience in using or represent users of the manifest system to track the transportation of hazardous waste under this subtitle (or an equivalent State program); and

(iii) at least 3 of whom shall be a State representative responsible for processing those manifests.

(3) Duties.—The board shall meet annually to discuss, evaluate the effectiveness of, and provide recommendations to the Administrator relating to the system.

(g) Regulations.—

(1) Promulgation.—

(A) in general.—Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate regulations to carry out this section.

(B) Inclusions.—The regulations promulgated pursuant to subparagraph (A) may include such requirements as the Administrator determines to be necessary to facilitate the transition from the use of paper manifests to the use of electronic manifests, or to accommodate the processing of data from paper manifests in the electronic manifest system, including a requirement that users of paper manifests submit to the system copies of the paper manifests for data processing purposes.

(C) Requirements.—The regulations promulgated pursuant to subparagraph (A) shall ensure that each electronic manifest provides, to the same extent as paper manifests under applicable Federal and State law for—

(i) the accuracy of the information contained in the manifest;

(ii) the person that acknowledges receipt of the manifest;

(iii) the person that certifies that the information contained in the manifest is accurately described; and

(iv) the person that acknowledges receipt of the manifest;

(2) Effective date of regulations.—Any regulation promulgated by the Administrator under paragraph (1) and in accordance with applicable Federal law relating to electronic manifesting of hazardous waste shall take effect in each State as of the effective date specified in the regulation.

(3) Authorization.—The Administrator shall carry out regulations promulgated under this subsection in each State unless the State program is fully authorized to carry out those regulations in lieu of the Administrator.

(h) Requirement of compliance with regulations.—In any case in which the State in which waste is generated, or the State in which waste will be transported to a designated facility, requires that the waste be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the State in which the facility is located—

(1) complete the facility portion of the applicable manifest;

(2) sign and date the facility certification; and

(3) submit to the system a final copy of the manifest for data processing purposes.

(b) Conforming amendment.—The table of contents of the Hazardous and Solid Waste Amendments Act of 1984 (42 U.S.C. 6991) is amended by inserting at the end of the item relating to subtitle C the following:

‘‘Sec. 3024. Hazardous waste electronic manifest system.’’

GENERAL SERVICES PARCEL ACT

The bill (S. 1302) to authorize the Administrator of General Services to convey a parcel of real property in Tracy, California, to the City of Tracy was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1302

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

SECTION 1. CONVEYANCE OF PARCEL, TRACY, CALIFORNIA.

(a) Definition.—In this section:

(1) Administrator.—The term ‘‘Administrator’’ means the Administrator of General Services.

(2) City.—The term ‘‘City’’ means the city of Tracy, California.

(3) Parcel.—

(A) In general.—The term ‘‘Parcel’’ means the approximately 150 acres conveyed to the City of Tracy for economic development, in which the United States retains no reversionary interest, pursuant to section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335).

(B) Exclusions.—The term ‘‘Parcel’’ does not include the approximately 50 acres conveyed to the City for educational or recreational purposes pursuant to section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335).

(b) Conveyance.—

(1) In general.—Notwithstanding subsections (c) through (f) of section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335).

(c) Consideration.—

(1) In general.—As consideration for the conveyance under subsection (b), the City shall, in payment to the Administrator an amount not less than the appraised fair market value of the Parcel, as determined by the Administrator pursuant to an appraisal conducted by a licensed, independent appraiser, based on the highest and best use of the Parcel, as determined by the Administrator.

(2) Treatment.—The determination of the Administrator under paragraph (1) regarding the fair market value of the Parcel shall be final.

(d) Cost of conveyance.—The City shall be responsible for reimbursing the Administrator for the costs associated with implementing this section, including the costs of any appraisal.

(e) Proceeds.—

(1) Deposit.—The net proceeds from the conveyance under this section shall be deposited in the Federal Buildings Fund established by section 592(a) of title 40, United States Code.

(2) Expenditure.—The amounts deposited in the Federal Buildings Fund under paragraph (1) shall be available to the Administrator, in amounts specified in appropriation Acts, for expenditures for any lawful purpose consistent with the authority of the Administrator.

(f) Additional terms and conditions.—The Administrator may establish such additional terms and conditions in connection with the conveyance under subsection (b) as the Administrator considers to be appropriate to protect the interests of the United States.

(g) No effect on compliance with environmental laws.—Nothing in this Act or subsequent enactment made by this Act affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

CAMPUS FIRE SAFETY MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 104.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 104) designating September 2011 as ‘‘Campus Fire Safety Month.’’

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

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to recommit be laid on the table, and the resolution be printed in the RECORD.

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

The resolution (S. Res. 104) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 104

Whereas, each year, States across the Nation formally designate September as Campus Fire Safety Month;

Whereas, since January 2000, at least 134 people, including students, parents, and children have died in campus-related fires;

Whereas 85 percent of those deaths occurred in off-campus residences;

Whereas a majority of college students in the United States live in off-campus residences;

Whereas a number of fatal fires have occurred in buildings in which fire safety systems had been compromised or disabled by the occupants;