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Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Almighty God, eternal and unchangeable, You have ordained that day follows night and that in trials we find our triumph. Keep our lawmakers aware of Your goodness and mercies, which never fail. Lift them above contention and disappointment to an optimism that trusts the unfolding of Your loving providence. May they also live with the awareness that our times are in Your hands. Lord, give our Senators the wisdom to rededicate themselves to the doing of Your will, so that this Nation may yet shine with the beauty of righteousness and justice, as a citadel of healing, wisdom, and strength.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 3, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, the Senate will proceed to a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each. The Republicans will control the first half, and the majority will control the final half.

At 11 a.m., the Senate will resume consideration of S. 23, the America Invents Act. I would hope if people have amendments they want to offer to this legislation they would do so. I would hope they would be germane, but there are no restrictions. People can offer whatever amendments they want on this matter. But I would hope we can do that.

PATENT REFORM

We had an important amendment offered by Senator FEINSTEIN yesterday. It is an extremely important measure. I am supportive of that. It is an issue where I think we should not try to fix something in that area of patent reform that is not broken. But the patent reform bill is important. We have 750,000 patents that have been applied for, and there has been no response from the Patent Office.

One of the big issues we had was how we are going to pay for this, the work they have to do. We had a novel idea. Senator COBURN, it is my understanding, came up with the idea first: have the Patent Office pay for it with the applications people file. That money would go to the Patent Office to get rid of that backlog.

In the past, as I understand it, those moneys have gone to the general fund. So that issue was going to be a big debatable issue on this bill. But there was a bipartisan agreement that we should take care of that. That is in the managers' package. So that is good.

So the other issue is on the first-to-file. Senator FEINSTEIN offered that amendment. We will have a vote on that as soon as we can. I would hope if there are other amendments, we can get to them quickly.

There will be a period of morning business from 2 to 4 p.m. today. The majority will control the first hour, and the Republicans will control the next hour.

Senators should expect rollcall votes in relation to amendments on the America Invents Act to occur throughout the day.

RECOGNITION OF THE MINORITY LEADER

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

GOVERNMENT SPENDING

Mr. MCCONNELL. Mr. President, for 2 years now Washington Democrats have taken fiscal recklessness to new

heights. They have spent trillions of dollars we do not have on things we do not need and cannot afford. The amount of red ink Democrats plan to rack up this year alone would exceed all the debt run up by the Federal Government from its inception through 1984.

This recklessness is the reason we have seen a national uprising against their policies. Americans have demanded we reverse this recklessness and restore balance. Democrats have resisted at every turn.

To conceal the extent of their spending plans, they did not even pass a budget last year. After a nationwide repudiation of their policies in November, they proposed a massive spending bill loaded with new spending that amounted to a slap in the face to the voters.

Following the outrage that provoked, they tried to get a spending freeze past the public. They said: How about we just lock in place the out-of-control spending levels we set last year?

To them, this entire debate is not about how to respond to the American people. It is about seeing what they can get away with.

Well, Republicans have taken a different approach. Responding to our constituents, we have insisted the status quo simply will not cut it anymore. We have insisted on actually shrinking the size of government. And yesterday we delivered, by forcing the first actual cut in government spending in recent memory.

While it was just a small first step, yesterday we showed it is actually possible to change the status quo in Washington. Not bad.

What about the White House? The White House responded to all of this by announcing they want to have a meeting. We are happy to go to the meeting, but putting a meeting on the schedule does not change the fact that neither the White House nor a single Democrat in Congress has proposed a plan that would allow the government to remain open and that would respond to the voters by reining in spending.

All we get is talk. The President made an audacious assertion yesterday after the 2-week CR was passed. He said he wants his advisers to come up with a plan that ''makes sure we are living within our means.'' Live within our means?

Let me remind you, Mr. President, that the President's budget has us amassing a national debt of more than $20 trillion within the next 5 years—amassing a national debt of over $20 trillion within the next 5 years. We are projected to spend this year $1.6 trillion this year more than we are taking in. That is a $1.6 trillion deficit this year.

Does this mean we can expect the President's Budget Director to present us with a piece of paper that outlines $1.6 trillion in cuts for the current fiscal year? If so, that is great news.

If the President's measure of success, as he said, is a plan that makes sure we actually live within our means, the way most people do, count on me showing up early for this meeting. Unfortunately, I suspect the President is once again just saying something he thinks people want to hear.

The fact is, if Democrats had a plan of their own that would cut one dollar in spending, I think we would have seen it by now. But we have not. Democrats have abdicated all responsibility for their own recklessness over the last 2 years. They have left us to do something about it.

We made a step in the right direction yesterday after months of resistance on their part. Now we look forward to their plan. It is time for Democrats to present a serious plan of their own that addresses this crisis. It is time for Democrats to take the concerns of the American people seriously.

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 until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half, and the majority controlling the final half.

The Republican leader is recognized.

(The remarks of Mr. MCCONNELL and Mr. PAUL pertaining to the introduction of S. 468 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. PAUL. Mr. President, I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I ask to speak for up to 8 minutes on the Democratic time.

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

HONORING ROBERT BENZON

Mr. WARNER. Mr. President, I rise today to honor another great Federal employee and a constituent of mine from Fredericksburg, VA.

As we debate this week and over the coming weeks about making sure the Federal Government stays open, I think it is important to realize what we are talking about are the real lives of many of our great Federal employees who provide the services day-in and day-out to make sure many important public purposes are served.

I know the Presiding Officer realizes this is an initiative that our former colleague, the Senator from Delaware, started. I was proud, when Senator Kaufman moved on, to pick up that mantle on a regular basis, coming to the floor of the Senate to recognize Federal employees who very often, in an unsung way, do great things for our country.

The Federal employee I am going to recognize is someone who the Presiding Officer, who I know, spends a lot of time in the air, coming from the great State of New Mexico, will be particularly interested in. My colleague, the Senator from Illinois, who is also present, spends a lot of time in the air as well. That is the subject of what we will talk about today.

Nearly 2 million people in the United States take to the skies every day. Once in flight, their safety relies on the diligent work of individuals responsible for ensuring that airplanes are well-designed and safe. When we reach our destination, as we often do, it is because of their tireless work.

In the rare moments when accidents happen, we rely on individuals like Robert Benzon who possess the skill and innovative thinking to find the cause of the accident and ensure we don't make the same mistake twice.

Robert Benzon is a senior air safety investigator with the National Transportation Safety Board. His job is to investigate aircraft accidents. He analyzes the equipment and data, identifies the cause of the accident and makes recommendations to the industry on how to improve safety.

He began his career flying combat missions in Vietnam as an Air Force pilot. In 1984, he went to work for the National Transportation Safety Board in Chicago.

Over his 25-year career, he has served as the lead investigator in several high-profile cases and is considered the best in his field. More than 80 percent of his team's recommendations have been adopted by the industry.

In 1996, Mr. Benzon led the investigation of the TWA flight 800 crash in the Atlantic Ocean. His investigation following this crash led to the recommendation that oxygen contained in aircraft fuel tanks be replaced with another nonburning gas, like Nitrogen, to prevent fuel tank explosions.

In 2001, Mr. Benzon led the investigation of the fatal crash of American Airlines flight 587 in Queens, NY. His investigation led to an industry-wide redesign of the rudder system, as well as changes to the pilot training program for similar aircrafts.

Mr. Benzon also led the investigation of U.S. Airways flight 1549, known nationwide as the ''Miracle on the Hudson,'' which made Captain Sullenberger a household name. His investigation included an analysis of the engine damage and black box flight recorders,

interviews with the pilots, cabin crew, air traffic controllers and passengers, and meetings with the manufacturers of both the airplane and its engines.

Mr. Benzon has also been a strong advocate for the collection of more in-flight data points from flight recorder black boxes, which he believes is critical to understanding what exactly may have gone wrong during a flight. His efforts have led to a significant increase in data: from less than 10 data points collected in-flight to over 1,000.

In an interview, Mr. Benzon said, ''[My work] is a way of giving back—I get a good feeling after every one of these investigations is over. It's service to the country.''

It is this sentiment that inspires me to highlight great Federal employees on the Senate floor. There are countless Federal employees who dedicate their lives to making the rest of our lives better and safer.

Each day we set foot on an airplane and arrive safely at our destination, we have Robert Benzon and his team to thank. I hope that my Senate colleagues will join me in honoring Robert Benzon and all those at the National Transportation Safety Board for their dedicated service and important contribution to our Nation's aviation safety.

I know Senators share the regard for this Federal employee and the many others who make our country a better place. It is my hope that in the coming weeks we can come to some resolution so these Federal employees can know that for the balance of this fiscal year the Federal Government will stay in operation and that they can continue to do their work.

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

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

The legislative clerk proceeded to call the roll.

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

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

SOMALI PIRATES

Mr. KIRK. With the cold-blooded murder of four Americans by pirates, our country faces a dangerous enemy as old as the second Washington administration and the earliest days of the U.S. Navy.

This danger now stretches across our vital oil supply lanes and threatens not just Americans handing out Bibles at Indian Ocean ports of call but our vital supply of energy. I think it is time to recall the tough choices made by the Jefferson administration to suppress the 21st century's pirates in this new chapter.

We may forget that as much as 10 percent of all Federal revenues were paid by the Washington administration to the Barbary pirates operating in what became Libya. Payments continued under the Adams and Jefferson administrations, but as always with kidnappers and pirates, ransoms only led to more danger on the high seas.

In 1801, President Thomas Jefferson decided that payments of tribute to the Barbary States in exchange for the safe passage of American shipping vessels had gone far enough. Over the next 5 years, Jefferson sent the new U.S. Navy—ironically built over his objection—to attack and defeat the pirates. In the conflict that followed, new American heroes were made, especially Captain Stephen Decatur. Decatur's exploits were dangerous and involved close quarters in combat. In his honor, my State of Illinois named one of its major cities after him, placing his statue in the city's center.

In the end, piracy was defeated and the flag of the United States was not strongly challenged by pirates until this century.

In the wake of the murder of four Americans by Somali pirates, we need to recall Jefferson's policy under what I would call the ''Decatur Initiative'' against Indian Ocean pirates.

Since 2006, pirates attacked more and more vessels. There were over 400 attacks just last year. According to the New York Times, the modern-day pirates of the 21st century currently hold 50 vessels and more than 800 hostages. According to the International Maritime Bureau, pirates murdered 379 people with an additional 199 individuals reported missing between 1993 and 2009.

According to reports, the typical pirate ransom in 2005 was between $100,000 and $200,000. By 2008, the average ransom grew to between $500,000 ad $2 million. One year later, in 2009, the average ransom reportedly grew again to a range between $1.5 million and $3.5 million, In late 2010, ransoms now hover around $4 million per vessel. Ransom payments as large as $9.5 million for a tanker carrying crude oil have also been reported by the media.

Recently, pirates captured a supertanker worth $200 million carrying 2 million barrels of oil bound for the U.S. Its ransom may become the mother load for pirates to extend their reach across the Indian Ocean and into the Red Sea and Persian Gulf. We would be naive not to expect profits from piracy will not be used to support terrorism against the West.

The Horn of Africa is of crucial importance, not only to the U.S. economy, but also to the global market as it serves as a major artery of international shipping. The oil tankers that cruise these waters provide much of the world's energy supply and we cannot risk the safety of those shipments. This region is a potential incubator for the growth of two burgeoning al Qaida franchises: al Qaida in the Islamic Magreb, AQIM, and Somalia's al-Shabaab group, which has pledged its loyalty to Osama bin Laden.

Yesterday, I raised this issue with our Secretary of State, Hillary Clinton. She hinted that our policy may be changing and that is welcome news. I asked, ''if we can't be tough on pirates, who can we be tough on?''

Today, I am announcing the start of an effort here in the Senate to draft legislation and support administration action along the lines of Jefferson's policy on pirates.

These legislative concepts shall be collectively referred to as the ''Decatur Initiative,'' Decatur, whose most daring mission involved recapturing the U.S.S. *Philadelphia* from pirates.

The time has come for us to advance the following: 1. A defined ''Pirate Exclusion Zone'' that would allow the immediate boarding and/or sinking of any vessel from Somalia not approved and certified for sea by allied forces; 2. an expedited legal regime permitting trial and detention of pirates captured on the high seas; 3. a blockade of pirate-dominated ports like Hobyo, Somalia; 4. broad powers and authority to on-scene commanders to attack or arrest pirates once outside Somalia's 12-mile territorial limit—this would include the summary sinking of pirate ships if a local commander deems it warranted.

Additionally, I will explore actions to attack the financial links between pirates and the terrorist groups such as al Shabaab and target pirates with financial sanctions in the same way as other terrorist networks.

In the wake of the recent tragedy in the Arabian Sea, where American missionaries were gunned down in cold blood, I am hopeful that many of my colleagues will be willing to join me in taking bold action against the pirates who have been operating in the waters off East Africa. It is ironic that the United States and our allies station substantial naval forces against pirates in this region but take little aggressive action against them. While the pirates have substantial strength on the ground in Somalia, once they're put to sea, we can be their masters and they have very weak means to oppose us. A set of vessels blockading pirate-dominated ports with aggressive orders to attack and sink any vessel leaving Somalia should make quick work of pirate operations.

The cost of oil and the price of gas is high enough. Further increases could endanger our slowly recovering economy. As part of the effort to stabilize the price of gas in America, we need to recover Jefferson's policy and attack and defeat Somali pirates as soon as they leave Somalia's territorial waters.

In addition, as this body begins to finalize spending legislation for the remainder of the year, I would like to highlight the growing danger to the U.S. economy and our country.

We all know that the national debt now tops $14 trillion but we should note that this means we are adding $35 billion to our debts each week or over $5 billion borrowed each day.

That $4 billion cut represents just .3 percent of this year's annual deficit or just three one-hundredths of 1 percent

of the current money we owe. The famous Harvard economic historian Niall Ferguson said you can mark the decline of a country when it pays more money to its lenders than to its army. We have already crossed that point. This year the Congressional Budget Office estimates that interest payments we will pay to our money lenders will top $225 billion. That is more than the cost of our Army, which we currently estimate costs about $195 billion, or our Air Force, which we estimate costs $201 billion, or even our Navy, which will cost $217 billion this year.

Our money lender costs now are higher than the entire gross domestic product of the country of Denmark, at $201 billion. We must pay $4 billion per week in interest or $616 million per day to our money lenders. What is worse, interest payments are expected to more than double over the next decade and will top $778 billion. That means soon we will have to pay our money lenders more than it costs to operate our Army, Navy, and Air Force combined at $623 billion.

Remember also that interest payments on the debt are a form of wealth transfer from hard-working middle-class Americans who pay Federal taxes to wealthy lenders, many of whom live abroad. For those in the Senate who are opposing budget constraints put in by the House, we should force them to admit that they are either for higher taxes for the American people or more borrowing that transfers wealth from hard-working middle-class Americans to high-income money lenders, most of whom now live abroad.

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

The ACTING PRESIDENT pro tempore. Will the Senator withhold his request?

Mr. KIRK. I withhold.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

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

FIRST-TO-FILE PROVISIONS

Mr. KYL. Mr. President, I wish to speak on the pending business before the Senate. We are hoping in maybe 45 minutes or so we will actually be able to vote on the Feinstein amendment to the patent bill. I am hoping that my colleagues will vote against the Feinstein amendment and support the authors of the legislation.

I noted yesterday that every version of the patent bill from 2005 forward has included the primary, centerpiece reform of the bill, which is the so-called first-to-file system. It may seem strange, but it has not been the case before this bill that you have a patent's priority from when you file it; that is to say, the first person to file on the patent is the one who has the patent; that the patent dates to the day it is filed. That is what we do in law and virtually every other situation I can imagine.

Instead, what has been the law is called the first-to-invent system. One of the reasons the whole patent reform movement began 5 or 6 years ago was that this system is very costly and difficult to administer because it relies on a lot of legal discovery and legal process to resolve questions or disputes between who actually conceived of the idea first and then did they apply the necessary diligence to get it patented. As a result, every other industrialized country uses the first-to-file system. Most of the companies in the United States are obviously used to that system because of their patents that are worldwide in scope.

The fundamental reform of the patent legislation to simplify, to reduce costs, to reduce the potential for litigation was to conform our system to that of the rest of the world—the first-to-file system.

What the Feinstein amendment would do is to throw that over and say: No, we are going to go back to the concept of this first-to-conceive-of-the-idea or first-to-invent notion. Whether intended or not, that will kill the bill. It is a poison pill amendment because the whole concept of the legislation and everything that follows from it is based on this first-to-file reform.

As I will note a little bit later, the bill simply would not work otherwise. We would have to scrap it and start from scratch. In fact, most of the reforms that are in the bill would not exist because we would have to go back to that concept of first-to-invent. So all of the savings and simplified procedures would simply not be possible.

Unfortunately, I note that if my colleagues have any notion of supporting the Feinstein amendment, they should realize that were it to be adopted, it would kill the bill. I do not think that is what we want to do. There have been so many improvements made in the bill. So many groups—all three of the major groups that have been working on the legislation are in support of the legislation and oppose the Feinstein amendment because they want us to move forward. We have not had patent reform in many years. Everybody recognizes it is time.

First and foremost, the administration and the Patent Office itself support the legislation and oppose the Feinstein amendment. In fact, one of the good changes made by the bill from the Patent Office's point of view is that it will stop fee diversion. In the past, the fees that have been collected, the filing fees from the inventors, have not all gone to the Patent Office. They are woefully understaffed and underfunded in working through the tens and hundreds of thousands of patent applications that are filed every year.

As we can all appreciate, our competitiveness in the world depends, first, on the ability of our people to invent and, second, to acquire the legal rights to those inventions so they have a property interest in them, and investors can then count on a return of their investment if they supply the capital for the invention to be brought to market.

What we are talking about is critical. I urge my colleagues who perhaps have not focused as much on this amendment and on the patent reform legislation to understand that we are talking about something very important, something that can create jobs, that is important to the competitiveness of our country.

The beauty is, unlike a lot of what we do around here, this is totally bipartisan. I am a Republican. The administration supports the legislation. It has Senator LEAHY's name on it as chairman of the Judiciary Committee. In the House, it is supported by Democrats and Republicans. It is important we move this legislation through.

As I said, unfortunately, the Feinstein amendment would result in having to scrap the bill. There is no point in enacting it if we are not going to include the change to first to file.

Let me be a little more specific. One of the reasons we would not be able to move forward with the bill is the bill's entire post-grant review process, which is a big part of the bill, would be impossible for the Patent Office to administer under the discovery-intensive invention date issues that arise under the first-to-invent system. That is because, as I said, under that system you come before the Patent Office and say: I realize nobody else had a record of this, but I actually thought of this idea way back in 1999. I have a couple of notes that I made to myself. I dated them. One can see that all of a sudden they are getting into a big discovery and legal process. That is what we are trying to get away from. The whole post-grant review process would be turned upside down if we went back to the first-to-invent principle.

Also, striking the first-to-file provisions would greatly increase the workload for the Patent and Trademark Office. What we are trying to do is simplify procedures so they can get their work done, get the patents approved so our businesses can better compete in the world, and also provide more money for them to do that job. That also would be jeopardized as a result of this amendment. We will just add backlogs and delays and not enable our Patent Office to do what we are asking it to do.

As I said, that is one of the reasons the Patent Office opposes the Feinstein amendment and supports the underlying legislation. It is interesting; many American companies already use first-to-file. It is the easiest, most direct way to confirm you have the patent. It is very hard to win a patent contest through what is called an interference proceeding if you were not the first to file, which, of course, is logical. And because all the other countries in

the world use a first-to-file system, if you want your patent to be valid outside the United States you need to comply with first-to-file in any event.

Among many of our most innovative companies, 70 percent of their licensing revenues come from overseas. Obviously, they are already going to be complying with the first-to-file rules. This bill does not, therefore, so much switch the system with which Americans are complying today as it simply allows American companies to only have to comply with one system rather than two. As I said before, the first-to-file concept is clearer, faster, more transparent, and provides more certainty to inventors and manufacturers.

On the other hand, the first-to-invent concept would make it impossible, in many instances, to know who has priority and which of the competing patents is the valid one. To determine who has priority under first to invent, extensive discovery must be conducted and the Patent Office and courts must examine notebooks and other evidence to determine who conceived of the invention first and whether the inventor then diligently reduced it to practice.

Under first-to-file, on the other hand, an inventor can get priority by filing a provisional application. This is an important point. It is easy. It is not as if the first-to-file is hard to do. This provisional application, which only costs $110 for the small inventor, only requires you to write a description of what your invention is and how it works. That is all. That is the same thing that an inventor's notebook would have to contain under the first-to-invent concept if you are ever going to prevail in court by proving your invention date.

Because a provisional application is a government document, the date is clear. There is no opportunity for fraudulently backdating the invention date. There is no need for expensive discovery: What did the inventor know and when did he know it? You are essentially not requiring anything in addition. You file a provisional application. You have an entire year to get all of your work together and file your completed application, but your date is as of the time you file the provisional application.

As I said, for a small entity, the fee is only $110. That grace period makes it clear that the patent will not be invalid because of disclosures made by the inventor or someone who got information from an inventor during 1 year before filing. That is important.

A lot of academics and folks go to trade shows and begin talking about their concepts and what they have done. If you disclose this, you have a year to file after you disclose the information. And under the bill's second, enhanced grace period, no other disclosure, regardless of whether it was obtained from the inventor, can then invalidate the invention.

The bill has been very carefully written to protect the small inventor or the academic. That is what it is designed to do. This is not a case of big versus small, although people both big and small support the legislation. If anybody suggests the Feinstein amendment will protect the small inventor, it does not protect the small inventor. In fact, as I said, the legislation is very carefully crafted to give the small inventor a variety of ways to ensure that he or she is protected.

The first coalition to bring the whole idea of patent reform to the Congress, the Coalition for 21st Century Patent Reform, is very strongly in support of the legislation and in opposition to the Feinstein amendment. In fact, it noted in a statement released Wednesday that not only does it oppose the amendment, it would oppose the entire bill if the amendment were to be adopted and this first-to-file concept were stricken from the bill.

In fact, here is what they said:

The first-inventor-to-file provisions currently in S. 23 form the linchpin that makes possible the quality improvements that S. 23 promises.

Here is what the Obama Statement of Administration Policy says. It lays out exactly what is at stake:

By moving the United States to a first-to-file system, the bill simplifies the process of acquiring rights. This essential provision will reduce legal costs, improve fairness, and support U.S. innovators seeking to market their products and services in the global marketplace.

I am continuing the statement:

Most of the arguments in opposition to the bill and FITF appear to be decades-old contentions that have been fully and persuasively rebutted. As one example, the National Research Council of the National Academies assembled a group of leading patent professionals, economists, and academics who spent four years intensely studying these issues and concluded in 2004 that the move to FITF represented a necessary change for our patent system to operate fairly, effectively and efficiently in the 21st century.

They go on to say:

Without retaining S. 23's current FITF provisions, the bill would no longer provide meaningful patent reform.

Let me repeat that. If the Feinstein amendment would prevail, ''the bill would no longer provide meaningful patent reform.''

As an example, the new provisions on post-grant review of patents, an important new mechanism for assuring patent quality, could no longer be made to work. Instead of a patent reform bill, what would remain of S. 23 would be essentially an empty shell.

Let me finish the statement:

Thus, we could not continue our support of passage of S. 23 without the first-inventor-to-file provisions present in the bill. It would place us in the unfortunate position of opposing moving forward with a bill where we have been among the longest, most ardent supporters.

Just to conclude, the National Association of Manufacturers, which represents both large and small manufacturers in every industrial sector, has also made it clear that it strongly opposes the amendment. I will conclude by quoting from that group's statement in opposition to the Feinstein amendment.

The NAM supports transitioning the United States from a ''first-to-invent'' system to a ''first-to-file'' system to eliminate unnecessary cost and complexity in the U.S. patent system. Manufacturers large and small operate in the global marketplace and the United States needs to move toward a system that will provide more patent protection around the world for our innovative member companies. The ''first-to-file'' provision currently included in S. 23 achieves this goal.

Mr. President, I hope my colleagues will pay close attention to the arguments made by Chairman LEAHY and the arguments I have made in opposition to the Feinstein amendment. Whether intended or not, it would be a poison pill. It would kill the legislation if it were adopted. We need to move this important legislation forward, as the administration notes in its statement of policy, and therefore I urge my colleagues, when we have an opportunity to vote on the Feinstein amendment, to vote against it and to support the legislation as reported.

The ACTING PRESIDENT pro tempore. Morning business is closed.

PATENT REFORM ACT OF 2011

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

The legislative clerk read as follows:

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

Pending:

Leahy amendment No. 114, to improve the bill.

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

Feinstein amendment No. 133, to strike the first inventor to file requirement.

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

AMENDMENT NO. 133, AS MODIFIED

Mr. LEAHY. Mr. President, I understand we have the Feinstein amendment No. 133 at the desk. I ask unanimous consent that the Feinstein amendment No. 133 be modified with the changes that are at the desk.

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

The amendment, as modified, is as follows:

On page 2, line 3, strike ''**FIRST INVENTOR TO FILE.**'' and insert ''**FALSE MARKING.**''

On page 2, strike line 4 and all that follows through page 16, line 21, and insert the following:

(a) FALSE MARKING.—

On page 17, line 18, strike ''(l)'' and insert ''(b)''.

On page 18, strike line 22 and all that follows through page 32, line 11.

On page 66, strike line 9 and all that follows through page 67, line 8.

On page 71, line 1, strike ''derivation'' and insert ''interference''.

On page 71, line 5, strike ''derivation'' and insert ''interference''.

On page 72, line 24, strike ''DERIVATION'' and insert ''INTERFERENCE''.

On page 72, lines 24 and 25, strike ''derivation'' and insert ''interference''.

On page 73, line 4, strike ''derivation'' and insert ''interference''.

On page 73, line 18, strike ''derivation'' and insert ''interference''.

On page 73, line 23, strike ''derivation'' and insert ''interference''.

On page 74, lines 2 and 3, strike ''derivation'' and insert ''interference''.

On page 74, between lines 20 and 21, insert the following:

(d) CONFORMING AMENDMENTS.—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 that term appears and inserting ''Patent Trial and Appeal Board''.

On page 74, line 21, strike ''(d)'' and insert ''(e)''.

On page 95, strike lines 13 through 15, and insert the following: by inserting ''(other than the requirement to disclose the best mode)'' after ''section 112 of this title''.

Mr. LEAHY. Mr. President, I wish to thank the distinguished Senator from Arizona for his words here this morning. He is part of the small group of Republicans and Democrats who have worked very hard over the last couple of years on this bill with the idea of giving us something that would allow inventors, innovators, and entrepreneurs in America to be able to compete with the rest of the world.

I am one American who believes we can compete with anybody anywhere provided we get a level playing field. Other countries have set up enough barriers for us of their own. We shouldn't be setting up barriers here in the United States. One thing we can do is to make some major, long-overdue changes in the patent laws to give us that level playing field. Inventors and innovators in America who will take advantage of this will be better off for it and will create jobs, but most importantly, we will show the rest of the world that America is open for business.

Americans can be the innovators they have been from the time the first patent was issued—and I say this with pride—to a Vermonter back when then-Secretary of State Thomas Jefferson reviewed the application, which was then signed by the President of the United States, George Washington. Now, of course, they are not reviewed by the Secretary of State and signed by the President, thank goodness, because there are over 700,000 applications pending.

We need legislation to bring us up to date, and this act will promote innovation, it will create new businesses and, as a result, new jobs. This is bipartisan legislation that will allow inventors to secure their patents more quickly and to have better success commercializing them.

The pending amendment would gut the reforms intended by the bill. With all due respect, it would destroy all the work we have tried to do in this bill. It would eliminate a major piece of this effort—the transition to a first-inventor-to-file patent system. First-inventor-to-file is a necessary component of this legislation and enjoys support from every corner of the patent community.

The administration, the Secretary of Commerce, and the head of the Patent and Trademark Office all oppose this amendment. A vast array of individuals, independent small inventors, small businesses, and labor oppose this amendment. The four senior Republicans on the Judiciary Committee who have worked so hard on this bill—Senators GRASSLEY, HATCH, KYL, and SESSIONS—oppose this amendment. Needless to say, I oppose this amendment. It would be a poison pill to these legislative reform efforts.

Supporters of the legislation before us—ranging from high-tech and life sciences companies to universities and small businesses—place such a high importance on the transition to the first-inventor-to-file system that many of them, including those who reside in just about every State, would not support a bill without those provisions.

A transition to first-inventor-to-file has been part of this bill since its introduction four Congresses ago. Yet, until very recently, first-inventor-to-file was never the subject of even a single amendment in the Judiciary Committee over all those years. This legislation is the product of eight Senate hearings and three markups spanning weeks of consideration and numerous amendments. Never was first-inventor-to-file a contentious issue. Now some well-financed special interests that do not support the America Invents Act have decided to kill the bill by a last-minute campaign to strike these vital provisions.

I urge Senators to support the goals of the America Invents Act and vote against this amendment to strike first-inventor-to-file.

Mr. President, the United States is the only industrialized country still using a first-to-invent system, and there is a reason for that. A first-inventor-to-file system, by contrast, where the priority of a right to a patent is based on the earlier filed application, adds simplicity and objectivity into a very complex system. By contrast, our current outdated method for determining the priority right to a patent is extraordinarily complex, it is subjective, it is time-intensive, and it is expensive. The old system almost always favors the larger corporation and the deep pockets over the small independent inventor.

This past weekend, the Washington Post editorial board endorsed the transition, calling our first-inventor-to-file standard a ''bright line.'' They went on to say it would bring ''certainty to the process.'' The editorial also rightly recognizes the ''protections for academics who share their ideas with outside colleagues or preview them in public seminars'' that are included in the bill.

The transition to a first-inventor-to-file system will benefit small inventors and inventors of all sizes by creating certainty. Once a patent is granted, an inventor can rely on its filing date on the face of the patent.

The reduction in costs to patent applications that comes with a transition to this system should also help the small independent inventor. In the current outdated system where more than one application claiming the same invention is filed, the priority of a right to a patent is decided through an ''interference'' proceeding to determine which applicant can be declared to have invented the claimed invention first. It is lengthy, it is complex, and it can cost hundreds of thousands of dollars. Small inventors rarely, if ever, win interference proceedings. In a first-inventor-to-file system, however, the filing date of the application is objective and easy to determine, resulting in a streamlined and less costly process.

The bill protects against the concerns of many small inventors and universities by including a 1-year grace period to ensure the inventor's own publication or disclosure cannot be used against him as prior art but will act as prior art against another patent application. This encourages early disclosure of new inventions regardless of whether the inventor ends up trying to patent the invention.

The transition to first-inventor-to-file is ultimately needed to help American companies and innovators compete globally. As business and competition increasingly operate on a worldwide scale, inventors have to file patent applications in both the United States and other countries for protection of their inventions. Since America's current outdated system differs from the first-inventor-to-file system used in other patent-issuing jurisdictions—all our competitors—it causes confusion and inefficiencies for American companies and innovators. Harmonization will benefit American inventors.

Commerce Secretary Gary Locke highlighted the importance of the first-inventor-to-file provision to the bill in his column published in The Hill yesterday. He noted that it ''would be good for U.S. businesses, providing a more transparent and cost-effective process that puts them on a level playing field with their competitors around the world.''

Secretary Locke went on to confront the erroneous notion that the current outdated system is better for small independent inventors, and he did it head-on by explaining that in his ''strong opinion that the opposite is true.'' The first-inventor-to-file system is better for the small independent inventor. As the Secretary noted:

> The cost of proving that one was first to invent is prohibitive and requires detailed and complex documentation of the invention process. In cases where there's a dispute about who the actual inventor is, it typically costs at least $400,000 in legal fees, and even more if the case is appealed. By comparison, establishing a filing date through a provisional application and establishing priority of invention costs just $110.

Secretary Locke explained how the 125,000 provisional applications currently filed each year prove that early filing dates protect the rights of small inventors. He reiterated that during the past 7 years, under the current outdated, cumbersome, and expensive system, of almost 3 million applications filed, only 1 patent was granted to an individual inventor who was the second to apply.

Our reform legislation enjoys broad support. I have already mentioned some of those supporters, but let me highlight a few more:

Just yesterday, the National Association of Manufacturers urged every Senator to oppose the effort to strike the first-to-file transition, writing, ''The NAM supports transitioning the United States from a 'first-to-invent' system to a 'first-to-file' system to eliminate unnecessary cost and complexity in the U.S. patent system.''

The Small Business & Entrepreneurship Council has expressed its strong support for the first-inventor-to-file system, writing that ''small firms will in no way be disadvantaged, while opportunities in the international markets will expand.''

The Intellectual Property Owners Association calls the first-inventor-to file system ''central to modernization and simplification of patent law'' and ''very widely supported by U.S. companies.''

Independent inventor Louis Foreman has said the first-inventor-to-file transition will help ''independent inventors across the country by strengthening the current system for entrepreneurs and small businesses.''

Six university, medical college, and higher education associations have urged the transition to first-to-file, saying that it will ''add greater clarity to the U.S. system.''

And, in urging the transition to the first-to-file system, the Association for Competitive Technology, which represents small and mid-size IT firms, has said the current outdated system ''negatively impacts entrepreneurs'' and puts American inventors ''at a disadvantage with competitors abroad who can implement first inventor to file standards.'' That is why it is so important to move to a first-inventor-to-file system.

I ask unanimous consent copies of the Washington Post editorial, ''Patenting Innovation,'' be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. I also ask letters from the National Association of Manufacturers, higher education associations, the Small Business & Entrepreneurship Council be printed in the RECORD at the conclusion of my comments.

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

(See exhibit 2.)

Mr. LEAHY. I will conclude with this: If we are to continue to lead the globe in innovation and production, if we are to win the future through American ingenuity and innovation, we must have a patent system that is streamlined and efficient. The America Invents Act, and a transition to a first-inventor-to-file system in particular, is crucial to fulfill this promise. I urge all Senators on both sides of the aisle to oppose the Feinstein amendment and support the important provision of first-inventor-to-file, which is at the heart of the America Invents Act.

As I said, I submit the list of stakeholders across the spectrum from high-tech and life sciences to universities and small inventors in support of a transition to the first-to-file system, and ask unanimous consent that list be printed in the RECORD.

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

(See exhibit 3.)

Mr. LEAHY. Mr. President, I see the distinguished Senator from Delaware who has been so helpful on this legislation on the floor, so I yield the floor.

EXHIBIT 1

[From the Washington Post, Feb. 26, 2011]

PATENTING INNOVATION

More than 60 years have passed since a major overhaul of the U.S. patent system has taken place. And it shows.

The U.S. patent system lags woefully. One example: Patents in the United States are given to those ''first to invent.'' This approach is out of step with the rest of the world's ''first to file'' approach and is highly inefficient. It invites people to come out of the woodwork years after a product has been on the market to claim credit and demand royalties.

The secretive and lengthy U.S. process also too often results in patents for products that are neither novel nor innovative. It leaves manufacturers vulnerable to infringement lawsuits and damage awards long after their products have gone to market.

The Senate is poised to take up a bill on Monday that would eliminate these defects and bring the U.S. system into the 21st century.

The Patent Reform Act, introduced by Sens. Patrick J. Leahy (D-Vt.) and Orrin G. Hatch (R-Utah), would recognize the ''first inventor to file'' standard, creating a bright line—the date on which a patent application was filed—and bringing certainty to the process. Yet the bill is not inflexible and wisely keeps in place protections for academics who share their ideas with outside colleagues or preview them in public seminars.

The bill also would increase protections for those with legitimate gripes. Third parties, currently shut out of the process, would be given clear rules and time limits to challenge patents that have not yet been approved. They'd also have a chance to lodge objections after a patent has been granted; the U.S. Patent and Trademark Office (PTO) would resolve these disputes. This safety valve should reduce the litigation costs associated with court challenges.

The PTO has long been overwhelmed and underfunded. The bill would allow the agency to set the amount it charges for filings while providing discounts to solo inventors and small companies. An amendment likely to be introduced by Sen. Tom Coburn (R-Okla.) would allow the agency to keep all of its fees, thereby ensuring it the resources it needs to carry out the bill's mandates.

The president made much of ''winning the future'' in his State of the Union address. A patent system that protects innovators and encourages meaningful breakthroughs would help achieve that goal.

EXHIBIT 2

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, March 2, 2011.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges you to oppose amendment 133 offered by Sen. Dianne Feinstein (D-CA) to S. 23,The America Invents Act.

The amendment would remove a key provision in S. 23, The America Invents Act, which is strongly supported by manufacturers, the creation of a ''first-inventor-to-file'' system.

The NAM supports transitioning the United States from a ''first-to-invent'' system to a ''first-to-file'' system to eliminate unnecessary cost and complexity in the U.S. patent system. Manufacturers large and small operate in the global marketplace and the United States needs to move toward a system that will provide more patent protection around the world for our innovative member companies. The ''first-to-file'' provision currently included in S. 23 achieves this goal.

Thank you for your consideration and your support for the ''first-to-file'' system.

Sincerely,

DOROTHY COLEMAN.

FEBRUARY 28, 2011.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: We write as the presidents of six university, medical college, and higher education associations to express the strong support of our associations for S. 23, the Patent Reform Act of 2011, which was reported by the Senate Judiciary Committee on a 15–0 vote and is scheduled to be considered by the Senate this week. This bipartisan agreement represents the successful culmination of a thorough, balanced effort to update the U.S. patent system to support more effectively the nation's economic competitiveness and job creation in the increasingly competitive global environment of the 21st century.

Our universities and medical colleges are this nation's principal source of the fundamental research that expands the frontiers of knowledge, strengthening the nation's innovative capacity. The patent system plays a critical role in enabling these institutions to transfer the discoveries arising from university research into the commercial sector for development into products and processes that benefit society.

S. 23 will:

Harmonize the U.S. patent system with that of our major trading partners, enabling U.S. inventors to compete more effectively in the global marketplace;

Improve patent quality by allowing third parties to submit information to the USPTO concerning patents under examination, and by creating an efficient, effective post-grant opposition proceeding to challenge patents for nine months after they have been granted, allowing challengers to eliminate weak patents that should not have been granted

and strengthening those patents that survive the challenge;

Reduce patent litigation costs by establishing the new post-grant procedure noted above, and by significantly improving the current inter partes review procedure, which will provide a lower-cost alternative to civil litigation to challenge a patent throughout its lifetime, while significantly reducing the capacity to mount harassing serial challenges; and

Provide USPTO with increased resources by providing this fee-funded agency with critically needed fee-setting authority, subject to Congressional and Patent Public Advisory Committee oversight.

We wish to call your attention to two important amendments that may be offered during floor consideration:

Senator Coburn is expected to offer an amendment to prevent diversion of fees collective by USPTO. This amendment is a critical accompaniment to the fee-setting authority provided by S. 23, allowing this seriously under-resourced agency to maintain the fees necessary to carry out its critical functions and reduce the backlog of patent applications. We urge you to support the Coburn amendment.

Senators Feinstein, Boxer, and Reid are expected to offer an amendment to eliminate the transition to a first-inventor-to-file system. The National Academies, in its seminal report on patent reform, A Patent System for the 21st Century, strongly recommended moving from a first-to-invent to a first-inventor-to-file system. Adopting a first-inventor-to-file system will harmonize the U.S. patent law with that of our trading partners, add greater clarity to the U.S. system by replacing the subjective determination of the first inventor with the objective identification of the first filer, and eliminate the costs of interferences and litigation associated with determining the first inventor. We urge you to oppose the Feinstein, Boxer, and Reid amendment.

We believe S. 23 reforms current U.S. law in a way that balances the interests of the various sectors of the patent community and substantially improves the patent system overall, strengthening the capacity of this system to strengthen the nation's innovative capacity and economic competitiveness. We urge you to support this carefully crafted legislation.

Sincerely,

ROBERT M. BERDAHL,
President, Association of American Universities;
MOLLY CORBETT BROAD,
President, American Council on Education;
DARRELL G. KIRCH,
President and CEO, Association of American Medical Colleges;
PETER MCPHERSON,
President, Association of Public and Land-grant Universities;
ASHLEY J. STEVENS,
President, Association of University Technology Managers;
ANTHONY P. DECRAPPEO,
President, Council on Governmental Relations.

This letter was sent to all members of the U.S. Senate.

SMALL BUSINESS & ENTREPRENEURSHIP COUNCIL,
Oakton, VA, February 28, 2011.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Senate Bldg., Washington, DC.

DEAR SENATOR LEAHY: The Small Business & Entrepreneurship Council (SBE Council) and its members across the nation have been strong advocates for patent reform. We are pleased that you have introduced the Patent Reform Act (S. 23), and we strongly endorse this important piece of legislation.

An effective and efficient patent system is critical to small business and our overall economy. After all, the U.S. leads the globe in entrepreneurship, and innovation and invention are central to our entrepreneurial successes. Indeed, intellectual property—most certainly including patents—is a key driver to U.S. economic growth. Patent reform is needed to clarify and simplify the system; to properly protect legitimate patents; and to reduce costs in the system, including when it comes to litigation and the international marketplace.

Make no mistake, this is especially important for small businesses. As the Congressional Research Service has reported: ''Several studies commissioned by U.S. federal agencies have concluded that individuals and small entities constitute a significant source of innovative products and services. Studies have also indicated that entrepreneurs and small, innovative firms rely more heavily upon the patent system than larger enterprises.''

The Patent Reform Act works to improve the patent system in key ways, including, for example, by lowering fees for micro-entities, and by shortening time periods for patent reviews by making the system more predictable.

During the debate over this legislation, it is expected that two important areas of reform will come under attack.

First, the U.S. patent system is out of step with the rest of the world. The U.S. grants patents on a first-to-invent basis, rather than the first-inventor-to-file system that the rest of the world follows. First-to-invent is inherently ambiguous and costly, and that's bad news for small businesses and individual inventors.

In a 2004 report from the National Research Council of the National Academies (titled ''A Patent System for the 21st Century''), it was pointed out: ''For those subject to challenge under first-to-invent, the proceeding is costly and often very protracted; frequently it moves from a USPTO administrative proceeding to full court litigation. In both venues it is not only evidence of who first reduced the invention to practice that is at issue but also questions of proof of conception, diligence, abandonment, suppression, and concealment, some of them requiring inquiry into what an inventor thought and when the inventor thought it.'' The costs of this entire process fall more heavily on small businesses and individual inventors.

As for the international marketplace, patent harmonization among nations will make it easier, including less costly, for small firms and inventors to gain patent protection in other nations, which is critical to being able to compete internationally. By moving to a first-inventor-to-file system, small firms will in no way be disadvantaged, while opportunities in international markets will expand.

Second, as for improving the performance of the USPTO, it is critical that reform protect the office against being a ''profit center'' for the federal budget. That is, the USPTO fees should not be raided to aid Congress in spending more taxpayer dollars or to subsidize nonrelated programs. Instead, those fees should be used to make for a quicker, more predictable patent process.

Thank you for your leadership Senator Leahy. Please feel free to contact SBE Council if we can be of assistance on this important issue for small businesses.

Sincerely,

KAREN KERRIGAN,
President & CEO.

EXHIBIT 3

RECORD SUBMISSIONS—FIRST-TO-FILE

Mr. President. We have heard from stakeholders from across the spectrum—from high tech and life sciences, to universities and small inventors—in support of the transition to the first-to-file system. These supporters include:

AdvaMed; American Bar Association; American Council on Education; American Intellectual Property Law Association; Association of American Medical Colleges; Association for Competitive Technology; Association of American Universities; Association of Public and Land-grant Universities; Association of University Technology Managers; Biotechnology Industry Organization; Business Software Alliance; Coalition for 21st Century Patent Reform, a coalition of 50 companies from 18 different industry sectors, such as General Electric, Procter & Gamble, 3M, Pfizer, and Cargill.

Council on Governmental Relations; Gary Michelson, Independent Inventor; Genentech; Intellectual Property Owners Association; Louis J. Foreman, Enventys, Independent Inventor; National Association of Manufacturers; The Native American Intellectual Property Enterprise Council; PhRMA; Small Business and Entrepreneurship Council; Software & Information Industry Association.

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

Mr. COONS. Mr. President, I thank the chairman for his leadership on this floor deliberation regarding S. 23, the America Invents Act.

I rise to speak in opposition to the Feinstein amendment, which would strike the first-to-file provision, which I think is one of the critical components of this act that will harmonize the patent system with that of the rest of the world, as I heard Chairman LEAHY speak to. This is the first comprehensive patent reform bill in 60 years. It is a key piece of our bipartisan work to make sure the United States remains a competitive country which can once again be in the forefront of world innovation.

As someone who, like you, Mr. President, is concerned about manufacturing, is concerned about employment, is concerned about jobs, one of the ways we can restrengthen, reinvigorate, reenergize manufacturing in this country is by making sure our Patent and Trademark Office is as capable, is as strong as it can possibly be. I take quite seriously that the Patent and Trademark Office under the very able leadership of Director Kappos is opposed to this amendment and has also raised concern, which I share, that this amendment would tear apart the very broad coalition that has worked so hard and has negotiated this particular act, the America Invents Act, over the last 6 years.

On an issue that is as important as this, as critical as this to the protection of American innovation and the resulting creation of jobs, I think it is important that we in the Senate not allow this bipartisan bill to fall apart over this issue.

Transition to first-to-file is an improvement over the current system because it provides increased predictability, certainty, and transparency. Patent priority will depend on the date of public disclosure and the effective filing date rather than on secret inventor notebooks, secret personal files which may or may not be admissible and often lead to long and contentious litigation, as the chairman mentioned in his floor comments as well.

This predictability, the predictability that the first-to-file system will bring, I believe will strengthen the hand of investors, inventors, and the public. All will know as soon as an application is filed whether it is likely to have priority over other patent applications.

In contrast, the current system with which we worked for many years does not provide an easy way to determine priority. That is why interference proceedings can be so contentious, so long, and so expensive. There are some small inventors in particular who I know are concerned that first-to-file will be used by larger companies to steal away their rightful invention. This bill contains critical protections for all inventors so the ultimate new system, once this is passed, will be more fair, more predictable, and transparent for all. For those inventors who publicly disclose an invention before anybody else, they have a 1-year grace period to claim priority for any patent application based on the subject matter they disclose. Smaller inventors as well as large inventors will be protected as soon as they publish or otherwise disclose under this America Invents Act.

In my view, that will increase the free flow of ideas while still protecting the IP rights of any inventor, large or small.

The Patent and Trademark Office commissioned a study of patent and trademark applications filed over the last 7 years. They found only 1 out of 300,000 filings would, under the new system, grant a patent to a large company that might otherwise have gone to a small company or individual inventor. By avoiding cost, the difficulty, the unpredictability of lengthy interference proceedings, transition to first-to-file will neutralize what I think is a big structural advantage to large companies in the current dispute system.

First of all, it also gives the holder of a new patent increased confidence in the strength and reliability of this patent, which I also think will accelerate venture capital investment, new company formation, and movement toward deployment of critical new technology.

I think experience has shown in other countries, in Europe and Canada, that transitioning from a first-to-invent to a first-to-file system will not lead directly to an increase in so-called junk applications and will, instead, make patent examination simpler, fairer, and more predictable. In short, my view is that it is crucial to the success of this legislation. It is crucial for the coalition that has come together over many years to support it. It is crucial for the progress this act will make in strengthening and streamlining the patent review and granting process in the United States. So I urge my colleagues to oppose the amendment, amendment No. 133.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNET. 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. BENNET. Mr. President, I would like to speak briefly on the importance of passing the America Invents Act.

Chairman LEAHY and the Judiciary Committee have worked hard to put this product on the floor that will mark the biggest reforms to our patent system in 60 years. This bill will create jobs in Colorado and across the country by promoting innovation. By making our patent system more efficient, we are building the foundation for future economic growth.

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

Having a high quality U.S. Patent and Trademark Office is essential to maintaining American leadership in innovation. The America Invents Act will help us grow new industries and will help cure the backlog and delay that have stunted the ability of inventors to patent their ideas.

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

And we have improved the bill on the floor by helping solidify alternatives to litigation, provide for more efficient resolution of disputes and help create more certainty, which is essential to inventors.

It is hard to pass a jobs bill without spending money, but that is absolutely what we have done here. The bill does a good job of balancing the interests of innovators across the many sectors of our economy.

We have passed a number of bipartisan amendments that have improved this bill. We added amendments promoting the establishment of satellite USPTO offices in regions across the country; creating a discount for small entities to participate in the accelerated patent examination program of the USPTO; and addressing concerns with damages and venue provisions. I am proud to have worked with the chairman and the ranking member to get these issues resolved.

I also commend Senator MENENDEZ on his amendment to provide a fast track for patents that are critical for our national competitiveness, which I cosponsored.

The Senate has come a long way toward improving our patent system with this legislation and harmonizing our system with the rest of the world. There are a lot of people in my State who are interested in further improvements. I pledge to continue to work with them to help make sure we continue to fine tune this legislation where we can.

The America Invents Act represents significant progress for our patent system. We are moving our patent system into the new century, which is already being defined by the next wave of American innovation. The breadth of support for this legislation across industries and from large and small businesses, as well as our universities, has provided the momentum to complete this legislation.

I would like to close by again thanking the chairman and Judiciary Committee. I urge my colleagues to vote for patent reform.

I thank the Chair. I yield the floor.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

SETTING THE RECORD STRAIGHT

Mr. DURBIN. This morning the Republican leader came to the floor, Senator MCCONNELL, and made some pretty strong and sweeping statements about the state of the deficit and responsibility. I would like to have a chance to respond.

Senator MCCONNELL said for 2 years now Washington Democrats have taken fiscal recklessness to new heights. The amount of red ink Democrats plan to wrack up this year alone would exceed all the debt run up by the Federal Government since its inception through 1984.

I would like to set the record straight. Understand what the national debt of America was when President William Jefferson Clinton left office. We were running surpluses. We had not done that for decades—surpluses in the Federal Treasury.

What did we do with all this money? We put it in the Social Security trust fund. We bought more longevity and solvency for Social Security and, if you remember, the economy was never stronger.

William Jefferson Clinton left office, and at that moment in time, the national debt, the accumulated debt of

America, from George Washington until he left office, $5 trillion. Remember that number, $5 trillion. Fast forward 8 years after the end of President George W. Bush—8 years later—where were we? The national debt was now $12 trillion.

Fiscal recklessness by Democrats? Under President Bush, the national debt more than doubled. Instead of leaving a surplus for President Obama, he said: Welcome to an economy that is hemorrhaging hundreds of thousands of jobs lost every single month, and we anticipate next year's deficit—he told President Obama—to be $1.2 trillion. That was what President Bush handed to President Obama.

I do not mind a selective view of history. I guess we are all guilty of that, to some extent. But to ignore the fiscal mess created that more than doubled the national debt in 8 years, to ignore that we waged two wars without paying for them, to ignore that we cut taxes in the midst of a war, which is something no President in the history of the United States has ever done, is to ignore reality.

The reality is, we are here today, in the midst of this Titanic struggle, about whether we are going to continue to keep the Federal Government functioning. We are being asked whether, 2 weeks from now, we want to have security at our airports, air traffic controllers, whether we want to have Social Security checks sent out, people actually sending a check, answering questions at the Internal Revenue Service, whether we want the Securities and Exchange Commission still working on Wall Street 2 weeks from now.

We cannot lurch forward 2 weeks at a time without doing a great disservice to taxpayers of this country, as well as to the men and women who work hard for our government every single day.

What is the answer in the House of Representatives? Well, the House of Representatives says we need to cut $100 billion this year. They started at $60 billion, incidentally, and then decided that was not enough for bragging rights; let's get up to $100 billion this year.

You say: Well, out of a budget of $3.7 trillion, how big is that? Whoa. They did not look at the budget of $3.7 trillion. They looked at one 14-percent slice of the pie, domestic discretionary spending. That is it. Nothing to be taken out of the Department of Defense, nothing to be taken away in terms of tax breaks for the wealthiest corporations, the most successful corporations, nothing out of oil and gas royalties and the like—nothing out of that. We will take it all out of domestic discretionary.

So what did they take away? I looked in my State last week. I went up to Woodstock, IL. We have an office there with counselors who are bringing in unemployed people, sitting them in front of computers, with fax machines and copy machines. They are preparing resumes and trying to get back to work. These are people who want to work. They need a helping hand. This place has been successful. It places people in jobs. What would happen to that office under the House Republican budget resolution? It would close its doors—more unemployed people, more unemployment checks. Is that the answer to putting America's economy back on its feet? Is that how we are going to get 15 million Americans back to work?

How about the House Republicans' proposal to eliminate $850 a year in Pell grants. Senator LEAHY knows what that is all about. These are kids from the poorest families, many of them for the first time in their family have a chance to graduate from college, but they can't make it; they don't have enough money. We give them a helping hand. The Republicans take it away. What will that do? The President of Augustana College in Rock Island, IL, told me what it will mean. It will mean that 5 percent, 1 out of every 20 students, will not finish the school year. That is what the Republican cut means. To cut job training, to cut education when we have 15 million people out of work, what are they thinking?

Not bad enough, I went to a medical school in my hometown of Springfield, Southern Illinois University School of Medicine, and met with researchers. They get a few million a year to do medical research in fields of cancer therapy, dealing with heart issues, dealing with complaints of returning veterans. What do the House Republicans do? They virtually close down research for the remainder of the year, close down this medical research. Is that right? Is that what we want? Have we ever had a sick person in our family and we went to the doctor and asked: Is there anything, is there a drug, is there something experimental, a clinical trial, is there anything? Have we ever asked that question? If we did, we know this cut by House Republicans is mindless, to cut medical research at this moment in history.

Then I went to a national laboratory, the Argonne National Laboratory, on Monday. What do they do there? A lot of people can't answer that question. I learned specifically. Are Members aware of the Chevy Volt, a breakthrough automobile, all electric? Where did that battery in this automobile come from? The Argonne National Laboratory. How about the latest pharmaceutical breakthroughs? Virtually every one of them uses the advanced photon source at the Argonne National Laboratory. I met a man from Eli Lilly who was there experimenting with a new drug that can save lives. How about computers? Where is the fastest computer in the world today? I wish it was in the United States. It is in China. We are now working on the next fastest computer so we don't lose that edge. Where? At the Argonne National Laboratory. So what would the House Republican budget do to that laboratory and most every other laboratory? It would eliminate one-third of the scientists and support staff working there and cut their research by 50 percent for the rest of the year.

So what? So what if we don't move these pharmaceuticals forward to market sooner to save lives, if we don't compete with the Chinese on this computer, if we don't deal with battery technology so we don't lose that edge in the world? What will it mean? Lost jobs.

The House Republicans weren't thinking clearly. They were performing brain surgery with a hacksaw. As a result, they have cut what is essential for the future: infrastructure projects, education, research. To have the Republican leader come and tell us we have to accept that, that that is the future of America—no, it is not. Time and again, when we sit down to deal with budget challenges, whether it is in the deficit commission, on which I was honored to serve, or whether it is in past negotiations, we open the table to all Federal spending, not just 14 percent, that tiny slice of the pie.

Senator MCCONNELL can remember—and I can, too—under President George Herbert Walker Bush and under President Clinton, we put on the table tax breaks for some of these oil companies and corporations and said: Is it worth America's future for us to give them a tax break or to use the money to reduce the deficit? That is an honest question. Mandatory spending. All these things need to be brought to the table for conversation, but that is not the position of the Republicans. They would rather see us shut down the government than to open this conversation to the entire Federal budget. They would rather see us shut down the government than fight to make sure education, training, research and innovation and infrastructure are there to build a strong American economy for the future.

I say to my friend Senator MCCONNELL, we don't need any speeches from that side of the aisle about a national debt that more than doubled under the last Republican President. We have to work together in a bipartisan way, acknowledging the reality of history, that we all have had a hand in reaching the point we are at today, both positive and negative, and we all need to take a responsible position to move us forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the comments of the Senator from Illinois. I recall great discussions during the administration of President Reagan. I happened to like President Reagan. We got along very well. But I remember discussions on a balanced budget and all that, as his budget tripled the national debt. I do recall he did veto one spending bill because it didn't spend as much as he wanted. Rhetoric is one thing, as the Senator

from Illinois points out. Reality is often different. I thank him.

AMENDMENT NO. 133, AS MODIFIED

I ask unanimous consent that at 12:30 p.m., the Senate proceed to a vote in relation to the Feinstein amendment No. 133, as modified, with no intervening action or debate; that the time until then be divided equally between the proponents and the opponents, and no amendments be in order to the Feinstein amendment prior to the vote.

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

Mr. LEAHY. I suggest the absence of a quorum and ask 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 legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Ms. CANTWELL. Madam President, am I correct there is a vote at 12:30?

The PRESIDING OFFICER. That is correct.

Ms. CANTWELL. The time is equally divided on the Feinstein amendment?

The PRESIDING OFFICER. Correct.

Ms. CANTWELL. Madam President, I rise to support the Feinstein amendment and to ask my colleagues, who I know have been working diligently on the legislation for several years now, to respect the very tough balance that has been sought in this legislation as this legislation came out of the Judiciary Committee.

I know we adopted a managers' amendment yesterday, and I know that managers' amendment now is catching a lot of people off guard because there are far more changes than people realized in that managers' amendment that I think upsets that apple cart of balance that was struck in the Judiciary Committee.

So I am urging my colleagues to support the Feinstein amendment and expressing my concern for the underlying bill that is something that, at this point in time, I cannot support.

I do not come to that decision lightly nor because of the fact that I have many high-tech companies in the State of Washington that might say we need patent reform and that this is good innovation. But large high-tech companies are not the only ones that know something about innovation. In fact, most of the people who have helped build those organizations were once the small inventors themselves of key technology.

What is at stake is unbalancing the apple cart as exists today to innovation—not just innovation in general but innovation in an information age. The meal ticket for all of us is going to be the invention and creation of new products and services. So that is the great time and age we live in.

But if in this legislation we all of a sudden upset that apple cart, where we are tilting the playing field in support of large corporations that have already made their mark and made their markets and made their success and have slowed down on the rate and progress of innovation within their companies and do a lot to acquire technology from smaller inventors—and now, all of a sudden in this underlying bill, particularly in the area of damages, make sure the big corporations can win in any kind of legal dispute against the technology holder or creator because they are able to outlast them in a legal battle because they are more well financed, more well heeled, with the ability to draw out this battle—because of that change in the underlying bill, we leave the small guy without many resources.

The only thing the small inventor has is their intellectual property and a fair day in court. If now we take that away from them, I guarantee you, they will have less success. Then, when you have less success of having 5,000 flowers bloom, we have a problem.

This is not about what five or six or seven large corporations can create. This is about what thousands and thousands of innovators are going to create in the future and whether they are going to be incented or disincented to do that.

The Feinstein amendment tries to protect the current process, to protect what are the rights of those inventors today under current law. I am sure my colleagues will say: Well, that is not the way the rest of the world does it. I would say to my colleagues: I am not sure the way the rest of the world does it is the mark we are trying to hit. What we are trying to preserve is the entrepreneurial spirit that has been created in the United States. I am not saying that is not based on just raw creativity of individuals—it is—but it is also based on financial incentive and the incentive those individuals have that their intellectual property can be protected.

But if this is going to be a game about the big boys coming to Washington and squashing the small inventors, count me out. This has to be a level playing field. I get it is tempting to want to, in the last minute, stick into the managers' amendment language you could not get out of committee. But if we want to get this legislation through this process, then we have to take into consideration the rights of the inventors along with the rights of those larger companies that are trying to acquire or integrate or be part of the manufacturing on a larger scale of that inventor's technology.

So I say to my colleagues, the Feinstein amendment, in keeping the rights of the inventors where they are, gives them at least a modicum of holding on to that. I think the underlying bill has changed so much in the managers' amendment that we are going down a road that is going to make it very difficult for us to finally get a piece of legislation. We have to respect the rights of the small individuals, and we can't have carve-outs for specific jurisdictions such as Wall Street who think they can have their cake and eat it too.

This has to be about how we move forward on a smoother patent process. We need to take into consideration that we have gotten to this great place in our country because we have had a balance and an empowerment of these technologies. We should not all of a sudden in one fell swoop take that away on the Senate floor and basically undermine what is the creative opportunity for the U.S. economy, which is an invention. We want thousands and thousands of inventors—not just inventors who work for big corporations—thousands of inventors who have their rights.

So I support the Feinstein amendment.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the Senator from Washington for her comments. We welcome her support. I was pleased to be able to listen to her comments.

What is the current status of the time allocation?

The PRESIDING OFFICER. The proponents have 3½ minutes remaining, and the opponents have 10 minutes remaining.

Mrs. FEINSTEIN. I ask unanimous consent that our 3½ minutes be extended so that Senator RISCH, who will speak next, has the time he requires, and I have the time for a few brief closing remarks.

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

Mrs. FEINSTEIN. Thank you very much.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, I am proud to come to the floor today to speak on the amendment to which I am a cosponsor.

This is simply a matter of fairness. With all due respect to my colleague from Washington, referencing her comments about the big boys versus the small inventors and what have you, I don't view it as that at all. I view it as a fairness issue: The person who created the invention gets the benefits of that creation, not the person with the fastest tennis shoes. That is what we are doing.

We are creating what is called a race notice statute, which is similar to what is in place in many States on real estate filings. It has a legitimate place in the real estate market but not here. With so much on the line, with creativity on the line, it should be the person who actually does the invention who reaps the benefits of that invention, and that is all this does.

The other thing I think is so important is it preserves the situation we

have had for many years in place. I have heard people say: Oh, well, this is a poison pill. If you take this out, it kills the bill. That isn't the case at all. It simply preserves the situation we have in place today. It is the right thing to do. It is the fair thing to do.

I urge an affirmative vote for this amendment.

I yield the floor to my colleague from California, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Madam President. I thank Senator RISCH for his cosponsorship, and, of course, I agree exactly with his statement.

At this time I wish to briefly summarize the arguments in favor of our amendment to strike the first-to-file provisions from this bill. This amendment is cosponsored, as I said, by Senator RISCH, Majority Leader REID, Senators CRAPO, BOXER, ENSIGN, and I ask unanimous consent to add Senator BEGICH.

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

Mrs. FEINSTEIN. Thank you, Madam President.

Proponents of the first-to-file argue that the rest of the world follows this system and making this change will harmonize our system with theirs, and that is true. But under our first-to-invent system, our Nation has been by far the leader in the field of innovation, the leader in the field of new patents, new discoveries, new inventions. The other first-to-file countries have been playing catchup with our technological advances. I wouldn't trade our record of innovation for any of theirs, and I doubt many Members of this body disagree with me if they really think about it.

Think about the history of innovation. What sets America apart is so many of our great inventions start out in small garages and labs, with driven, inspired people who have great ideas, develop them, and then they take off. I mentioned companies that have started this way yesterday, including Hewlett Packard, Apple, and Google, and there are hundreds and perhaps thousands of others. They started from humble beginnings, and they grew spectacularly, creating jobs for millions of Americans and lifting up our economy and standard of living.

I know an inventor who invented Skyy vodka. The vodka he drank disturbed his stomach, so he figured out biologically and chemically what it was, and he invented a vodka called Skyy vodka—a small inventor. I think that company was subsequently sold for a great deal of money. But it started with one man who had a stomachache from drinking vodka.

Now, this may be just one type of example, but Apple is certainly another example. It started in a garage many years ago in California, and out of that emerged this giant company. So these companies started from humble beginnings. They grew. This created jobs for millions of Americans. They lifted our economy and our standard of living.

The National Small Business Association is a supporter of this amendment, and just last week other small business inventor groups have joined them in saying that first-to-file ''disrupts the unique American start-up ecosystem that has led to America's standing as the global innovation leader.''

First-to-invent has served our country well. Here are the main problems, as I see them, with the bill's first-to-file system: First, the grace period. It ''guts'' the current grace period, in the words of a letter from 108 startups and small businesses that protect inventors' rights to their inventions for 1 year from offering them for sale or making a public use of them, among other things, before they have to file a patent application with the Patent Office. So there is this 1-year grace period for them to get their act together.

Now, under the present system, instead of preparing a costly patent filing, they can concentrate on developing their invention and obtaining necessary funding.

The majority leader just circulated a statement to Members which speaks to this grace period. I wish to quote one part of that statement:

> The grace period comports with the reality of small entity financing through friends, family, possible patent licensees, and venture capitalists. The grace period allows small inventors to have conversations about their invention and to line up funding before going to the considerable expense of filing a patent application.

The grace period allows them to not have to race to the Patent Office because they are afraid somebody else might have heard the conversation, might have stolen it from them, and moved on.

Senator REID goes on:

> In fact, in many ways, the one-year grace period helps improve patent quality—inventors find out which ideas can attract capital, and focus their efforts on those ideas, dropping along the way other ideas and inventions that don't attract similar interest and may not therefore be commercially meaningful.

So this first-to-file essentially replaces this critical innovation-protecting provision with a more limited and murky grace period that only runs from the undefined term of ''disclosure.'' There is no discovery. Litigation is sure to ensue as courts interpret this term, creating uncertainty that I believe will chill investment in startups which in turn will damper innovation and job growth.

Unfortunately, first-to-file incentivizes inventors to race to the Patent Office, to protect as many of their ideas as soon as possible, so that they are not beaten to the punch by a rival. Thus, first-to-file will likely result in significant overfiling of dead-end inventions, unnecessarily burdening both the Patent Office and especially small inventors.

The third reason, difficulty of proving copying. The third major problem with this bill's system is the difficulty of proving that someone copied an invention. Currently, you as a first inventor can prove that you were first by presenting evidence that is in your control—this is under first-to-invent—your own records contemporaneously documenting the development of your invention. But under this bill, to prove that someone else's patent application came from you, was derived from you, you would have to submit documents showing this copying. Because there is no discovery, you wouldn't have those documents in your possession, so it makes proving your invention much more difficult. The bill doesn't provide for any discovery in these ''derivation proceedings.'' Therefore, the first inventor can't prove his or her claim because he or she does not have access to the documents of the alleged copier.

Mr. LEAHY. Madam President, if the Senator will yield, how much time is remaining?

Mrs. FEINSTEIN. I will just take 2 minutes more.

The PRESIDING OFFICER. The Senator from California by consent is using the opponent's time.

Mr. LEAHY. Is using my time?

Mrs. FEINSTEIN. No. I have asked to extend our time.

Mr. LEAHY. Madam President, we are supposed to vote at 12:30. I realize the Senator couldn't be here when her amendment was brought up and couldn't be here when her amendment was modified. We did that for her. But I am in opposition to it, and I should at least have some of my time to be able to use.

Mrs. FEINSTEIN. I will be very happy to—I was here yesterday. I did speak on the floor, Mr. Chairman. I did, in a rather lengthy speech, indicate the arguments. I have asked for just a short period of time. My remarks are no more than five pages, which should take me 1½ more minutes to conclude. I hope I would be offered that time.

Mr. LEAHY. Madam President, at the hour of 12:30 we are supposed to vote. I would ask unanimous consent, so far as my time has been used by those in another position, that Senator GRASSLEY and I have 4 minutes back of our time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has consent.

Mrs. FEINSTEIN. Fine. Then I would ask that my time on this side be extended for another 1½ minutes.

The PRESIDING OFFICER. The Senator has that time.

Mrs. FEINSTEIN. Thank you very much.

So I have outlined the difficulty of proving copying under the first-to-file system.

Disputes about who is the first to invent are resolved by the Patent Office in what is called an interference proceeding, which number only about 50 a year out of 480,000 patent applications.

The opposition infers that this is a huge problem. Fifty a year out of 480,000 patent applications is a very small percentage.

As I said in the beginning, America leads the world under the first-to-invent system. I don't think we should fix what isn't broken. This works for people who have great ideas but don't have money, who begin in a garage or in a lab. It has worked well for our system.

I ask my colleagues to join Senator RISCH, Majority Leader REID, Senators CRAPO, BOXER, ENSIGN, BEGICH, and myself in voting yes on this amendment.

I yield the floor.

Mr. LEAHY. Madam President, as I said earlier, Secretary Locke confronted the notion that the current outdated system is better for small independent inventors. He said the cost of proving that one was first to invent is prohibitive and requires detailed, complex documentation of the invention process. In cases where there is a dispute about who the actual inventor is, it typically costs at least $400,000 in legal fees and even more if the case is appealed. By comparison, establishing a filing date through provisional application to establish priority of invention costs just $110.

I appreciate the work of the Senator from California, but her amendment is a killer amendment. It would kill this bill. Our bill is set up so that it will allow us to compete with the rest of the world. Right now, we are behind the rest of the world in our patent system. Our bill as it is written allows us to compete with the rest of the world. Her amendment would hold us back and give an advantage to those countries with which we have to compete.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I associate myself with the remarks of the chairman of the committee. I ask that people on my side of the aisle not support the Feinstein amendment.

At this point, I move to table the Feinstein amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table the Feinstein amendment, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—87

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

NAYS—13

Begich	Feinstein	Rockefeller
Boxer	Inouye	Tester
Cantwell	Nelson (FL)	Wyden
Crapo	Reid	
Ensign	Risch	

The motion was agreed to.

Mr. LEAHY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 126

Ms. STABENOW. Madam President, I will call up amendment No. 126. I understand it will be agreed to. I ask unanimous consent that the pending amendments be set aside and I call up amendment No. 126.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself and Mr. LEVIN, proposes an amendment numbered 126.

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

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

The amendment is as follows:

(Purpose: To designate the satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan as the ''Elijah J. McCoy United States Patent and Trademark Office'')

On page 104, strike line 23 and insert the following:

SEC. 18. DESIGNATION OF DETROIT SATELLITE OFFICE.

(a) DESIGNATION.—The satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan shall be known and designated as the ''Elijah J. McCoy United States Patent and Trademark Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the satellite office of the United States Patent and Trademark Office to be located in Detroit, Michigan referred to in subsection (a) shall be deemed to be a reference to the ''Elijah J. McCoy United States Patent and Trademark Office''.

SEC. 19. EFFECTIVE DATE.

Mr. LEAHY. I ask that it be adopted.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 126) was agreed to.

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

Ms. STABENOW. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank the distinguished chairman of the Judiciary Committee and our ranking member and those who are working very hard on a very important jobs bill today. On behalf of the people of Detroit, the people of Michigan and Senator LEVIN and myself, I thank very much the Members for their support of this amendment.

Madam President, just few months ago, we learned that Detroit, MI, will be home to the first-ever satellite office of the U.S. Patent and Trademark Office. This office is such great news for Michigan, where we have a proud tradition of innovation and invention.

Every day, we are looking to innovate and create ''the next big thing.'' The decision to locate this satellite office in Detroit shows just how much new invention is happening in Michigan. Thanks to some of the best research universities in the country, with an incredibly skilled workforce, we have become third in the nation in terms of clean energy patents. And we are getting new patents every single day.

In addition to clean energy, Michigan is home to groundbreaking research in fields such as agriculture, defense technology, medical technology and pharmaceuticals, advanced batteries, and, of course, automobiles.

This patent office will help us continue that tradition of innovation, while reducing the backlog of patent applications so those new products can get to the market faster.

It makes perfect sense to locate this new satellite office in Detroit.

Today I am offering, along with Senator LEVIN, amendment No. 126 to the America Invents Act to name this new facility after a great Michigan inventor, Elijah McCoy.

His life captures the spirit of Michigan ingenuity and entrepreneurship. His parents escaped slavery and fled across the border to Canada. After training as an apprentice in Scotland, he came to Ypsilanti, Michigan and set up a home-based invention shop.

Over the course of his brilliant life, Elijah McCoy secured more than 50 patents, but he is best known for his inventions that revolutionized how our heavy-duty machinery, including locomotives, function today. In July of 1872, he invented the automatic lubricator, a device that kept steam engines working properly so trains could run faster and longer without stopping for service.

His invention was incredibly effective and many tried to copy his idea,

but nobody could match McCoy's idea. Machinists started asking if the engines were using the ''real McCoy'' technology, and people still use that phrase today when they want the best quality product.

He did not have an easy journey. As an African American, he was kept out of many of the histories of the industrial revolution. Despite his brilliance, he was only ever allowed to work in menial jobs on the railroad tracks.

But despite the racial prejudice, Elijah McCoy never gave up and continued inventing. In 1976, the city of Detroit celebrated Elijah McCoy day and dedicated his home as a historic site. In Detroit, Elijah McCoy Drive runs between Trumball and the Lodge, near Henry Ford Hospital. He is buried in Warren, MI.

It is a great honor for Michigan that the first-ever Patent and Trademark Satellite Office will be named for this great leader and great inspiration for Detroit.

It is a great honor for us to have this first-ever patent and trademark satellite office in Detroit and to have it named after a great leader who has provided great inspiration.

I thank my colleagues very much for supporting this amendment.

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

The PRESIDING OFFICER (Mr. COONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BLAMING WORKERS

Mr. BROWN of Ohio. Mr. President, we have all watched the news stories—from Madison, WI; Columbus, OH; Trenton, NJ, and other places around the country—where public employees, when you really analyze it, are paid more or less, including benefits and depending on the place, comparable to the private sector worker. Whether they are high school graduates or college graduates or whatever, the overall pay and benefits are pretty similar. We have seen around the country that these public employees are in most cases willing to share in the sacrifice of balancing budgets and share in the sacrifice of fighting back against this bad economy. In fact, we know that workers—teachers, police officers, nurses, people working at the unemployment bureaus, people working at the Department of the Interior, wherever—have taken pretty big hits already in terms of lost jobs, in terms of no raises, in terms of paying more for their health benefits.

So we know that even though these are not the people who caused the recession any more than the workers at Lordstown, OH, assembling cars or Defiance, OH, building engines or Northwood, OH, making bumpers for the Chevy Cruze are responsible for the failure of the automobile industry, there just seems to be, as we have seen from these ideological conservative Governors, an assault all over the country blaming workers, whether they are public or private workers, for the problems in this economy.

They continue to want to give tax cuts to the richest people on Wall Street, as they take their bonuses and make big dollars and see their incomes go like this, but as workers have pretty much had no real increase in the last 10 years—wages have been mostly stagnant—how can you blame the workers for this? That is what we have seen around the country.

It has been so interesting. Two days ago in Columbus, OH, 8,500 people demonstrated not against budget cuts, because they know those are coming, but against this direct assault by the government—by the Governor and legislative leaders—on the right to organize and bargain collectively. That is a right that has been part of Americana, a part of our values for 75 years.

Why do they think we have a middle class? We have a middle class because workers have been able to band together and say to a company that is very profitable: We should get some of that profit you are making because we are your workers and we have made your company more prosperous.

Management is important and crucial, but workers are important and crucial. As worker wages go up, management wages typically go up. But we have seen worker wages remain stagnant, in part because of a lack of unionization or a decline in unionization.

Now we are also seeing in Madison, Columbus, Trenton, Harrisburg, Indianapolis, Lansing, in these capital cities, especially in my part of the country, a real play on fear. They are trying to turn private sector workers against public sector workers. They blame the UAW—the auto workers—for the problems in the auto industry. Now they are blaming public workers for problems with State budgets and trying to work the private sector and union workers against each other, fighting with each other. That is the most base Karl Rove-type politics, to turn working-class people against one another. It is wrong. It is morally wrong, it is politically wrong, and it is very wrong for our country.

What has also been interesting about these protests is that they are not all steelworkers and electricians and American Federation of Government Employees and AFSCME and SCMU. There are people of faith also involved.

I did a roundtable at an Episcopal church right off statehouse square, and the leaders of the church and some of the volunteers of the church were there. Now, I don't preach or wear my Christianity on my sleeve, but these people of faith understand that the Bible talks a lot about poverty and a lot about fairness and equality and egalitarianism, if you will, but for them to go against workers on behalf of the richest people in our country—and that is really what they are doing in the Governors' offices in Columbus and Madison and Trenton and other places—runs counter at least to my faith. I will not judge their faith. They worship what God they worship and read what scripture they read. But when I look at what my faith means—and as I said, I am a Lutheran, I am not a Catholic—but when I look at Leo the XIII and what he said about what Catholicism means for workers and fairness, it is point, set, match. That clearly spoke definitively about this.

Mr. President, I have said this on the floor before today, but I wear this pin on my lapel. It is the depiction of a canary in a birdcage. One hundred years ago, miners took a canary down in the mines. If the canary died from lack of oxygen or from toxic gas, the miner got out of the mine. He only had himself to depend on. He didn't have a government that cared much in those days to write safety laws, particularly child safety laws, on the mines. He didn't have a union strong enough in those days to fight back.

Too many people who are ultraconservative—and there are many in both the Senate and the House—want to go back to those days. They want to eliminate worker safety laws, and they want to eliminate minimum wage. They are clearly going after collective bargaining and so many of the things we hold dear.

Again, it wasn't the UAW workers, it wasn't the Service Employees Union workers at the State capital who caused this financial crisis. They have been the victims of it, just as a whole bunch of nonunion workers have. This financial crisis was caused by greed, by people overreaching, by the richest in our society grabbing and grabbing and grabbing for more wealth. Yet they are going to turn this—let's change the subject—against those workers. That has happened far too many times in our country.

I am a new member of the Senate Appropriations Committee, and I am lucky enough to serve on Senator LEAHY's Subcommittee on State, Foreign Operations, and Related Programs. We brought the Secretary of State in—Secretary Clinton—to talk to us about the State Department's budget.

One of the things she said—and I mentioned Madison and Columbus after she said it—but one of the things she said is, it has been unions in Egypt, it has been workers in Egypt and Tunisia and around the world, it has been workers who so often, sometimes through their unions—if they are allowed to have unions, sometimes through a more informal collection of people in what might look like a union but is not formalized—fought for freedom, fought for equality. A lot of the problems in Tunisia and Egypt were because people were hungry—not just because they want freedom, but they also

want fairness and a chance to make a living.

But one of the things Secretary Clinton talked about is, yes, this administration is actually enforcing labor laws in Guatemala, this administration will enforce labor laws in the labor component of our trade agreements across the world because we as a country stand for a more egalitarian workforce. We stand for workers rights. We believe workers should organize and bargain collectively, if they choose. We believe in a minimum wage. We believe in workers' compensation. We believe in workers' safety. We believe in human rights. All of that is about the labor movement.

You can support labor rights in Guatemala, but you better be damned sure you are supporting labor rights in Wilmington and Columbus and Cleveland and Detroit and Dover, DE, and everywhere else. Those were some of the words Secretary Clinton said. I am obviously expanding on them.

I looked back in history and some of the worst governments we ever had, do you know the first thing they did? They went after the trade unions. Hitler didn't want unions. Stalin didn't want unions. Mubarak didn't want unions. These autocrats in history did not want independent unions. So when I see Egypt or I see old Soviet Russia and history tells me about Germany—I am not comparing what is happening to the workers in Madison or in Columbus to Hitler and Stalin. But I am saying, history teaches us that unions are a very positive force in society that creates a middle class and that protects our freedom.

So don't tell me you support unions internationally but you don't support unions here. Don't tell me you support collective bargaining in Poland but you oppose collective bargaining in Zanesville or Dayton, OH, because, frankly, that is inconsistent and ultimately it is not taking the side of people whom we are supposed to represent.

I am proud of my State. About two or three blocks from the capitol, in 1876, the capitol in Columbus, the American Federation of Labor was formed. What we know now as the AFL/CIO began in Columbus, OH, in 1876, when some workers got together thinking there was some strength and some safety in numbers and they were going to have a better standard of living and better country and more freedom for all if they began to coalesce in a group of people—not to bust a hole in the State budget, not to hurt companies but to make sure the workers were represented and get a fair shake in the society.

It is all pretty simple. We have a strong middle class in this country because we have the right to organize and bargain collectively. We have a strong middle class in this country because we are a democracy, because workers can share in some of the wealth they create for their employers. So I hope 10 years from now—I know in Delaware this is something we fought for with manufacturing and middle class and all—we will see, as productivity goes up and profits go up, that workers' wages will go up too. It is the American way. It is what we stand for. Nothing in our society, frankly, is more important than a prosperous middle class and what it brings to us in terms of freedom and equality.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the majority controlling the first hour and the Republicans controlling the next hour.

The Senator from Maryland.

EFFECTS OF H.R. 1 ON WOMEN AND CHILDREN

Ms. MIKULSKI. Mr. President, I am here representing 150 million women in the United States of America, and they are bewitched, bothered, and bewildered by what the Congress, particularly the House of Representatives, in H.R. 1, has done to women.

Women all over America have to balance their family budgets, so they know our United States of America needs to get its fiscal act together. They also know we need to live in a more frugal time. They understand that. But what they do not understand is that in H.R. 1, with what the House did, the entire burden has come from a very limited amount in discretionary spending. When you take off defense, homeland security, women and children are actually thrown under the bus. Well, they are mad as hell, and they don't want to take it anymore. So the Democratic women today, in the hour we have been given, are going to lay out the consequences of what H.R. 1 means.

Now, we in the Senate, and we, your appropriators—of which there are many women on the committee: LANDRIEU, FEINSTEIN, MIKULSKI, MURRAY—we know we have to bring about fiscal discipline. The Senate Appropriations Committee has already worked to reduce the appropriations in the Senate by $41 billion. Now that is really meat and potatoes. So we feel we have already given an option, but, my god, enough is enough.

Let me give you just the top 10 reasons why H.R. 1 is bad for women and children and examine why we are ready to negotiate so we do not have a shutdown of the government. We need a final settlement on the budget for 2011.

Let's just go through them. One, it defunds the entire health care reform law. That is bad for saving lives and saving money. It also eliminates title X family planning money. It jeopardizes breast cancer and cervical cancer screenings for more than 5 million low-income women. They even went after Head Start. Even little kids in Head Start had to take it on the chin. It is going to cause 218,000 children to be kicked off of it. But they go further. For the group who says they are pro family, family values, and that they have to defend life, yet they slash the nutrition programs for pregnant women by $747 million, affecting 10 million low-income pregnant women, new mothers, and children. They also cut funding for prenatal care, and they went after afterschool programs.

They cut funding for Pell grants. They terminate funding that helps schools comply with title IX. They cut funding for job training, which hurts over 8 million workers, many of them getting new training for the new jobs for the new economy. And something very near and dear, I know, to the Presiding Officer: they went not after Social Security in terms of the benefits but went after the people who work at Social Security—the Social Security offices where they work on everything from the regular Social Security benefit to the disability benefit. If H.R. 1 passes, over 2,500 people at Social Security will be laid off. In my home State, they were out in the streets in front of the Social Security headquarters saying: What about us? We come every day. We give you the actuarial information on how to keep it solvent. We make sure checks are out there on time, and in snowstorms we are showing up to make sure everything works. But at the end of the day, we are going to be told we are nonessential.

This whole nonessential drives me crazy because, ironically, Members of Congress are considered during a government shutdown. Well, if we are going to be essential, we need to get real about how we come to an agreement on this Continuing Resolution.

So, Mr. President, we in the Senate feel we have given $41 billion already, and we think H.R. 1 just goes too far. It goes too far by leaving so many things off the table.

Now I want to talk about health care reform. We had many goals during health care reform, one of which was to expand universal access. Again, the Presiding Officer has been a champion of that, a stalwart defender of the public option, and a stalwart defender of the single-payer system. As we worked on it and came up with a compromise, what was very clear was that there were certain things we just had to do. One was—whether you were for the public option or not, whether you are for a single-payer system or the system

we have now—we knew we had to end the punitive practices of insurance companies.

We knew in the health care reform bill we also had to improve quality measures that would actually save lives and save money. We also knew that if we had a strong preventive care benefit, we, once again, through early detection and screening, could minimize the cost to the insurance companies and the Federal budget and also the terrible cost to families who face all kinds of problems but particularly cancer. So that is why we passed the health care reform.

Over in the House, they thought it was going to be really cool to say: We could repeal health care—remember, they said ''repeal and replace.'' They have only talked about repeal because they do not know how to replace. So they decided, through H.R. 1, to defund it, to take the money away. So let me just outline very quickly what we think it means to women and children.

First of all, we ended gender discrimination by the insurance companies. Before we reformed health care, women were charged 40 percent more in many instances for health care premiums as compared to men of comparable age and health care status—40 percent more. There was a gender tax of 40 percent put on by the insurance companies. We ended that.

The second thing is that the insurance companies were treating simply being a woman as a preexisting condition. So we went to the floor, and with the great guys of the Senate we passed the preventive health care amendment. We wouldn't let them take our mammograms away from us. We also made sure our children could have early detection and screening in schools. And, because it is not about gender, it is about an agenda—we included men in these preventive health services as well.

Now, if we agree to that element in H.R. 1, we will take away the preventive health care benefits. They guarantee coverage of preventive care and screenings, such as mammograms for women under 50. We cannot go back.

It would also repeal the quality measures, such as the famous Pronovost checklist developed in Maryland by a Hopkins doc. When used at just Michigan hospitals alone, it is a simple, low-tech way to lower in-house infections in hospitals. In Michigan hospitals, it has saved 2,000 lives and has saved the State $200 million each year.

We can do this. There are so many things that are important in the health care reform bill. We cannot defund it.

As we move ahead in what we hope will be a negotiation and a settlement, we, the women of the Senate, will not surrender the women and children of this country. We will not let them be thrown under the bus and run over by H.R. 1.

Mr. President, I now yield the floor to one of our very able advocates, someone who has been a stalwart defender of childcare in our country, Senator PATTY MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Maryland for being our fearless leader and making sure women have had a voice at the table for many years. I wish to thank her for leading this important debate and discussion today about how H.R. 1 will affect women and children in this country in a very dramatic and very troubling way.

Since Wall Street came crashing down on Main Street, I have been very proud to work with so many of my colleagues on efforts to get our economy back on track and our workers back on the job. We all know we have a long way to go. So many families in our country today are fighting to stay in their homes. Small businesses are struggling to keep their doors open. Many of our workers are still trying desperately to find work or they stay up at night wondering what would happen to them and their families if they are the next ones to get a pink slip. So that is why I am so disappointed that at the very moment we need to be working together to invest in our future, cut spending responsibly, and support those American families, House Republicans have decided to take a slash-and-burn approach to the budget that would devastate our economy and cost us hundreds of thousands of jobs.

While many Republicans came to this Congress this year promising to work with Democrats to focus on the economy, they have now chosen instead to push their extreme, antichoice agenda of a minority of Americans who want to go further than ever to restrict health care options for women and families. So I am here this afternoon with my women Senate colleagues to talk about that aspect of the budget proposal they sent to us because this assault on women's health will be truly devastating if it is acted, and this extreme agenda does nothing—nothing—to further our goals of getting our economy back on track.

The House Republican-proposed budget they sent to us completely eliminates title X funding. That is funding for family planning and teen pregnancy prevention. And it includes an amendment that completely denies funding for Planned Parenthood. That is so wrong. It would be absolutely devastating for 3 million men and women across the country who depend on those services.

I recently got a letter from a woman named Elizabeth. She lives in Bellingham, WA. She is 28 years old. Elizabeth told me she is uninsured, and she depends on her local Planned Parenthood for her annual checkups and for family planning. She told me that cervical and breast cancer run in her family, and she does not know what she and her husband would do if she was not able to access this care that Planned Parenthood provides.

Elizabeth is not alone. I have received hundreds of letters just like hers, women telling me about the health care they got at Planned Parenthood and the critical services title X allows them to access.

Title X supports cancer screenings, family planning, and preventive services for more than 5 million low-income men and women and families across this country. In my home State of Washington, more than 100,000 patients who otherwise would not have access to care are able to receive treatment thanks to these services. The House Republican plan would devastate this for women, and honestly, it just does not make sense. In my home State alone, family planning services at title X-funded health care centers prevent over 21,000 unintended pregnancies every year. Without these services, our States and the Federal Government would end up spending far more in services for low-income families over the long run. So cutting off these important programs would be wrong, and I am going to do everything I can to stop it right here in the Senate by fighting alongside my women colleagues.

That is not all the House Republicans are proposing in their extreme budget. They want to slash nutrition programs for women and children by $747 million. That would end support for close to 10 million pregnant women, new moms, and infants in the country. That is not what we stand for.

They want to cut funding for prenatal care by $50 million. That is going to jeopardize care for 2.5 million women and 31 million children. That is not what we stand for.

They want to cut $39 million from the childcare and development block grant that would end the child support many low-income families need so the parents can go out and work and put food on the table. That is not what this country stands for.

They want to slash $1 billion from Head Start. That not only cuts off comprehensive early childhood services for nearly 1 million children, but it puts tens of thousands of teachers and staff out of a job. Guess what. Most of them are women.

The House antifamily agenda is wrong, and we are not going to stand for it. We do need to cut the budget. We do need to work together to bring down the deficit. But we are not going to do it on the backs of women and children. We are going to do it responsibly. We are going to do it right. I have said many times on this floor a budget is a statement of our values. It is a reflection of our priorities as a nation. I feel very strongly that we do need to work together to invest in our future and get our economy back on track, put people back to work, and make sure families get the support they need so they feel secure again. The House Republican spending fails to meet those goals. It

fails our women, it fails our families, it fails our communities, and it fails our Nation.

So I urge my colleagues to reject the House Republican slash-and-burn approach on the backs of women and children and families and work with us to propose a responsible long-term budget reduction plan that reflects the values for which this country stands.

Thank you, Mr. President. I yield the floor.

Ms. MIKULSKI. Mr. President, I yield to the Senator from New York, Mrs. GILLIBRAND. Although our newest Democratic Senator, she has been a strong advocate, and she is not new to being a strong advocate. I yield her 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Mr. President, I thank the Senator for her leadership.

I rise today to join my colleagues and speak out about the failure that is taking place on the other side of Capitol Hill right now in the Republican-controlled House. The election last November was not a mandate for any one political party or extreme ideology. It was a mandate for action—for solutions that will create jobs and get our economy moving again. But rather than focusing on jobs and responsible budgeting, House Republicans have engaged in an all-out assault on the health and well-being of women, children, and families in America.

The American people voted overwhelmingly for debate on economic solutions that will create jobs. That is what many of my colleagues and I have been trying to focus on during this Congress. But what are the House Republicans focused on? Not creating jobs, not creating ideas for how we are going to create economic growth, but undermining the health care rights of millions of American women and families.

We have an undeniable job crisis on our hands and they are ignoring it. Unemployment is still far too high. Having a national rate of close to 10 percent means real unemployment is closer to 15 or 20 percent when we look at all of those who are underemployed, working less hours, or who are no longer looking for work. Twenty-two percent of our youngest veterans coming back from Iraq and Afghanistan are unemployed. That is more than one in five. What are they doing to address those problems?

Rather than debating the solutions for how we create this economic growth or how we spur growth among small businesses and how we help our middle-class families, they are focused on degrading women's rights—basic privileges and health care priorities and safety nets for the women and children who are most at risk in this country. They have shown a heinous disregard for the health and safety of women and young girls, and they have worked to undermine their ability to buy affordable, accessible health care.

Republicans lament at length that government is too intrusive, too large, too overblown. But tell me: What is more intrusive than telling every woman in America that their decisions are going to be made in Congress, not by them, not by their doctors, not by their families?

Let's look at the facts. The temporary budget bill that came out of the House slashes critical funding for prenatal care, that unbelievably important care when a woman is expecting. They have cut nearly $750 million from nutrition programs for pregnant women and their children. They have cut access to lifesaving breast and cervical cancer screenings for more than 5 million American women. Their budget destroys early childhood education, taking nearly $1 billion from Head Start and nearly $40 million from childcare, robbing nearly 370,000 American children of early childhood learning. They have even cut more than $2 billion from job training programs that we need to prepare America's workforce for the jobs of today and the jobs of tomorrow.

What kind of priorities does that demonstrate? It demonstrates a disregard for the future of this country—for our children, for our women, for their health, their well-being, their education, for job training, for the future. This debate is much more than about where the dollar figures lie. It is about what will happen to the women and children they are now disregarding.

Let's look at the single mother who has two jobs and needs this support to feed her children. Let's look at the young women in every State of this country who will now get cancer because they were denied those precancer screenings. Let's look at the children who will never walk through the door of a university because they were denied access to the early childhood education that would have prepared them so that they could achieve their God-given potential.

We cannot slash and burn our way to a healthy and growing economy. It is time these Members of the House get serious about economic growth, about our small businesses, creating access to lending, creating a tax policy that is going to create economic growth. Those are where the solutions lie, not undermining the health, well-being, and future of our women and our children and America's prosperity.

I now yield the floor to my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, Senator MIKULSKI has asked that I control the time for our side, so I will stay on the Senate floor. What time does that time expire?

The PRESIDING OFFICER. The Senator controls 37½ more minutes.

Mrs. BOXER. Thank you very much.

Mr. President, I am here today to speak out along with my colleagues for the women and children in our Nation who would be gravely harmed by the House budget, H.R. 1. I hope we get the chance to vote on that House budget because I think the American people need to look at what is going on with my Republican friends who are in charge of the House of Representatives.

We all know we need to reduce the deficit, but we also know the right way to do it. We did it with President Bill Clinton. We did it with a mix of revenue-raisers and smart cuts, plus investments that paid dividends. We did it in such a way that we actually had a surplus at the end of the day, and 23 million new jobs.

When George W. Bush took over, the surplus was gone and the job creation was gone. Compared to 23 million new jobs, under President George W. Bush there were 1 million jobs created, and he left us with soaring deficits and the deepest recession since the Great Depression. That is the story. It has a beginning, a middle, and we are about to write the end.

I will be honest. I will stand with my colleagues on both sides of the aisle who are willing to fight for the people of this country and the middle class of this country.

According to leading experts, the budget bill, H.R. 1, would destroy 700,000 jobs, hurt our families, and, to me—this is my personal opinion—it looks as though they have a political vendetta against women, children, and a healthy environment on which they rely because they need to breathe clean air and drink clean water. All of this is on the chopping block in the House.

Let's look at the title X family planning program. It is zeroed out. It is zeroed out in H.R. 1, the House Republican budget. What does title X do? Title X provides contraceptive services for 4.7 million women nationwide, almost 5 million women nationwide. It helps prevent almost 1 million unintended pregnancies. Now, here are my friends on the other side joining with us. We are all saying let's make sure we cut down on the number of abortions. What is one proven way to do it? Contraception. They would prevent almost 1 million people from getting that kind of service.

Planned Parenthood operates 800 health care centers nationwide. I know my colleagues are very aware of health centers. They provide 720,000 breast exams nationwide, 730,000 pap tests. What does this mean? Hundreds of thousands of women just in California, and millions nationwide, go to Planned Parenthood to make sure they don't have breast cancer, they don't have cervical cancer, they don't have an STD, they don't have AIDS. And if, God forbid, it turns out they have any of these things, they can get treated. Without this, they are in deep trouble. Everyone in America knows early detection is where it is at. So if I said the impact of the Republican budget would mean more abortions, more breast cancer, more cervical cancer, more STDs,

more AIDS left untreated, that is not hyperbole. It is not an understatement. That is a fact.

I wish to talk about Nicole Sandoval from Pasadena, CA. She wrote to me and said: Please support Planned Parenthood because—by the way, our colleagues eliminate Planned Parenthood getting $1 of Federal funding. What are they implying? That the funds are used for abortion services. That is an outright lie. Since the 1970s, the Hyde amendment has said not one penny of Federal funds may be used for providing abortions, so they know that is an untruth. Yet they let it hang out there. The money Planned Parenthood gets is for just what I said: cancer prevention, sexually transmitted disease prevention, and contraception.

So what does Nicole say? She was 23 years old. She had no insurance. Planned Parenthood was there for her and caught her cervical cancer early enough to save her life. So I stand with Nicole Sandoval.

I am here to stand with Leah Garrard from Torrance. She wrote to me about a horrific incident in which a member of her family was raped. This young woman went to Planned Parenthood. She didn't know where else to go. She wrote and said: Planned Parenthood directed her family member to a local hospital, got in touch with the local sexual assault nurse examiner, and contacted her family to come and take care of her. Had her family member not gone to Planned Parenthood, she truly, she wrote, would not have survived that experience. I stand with Leah and her family and with Planned Parenthood.

Zero out Planned Parenthood? Where are we going? We are certainly not going forward. We are going backward. I remember the years when George Herbert Walker Bush was on the board of Planned Parenthood. Planned Parenthood is a bipartisan operation. If you walk in the door, they don't ask whether you are a Democrat, Republican, registered voter, or who you are. You get taken care of, and the community is healthier.

Now, in the remaining time I wish to talk about the attack on the environment in which women and children have to live. The attack on the Environmental Protection Agency is the biggest cut of any agency in the Federal Government by our Republican friends over in the House.

Seventy percent of the American people say the Environmental Protection Agency should do its job. Sixty-nine percent think the EPA should update EPA Clean Air Act standards with stricter air pollution limits. Sixty-eight percent believe Congress should not stop EPA from enforcing Clean Air Act standards.

Sixty-nine percent believe that EPA scientists—not Congress—should set pollution standards. Look at this. In this tough time, when the country is divided, almost 70 percent of our people say leave EPA alone. But, no, our Republican friends whack that agency by one-third—billions of dollars—and not only that, instruct that agency with riders telling them they can't enforce air pollution standards for soot. We know what happens when you are exposed to soot. We are looking at other exposures as well—small particulate matter which gets into our lungs and is lodged in our lungs.

They say we can't look at cement manufacturing and go after the mercury that comes out of those stacks—the mercury and arsenic. Do we think the American people want dirtier air? Is that what the election was about? I just came out of a tough election. I have to tell you that not one person ever came up to me and said: Please, I want more soot. I need more smog. It is missing out of my life. Oh my God, when my kids drink water, I want them to get contaminated.

Forget it. That is not what the election was about. It was about jobs, jobs, jobs. OK. Let's look at a photo of a child who pays the price when the air is dirty. Children's exposure to air pollution worsens asthma attacks and causes lost days at school, emergency room visits, and for older people, it causes heart attacks, stroke, cancer, and premature death. According to the American Lung Association—and we have another picture—asthma is one of the most common chronic diseases in children. It affects 7 million children. Here is a photo of another beautiful baby. I am showing you this as a grandma. I am going to take another 2 minutes and then turn it over to Senator SHAHEEN.

Look at this picture, this face. Look at those eyes. I wish to say to our friends in the House, what are you doing? You are throwing women and children under the bus. You are throwing the middle class under the bus. I, for one, am going to tell the truth. During my campaign, people would say: What are you going to do to win? How are you going to win? I said: I have a secret plan. I am going to tell the truth. I am going to just lay it out there.

Look, the truth is, EPA released a new report that was asked for by Congress. Congress demanded to know the benefit of the clean air law. They said that, in 2010 alone, 160,000 cases of premature deaths were avoided. Can you believe that? They want to turn all this back. The American Lung Association says H.R. 1 is toxic to the public health. They say it would result in millions of Americans, including kids, seniors, and people with chronic disease, such as asthma, being forced to breathe air that is unhealthy. It can cause asthma, heart attacks, strokes, cancer, and shorten lives.

A Republican President set up the EPA—a Republican President—Richard Nixon. What are you doing over there? I already said that George Herbert Walker Bush was on the board of Planned Parenthood. Richard Nixon signed the Clean Air Act. They don't either seem to have a sense of history or they have moved so far away from some of the proud traditions of their party that they have lost total touch.

In closing, we have to stop this war against women and against children. We are going to have to stop this war against the environment. We are going to come forward with deficit reduction that will equal what they do, but we will do it in a way that doesn't hurt job creation and doesn't hurt our kids, our families, and the environment we all depend upon.

Mrs. FEINSTEIN. Mr. President, I rise to discuss the devastating impact that H.R. 1, the House Republican continuing resolution, would have on women, children, and families nationwide.

House Republicans would eliminate the $317 million title X Family Planning Program, which provides critical health care services to over 5 million Americans each year, including 1.2 million in California.

House Republicans would also exclude Planned Parenthood, which serves over 2.9 million women annually, from Federal funds. These services provide necessary preventive health care including: contraceptive services, education, cancer screening, annual exams, STD and HIV testing, smoking cessation, flu vaccines, and well baby care.

It is ironic for people who do not believe in abortion to propose these cuts, when in fact, through family planning, contraception, and education, title X programs prevented 406,000 abortions nationwide in 2008 alone; 83,600 of those were prevented in California. So by cutting these programs, the numbers of unplanned pregnancies and abortions will increase.

How does this make sense? These cuts are not about deficit reduction. They are biased, politically motivated cuts that will result in increased Federal spending. These cuts hurt women. In California alone, these programs helped save $581 million in public funds in 2008.

Nationwide, title-X supported family planning centers saved taxpayers $3.4 billion in 2008. Every dollar invested in helping women avoid unintended pregnancies is estimated to save taxpayers $4.02. Some might not think these programs are important, but I judge they are.

In the past 3 weeks alone, I have received 28,000 letters urging me to oppose eliminating title X and Planned Parenthood.

Over 153,000 Californians have signed a petition to express their opposition towards defunding Planned Parenthood.

I have heard from uninsured college students, who only make $10,000 a year and cannot afford basic preventive care without title X and Planned Parenthood.

I have heard from outraged constituents who point out title X family planning programs have been in place since

1970, and have provided cancer screening, annual exams, and prenatal care for millions of women.

I have heard from young women who went to Planned Parenthood for STD screening and birth control, when they had no other place to go. Half of all pregnancies in the United States every year—about 3 million pregnancies—are unplanned.

I have heard from women pleading with me to preserve Federal funding to Planned Parenthood; telling me that the cancer screenings they received saved their lives. I have heard from women all over my State, whose primary source of health care is a women's health center like Planned Parenthood.

Eliminating this funding will also cause a rise in another epidemic: teen pregnancy. Teen pregnancy costs taxpayers an estimated $9.1 billion annually. Without title X programs in California, teen pregnancy levels would have been almost 40 percent greater.

House Republicans would also eliminate the $110 million Teen Pregnancy Prevention Program, which has the potential to serve 800,000 teens by 2014. In California, the estimated cost from teen pregnancy to taxpayers in 2004 was at least $896 million. From 1991–2004, unintended teen births in California cost taxpayers a total of $17.3 billion.

California has managed, through programs like the Teen Pregnancy Prevention Program, to reduce the rate of teen birth in the State by 46 percent from 1991 to 2004. This saved California taxpayers an estimated $1.1 billion in 2004 alone. The House Republicans plan to slash funding all but guarantees the rate of teen pregnancy will go up, and costs for taxpayers will increase.

Almost 9 in 10 adults believe there should be direct efforts in communities to prevent teen pregnancy. Once again, this is not about deficit reduction; it is about harming women's health, and taking away comprehensive education.

House Republicans would also cut $1.3 billion from Community Health Centers, which is 45.8 percent below fiscal year 2010 levels. Community Health Centers serve over 20 million patients nationwide, who otherwise cannot receive care.

Almost one-third of patients are women of childbearing age, 37 percent are age 19 and under, and 13 percent are children under 6. Ninety two percent of this patient population is low income, meaning they may not have anywhere else to go. With these cuts, 11 million patients are at risk of losing access to primary and preventive care provided by these health centers.

In California, almost 458,000 patients would immediately lose access to care, and $31.8 million in funding would be immediately lost. By defunding the health reform law, House Republicans block critical consumer protections in the law.

The health reform law will decrease costs for everyone, but particularly for women who have been charged more for insurance, simply because of gender. In 2014, insurers will not be able to charge women higher premiums than they charge men. Additionally, the medical loss ratio requires insurance companies to spend at least 80 or 85 percent of premium dollars on actual medical care, not on profits. With these and other benefits in the law, women make great strides towards equality in the insurance market.

The House Republicans plan would allow women to be charged more for insurance than men, and prohibit enforcement of this medical loss ratio requirement. This would allow insurance companies to discriminate against women, charging more for health premiums simply because of gender, while companies continue to rake in enormous profits.

The assault on women's health from Republicans in the House is astounding to me. Obliterating family planning services that have been around for 40 years, slashing teen pregnancy prevention, prohibiting funds for primary health services is nothing short of irresponsible.

We need to look carefully at our spending and we need to make cuts, but those cuts can't be politically motivated and they shouldn't put us at risk of another recession. I do not support any biased cuts that harm women and children.

Mrs. BOXER. It is my honor to yield to Senator SHAHEEN for 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I thank Senator BOXER for her leadership. I thank Senator MIKULSKI for the work she has done to organize us this afternoon, to point out just what is being proposed by our colleagues in the other Chamber.

We need to address our long-term deficit. We all know that. We need to make some hard choices to balance the budget. But there is a right way and a wrong way to do that. The right way is to first look at things such as eliminating the billions of dollars in duplicative programs that were identified just this week by the GAO. The wrong way is to address the deficit by doing what our colleagues in the House did when they slashed funding for services that are critical to middle-class families and our future prosperity.

The House Republican budget cuts include a $1.1 billion cut to Head Start and childcare. This is money that is critical to so many working families in New Hampshire and across the country. Let me put it into perspective. A cut this size would mean that nationally over 200,000 children would be kicked out of Head Start and an additional 360,000 children would lose childcare opportunities.

I have three daughters and seven grandchildren. So I understand, like so many mothers do, how difficult it is to juggle work and family obligations. I appreciate how important it is for working parents to understand that their children are being supervised by quality caregivers. I also understand that a working parent can be a productive member of the workforce only when they know their children are safe.

When I was Governor, we asked for a report to be done on childcare in New Hampshire. We found in that report that there is a direct result between quality childcare and the productivity of their parents in the workforce. Childcare is expensive. Quality childcare can easily top $10,000 per child per year—an amount that is out of reach for so many working families who are trying to make ends meet—especially in this economy.

The unemployment rate in this country is 9 percent. We should be putting our focus on creating jobs today and helping to build a strong workforce for the future. The proposed budget that the House Republicans have done would do the opposite.

Research shows that the quality care and early childhood development is critical to preparing our children for tomorrow's jobs. We know that the first 5 years are the most important in the development of a child's brain. During these years, children develop their cognitive, social, emotional, and language skills that form a solid foundation for their lives.

Economists point to the strong return on investment we get for intervention early in life. For every $1 we spend on quality early learning, we return up to $17. These same experts cite an increase in productivity, workforce readiness, and in graduation rates among children who are in quality early childhood programs. In addition, they have also found out that for those children there is a decrease in special education, crime rates, welfare dependency, and in other behavioral problems.

One of the things that made me aware of this direct relationship was going to my first Governors' conference after I got elected. I heard a presentation on brain development. The presenter showed that the brain scan of a child who had quality early learning looked very different than the brain scan of those children who did not. They showed a graph that demonstrated that the way a child's brain develops is inversely proportional to our investment. In other words, we are making the smallest investments in the years when it would make the most impact on how a child develops. This made such an impression on me that I went back home to New Hampshire and focused so much of my time as Governor on the importance of early learning.

When I became chair of the education commission of the State in my second term as Governor, this became the top priority for me and for ECS. There is no doubt—and we can look at all the

data—that helping working families afford quality childhood care and education programs has immediate and long-term benefits.

I urge my colleagues to reject the shortsighted, reckless cuts that have been made in the House Republican budget and, instead, invest in our future and the future of our children and families.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank my colleague from New Hampshire. I yield 5 minutes to Senator KAY HAGAN.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I also rise to speak for women and children across this country but especially in North Carolina.

Prenatal and postnatal maternal care translates into healthy moms and healthy families.

Children who receive regular well-child visits to their doctors and recommended immunizations live healthier lives. They can go to school and just be kids.

But the House-passed continuing resolution for the remainder of fiscal year 2011 makes draconian cuts to community health centers and the title V maternal child health block grant—two programs that are vital in reducing maternal and child mortality.

If these cuts go through, nearly 4 and a half million women and children under age 6 are at risk of losing care.

Consider that community health centers account for 17.2 percent of all low-income births, but prenatal patients at health centers are less likely to give birth to low birth weight babies compared to their counterparts nationally. It is because they are getting good prenatal care.

Moreover, rates of vaccination among children receiving regular care at a health center are uniformly higher than those of children with another source of care.

With the House-proposed cuts, pregnant women and children, who rely on community health centers for care, will be left with literally nowhere to turn for health care.

By slashing $50 million in funding from the maternal child health block grant program, the House bill would dramatically curtail services to the 35 million women and children across this country, including the nearly half a million women and children in North Carolina who receive such services as newborn hearing screenings and postnatal care.

In North Carolina, infants born to minorities are twice as likely to die as those born to Caucasians. However, the Healthy Beginnings Program is working to reverse infant mortality and low birth weights among minorities in North Carolina.

Healthy Beginnings provides case management, general health education, and other support for at-risk women throughout their pregnancy and until their child turns two. In 3 years, this initiative reduced infant mortality by 60 percent in participating communities.

Also, early detection of permanent hearing loss is essential for children to progress at age-appropriate rates.

Research shows that by the time a child with hearing loss graduates from high school, more than $400,000 per child can be saved in special education costs if the child is identified early and given appropriate educational, medical, and audiological services.

The North Carolina Early Hearing Detection and Intervention, EHDI, Program was established in 1999 as part of the State's title V Maternal and Child Health Program.

Since the establishment of the EHDI Program, there has been a remarkable increase in the percentage of infants screened in the State. All neonatal facilities in North Carolina offer initial newborn hearing screening prior to infant discharge.

In 2009, 96 percent of infants completed newborn hearing screening—about 100,000; 450 children receive hearing aids or cochlear implants annually through a contract funded by the maternal and child health block grant.

I heard from three families in North Carolina—all whose children failed the screening tests. Their stories were heartwrenching as they described their hours-old babies not being able to hear their parents' first words to them.

But in all three families, the hearing loss was detected as part of the newborn screening, and the North Carolina EHDI program immediately provided them with followup and hearing aids or cochlear implants. As a result of these programs, in each of these families, the child is ahead of their peers verbally.

These are just two critical programs that are funded by the title V maternal and child health block grant. As we can see, these are not just statistics but real women and kids and families who benefit from this important program.

I strongly believe we have to work together to get our country back on solid fiscal ground. I am very much concerned about it and want to work on it. But the path we are on is obviously unsustainable. In fact, I was one of the Senators who advocated for the creation of the Bowles-Simpson fiscal commission. But our fiscal challenges require a thoughtful bipartisan solution that gets us on the right track and encourages economic growth. These cuts are simply counterproductive. We cannot balance the budget on the backs of our Nation's future—our children.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator HAGAN for her remarks. She is one of the leaders in the Senate in finding solutions to the deficit that do not kill jobs and do deficit reduction in the right way. I thank her.

She made the point that when we attack kids and pregnant women, at the end of the day it is morally reprehensible, but in addition to that it costs money. That point was made beautifully.

It is an honor to yield 10 minutes to a great colleague, Senator MARIA CANTWELL from Washington State.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank the Senator from California for her leadership and her articulation on the floor earlier about the rider that is on H.R. 1 that would undo what the Supreme Court said EPA should do, which is to make sure the Clean Air Act is enforced.

I thought the comments of the Senator from California about no one in California telling her they wanted more smog was a very profound statement because that is what people are saying when they try to do a rider: EPA, do not enforce the law the Supreme Court told you to enforce. It is as if they are jamming down small children across the country air and air quality that is something less than sufficient. We know that. We know that because it is based on science. That is what EPA has said, and that is what the Supreme Court has said they should enforce. Yet here we are, in the middle of all of this, the solution to our economy is to have a rider on legislation basically saying: Do not enforce what the Supreme Court says is the Clean Air Act.

I thank the Senator from California for her leadership on this issue.

I come to the floor to join my other colleagues because I think the American people sent a clear message. They want us to focus on creating jobs, promoting innovation, and putting people back to work. That is what we are trying to do in the Senate.

But in the House, the Republicans seem to be saying: Let's cut programs and vital services to working women and families, and somehow that will generate economic growth. Instead of creating jobs, all they have done is launched a war on women.

H.R. 1 would eliminate funding for title X, which would provide health services, including family planning, breast and cervical cancer screenings, and other preventive health care. This certainly would impact low-income women. It does not create jobs. There is nothing in what I just said with regard to these cuts that would create jobs. How are jobs created out of cutting those services? It is actually an attack on access to health care. When we do not have healthy people, I guarantee you, Mr. President, we end up with bad economic consequences.

The bill also cuts funding for teen pregnancy prevention programs and funding for Planned Parenthood centers that serve more than 3 million women each year, jeopardizing, again, access to critical preventive health services.

Just in the State of Washington, we have 39 centers and serve over 130,000

patients annually and administer over 170,000 tests for sexually transmitted infections. One of my constituents was diagnosed at age 22 with abnormal cell growth on her cervix wall. She went to a Planned Parenthood clinic. Why? Because she did not have health insurance. In fact, quoting her, she said:

I would not have scheduled an annual exam on my own. Without Planned Parenthood, I may have died or lost my ability to have children in the future. . . . Aside from these personal effects, as an uninsured student, I would have been a huge financial burden to my family and my community.

There it is. Planned Parenthood has been effective in preventing over 40,000 pregnancies and diverting $160 million back to the State, which we need in these tough economic times.

Instead of supporting women and families so they can be productive parts of our economy, Republicans are continuing to turn the clock back on hard-fought access to healthy services and attacking a woman's right to choose. Their proposal would deny women using flexible spending accounts, from using pretax dollars for insurance to cover a wide range of reproductive choices; deny small businesses their tax credits if they choose employee health coverage that includes reproductive health care; and would disallow tax deductions for health insurance for the self-employed if the insurance included reproductive health care.

The Republican answer to the economy is attack reproductive health care? It seems to me that these proposals are just about attacking the most vulnerable in our society, including the elderly where they would have an impact on services for the elderly, including meals, housing, and employment services.

Women comprise two-thirds of our elderly, and they would be harmed most by these cuts. For example, in 2009, 25 percent of all families with children were female head of households, and 78 percent of mothers with children between the ages of 6 and 17 were in the labor force. That is a big percentage. Therefore, cutting programs that support working mothers, such as job training, childcare, education, and health care will impact those families' ability to be productive members of our economy.

I personally do not understand why in the world at this point in time, with this high unemployment rate, we would ever cut job training programs. I can tell you, I travel the State of Washington and I constantly hear, even in these hard economic times, employers who cannot find the workforce they need to do the jobs. When one thinks about that, when a company cannot find the workforce it needs because there is a skills gap, that is holding that company back from producing higher revenues, from meeting their goals, and from adding stimulus to the economy, all because they cannot find the workforce.

Yet we in the Senate are trying to promote workforce training and to have programs that have been tested successes, such as the Workforce Investment Act. For every dollar invested by the Workforce Investment Act, it is $10 in stimulating our economy. It is a 1-to-10 ratio. Why would we cut such a program?

In Washington State, our local WorkSource Centers have helped over 78 percent of job seekers find jobs. It is a high percentage of helping people and placing them.

I look at the example of this big decision on Boeing winning the refueling tanker decision. Here we are with 11,000 jobs in Washington State and a supply chain that is going to also have more jobs created. Yet if we do not make an investment in workforce investment that supply chain will not be able to find the people to fill those jobs to help fulfill this contract. Something as big as a $35 billion contract we are involved in because it is the Department of Defense, and yet at the same time the Republicans in the House are saying: Let's cut the Workforce Investment Act—even though we know we have a plane to deliver, even though we know it has a military purpose we support, and we are going to say let's cut programs because somehow that is going to make our economy healthier.

I can give an example. General Plastics would not have been able to keep its current staff level or grow its business in the past year without the help of workforce investment dollars. They were in partner with Tacoma Community College and trained a workforce in improvement techniques that allowed the company to streamline its production and grow its business effectively.

In the last year, they grew 10 to 15 percent and became more competitive. They also added about 22 new employees because of additional new business.

These are programs that would be cut by the proposal in H.R. 1 that the House Republicans are trying to push. I do not think it would improve our economy. I think it would stall what is a very fragile recovery. Workforce development is economic development, and when people are trained and skilled, the employers get what they need, the community prospers, and everybody truly wins—what the President has called for in winning the future.

We need to make sure that we in the Senate stand and say no to these cuts, such as in the Workforce Investment Act, in family health, cuts in the Pell Grant Program which would be cut by more than $800 per student or Head Start or Early Start that, again, would impact thousands of children in Washington State.

In addition, we should not cut what are the healthy elements of our economy but make sure we are helping women and families do what will help them survive and help them help us with economic recovery.

I know some people think this is the way to get our economy going again. But I can tell my colleagues, our economy certainly hit the iceberg in 2008. But what H.R. 1 does, instead of saying women and children first, they are basically cutting them off the lifeline they need and cutting off what are essential programs to help us grow jobs and have a healthy economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, after consulting with my friends, Senator COLLINS and Senator SESSIONS, I give Senator LAUTENBERG until 6 minutes after the hour and then add 6 minutes to the time of the Republicans.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I hope it is noted that I stand here as a male Member with my colleagues who comprise a significant part of the women Members of the Senate. They do the mothering, they do the family raising, but it is pretty obvious to all of us that fathers and grandfathers have an active interest in what happens with our children, what it takes to make sure they grow up healthy, that they grow up with the tools they will need in their future lives for them to contribute to themselves, their families, and the country at large.

What we are witnessing in America today is an assault by House Republicans in trying to ram through a reckless, unhealthy spending plan that will ultimately bring shame to our country as it causes pain for little children who come from families who do not have the means, who do not have the stability of family life, in many cases, that will give them an opportunity to establish themselves with a cycle that will bring them to successful lives later on, to be able to hold jobs of significance and create a family environment.

It is hard when we look at this to figure out the mission. I come from the business community. I have been here a lot of years—27—but I spent 30 years in the business community. I learned something about financial statements. I learned you have to sometimes cut costs here or there and that sometimes you have to make investments so you can expand your business, you can make it more competitive.

As we look at the plan that is being offered, to cut, cut, cut, it causes us to rethink what is taking place, to think outside the box, as they say. There is a lot of applause for cutting costs. There is a whole group of people in the House of Representatives who have targets for cost cutting that will leave America without the tools in the future to remain competitive and to remain a place where great things can happen. Why is that? A lot of it is because they are cutting education programs—Head Start, for one thing.

I think every Senator ought to pledge to take a trip through a Head Start facility and see what it is like.

See what it is like when you have children, even 1 and 2 years old, in the early Head Start Program or 3, 4 and 5 in the full Head Start Program. See the enthusiasm that exists with these children.

I have an indication of that here—this card. It was Valentines Day when I went to the city of Perth Amboy. Oddly enough, Perth Amboy is where the first signature on the Bill of Rights was made, in New Jersey—the Bill of Rights. Here is an opportunity that is certainly a right, to be able to learn. I get notes from these children—flattering, by the way, and not because of my looks. They say:

Dear Representatives: We love coming to school. We learn languages. We can be scientists. We can be artists. We can be authors and illustrators. We are lifetime learners.

Here they talk in less precise handwriting about how nice it is to be able to come to school. The design of this makes it a little tougher presentation:

Dear Mr. Representative: We love our preschool class. We learn to write. We explore science. We explore changing things in the world. We love to be here in school.

We love it when they are there because we know that not only are their lives going to be improved substantially, but also they are going to be contributing citizens to the society we live in.

So this is amazing and often neglected. I asked for some indication of what happens at Head Start. But let me say, first of all, all those children are beautiful. I never saw so many beautiful children in my life. I am a professional grandfather. I have 13 grandchildren. My wife brought 3 to the marriage and I had 10. There is nothing like seeing a 1½-year-old learning, a 2-year-old learning.

What we have found is that by the age of 1, most children begin linking words to meanings. They understand the names used to label familiar objects—body parts, arms, legs, animals, and people. At about 18 months, they add new words to their vocabulary at the astounding rate of one every 2 hours. By age 2, most children have a vocabulary of several hundred words and can form simple sentences, such as ''Go outdoors'' or the traditional ''All gone.'' Between 24 to 30 months, children speak in longer sentences, and from 30 to 36 months kids can usually recite the alphabet and count from 1 to 10. The fact is, they are learning something.

By kindergarten, kids are beginning to turn the pages of the book, and they start learning to read by about 5 years of age. There is a real reward for the country when they do that. Our society receives nearly $9 in benefits for every $1 invested in Head Start children. It leads to an increase in achievement and lots of good things.

I learned a little bit the hard way about what Head Start means when I and a business partner of mine went back to a school we went to as kids. We went to the sixth grade and offered a scholarship program to youngsters in the sixth grade to pick up a large part of their college tuition. For 28 young people in our class, we would contribute toward a large part of their college tuition if they were accepted at any one of 30 colleges picked at random. We had counselors, and we brought them down here. I was able to take them on a visit to the White House, where Vice President Dan Quayle was very generous with his time, and I took them to the company I was running so they could see.

The PRESIDING OFFICER (Mrs. MCCASKILL). All time dedicated to the majority has expired.

Mr. LAUTENBERG. Madam President, you say there is no time left on our side for a presentation?

I will wrap this up very quickly, if I might. Just a couple words.

The PRESIDING OFFICER. Is there objection to the Senator continuing?

Ms. COLLINS. Madam President, if the Senator is truly going to wrap it up, I don't object.

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

Mr. LAUTENBERG. I thank my colleague and friend from Maine.

Very simply, we now see what the problem was. We analyzed it thoroughly. The problem was we started too late. In the sixth grade, it was too late to get a learning habit. Now we see these little tots and how quickly they are learning, how quickly they talk, and how quickly they adapt.

These children will suffer the pain created by Republicans' cuts—and shame on us if we don't stop them. You have to wonder why children are their No. 1 target? Did children cause the financial crisis? Were Head Start kids engaging in credit default swaps with mortgage-backed securities?

You have to wonder if House Republicans think this is the case. They want to decimate Head Start by cutting its funding by $1 billion. If they have their way, roughly one-quarter of all children in Head Start will be kicked out of the program. This includes 3,700 kids in my State of New Jersey, like the kids at the Head Start Center I visited last week and the kids who sent these Valentines Day cards. How can we tell these children: Forget about getting a head start. You must go to the back of the line.

The fact is, the House Republican budget will poison our future. Their prescription for America's kids is toxic. If we want our country to succeed, we must invest in its future—and that means protecting and inspiring our children. So let's reject shame and pain. Let's reject the disastrous House Republican budget plan. Let's invest in our kids and win the future. Our country's children deserve nothing less.

Madam President, I thank my colleague from Maine for the courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

DOD FUNDING AMENDMENT

Ms. COLLINS. Madam President, I rise to express my deep concern that the Senate has yet to consider the Defense appropriations bill for fiscal year 2011.

As the Presiding Officer is well aware, we should have completed work on this bill and every other appropriations bill before October 1 of last year. But with the Department of Defense, this is becoming increasingly problematic. For this reason, along with two members of the Republican leadership, Senator ALEXANDER and Senator BARRASSO, I have filed an amendment to the patent reform bill that would fund the Department of Defense for the remainder of this fiscal year.

Just think what we have done the last 3 weeks. We took up an FAA reauthorization bill. Then we went on recess for a week. And now we are on a patent reform bill. I don't mean to suggest that FAA and patent reform are not important—certainly we could have gone without having a recess—but both of those bills pale in comparison to the urgency of providing our service men and women with the resources they need to carry out their mission.

Secretary Gates, Admiral Mullen, and other military leaders have repeatedly and clearly warned us about the dangers of failing to pass a full-year Defense funding bill. It is hurting our national security and harming our readiness. Secretary Gates' put it bluntly, saying: ''The continuing resolution represents a crisis at our doorstep.'' Deputy Secretary of Defense William Lynn testified that ''a yearlong CR will damage national security.''

At no time in recent memory has Congress failed to pass a Defense appropriations bill. Even when there was a year-long continuing resolution for most of the government during fiscal year 2007, the Congress passed a separate bill funding the Department of Defense. With troops in harm's way, now is not the time to break with that precedent.

If we do not provide the authority for the Air Force to buy unmanned aerial vehicles to fly combat air patrols over Afghanistan, the fighting there will not be halted until we do so. If we do not act to provide the $150 million that has been requested to meet the very specific and urgent requirements of our special forces, we will be failing those who are truly on the frontlines.

Secretary Gates has made it clear, military readiness will suffer because of fewer flying hours for our pilots, fewer steaming days for our ships, and cutbacks in training for home-stationed forces.

A full year's CR will also delay much needed modernization of our military equipment. This would come at a time when our Navy is at its smallest size since 1916 and at a time when the aircraft and our Air Force inventory are older than at any time since the Air Force was created. The Navy will not

be able to procure a second Virginia class submarine nor a DDG–51 destroyer needed to keep costs down and to achieve the minimum size fleet—313 ships—that the Navy has stated is the absolute minimum.

Operating under a full-year's CR also means that the taxpayers are going to end up paying more for less. The Navy would likely have to renegotiate some of its procurements. The Army has already shut down work on the Stryker Mobile Gun System that will likely incur additional costs to restart.

It is also important to recognize that at a time when the American public is most concerned about jobs and the economy, the Defense appropriations bill provides funds that are the source of thousands of jobs in the United States—jobs that will be lost or at least deferred.

The Secretary of the Navy has said that the combined effects of failing to fund the Defense Department will directly affect the strength of the industrial base and that more than 10,000 private sector jobs at shipyards, factories, and Navy and Marine Corps facilities across the country will be jeopardized.

I could go on and on listing the ways our servicemembers and our DOD civilian workforce and the private sector contractors will be affected by our failure to act. There is simply no excuse for this Senate not to have acted last year on a Defense appropriations bill. Surely, we should turn our attention to focusing on the needs of our military immediately, and we should heed the warning of Secretary Gates, who said:

> That is how you hollow out a military—when your best people, your veterans of multiple combat deployments, become frustrated and demoralized and, as a result, begin leaving military service.

Let's do what is most important and let's do it now. Let's pass the Defense appropriations bill.

I wish to thank the ranking member of the Budget Committee, Senator SESSIONS, for yielding me time.

The PRESIDING OFFICER. The Senator from Alabama.

THE BUDGET

Mr. SESSIONS. Madam President, I wish to share some remarks about the budget. I note how pleased I have been to work in this past year with the Presiding Officer on some legislation that I think, had we had just a couple more votes, we would have made progress and done something worthwhile to help ensure that our spending does not range above our budget, as too often has been the case in our country.

The fact is the American people, by large numbers from polling data, believe we are on the wrong track, and the intelligentsia, the witnesses we have had before the Budget Committee—I am ranking member of that committee—keep telling us we are on an unsustainable path. Witnesses called by the Democrats or Republicans, the professional CBO witnesses from all walks of intellectual and business life, say we are on an unsustainable debt path. They are not kidding. They meant that, and the words mean something. We cannot continue what we are doing.

Admiral Mullen, the Chairman of the Joint Chiefs of Staff, recently said:

> I believe that our debt is the greatest threat to our national security. If we as a country do not address our fiscal imbalances in the near-term, our national power will erode and the costs to our ability to maintain and sustain influence could be great.

He said if we do not address it in the near term—not just in the long term, in the near term.

Recently, on February 17, Secretary Geithner, the Secretary of the Treasury, appeared before the Budget Committee, and we went over the President's budget. He was, I will have to say, more candid than was OMB Director Jack Lew. I was asking him about the situation we are in and the effect of the budget that allows the debt to double in the next 10 years—causes the debt to do so. He said, ''It is an excessively high interest burden.''

I was asking about the fact that the money we borrow, the debt we assume we have to pay interest on.

> It is unsustainable . . . with the President's plan, even if the Congress were to enact it, and even if Congress were to hold to it and reduce those deficits as a percentage of GDP over the next 5 years, we would still be left with a very large interest burden and unsustainable obligations over time.

It is pretty clear we are on an unsustainable path, and it is pretty clear the American people are exactly correct—we are on the wrong track. We are headed the wrong way. We need to get off of that.

So what is it that we have been presented with? We are presented with a plan. We call it a budget, but it is really the administration's plan for what we are going to collect and spend over the next 10 years. They can plan to raise taxes, they can plan to cut spending, they can plan to increase spending and borrow more money. They can plan. That is their plan.

So we got a plan 2 weeks ago. In that, the President told us this:

> What my budget does is put forward some tough choices, some significant spending cuts, so that by the middle of this decade our annual spending will match our annual revenues. We will not be adding more to the national debt.

That is a pretty clear statement, right? It is actually a breathtaking statement to me because I know how hard it is to do that, but he said it flatly and plainly:

> Our annual spending will match our annual revenues. We will not be adding more to the national debt.

Jake Tapper, the ABC reporter, at a White House press briefing a couple of weeks ago asked Mr. Carney, the press flack, about this dramatic statement. He asked him if he thought ''we will not be adding to the national debt'' is a statement that will withstand scrutiny.

''Mr. Carney: Absolutely.''

I don't know what world people are living in. Are we communicating in English or some other language? This budget that is presented to us comes nowhere close to living within our means, matching expenditures and revenues, and not adding more to the debt.

Look at this chart. These are the President's numbers, the numbers that have been put out here, and this is what we have been asked to pass. It is before the Budget Committee. I wish it were not so, what we have. I know it is not easy to offer these numbers. I know Senator MCCASKILL knows that. She has looked at that. But I think we have to begin to alter them a lot.

Look, in 2010 our total debt, the gross debt of the United States, is $13.5 trillion. In 10 years, under the President's budget—these are numbers in his budget document that he submitted to us—it goes to $26.3 trillion. Not projecting a war, not projecting another recession, both of which, I guess, could occur during that time. We are living on the absolute edge—actually, almost over the edge, what we are doing and spending. It is $13 trillion in new debt.

Let me make this point. Not 1 year between now and 2021, the 10th year, does the annual deficit fall below $600 billion. This is an unbelievable number. President Bush was hammered when he had a $450 billion budget, his highest, and he was correctly criticized for that. The lowest that is projected over 10 years is $26.3 trillion. Last year's budget deficit was $1.3 trillion. The deficit we expect this year is going to be—on September 30, when September 30 rolls around, the estimates are that the total annual deficit this year will be $1.6 trillion, the highest we have ever had in the history of the Republic. Nothing was ever seen like it. It does project down some. All the projections are showing it will show some drop down, but they are heading back up in these outyears of 2019, 2020, 2021. The budget deficits are going up there. So this is not a sustainable budget. It is not a sustainable path for us to be on as a nation. We cannot continue on this path. It is a great threat to us.

This week, Chairman CONRAD, the very able Democratic chairman of the Budget Committee, knowledgeable and fair, has been having hearings. We have had the Secretary of Education, the Secretary of Energy, and the Secretary of Transportation testify to us about their portion of this overall budget, this budget that would double the debt in 10 years.

What do you think Education is asking for? What are they asking for?

Think about, back in your States, what you have been reading about cities' school systems and county school systems in States cutting budgets, having to do with less, reducing costs, reducing teachers—reducing costs in any way they can. They have been doing a lot of things they have had to do. Some of them are probably going to make that system stronger in the future, but

they are not easy. You would rather not have to make tough choices, but they are doing it all over America.

Our U.S. Department of Education, however, demands an 11-percent increase this year, after two substantial increases the previous 2 years. I think it is a 38-percent increase in 3 years for the Department of Education. This cannot be contained? We cannot have level funding for the Department of Education? We have to have an increase of 11 percent on, what, 2 percent inflation? Five times the inflation rate after 2 previous years? This is living within our means when we are going to have, next year, a deficit of over $1 trillion?

Energy came in yesterday, Dr. Chu. He wants a 9.5-percent increase in spending. Basically, all I can see that the Department of Energy does is take money, try to mandate programs to require people to use more expensive energy, and participate, I guess with the Interior Department, in locking up energy sources in the United States that we ought to be unlocking, creating jobs and prosperity and wealth for America. They need to get their act together.

The price of gasoline is going up. I traveled in my State last week. I finished a talk, and a hand would go up about gasoline prices. You know, you learn something when you are out traveling around. This is on people's minds, and they do not think it is going to stop at $3.40.

Senator MURKOWSKI, the former chairman of the Energy Committee, now ranking on that committee, knows more than I.

Transportation today, Secretary LaHood—you have to like Secretary LaHood. He is a likable man. He believes in roads and transportation. Hold your hat. Do you know how much the transportation is going to increase this year if the President's budget is approved? It is 62 percent. I am flabbergasted. Sixty-two percent? Is there a State in America that is not showing hardly any increase in their budgets, and we are having a 62-percent increase? No, it is an investment in the future—investment, investment, investment. Give me a break. It is spending, spending, spending and debt, debt, debt, debt.

It is a pretty serious problem we are dealing with. I think the Education Department needs to be doing some different things instead of just spending money. They need to figure out how children learn. We have to quit defining our commitment to education on how much money we throw at the problem, how many new buildings we build. We have to ask are children actually improving? Are they learning better? And too often that is not the case. Canada, our neighbor to the north, spends $7,500 per year, per pupil. We spend $11,500, and they get better results. Is that an investment? It is not a good investment if we are spending more and getting substantially less. We need the Secretary of Education to be figuring out how to help education get better, not see how much more money we can spend, because we do not have the money. This year we will spend $3.5 trillion.

We will bring in, in income to the United States, $2.2 trillion. That is almost unbelievable, but it is an absolute fact. It is undisputed—$3.5 trillion we spend, we bring in $2.2 trillion, and 40 cents of every dollar that is spent this year is borrowed. That is why the experts tell us we have a potential debt crisis.

Moody's, the bond rating agency, in December wrote a letter warning that they could downgrade our debt within the next 2 years if we do not get off this unsustainable path. So we need Education to help get better education, not see how much more money they can spend. We need Energy to help produce energy. They are the Energy Department. We need Transportation to figure out how to use their money wisely.

All of this is about the economic health and growth and future of America. The fact is, according to the great study by Rogoff and Reinhart—which Secretary of Treasury Geithner said he agreed with—that study has been completed. They advised their main finding is that across both advanced countries and emerging markets, high debt-to-GDP levels, 90 percent or above, are associated with notably lower growth outcomes. Seldom do countries simply grow their way out of deep debt burdens.

Well, their study says that it is, on average, 1 percent less growth. Well, if we are looking for 3 percent growth this year and we get 2, that makes a lot of difference. Three percent would be good growth. If we get 2 percent, we are now going to get 1 because we are being dragged down by our debt.

In addition, Mr. Geithner said this to us. Not only does he agree it reduces growth, he says it puts us in a position where we could more readily have a debt crisis. If something happened around the world, another debt crisis could spread here and we could slip back into a recession.

That is why we have to do this, to create a healthy, growing economy and get this debt burden off us, to create jobs, empower the private sector. By the way, what percent of GDP are we? We are 94 now and are projected to be 100 percent of GDP by September 30 this year.

Our gross debt will be 100 percent of GDP by September 30 this year. That puts us way into the danger zone. It is unacceptable. What do we have from the President's budget? A budget that increases spending every year, that has its lowest annual deficit $600 billion, which I think $600 billion would be the lowest deficit—the highest deficit ever achieved prior to President Obama becoming President.

It will double the debt in 10 years, and interest on our debt will go from under $200 billion last year—hold your hats—to $844 billion in the 10th year. We will be paying interest this year, $844 billion. How much is that? People say they do not know. What does that mean?

Well, the Federal highway budget this year, the baseline budget, was 40, education, I think, is 60. You see, we are going to $800 billion in interest for which we get nothing, and much of that is sent to people around the world, places such as China and Saudi Arabia, who are buying our bonds and we are having to pay them interest.

Not good. So we are on the wrong path. It is true, we have to change. I appreciate the House of Representatives, which is going to send us a continuing resolution that begins to take some steps toward reducing the dangerous path we are on. That is just a first step. We have to do a lot more things.

If we work together, we can do them. But we are going to have an effort in which all of us join together, first in recognition that we are facing a grave threat to our national security, and, second, a grave threat to our economy but one we can meet. I have looked at the numbers. I know it is not going to be easy. But if we take a tougher path, the harder path, maybe the path less traveled, it is the path to prosperity and to a rebound in American strength and vitality.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Madam President, we had an election a few months ago. In that election, the American people sent a message, a message that they were concerned about the debt, concerned about our kids and our grandkids and how this debt is going to be handed down to future generations.

I am not only concerned about that, I am concerned about the imminent threat that this debt poses for our economy and for our people. We are spending about $10 billion a day. Of the $10 billion a day we are spending, we are borrowing about $4 billion.

How big is one billion? It is hard for most of us to fathom how big one billion is. One billion seconds ago I was in high school. One billion minutes ago, Jesus was alive. One billion hours ago, we were in the Stone Age. But $1 billion ago, at the rate the government spends it, was only a few minutes ago.

The government is spending money like there is no tomorrow. We had an election and we thought as voters we sent a message to this place. But it is not getting through. The President gave us a budget. His proposal for 10 years is to spend $46 trillion. How big is $1 trillion?

I mean, it is hard to fathom $1 billion, much less $1 trillion. One trillion dollars, it is hard to imagine. It boggles the mind. If we had thousand-dollar bills and I stacked them in my hand, a stack of thousand-dollar bills 4 inches high would be $1 million. But if I want to have $1 trillion in hundred-dollar bills, it would be 67 miles high.

Why do these numbers mean anything to us? Why does the deficit or the debt mean anything to us? Because it is stealing from our future. We have to do something about it. I think I agree with the Senator from Alabama, that it is a threat to our future, that we could have a crisis come upon us where we cannot manage our debt.

How do we pay for our debt? We can either tax people—most of us think we are already taxed enough already. We are not willing to pay more than 40 percent of our income for taxes. We can borrow. But we borrowed an enormous amount. We now owe the Chinese $800 billion, the Japanese $700 billion. The list goes on and on. We owe the Russians nearly $200 billion. We owe Mexico $20 billion. The list goes on and on.

Where we were once a great nation that exported goods to the world, our No. 1 export is our debt. But what happens when foreign countries quit buying our debt or when the interest we have to pay them exceeds what we are able to pay? Most of the estimates on what we will be paying or the President's estimates are saying we will have a 3½-percent interest rate. I remember 1979, though, when interest rates went to 21 percent.

If that happens, interest will consume the budget, and we will have very little left for anything else. As it is, the course we are on, if we do nothing, if we just keep spending the way we are spending, entitlements and interest consume the whole budget within a decade. That is with conservative estimates on interest. Imagine what happens if interest rates begin to rise such as they did in the 1970s, and some are predicting this can happen.

Recently, we have been hearing in the newspapers that some members on the other side of the aisle, members of their leadership, are saying: Well, this is all well and good, but those over here, we are mistaken that there is any problem with Social Security. They say Social Security is not adding anything to the debt. They say Social Security is not adding one penny to the debt.

I am pretty new here. But Washington math that says we are not adding to the debt with Social Security is flatly wrong. I have a couple charts with me. Over here is what we bring in, in Social Security taxes, payroll taxes, FICA taxes. Here is what we spend on Social Security recipients. This is what we bring in, this is what we spend.

We are now, for the first time, spending more than we take in. Well, the other side will tell us, they will say: Well, it is not so bad. We have interest payments that fill in the difference. They say Social Security is fine, has all these surpluses. If we go to the Social Security Office, we will find a stack of paper. These are Treasury bills. They are nonnegotiable. They cannot be traded to anyone. We own them, and we pay ourselves interest on the Social Security surplus.

How do we pay the interest? We borrow it from China. So to make up this difference, for them to say Social Security is on solid footing and that we are simply paying and spending the interest it brings in, it is a lie. The interest is paid by borrowing from China. We are borrowing nearly $2 trillion a year.

The Senator from Alabama showed us the statistics. Even though the deficit, official deficit, will be like $1.5 or $1.6 trillion, the debt limit, if we watch closely, in a month, will go up $2 trillion—all kinds of things they do not count, off-budget items, money they borrowed from places.

The truth is, we have to wake up and say our entitlements are unsound. Nobody wants to hear that. People say: You cannot be elected by saying that. Well, guess what. It is the truth. If we do not speak the truth to our problems, we will eventually and ultimately encounter a crisis in our country, and I am for averting that crisis.

I think the President has abdicated in his leadership. We have this enormous problem, and he is giving us $46 trillion worth of spending, annual deficits of $1 trillion that go to the end of time, and he has abdicated his duty. The entitlement system is broken. I did not break it. I am not responsible for the baby boom. We have all those people who were born after the war, and they are retiring.

It just happened. We have fewer workers. Once upon a time, we had over 50 workers for every retiree. It worked. Once upon a time, people lived with an average life expectancy of 65. Social Security worked in the beginning, worked for many years. We are now down to less than three workers for one retiree. It is not working. We have a huge number of people retiring.

It is nobody's fault. But what we want is leadership. Where is the leadership in Washington to say the entitlements are broken and we have to do something about it? It may not be popular, but can we not say someone should lead? The President is failing us and is not leading. We need leadership. How do we fix Social Security? Here is what happens if we do nothing. Look at the red ink. It piles on. This year alone, we will have to borrow $37 billion to pay for Social Security. It goes up to over $100 billion within a decade.

How do we fix Social Security? It is very simple. Everybody knows it, but everybody wants to be quiet. No one wants to say it. I will say it. The age for Social Security will have to gradually rise. I have said it. I have said it repeatedly. I do not want it, necessarily. I do not want to have to do the things we have to do. But someone has to stand and say it has to be done.

We can do it gradually. We can raise the age or allow the age to rise slowly for those 55 and under, and we can fix Social Security by doing that. That alone fixes at least half or more of the problem. We let it rise gradually on the younger people.

There is an alternative. If we stick our heads in the sand and say: Do nothing; we are not touching Social Security; we are not touching Medicare; we are afraid to lead; Wait and let the President lead someday, if we do that, the system is run into the ground. It is a problem.

What happened in Greece when they ran into a debt crisis? They changed the age of eligibility for their entitlements overnight. That is much more difficult. When you are 67 and all of a sudden someone tells you, you do not get it for another year, and you planned on it, that is very difficult.

But what if we say gradually, to those my age and younger, tell them they will have to make adjustments because we do not have enough money. You know what, I think young people already realize it. These young people here, if they are listening to this debate, they know Social Security is broken, Medicare is broken. It will not be there for them unless we fix it. So we need to be the responsible adults. We need to fix these problems and they can be.

Next week, I and a couple other Senators will present a fix for Social Security that fixes Social Security in perpetuity. That is a long time, forever. We will fix Social Security by allowing the age to rise gradually on younger people, and, by saying to those who will retire, the younger people, again, that they may not get as much out of it as some other people get. Basically, there will have to be some testing that says, when you are in a higher income bracket, your Social Security payments will not rise as rapidly as some others will.

It is the only way we fix it. But those two changes fix Social Security forever, if we are willing to do it. The question is, If we speak boldly, if we lead, is that a detriment or an asset? I, personally, think it is the right thing to do, but I also think it is an asset. I think the people will understand, when we lead, we have to make difficult choices.

We have been kicking the can down the road, borrowing and borrowing and borrowing. I think we are coming to a point in time where it has to end. It is going to end either voluntarily and gradually, if we can promote a solution, or it can end with a bang. A bang is a crisis. I do not want that to happen. I want it to happen gradually, in a very rational and reasonable manner. I think we can do it.

But I think what we are finding from the other side and from the President is a failure to lead. I propose that we have new leadership, and we are going to need new leadership if we are going to get this debt under control.

At the very least, we need to have this conversation. I am glad we are having it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

ENERGY

Ms. MURKOWSKI. Madam President, clearly some very serious subjects are

being discussed today. I applaud my colleague from Kentucky for bringing up the tough stuff. We cannot escape reality. Our reality is in the entitlements; that we will finally grapple with the insurmountable debt we are faced with as a nation, some very difficult issues in front of us with equally difficult solutions. As we stand and present them, try to educate one another, much less those we represent, this is a critical time for us to be talking about all the issues that need to be on the table.

One of the issues being discussed around family dinner tables is what is happening in this country as it relates to the price of oil and how that translates more personally to American families who, every time they go to fill up the tank, it is costing them more and more. Every time we pick up a newspaper, every time we turn on the TV, we see a story about the rising prices of oil. They are asking: What is going on. They look at the situation in the Middle East and the combination of international events that is driving it. It is also domestic policies that have helped to push oil above $100 a barrel.

All of us are concerned about what those higher prices mean for us as a nation. We are committed to protecting the American people and our businesses and ensuring we have an ability to deal with rising prices at the same time we are trying to emerge from this difficult recession period. This is a tough time for us.

I have come to floor to outline several steps I believe we can and should take to improve our energy policy.

First, I wish to touch on how we again find ourselves in this situation. The civil unrest we are seeing, the political instability in other nations is certainly not new. They are facts of life in many nations that provide this Nation's imports. Iran now holds OPEC's presidency. They are perfectly comfortable with $100-a-barrel oil. It is far from guaranteed that OPEC is even capable of moderating any prices in the way it claims it can with spare capacity.

With Libya's supply either offline or unreliable, any other disruption anywhere in the world can likely spike global oil prices to levels that will swamp our economic recovery and result in a genuine hardship for America's families.

It is not only the situation internationally that has brought us to this point. The costs and consequences associated with our dependence on foreign oil are largely our own fault. We have brought this upon ourselves. Over the years our lands have been locked up. Many of our most promising opportunities have been put out of reach. In this country we sit on tremendous oil reserves in the offshore, whether it is up in Alaska, in the Chukchi or Beaufort Seas, or whether it is in the Gulf of Mexico. We have onshore opportunities in my home State that are considerable. We have them in the Rocky Mountain West. We have massive shale formations that are not even accessible for research and development. We can't even begin to look.

Charles Krauthammer, the columnist, wrote last year:

> We haven't run out of safer and more easily accessible sources of oil. We've been run off them. . . .

I couldn't agree more. Today our energy policy has gone beyond frustrating. It is irresponsible. The American people expect their government to help keep energy affordable and to see to it that we can benefit from our natural resource development in a responsible way. That is what they are asking for. They expect us to take an honest look at where increased domestic production is possible, how it can protect against the higher prices we are seeing now, how it can protect against potential supply disruption, and what domestic production will do to increase our security and restore our trade balance.

That is what we are talking about today: generating government revenues, creating jobs. Right now when we import oil, we are exporting those benefits. It is our loss, and it is their gain.

We ignore the positive benefits of domestic production at our own peril. About a month ago we had a hearing in the Energy Committee where there was a statement presented by the Bipartisan Policy Center. It is a pretty sobering reminder to us all. The statement was:

> A one-dollar, one-day increase in a barrel of oil takes $12 million out of the U.S. economy. If tensions in the Mideast cause oil prices to rise by $5 for even just three months, over $5 billion will leave the U.S. economy. Obviously, this is not a strategy for creating new jobs.

That was about a month ago. Think about what has happened in the course of a month and where we have seen the price go. About a month ago, it was sitting at about $82 a barrel. We are now over $100 a barrel. We are looking at a rise of 20 bucks in the past month. What that means to us in terms of dollars that have been sent outside of our economy is about $15 billion.

Last year, putting it in context of what went on at that time, we spent an estimated $337 billion on oil imports, a huge amount of money. As we are talking about how we deal with budget matters and decide which programs and services to continue, to terminate, this has an incredible impact on the discussion.

Today I am renewing my call for a realistic and aggressive approach to our energy challenges. For the sake of our national security, for the sake of our economy, and for the sake of the world's environment, America should produce as much oil as it uses as possible. It is this balance, in concert with the resulting revenues we will see, the benefits to manufacturing and transportation industries, that will allow us to take control of our energy future.

I have five concepts that will support greater domestic oil production. I will speak very briefly because we will have time to develop this.

First, look north, north to Alaska. We used to have that on our license plates. We have an incredible supply of oil waiting to be tapped for the good of the Nation. The National Petroleum Reserve-Alaska is sitting there waiting. Two thousand acres of the nonwilderness portion of the Arctic National Wildlife Refuge and the Chukchi and Beaufort Seas hold at least 40 billion barrels of recoverable oil. That is enough to replace crude imports from the Persian Gulf for over 65 years. We can do this in one State. We have those opportunities in Alaska. All three areas right now, as we speak, are effectively off-limits to new development because of decisions made by this administration or prior administrations. We have an opportunity if we just look north.

Second, end the ''permitorium'' and bring back production in the Gulf of Mexico. This administration has slowed permits for new deepwater development to practically a crawl. The Secretary of the Interior announced one new permit a couple days ago. That is a start, but we are just barely crawling. This could cost the United States an estimated 200,000 barrels of new supply if left in place for a year, far more if left in place longer, and tens of thousands of jobs in the meantime. Courts have also ruled repeatedly that the administration's ''permitorium'' is unlawful. A district court judge ruled last year that it was ''arbitrary and capricious.'' More recently the Interior Department was actually held in contempt for its ''dismissive conduct'' and ''determined disregard''—the words of the court—of previous orders to end this de facto moratorium.

The third item we can do is cut redtape. Let's make this work. In January the President ordered his executive agencies to review their regulations to ensure that they are cost-effective, that they are not unduly damaging economic growth and job creation. A great task. The Interior Department, though, is sitting in a situation where they have an awful lot of work to do.

In late 2008, the Interior Department stated that ''the number of required plan and permit approvals is on the order of about 25 to 30'' for a typical oil lease. Yet over the past 2 years, instead of reducing that, this administration has sought to add even more layers to these already significant requirements which are a major reason leaseholders need years to begin production. We just can't get to it.

Fourth, we need to look at how we as a nation consider this all-of-the-above energy policy. The alternatives to conventional oil, to natural gas, to coal should not be limited to the favored sources: wind, solar, geothermal. We have so much we can be doing. We recognize that. I have stood before this body on many occasions talking about the different ways we can build our energy portfolio, how we can work to

move the transportation fleet to that next generation, whether it is electric vehicles or fleets powered by natural gas.

The final item in terms of what we can do to help address our Nation's energy policy is to shelve bad ideas. There is an awful lot of bad ideas holding us up. This is the stop-the-bleeding element of the proposal. With oil prices on the rise, the administration and many in Congress seem to have forgotten that the oil industry actually provides Americans with energy and jobs. Yet sometimes they are viewed as an untapped source of government revenues.

Proposals to take more from oil companies have included a range of tax increases, the use-it-or-lose-it proposal and similar fees, and substantially shorter lease terms. All of these antiproduction efforts deprive companies of stable operating environments and reduce their willingness to invest in America. We need to look at what we are doing. If they are bad ideas, let's set the bad ideas aside. Let's adopt a constructive approach instead of seeking to punish. Let's figure out a better way forward so we can tap into more of America's vast resources and then make good use of the resulting revenues.

We clearly do have options. I look forward to discussing them more in detail, how we can develop these goals of a national energy policy. For today, I emphasize that responsible domestic production will reduce our energy prices, create jobs, improve security, raise revenue to pay down debt, and allow America to invest in technologies for the future. We cannot afford to wait on any of these benefits.

I urge Members, as we talk about ways to reduce our budget, ways to create more jobs for the country, we need to look critically at what is happening with our energy policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

THE BUDGET

Mr. ISAKSON. Madam President, on June 27, 2010, President Obama made the following statement:

> I hope some of those folks who are hollering about deficits and debt will step up, because I'm calling their bluff.

I am stepping up. At the same time, I also want to call the President's bluff. I think we are at a serious point in time in our history, and we need to be realistic about what confronts us ahead of time.

The biggest bluff this year in the Congress was the 2012 budget presented by the President which did not take any of the recommendations from his own deficit commission—by the way, I was one of the Republicans who supported that—and instead locked in a 25.4-percent increase in spending over the last 2 years and made it permanent by calling it a freeze. It raises taxes in the outyears and dedicates a higher regulatory environment in the United States of America. None of that does anything to reduce the debt or the deficit. In fact, the President's budget actually makes it worse.

But it is fair to ask people to step up. The American people are asking us to step up. They want us to do what they have been doing in the last 3 years: sit around their kitchen table, reorganize their priorities, spend within their means, and reduce their debt and the deficit. The very least they should ask of their country is their country to do the same thing they have had to do. In large measure, we have been the contributor to the protracted nature of the current recession.

Now, everybody knows there are two ways to reduce the deficit in the short run and the debt in the long run. One way is to cut spending. But that is not the only way. Another way is to raise revenue and increase income. And that is not just by raising a tax, that is by improving business opportunity and the expansion of opportunity in America. There is a third way: by changing the processes by which we regulate and make decisions, by looking at reforms that in the outyears make a difference for all of us.

On the spending side, the spending cuts are going to be difficult. They are going to be modest compared to what our deficit really is. But they are going to send a signal to the world that we are finally going to get serious about our spending level, and the majority of the rest of the world already has—whether it is Great Britain or many of the other countries in the European Union.

So spending cuts are important. But spending cuts in and of themselves will not solve the entire problem. In fact, H.R. 1, in the House, which made reductions of $61 billion, was a modest start at a long-term process. But it sent us in the right direction, and it called the bluff the President was talking about by making real, significant proposals.

Secondly, in terms of raising revenue, we raise revenue by expanding opportunity, not by raising the rate of tax, but, as his deficit commission said, by lowering the rate of tax, doing away with deductions that are specialized and targeted in nature and giving business the encouragement to expand.

A funny thing happened to me on January 3 of this year in Atlanta, GA, right after the first of January. I went to the OK Cafe in downtown Buckhead, GA, for a breakfast. That is the gathering place for most Atlanta businesspeople on the north side of town. I was going to have a business meeting, and Steve Hennessy walked in, one of the largest automobile dealers in the United States. He happened to come up to me. He rushed toward me. He had his arms open. I thought I was going to get a good luck hug, a ''go to Washington and do a good job'' type speech. Instead, he put his finger right on my nose and said: JOHNNY, I just had to hire two compliance officers to comply with Dodd-Frank, and I lost a salesman. I am spending more money complying and less money producing.

That is one of the things this administration has done in tremendous quantity to put us in a very difficult situation. Every agency is promulgating rules and regulations at a rapid rate—regulations that to comply with cost new employees, more expense in operating a business, and less capital investment in what that business does.

It is very important that the President understand what happens; that is, regulation has consequences. Right now the regulatory volume of the United States being proposed by this administration is unsustainable. It is costly, and it increases the debt and the deficit of the United States of America. Quite frankly, it is a reach far beyond where government should go.

I am the first person to support occupational safety, the first person to support financial security, the first person to support transparency. I will always fight to see that our government is transparent and our rules are fair and our occupational safety is good. But to overreach, to go beyond our reach, is just wrong.

I will give you a couple of examples. Georgia is a large agricultural State. Yesterday I was with some cotton farmers who were bemoaning the fact of the most recent proposal to regulate agricultural dust. The EPA actually wants to regulate the dust created by a plow or a tractor or a truck on a dirt road on a farm, to say that the farmer must make sure that dust stays within the confines of his hedge row or his fence line—meaning we are going to try to control nature? Well, how is he going to do it? By hiring water trucks to follow behind his tractor to tamp down the dust? That is a reach too far.

To categorize milk as oil and to say farmers who run dairies have to have storage tanks for milk that are equivalent to storage tanks for petroleum, that is just crazy. It is a reach too far, and it makes the ability to do business tougher, the ability to make a profit more impossible, the amount of revenue produced less because it is less profitable, and it protracts our debt and our deficit problem.

So when the President talks about calling bluffs, I am willing to do it. I am willing to sit down and talk about the hard issues. In fact, I am willing to tell the story about how in certain measure myself and everybody else born after 1943 in America is an example of some of the things we need to do.

In 1983, I was 39 years old. Social Security sent out their annual report on the stability of the Social Security fund and said it was going broke; that if we did not do something we were going to run out of Social Security benefits in the early 2000s.

Well, that worried everybody. But Tip O'Neill, a great Speaker and a

Democrat, and Ronald Reagan got together at the White House, and they said: We have a problem.

Ronald Reagan said: Well, I don't want to raise the payroll tax.

Tip O'Neill said: I don't want to lower the amount of the benefit.

They looked at the actuary and said: What do we do? And he said: Recast the eligibility. Push it into the outyears, and that will get the system calibrated and back to actuarial soundness.

So they sat down with the actuaries at the table and said: I tell you what we are going to do. We are going to preserve everybody's Social Security eligibility today. But for those people born after 1943 and before 1947, we are pushing them out from age 65 to age 66. I was born in 1944. With a stroke of a pen, Ronald Reagan and Tip O'Neill changed my eligibility by 1 year. But they changed mine and millions of other Americans at the lead of the baby boomers, recalibrated the system, and put Social Security in actuarial soundness until 2050. Then they added 2-month increments for eligibility beyond, where eventually the law now takes Social Security eligibility to 67.

The President's commission recommended doing a similar thing over the next 50 to 75 years to push eligibility out so that benefits are not cut. Eligibility is changed but taxes do not go up. Eligibility is only changed, and when you become eligible to collect.

We already know that when Social Security was formed originally, most people did not live to the eligibility age of 65, and today most everybody does. Our lifespans are a longer time, and that is what has gotten the system actuarially unsound.

So I do not think it is right to say that nobody has answered the call on debt and deficit reduction. I do not think it is right to say that our bluff—we have not been bluffing anybody, neither did the President's debt and deficit commission. They called our hand by giving us consequential recommendations that work and in the long term make the future of America bright.

This problem is not a partisan problem; it is a bipartisan problem. The parties have contributed each to the other to cause the problem. We need to sit down together and begin solving it but not making it a political issue for the 2012 election with no solutions. Instead of bluffs, we ought to make constructive proposals. Instead of speeches on the floor that run time, we ought to be offering amendments on the floor that make a difference in terms of the debt and the deficit of the United States of America.

This is the greatest country on the face of this Earth, and it is because people trust it. But if we continue to look the other way as our debt and our deficit increases, that trust will dissipate and our interest rates will go up, the cost of goods and services will be inflated, and America will be in trouble.

I close by telling a brief story about a speech I made in Albany, GA, last year in November, when I was talking about the debt and the deficit, talking about some of the solutions we have talked about. I kept talking about a trillion this and trillion that, and saying one day soon we are going to owe $14 trillion.

A farmer at the back of the room at the rotary club raised his hand and said: Senator, I only went to Dougherty County High School. I don't know how much $1 trillion is. How much is it?

Well, I stumbled and I stammered, and finally, I said: Well, it is a lot. I could not think of how to quantify it.

I got home that night, and my wife said: What is wrong? I said: Well, I got stumped today.

She said: What was the question?

I said: The question was, how much is a trillion?

She said: What did you say?

I said: Well, it is a lot.

She said: Well, that was stupid.

I said: Well, give me a suggestion.

And she is always right.

She said: Well, why don't you just figure out how many years have to go by for 1 trillion seconds to pass. Then people will understand how much $1 trillion is.

So I did the math. I multiplied 60 seconds times 60 minutes times 24 hours times 365 days. I got on the calculator, and the calculator only went to 12 digits. So I had to go to the computer to get something that would go to 13 digits, which is a trillion. I divided that product into 1 trillion.

Do you know how many years have to pass for 1 trillion seconds to go by? Madam President, 31,709. And we owe $14 trillion. At a dollar a second, for over 400,000 years, we could solve our problem. That is a huge problem. But we have the benefit of the time value of money and the hope and opportunity of the greatest country on the face of this Earth.

So I call the President's bluff. Let's sit down together and talk about the tough things. Let's talk about the shared sacrifice. Let's talk about the benefit that comes from responsibility, frugality, and a commitment to the principles of our Founding Fathers and always remember the principle that less debt is better, and we should never be a country controlled by those we owe. Instead, we ought to be a country loved by those we protect.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, I understand there are questions about what the tax strategies portion of the bill does and who it impacts. So I want to take a few minutes to address those questions.

In simple terms, a tax strategy is any method for reducing, avoiding, or deferring tax liability based upon the tax law—including interpretations and applications of the Internal Revenue Code, regulations, and related guidance.

A tax strategy can be as simple as a plan to buy tax-exempt bonds or invest in an IRA to reduce your tax liability or as complex as some sort of sale-leaseback tax shelter involving multiple domestic and foreign corporations and partnerships.

A tax strategy patent, which is what we are talking about in this bill, is just that—a patent on a particular tax strategy.

Madam President, I ask unanimous consent to have printed in the RECORD an article from a publication called the Tax Adviser. This article provides some examples of tax strategies that should not be patented.

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

[From the Tax Advisors, Aug. 1, 2007]

PATENTING TAX IDEAS

(By Justine P. Ransome, J.D., MBA, CPA; and Eileen Sherr, CPA, M.Tax)

EXECUTIVE SUMMARY

TSPs have been issued in many areas, and many applications are currently pending.

Such patents thwart Congressional intent and undermine the integrity of, and the public's confidence in, the tax system.

AICPA will continue to work with the IRS, USPTO, Treasury and Congress to handle—and hopefully resolve—this emerging issue.

One of the greatest challenges tax practitioners face in providing quality tax services to clients is to keep abreast of the ever-changing complexity of the tax law. Added to this challenge is the burden of determining whether the chosen advice is another party's exclusive property. While this may seem absurd, in the real world of tax consulting, tax advisers must now contend with certain practitioners and companies seeking patents to protect their exclusive right to use various tax planning ideas and techniques they claim to have developed.

Tax practitioners may be surprised to find that tax strategies they have used routinely in practice are now patented and unavailable for use without the patent holder's permission. The trend of patenting tax strategies is on the rise. This article explores tax-strategy patenting. It provides an overview of the issue and discusses the AICPA's concerns and activities to keep its members informed, as well as its attempts to seek a legislative remedy that will stem the tide of these types of patents.

BACKGROUND

The Patent Act of 1952 provided that patents may be granted for innovations that are useful, novel and nonobvious. Under 35 USC Section 271, a patent gives its holder the exclusive right to make, use and sell the patented idea. The consequences of infringing a patent can be substantial. The remedies for patent infringement under 35 USC Sections 283 and 284 include injunctive relief and money damages equal to lost profits or a reasonable royalty. Money damages can be tripled in cases of willful infringement, as authorized under 35 USC Section 284; under 35

USC Section 285, attorneys' fees can be awarded to the prevailing party in exceptional cases. Issued patents are presumed valid; under 35 USC Section 282, an accuser must overcome this presumption with clear and convincing evidence to invalidate a patent. Even if an accused is not found liable, defending a lawsuit can be costly.

In 1998, the Federal Circuit, in State Street Bank & Trust, held that business methods are patentable. Since this decision, patents for business methods have flourished. In some cases, these patents involve processes that would seem to be neither novel nor nonobvious (i.e., other reasonably intelligent people would come to the same or a similar conclusion when confronted with the same or similar issue).

Recently, the Supreme Court held that the long-standing test used by the lower courts to determine whether an idea was nonobvious was not being applied correctly (and, in fact, was being applied too strictly). The opinion stated that for an idea to be nonobvious, it must be (1) one that would not have occurred to persons of ordinary skill and intelligence in the field of endeavor involved; or (2) previously available knowledge that would have caused a person of ordinary intelligence to affirmatively believe that the idea would not work. Since this decision was just handed down, it remains to be seen what effect it will have on the proliferation of patents for business methods in the future.

The patenting of business methods has recently crept into the practice of tax planning. At press time, 60 tax-strategy patents (TSPs) have been granted; 86 are pending. There may be additional TSPs; about 10% are generally unpublished, because applicants can elect not to publish a patent if no protection is being sought in a foreign jurisdiction. Also, it can take up to 18 months for a patent application to be published and listed on the USPTO website. As discussed below, many of these patents deal with planning techniques routinely used by tax practitioners in delivering tax services to clients.

Reasons for Concern

SOGRAT patent: The primary catalyst for the concern of the AICPA and other tax practitioners was a 2006 infringement suit over the ''SOGRAT patent.'' Awarded by the USPTO on May 20, 2003, to Robert C. Slane of Wealth Transfer Group LLC, the SOGRAT patent describes an estate planning technique that uses grantor retained annuity trusts (GRATs) to transfer nonqualified stock options (NQSOs) to younger generations, with few or no gift tax consequences.

GRATs are permitted under Sec. 2702 and the regulations there under. Many estate planners are familiar with, and routinely use, GRATs to shift a variety of different types of assets to younger generations. Thus, it came as quite a surprise to many estate planners when an article touting the estate tax benefits of placing NQSOs into a GRAT noted that the technique had been patented by one of that article's authors. This surprise grew into concern when the patent holder instituted the above-mentioned patent infringement suit against a taxpayer who implemented the technique without its permission.

Warning letters: As previously stated, money damages can be tripled in cases of willful infringement (which requires knowledge of the patent). Some patent holders have resorted to mail campaigns and/or press releases touting their patents and warning other tax practitioners that they may be infringing on said patents. For example, one patent infringement warning letter addressed a method for financing future needs of an individual or future intentions on the death of such person, and a method for investing long-term assets of tax-exempt charities. The letter noted that the allowed claims in the patent involve investments used for charitable remainder trusts, pooled-income funds, charitable gift annuities, charitable lead trusts and permanent endowment funds.

Part of this patent resembles the facts and results of Letter Ruling 90090471 and TAM 9825001. In those rulings, the IRS permitted a net-income charitable remainder unitrust to invest in a tax-deferred annuity contract for the purposes of controlling the timing and amount of income distributions and to otherwise provide a guaranteed death benefit payable to the charitable remainder interest holder. The patent purports to achieve a similar result through the use of tax-deferred arrangements.

The patent holder also sent a press release to the Planned Giving Design Center (PGDC), a professional organization that provides advice on charitable planning and taxation. An article written by the PGDC's editor noted that the letter ruling and TAM are well known to members of the insurance community in particular, ''which have since facilitated thousands of annuity invested charitable remainder trusts since 1990.'' The article further noted that these rulings are also well known to the IRS, which issued them and subsequently discussed such arrangements in its 1999 Continuing Professional Education text. The IRS also added these rulings to its annual ''no-ruling'' list as it studied whether they conveyed an inappropriate tax benefit to taxpayers. The article noted that all of these events occurred well in advance of the date the holder applied for his patent (2004).

In light of that patent, the AICPA and American Bar Association (ABA) asked the USPTO whether IRS rulings were considered ''prior art'' (and, thus, not novel) if they were not listed in the ''Other References'' section of a patent application. The patent application did not contain a reference to either ruling. The USPTO replied that, although it had not required such information in the past, it would start requesting it for financial-type patents under its Rule 105 (which is used to ask applicants for more information).

Sec. 1031: A patent relying heavily on Sec. 1031 has also drawn tax advisers' attention. The ''Section 1031 deedshare patent'' involves a method and investment instruments (deedshares) for performing tax-deferred real estate exchanges. The patent follows the result in Rev. Proc. 2002–22. Its exclusive licensee, CB Richard Ellis Investors, L.L.C., has publicized and warned that it will aggressively pursue patent enforcement.

Deferred compensation: A patent on hedging liabilities associated with a deferred-compensation plan was granted and assigned to Goldman Sachs & Company. The patent purports to provide a mechanism to hedge the compensation expense liabilities of an employer providing deferred compensation to one or more employees.

IRAs: A patent has been granted to evaluate the financial consequences of converting a traditional IRA to a Roth IRA. It describes a computer-implemented process for computing the tax consequences of converting to a Roth IRA and various options for funding the taxes, such as term insurance to fund the Federal tax liability of early withdrawal for premature death, calculating the entire rollover amount and financing the tax and insurance premium.

FSAs: A patent has been granted on flexible spending accounts (FSAs). The patent sets forth a method to calculate costs using a ''health cost calculator'' and ''flexible spending account calculator.''

FOLIOfn: The trend to patent tax ideas is only in its infancy; however, several individuals and companies already have applied for multiple patents. For example, FOLIOfn, Inc., a brokerage and investment solutions company, holds three TSPs. It has developed methods for tracking and organizing investments and has patented mechanisms and processes that allow users to view and manipulate potential tax consequences of investment decisions. Several of FOLIOfn's other business-method patents are in practice via large licensing agreements. The company is similarly looking for licensing opportunities for its three TSPs but has not yet secured any deals.

As far as the AICPA is aware, only one of its members (a sole practitioner) has applied for a TSP. The AICPA Tax Division staff discussed the issue with that member. The AICPA has confirmed that, currently, none of the ''Big Four' accounting firms holds TSPs.

AICPA ISSUES

In a Feb. 28, 2007, letter to Congress, the AICPA outlined its concerns and position on patenting tax strategies. Its position is that TSPs:

Limit taxpayers' ability to use fully tax law interpretations intended by Congress;

May cause some taxpayers to pay more tax than Congress intended or more than others similarly situated;

Complicate the provision of tax advice by professionals;

Hinder compliance by taxpayers;

Mislead taxpayers into believing that a patented strategy is valid under the tax law; and

Preclude tax professionals from challenging the validity of a patented strategy.

The AICPA is concerned about patents for methods that taxpayers use in arranging their affairs to minimize tax obligations. TSPs may limit taxpayers' ability to use fully interpretations of law intended by Congress. As a result, they thwart Congressional intent and, thus, undermine the integrity of, and the public's confidence in, the tax system. TSPs also unfairly cause some taxpayers to pay more tax than (1) intended by Congress or (2) others similarly situated. The AICPA believes that the conflict with Congressional intent highlights a serious policy reason against allowing patent protection. Allowing a patent on a strategy for complying with a law or regulation is not sound public policy because it creates exclusivity in interpreting the law.

The AICPA is also concerned with tax law simplicity and administration. TSPs greatly complicate tax advice and compliance. Tax law is already quite complex. The AICPA believes that the addition of rapidly proliferating patents on tax-planning techniques and concepts will render tax compliance much more difficult.

Because TSPs are granted by the Federal government, the AICPA is concerned that they pose a significant risk to taxpayers. Taxpayers may be misled into believing that a patented tax strategy bears the approval of other government agencies (e.g., the IRS) and, thus, is a valid and viable technique under the tax law. However, this is not the case; the USPTO does not consider the viability of a strategy under the tax law. The USPTO is authorized only to apply the criteria for patent approval as enacted by Congress and as interpreted by the courts. The IRS is not involved in the USPTO's consideration of a TSP application.

The AICPA is concerned that tax professionals also may be unable, as a practical matter, to challenge the validity of TSPs as being obvious or lacking novelty, due to their professional obligations of client confidentiality. Tax advisers may also find it difficult to defend patent-infringement lawsuits due to client confidentiality. The

USPTO will also find it difficult, if not impossible, to determine whether proposed tax strategies meet the statutory requirements for patentability because tax advice is generally provided on a confidential basis.

The usefulness of TSPs is also questionable. The AICPA believes that some of these patents may be sought to prevent tax advisers and taxpayers from using otherwise legally permissible tax-planning techniques, unless they pay a royalty.

The AICPA is concerned that both tax practitioners and taxpayers may be sued for patent infringement, whether or not the infringer knew about the patent. A taxpayer can infringe a patent without intent or knowledge of it; ignorance of an applicable patent is not a defense. Practitioners must be aware that once they know that a particular tax strategy is patented, using that strategy without the patent holders permission may expose them to claims of willful infringement and triple damages. Unfortunately, the current environment may leave some practitioners with no recourse, other than engaging patent counsel to review and monitor techniques they routinely use.

Advocacy Efforts and Communications

Background: In November 2005 and February 2006, the AICPA Trust, Estate & Gift Tax TRP discussed this emerging issue with IRS representatives. In addition, AICPA President Barry Melancon discussed this issue with then-IRS Commissioner Mark Everson on Oct. 17, 2006, advising him of the AICPA's concern and desire to take legislative action.

In January 2006, the AICPA Tax Division's Tax Executive Committee (TEC) decided to form the PTF. This article's authors chair and staff that task force, respectively. The PTF was formed with both large- and small-firm members, from various technical areas of the AICPA Tax Division, including individual, international, partnership, S corporation, tax policy and legislation, and trust, estate and gift taxes. The task force held several conference calls and meetings, including one call with a patent expert who explained the basis for patents and the application process.

In June 2006, the TEC authorized some PTF members to participate in a joint multi-professional organization task force (including the AICPA, the ABA's Real Property, Probate and Trust Law Section and Tax Section, the American College of Trust and Estate Counsel and the American Bankers Association) on the issue. The joint task force had several conference calls; its chair attended a PTF meeting in November 2006.

In July 2006, prior to the Congressional hearings on the issue, the PTF discussed its concerns with Capitol Hill staff. This article's authors attended the hearing, then updated AICPA Tax Division members about the issue and hearing via an electronic alert (e-alert) in August 2006.

In October 2006, the AICPA up-dated members via an update to state CPA societies. In February 2007, the AICPA sent to the leadership of the House and Senate tax-writing and judiciary committees its position on tax-strategy patenting, including legislative proposals. E-alerts went out to the AICPA membership and were included in the April 2007 issue of the AICPA's The CPA Letter. In addition, PTF members authored Journal of Accountancy articles on the subject.

In March 2007, the PTF drafted and submitted comments to Treasury on the regulations for ''reportable transactions.'' These comments recommended that Treasury not require taxpayers to report patented transactions as reportable transactions, but require the patent holder or USPTO to disclose when the patent is issued.

The AICPA Congressional and Political Affairs group has made TSPs a top priority and is in discussions with Congress and its staffs, as well as the USPTO's General Counsel and Director of Business Method Patents, to develop and enact legislation designed to bar grants of, or provide immunity for taxpayers and practitioners from liability related to, such patents. Currently, the AICPA's legislative efforts are focused on the judiciary committees, which consider and vote on any patent legislation.

Action: The AICPA has taken a pro-active role against the patenting of tax ideas. Most of its efforts are reflected in a website it has created on the subject, which contains:

AICPA comments to Congress, Treasury and the IRS, updates to members, and its PTF roster;

Comments of other groups and the Joint Committee on Taxation;

USPTO links;

Information on specific TSPs;

Related articles and other information; and

Links to additional resources.

RECOMMENDED STEPS

To minimize potential liability until a legislative solution is enacted, tax practitioners should take the following steps, as appropriate, in response to TSPs:

Stay current on matters regarding TSPs by continually visiting the AICPA website on the subject.

Read articles and attend conferences about TSPs.

Continually visit the USPTO website to determine if a tax idea, technique or strategy that a tax practitioner intends to recommend to a client has been issued a patent or if one is pending.

If a strategy is either already patented or is similar to a patented strategy:

Advise the client about the patent's existence, the options available and the associated risks;

Determine whether patent counsel is needed to further investigate the patent; and

If there is a relevant patent, determine whether to negotiate with the patent holder to be able to use the strategy.

PROPOSED LEGISLATIVE SOLUTION

The AICPA has considered various administrative solutions to this issue and concluded that they are insufficient. In its Feb. 28, 2007, letter, it encouraged Congress to develop legislation to eliminate the harmful consequences of TSPs by either (1) restricting the issuance of such patents or (2) providing immunity from patent infringement liability for taxpayers and tax practitioners.

HR 2365, legislation sought by the AICPA to limit damages and other remedies with respect to patents for tax-planning methods, was introduced by Rep. Rick Boucher (D–VA) on May 17, 2007, with initial co-sponsors Reps. Bob Goodlatte (R–VA) and Steve Chabot (R–OH). Reps. Boucher, Goodlatte and Chabot are senior members of the House Judiciary Committee, which has jurisdiction over patent legislation. The bill was referred to that committee. As of May 30, 2007, 14 co-sponsors had signed onto the bill. AICPA efforts and discussions continue with other members of Congress, including members of the Senate Judiciary Committee. On May 16, 2007, Reps. Lamar Smith (R–TX), Boucher and Goodlatte sent a letter requesting a hearing on the issue to Howard Berman (D–CA), chairman of the House Judiciary Committee Subcommittee on Courts, the Internet, and Intellectual Property.

The Future

The AICPA continues to work with Congress to make legislative changes regarding the patenting of tax strategies. It is also currently working with the USPTO to determine how both organizations might work together to better scrutinize such patent applications. The AICPA will continue to focus its legislative efforts on the judiciary committees and to work with the USPTO, IRS and Treasury, as well as other professional groups, to educate tax advisers on TSPs and to enhance the flow of information among the groups. The PTF and the AICPA will continue to update its website with additional resources for members, develop other educational and practice-oriented tools and study and address related professional ethical issues.

CONCLUSION

Practitioners and taxpayers need to (1) be aware that TSPs are being granted and (2) review planning approaches and consider consulting with patent counsel, if appropriate. Tax advisers should ask clients about their use of tax strategies, as they may be unknowingly using patented ones. The AICPA will continue to work with the IRS, USPTO, Treasury and Congress to handle—and hopefully resolve—this emerging issue.

Mr. GRASSLEY. Tax strategies are bad because they allow the tax law to be patented. A patent gives the holder the exclusive right to exclude others from using the patented invention. A tax strategy patent makes taxpayers choose between paying more than legally required in taxes or providing a windfall to a tax strategy patentholder by paying a royalty to comply with the tax law.

Tax strategy patents add another layer of complexity to the tax laws by requiring taxpayers or their advisers to conduct patent searches and exposing them to potential patent infringement lawsuits.

If a tax strategy patent is granted for a tax shelter designed to illegally evade taxes, the fact that a patent was granted may mislead unknowing taxpayers into believing the obvious: That the strategy is valid under the tax law when, in fact, it might not be.

Tax strategies are not like other inventions because everyone wants to pay less tax. Tax strategy patents are on the rise, which then means more and more legal tax strategies are unavailable or, obviously, more expensive for more and more taxpayers.

Madam President, I ask unanimous consent to have printed in the RECORD a letter. This letter, which is from a coalition of 15 consumer groups, including the umbrella group for public accountants, the Tax Justice Center, and the U.S. Public Interest Research Group, provides more information on why tax strategy patents are bad for taxpayers.

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

FEBRUARY 2, 2011.

Re Tax Strategy Patents.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR GENTLEMEN: On behalf of our 15 national organizations representing consumer, taxpayer, charitable, financial planning, and

tax advisor groups, we commend you for including a provision in S. 23, The Patent Reform Act of 2011, to address the serious problem of tax strategy patents. Similar to legislation recently introduced by Senators Baucus and Grassley, S. 139, we believe that this pro-taxpayer measure is a critical component of any comprehensive patent reform effort. The ongoing, serious concerns associated with tax strategy patents pose a significant threat to American taxpayers and businesses, and we believe that Congress must prioritize fixing this problem as soon as possible.

As the Senate Judiciary Committee moves to mark up S. 23, we ask you specifically to champion this provision, and aggressively oppose any efforts to weaken or remove it. There is too much at stake to allow special interests to try to monopolize methods of Federal tax compliance, leaving American taxpayers potentially subject to lawsuits. royalties, and a much more complicated, expensive tax code.

As you know, the problems associated with tax strategy patents are multiple and quite complex. First, such patents may limit the ability of taxpayers to utilize fully interpretations of tax law intended by Congress—effectively creating a monopoly for the patent holders to determine who can and cannot utilize parts of the tax code. Furthermore, tax advisors, who generally are not patent experts, have the burden to be aware of such patents, and either provide tax advice that complies with the patent holder's requirements, risk a lawsuit for themselves and their clients, or potentially not provide the most advantageous advice to clients. Not surprisingly, these patents create a highly burdensome level of cost ultimately borne by taxpayers.

These patents already affect a myriad of tax planning vehicles, including retirement plans, real estate transactions, deferred compensation, financial investments, charitable giving, and estate planning transfers. We are concerned that the U.S. Patent Office may permit the expansion of these types of patents into additional areas broadly affecting average taxpayers. For example, there are pending patents that would affect taxpayers' ability to create a financial plan for funding college education, utilize incentive programs for health care savings account cards, insure against tax liabilities, and use life insurance to generate income.

As of now, the numbers of tax strategy patents have grown to over 130 issued and more than 150 pending. We fear this trend is likely to continue to grow exponentially without your leadership. Legislation must be passed quickly if we are to provide taxpayers with equal access to all available avenues of federal tax compliance.

As you know, there is broad, bipartisan, and growing support for this legislation. In the 111th Congress, Congressmen Rick Boucher and Bob Goodlatte introduced H.R. 2584, a similar initiative which ended the Congress with 45 cosponsors. That legislation built off of the passage of comprehensive patent reform legislation, passed by the House in the 110th Congress, which included its own tax strategy patents provision. In addition, Senators Baucus and Grassley previously introduced legislation on this topic in the 110th Congress, garnering 30 cosponsors, including then-Senator Barack Obama. The National Taxpayer Advocate, Nina Olsen, has also publicly stated her support for a legislative solution to this problem. Clearly, with such overwhelming support and momentum over the last several years, the time has come to finally enact this proposal and send it to the President.

Thank you again for your leadership on behalf of American taxpayers. Please contact any of us if we can assist you as you move forward on this important matter.

Sincerely,

Barry C. Melancon, CPA, President and Chief Executive Officer, American Institute of Certified Public Accountants; Nicole Tichon, Executive Director, Tax Justice Network USA; Jo Marie Griesgraber, Executive Director, New Rules for Global Finance; Richard M. Lipton, Chair, American College of Tax Counsel; Linda Sherry, National Priorities Director, Consumer Action; Karen M. Moore, President, The American College of Trust and Estate Counsel; Tanya Howe Johnson, President and CEO, Partnership for Philanthropic Planning; Raymond W. Baker, Director, Global Financial Integrity; Edwin P. Morrow, CLU, ChFC, CFP®, RFC®, Chairman and Chief Executive Officer, International Association for Registered Financial Consultants; H. Stephen Bailey, President, International Association for Registered Financial Consultants; Michael Nelson, Executive Vice President & Chief Executive Officer, National Association of Enrolled Agents; Gary Kalman, Director, Federal Legislative Office, USPIRG; Kevin R. Keller, Chief Executive Officer, Certified Financial Planner Board of Standards; Marvin W. Tutle, CAE, Executive Director/CEO, Financial Planning Association; John Akard Jr., JD, CPA, President, American Association of Attorney-Certified Public Accountants; Robert S. McIntyre, Director, Citizens for Tax Justice.

Mr. GRASSLEY. Section 14 of the bill, which has been before the Senate for the last week or more, prevents patenting of tax law. It provides that a strategy that relies on the tax law to reduce, to avoid, or to defer tax liability cannot be novel or nonobvious.

So a strategy for reducing, avoiding, or deferring tax liability will be deemed insufficient to differentiate a claimed invention from the prior art for purposes of evaluating an invention under section 102 or section 103 of the bill that is before us. This ensures that taxpayers and their advisers will then be guaranteed equal access to the tax laws, and that is obviously the fair way to do it. It is the commonsense way to do it.

So I wish to be clear that tax preparation software is not a tax strategy. Senior policy and examination staff from the Patent and Trademark Office agree that such software is not a tax strategy.

I also have letters from H&R Block, KPMG LLP, and Grant Thornton that state that the underlying language does not impact their software patents. Again, I ask unanimous consent to have these letters printed in the RECORD.

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

H&R BLOCK,
Washington, DC, February 10, 2011.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MEMBER GRASSLEY, Our company has reviewed the language in Section 14 of the Patent Reform Act of 2011, now pending in Congress. Although H&R Block holds and is seeking numerous patents pertaining to methods of delivering tax advice and tax return preparation, H&R Block's inventions do not, by their nature, reduce, avoid, or defer tax liability. Therefore, at this time, we do not have any major concerns regarding the language in the Act that statutorily deems that all strategies for reducing, avoiding, or deferring tax liability are 'in the prior art' and not patentable. Nonetheless, we should mention that H&R Block is concerned about the precedent that this bill will set. Our fear is that Congress is going down the path where, in the future, it will simply declare ''not patentable'' any subject matter it deems to be unpopular or politically unfavorable.

Sincerely,

BRIAN DONOHUE,
AVP, Government Relations.

KPMG LLP,
Washington, DC, February 25, 2011.

Hon. PATRICK LEAHY, *Chairman,*
Hon. CHARLES GRASSLEY, *Ranking Member,*
U.S. Senate Committee on the Judiciary 224 Dirksen Senate Office Building Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: We would like to commend you on the inclusion of section 14—a ban on the patenting of tax strategies—in S. 23, the Patent Reform Act of 2011, recently approved and reported by the Committee.

We agree with the sentiments expressed by Sen. Grassley on February 3rd that ''[i]f firms or individuals were able to hold patents for these strategies, some taxpayers could face fees simply for complying with the tax code.'' Taxpayers should not be forced to choose between paying more tax than they are legally obligated to pay or paying royalties to a third party with a patent on a legal method of complying with tax law. Tax strategy patents create higher costs and produce confusion for taxpayers and their advisors.

As noted by the AICPA in its letter to you, tax strategy patents undermine Congressional authority, intent, and control of tax policy, and would create inequalities among taxpayers. No person should hold exclusive rights over how to comply with the Tax Code.

We are a firm with extensive experience in the provision of tax advice to clients, and we are a firm that develops its own proprietary tax tools, including computer software. We therefore appreciate the proper balance between the protection of intellectual property rights and the public policy concerns implicated by extending that protection to patents on tax planning. This bill gives proper deference to the rights of the taxpayer and the already complex requirements of a tax advisor. We therefore urge inclusion of section 14 by the Senate in the final version of S. 23.

Respectfully yours,

KPMG LLP.

GRANT THORNTON,
Washington, DC, February 24, 2011.

Re: Tax strategy patent legislation.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR GENTLEMEN: I am writing to offer Grant Thornton's strong support for the tax strategy patent provision included in the patent reform legislation (S. 23) recently approved by the Senate Judiciary Committee and now poised for full Senate consideration. I would like to commend you for your commitment to addressing the problems created

by tax strategy patents and for including the tax strategy patent provision in S. 23.

Patents on tax strategy methods threaten the integrity, fairness, and administration of the tax system, and Grant Thornton believes resolving this problem must be an essential component of any patent reform legislation. Grant Thornton wants to encourage you to aggressively oppose efforts to remove or weaken the tax strategy patent provision in S. 23.

Tax strategy patents grant private legal parties virtual 20-year monopolies over particular methods of compliance with U.S. tax laws. Taxpayers cannot satisfy their legal obligations using a patented interpretation of the tax code, allowing patent holders to privatize tax provisions that Congress intended for everyone. This makes a uniform application of the U.S. Tax Code impossible, potentially forcing taxpayers to pay more tax than Congress intended and more tax than similarly situated taxpayers. Tax strategy patents threaten to undermine public confidence in the nation's tax laws, hinder compliance, and mislead taxpayers into believing that a patented strategy has been approved by the IRS solely because a patent was granted. In addition, tax strategy patents increase the costs and burdens of compliance. Preparers and taxpayers must not only determine the proper tax treatment of an item, but also whether that treatment is covered by a patent, whether the patent might be infringed by properly reporting the item, and whether the patent is valid.

Grant Thornton believes that no one should have a patent on the application of the law to the facts and that the granting of tax strategy patents should be prohibited by legislation. Grant Thornton supports the provision in Section 14 of S. 23, which is based on the freestanding legislation S. 139. The new provision builds on previous legislative efforts that enjoyed wide bipartisan support in both chambers. In the 110th Congress, the House passed a patent reform bill that would have barred tax strategy patents.

The new language in S. 23 would designate any claim on a patent application for a ''strategy for reducing, avoiding, or deferring tax liability'' as indistinguishable from prior art, and thus preclude applicants from using a tax strategy as the point of novelty. Grant Thornton believes this provision needs to be enacted quickly. Over 130 tax strategy patents have already ben approved and more than 150 are currently pending.

Grant Thornton agrees that patents should continue to be available for tax preparation software, so long as the patent does not extend to tax strategies embedded in the software. Grant Thornton believes the bill sufficiently addresses the serious concerns raised by tax strategy patents without infringing on the rights of others to copyright, trademark or patent software that assists in the implementation of tax planning.

Grant Thornton is the U.S. member firm of Grant Thornton International, one of the six global accounting, tax and business advisory organizations. Through member and correspondent firms in over 100 countries, including 49 offices in the United States, the partners and employees of Grant Thornton member firms provide personalized attention and the highest quality service to public and private clients around the globe.

Sincerely yours,

DAVID B. AUCLAIR,
Managing Principal, Washington National Tax Office.

Mr. GRASSLEY. However, now, in order to allay the concerns of Intuit, makers of Turbo Tax, I have worked with Senator BAUCUS to make clear that tax preparation software such as Turbo Tax is not a tax strategy.

Financial management software, however, is a little murkier. While products such as Quicken and QuickBooks are not tax strategies, tax strategies can be embedded in financial management products and software. The investment banks and the law firms that have patented tax strategies often use software that could be deemed financial management software. The Tax Adviser article I mentioned earlier and got unanimous consent to have printed in the RECORD describes some of these. With financial management software, patent claims that include inventions that are severable from tax strategies may be entitled to patent protection, but the tax strategy itself will remain available to all taxpayers.

So it is important to protect intellectual property rights for true tax preparation and financial management software. However, we must be sure to protect the rights of taxpayers to have equal access to legal tax strategies.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SURFACE TRANSPORTATION EXTENSION ACT OF 2011

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 662, the surface transportation extension bill; that the bill be read three times and the Senate proceed to a vote on passage of the bill; and that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 662) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

Mrs. BOXER. Madam President, I am so pleased the Senate has passed H.R. 662, the Surface Transportation Extension Act of 2011. This legislation provides a clean extension of Federal surface transportation programs through the end of the fiscal year.

H.R. 662 was passed by the House of Representatives yesterday by an overwhelming bipartisan vote of 421–4. This legislation had previously been approved by voice vote in the House Transportation and Infrastructure Committee.

Under this extension, States will receive $23.1 billion for the remainder of fiscal year 2011. This equates to over 800,000 jobs nationwide that would be created or saved.

As chairman of the Senate Environment and Public Works Committee, I am working with my colleagues on both sides of the aisle and both sides of the Capitol to move forward on a transportation authorization that will put people to work, bring our Nation's highways, bridges, and transit systems up to a state of good repair, and reduce congestion and its impacts on commerce and communities.

The committee is planning to mark-up a new authorization by spring. However, this extension is necessary in order to give Congress time to enact this authorization.

I have letters from several organizations who urged Congress to pass H.R. 662. These letters were signed by AAA; American Association of State Highway and Transportation Officials, AASHTO; American Bus Association; American Highway Users Alliance; American Motorcyclist Association; Americans for Transportation Mobility, which includes 12 organizations; American Trucking Associations; Owner-Operator Independent Drivers Association; and U.S. Chamber of Commerce.

This broad and diverse coalition composed of businesses, workers, and users of the highways, recognized the need to enact this legislation today.

Investments in transportation infrastructure are an important part of the solution to the serious economic challenges we are facing. This is especially true in the construction industry, which has been hit hard by the economic downturn. According to January data released by the U.S. Bureau of Labor Statistics, the construction industry has an unemployment rate of over 22 percent.

Not only will this extension of SAFETEA–LU save jobs in the short term, an extension through the end of the fiscal year will provide the opportunity for Congress to enact a new surface transportation bill.

I am so pleased that my colleagues did the right thing and approved this legislation that will save hundreds of thousands of jobs, improve our nation's infrastructure, and provide a solid foundation for economic recovery.

I ask unanimous consent that several letters be printed in the RECORD.

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

FEBRUARY 28, 2011.

Hon. GARY L. ACKERMAN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE ACKERMAN: Our organizations represent drivers, riders, and businesses that pay the federal highway user fees that fund the Highway Trust Fund (HTF). One of our top goals is to ensure that user fees are properly dedicated to federal programs that improve our nation's highway safety and mobility.

This year, Congress is expected to consider a major long-term transportation bill that will reform and streamline federal highway

programs, adopt new performance standards, and take steps to ensure that users of the system see real value and benefit for their investment. We look forward to working with you on this critical legislation over the course of the year.

In the interim, Congress must pass an extension of the existing authorization act, SAFETEA–LU. Congressmen Mica, Rahall, Duncan, DeFazio, and Hanna, have introduced H.R. 662, the Surface Transportation Extension Act of 2011, which extends current highway funding through the end of the fiscal year. Two weeks ago, the bill was reported out of the House Transportation & Infrastructure Committee by unanimous voice vote.

We hope that H.R. 662 will pass unanimously and we ask for your strong support when it is considered this week. The extension does not include any funding for earmarks and is consistent with the highway spending level proposed in the Continuing Resolution. Moreover, the Highway Trust Fund has more than enough revenue to fully fund this extension of authority. After H.R. 662 is enacted, the continuing resolution on appropriations will continue to set a spending limit on the various authorized accounts.

Failure to enact H.R. 662 would create more problems than simply a shutdown of government agencies. It would also halt highway projects from coast-to-coast because contractors would not be able to be reimbursed for their work. As highway users, we'd like to see these projects completed on-time and under budget.

Thank you for your support. If you have any questions about H.R. 662, please do not hesitate to contact us prior to the vote.

Sincerely,

ROBERT L. DARBELNET,
President and CEO, AAA.

EDWARD MORELAND,
Senior Vice President, Government Relations, American Motorcyclist Association.

PETER J. PANTUSO,
President and CEO, American Bus Association.

BILL GRAVES,
President and CEO, American Trucking Associations.

GREGORY M. COHEN,
President and CEO, American Highway Users Alliance.

TODD SPENCER,
Executive Vice President, Owner-Operator Independent Drivers Association.

AMERICANS FOR TRANSPORTATION MOBILITY,
Washington, DC, February 28, 2011.

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The Americans for Transportation Mobility (ATM) Coalition strongly urges you to pass H.R. 662, the ''Surface Transportation Extension Act of 2011,'' that would extend the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) as well as expenditure authority for the Highway Trust Fund through the end of FY2011. While the ATM Coalition continues to support Congressional efforts to enact a well-funded, long-term surface transportation bill, the absence of such a bill makes this extension essential to creating and sustaining jobs and maintaining America's transportation infrastructure. Furthermore, this extension provides much needed certainty for the construction industry, states, and localities as they begin the 2011 construction season.

SAFETEA–LU expired September 30, 2009, and has since been operating on a series of short-term extensions—the latest of which expires at the end of this week. The uncertainty created by the lack of a multi-year federal commitment to improving America's highway and public transportation facilities is contributing to a slowdown in transportation development activity in many states. The jobs impact of this situation has rippled throughout the economy. Workers at design and engineering firms, construction companies, equipment manufacturers, and materials providers have lost their jobs and even more positions are on the line due to uncertainty in federal funding, at a time in which the U.S. unemployment rate remains at record highs.

Congress must not delay in passing a robust, multi-year highway and transit reauthorization in the 112th Congress. While reauthorization entails a host of challenging policy and revenue issues, this effort should be viewed as a key opportunity to move U.S. infrastructure into the 21st century, bolster economic recovery efforts, and improve all Americans' way of life. If local, state, and national leaders continue to ignore this important issue, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

To help prevent further job loss and ensure vital transportation investments continue, the ATM Coalition strongly urges you to extend SAFETEA–LU and expenditure authority for the Highway Trust Fund through the end of fiscal year 2011.

Sincerely,

AMERICANS FOR TRANSPORTATION MOBILITY.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, February 28, 2011.

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The U.S. Chamber of Commerce, the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector and region, strongly supports H.R. 662, the ''Surface Transportation Extension Act of 2011.''

The Chamber recognizes that Congress needs time to formulate a long-term reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU reauthorization). At the same time, the 2011 construction season is imminent and unemployment in the construction sector is at a staggering 22.5 percent. States, localities, and other project sponsors need clarity now regarding the federal funding commitments for this construction season.

An extension shorter than the remainder of the fiscal year would delay the job-creating capacity, safety, and connectivity projects that are needed to address the transportation challenges that cost our economy in wasted fuel, lost productivity, and delayed shipments of manufacturing inputs, consumer goods, and other items critical to the underlying growth of our businesses.

The Chamber urges Congress to approve H.R. 662 so that agencies and project sponsors can provide highway and public transportation investments during the 2011 construction season that contribute to much-needed economic growth, and support the backbone of business supply chains.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President, Government Affairs.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
Washington, DC.

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The American Association of State Highway and Transportation Officials (AASHTO) supports passage of H.R. 662, the ''Surface Transportation Extension Act of 2011,'' that would extend the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) as well as expenditure authority for the Highway Trust Fund through the end of FY 2011. While AASHTO continues to support Congressional efforts to enact a well-funded, long-term surface transportation bill, the absence of such a bill makes this extension essential to creating and sustaining jobs and maintaining America's transportation infrastructure. Furthermore, this extension provides much needed certainty for the construction industry, states, and localities as they begin the 2011 construction season.

SAFETEA–LU expired September 30, 2009, and has since been operating on a series of short-term extensions—the latest of which expires at the end of this week. The uncertainty created by the lack of a multi-year federal commitment to improving America's highway and public transportation facilities will contribute to a slowdown in transportation development activity in many states. The jobs impact of this situation has rippled throughout the economy. Workers at design and engineering firms, construction companies, equipment manufacturers, and materials providers have lost their jobs and even more positions are on the line due to uncertainty in federal funding, at a time in which the U.S. unemployment rate remains at record highs.

Congress must not delay in passing a robust, multi-year highway and transit reauthorization in the 112th Congress. While reauthorization entails a host of challenging policy and revenue issues, this effort should be viewed as a key opportunity to move U.S. infrastructure into the 21st century, bolster economic recovery efforts, and improve all Americans' way of life. If local, state, and national leaders continue to ignore this important issue, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

To help prevent further job loss and ensure vital transportation investments continue, AASHTO strongly urges you to extend SAFETEA–LU and expenditure authority for the Highway Trust Fund through the end of fiscal year 2011.

Sincerely,

JOHN HORSLEY,
Executive Director.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 662) was ordered to a third reading, was read the third time, and passed.

Mr. LEAHY. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, what is the pending business?

PATENT REFORM ACT OF 2011—Continued

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, since this debate began, we have heard a lot about how the America Invents Act will help unleash the American inventive spirit. As a matter of personal pride, I point out that Vermonters have a long history of innovation and invention, and it is that creative spirit which has given rise to some interesting and even revolutionary inventions.

Few people may know that Vermont is issued the most patents per capita of any State in the country. Fewer still may know that the first-ever patent issued in the United States, which was reviewed by Secretary of State Thomas Jefferson and signed by George Washington, was granted to a Vermonter in 1790. It was Samuel Hopkins of Pittsford who began the great tradition of American innovation.

Throughout America's history, Vermont has contributed to our economic prosperity with inventive ideas. Thaddeus Fairbanks of St. Johnsbury patented the platform scale in 1830, which revolutionized the way in which large objects were weighed. Charles Orvis, of Manchester, the founder of the well-known sporting goods retailer Orvis, patented the open fly fishing reel in 1874. Many other inventions originated from Vermont in the early years of America, including an electric motor, an internal combustion engine, and the paddle wheel steamship.

Today, that innovative Vermont spirit continues. Vermonters have been contributing to the American economy through innovation and invention every year.

Exploring new ways to modify existing products to limit the environmental impact is a quintessentially Vermont idea. Researchers at the University of Vermont have developed and are now seeking a patent for a wood finish that releases fewer toxins into the air than standard finishes. They do it by utilizing whey protein instead of petroleum. In the State of the Union Address, President Obama noted that advances in green technology will be a key driver of our economy in the 21st century. Vermont inventors have been and will continue to be out in front in this area.

Computer technology will also be a driver of our 21st-century economy. Vermonters are active in producing the next generation of this technology as well. Viewers across the country were fascinated by the recent appearance of IBM's Watson supercomputer on ''Jeopardy.'' Components used to power Watson were invented by IBM researchers in Vermont, and I am sure those Vermonters watched proudly as Watson defeated Jeopardy legends Ken Jennings and Brad Rutter in the recent man-versus-machine matchup.

Modernizing the patent system will help to ensure Vermont inventors will still be able to compete, not just on a national stage but in the international marketplace.

Much has changed since Samuel Hopkins received the first U.S. patent in 1790, but the need for a flexible and efficient patent system has remained constant. Inventors from Burlington to the Bay Area require the appropriate incentives to invest in the research required to create the next platform scale or the next Watson computer or the next lifesaving medical device.

Over the last 6 years, I have worked on meaningful, comprehensive patent reform legislation. During that time, I have kept in mind the tradition of great Vermont innovators such as Thaddeus Fairbanks and Charles Orvis. I was also pleased that we had key Republicans and Democrats working together to get this legislation before the Senate.

The next generation of Vermonters is as eager as the last to show America and the world what they can produce. Vermont may be one of the smallest States in our Nation, but it is busting with creativity. The America Invents Act will ensure that the next Samuel Hopkins can flourish well into the 21st century.

Senator GRASSLEY and I had a couple of matters we were going to take care of. I see a distinguished colleague seeking recognition. Before I yield the floor, might I ask my friend how much time he may need?

Mr. CORKER. I will speak briefly. I apologize. The chairman has done such a wonderful job working this bill through. I came down earlier, but I wasn't able to speak.

Mr. LEAHY. I will yield so my colleague can speak, and then the Senator from Iowa will be back, and we can continue with our other business.

The PRESIDING OFFICER. The Senator from Tennessee.

FUNDING THE GOVERNMENT

Mr. CORKER. Madam President, as in morning business, I rise to speak on another topic that is actually related to us being competitive.

I think everybody understands that we had another bipartisan event that just occurred recently where we kept government funded, if you will, for another couple of weeks beyond the deadline that was coming in the next day or so. I applaud the efforts of both sides to work together to make that happen.

Speaking of competitiveness, it is very difficult for a government to function having short-term CRs every 2 weeks. What I urge, while this work is going on on the floor, is that the House and the Senate, both sides of the aisle, work toward a longer term CR. I know we are working on reductions in spending which have to take place to keep our government in check and keep our country in the place it needs to be, but the work we need to do to fund the government for the rest of the year is actually the easy work we are going to be facing as it relates to spending.

Today, I saw where Vice President BIDEN has been asked by the White House—the President—to take the lead on this issue. I take that as a good sign. I saw Secretary Geithner today. He is planning on engaging on this issue.

I urge that we do the work we need to do. We all know there are going to be painful and tough decisions coming. A lot of people have been arguing and debating against spending cuts and are talking about the havoc it is going to create for government. I imagine that Secretary Gates over at the Defense Department is trying to deal with overseas operations and trying to deal with investing in the future, and other agencies of government would much rather see what these cuts are going to be and plan accordingly versus working on a 2-week CR.

I am just urging that we do the tough work we have to do. All of us know it will be painful. All of us know we are going to have to prioritize. All of us know there will be a number of constituencies around the country that will be less than happy. But for the good of our country, let's go ahead and together, Democrats and Republicans, Independents and the administration, work together toward a solution.

I know the House sent over a continuing resolution bill that takes us through the rest of the year. We have not yet seen what the Democratic majority in the Senate might offer. It is my hope that something is being worked on. I think the American people in the functioning of this government—those who cause this government to function—need to know what those cuts will be, where we are going.

Speaking on that note—and I will close with this—one of the things most frustrating to me as a Senator who came from the world of business is that we never know where we are going. We debate the current issues. We never plan for the future.

I hope that as a part of all we are doing this spring, this incredible opportunity we have in this body to deal with the issue of spending, with the issue of deficits, it is my hope that as a part of this, what we will do is pass a global cap on spending, a comprehensive cap that takes us from where we are today into a place that has been a 40-year historic average. Senator MCCASKILL and many others have joined me in something called the CAP Act. It is the type of responsible legislation we need to pass to get our country back where it needs to be.

We know we have a huge spending problem today. There are many explanations for that. But as a country, to

make ourselves competitive, as the Senator from Vermont talked about and I am sure the Senator from Iowa is getting ready to talk about, we also need to make sure we keep our fiscal house in order.

Let's deal with these tough issues and solve this problem for this year and move on to the longer term issues.

I thank the Chair, and I thank the Senator from Vermont.

I yield the floor.

Mr. LEAHY. Madam President, I ask unanimous consent to set aside the pending amendment.

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

Mr. LEAHY. I ask unanimous consent to bring up and agree to amendment No. 132, the Cardin-Landrieu amendment.

The PRESIDING OFFICER. The clerk will report.

Mr. GRASSLEY. Mr. President, do we report it first and then object or do we object even to the reporting of it? I heard the Presiding Officer say report the amendment.

The PRESIDING OFFICER. The Senator can object to laying aside the pending amendment.

Mr. GRASSLEY. OK. I object on behalf of Senator COBURN of Oklahoma.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Madam President, I ask unanimous consent that we revert to the pending amendment, which I believe was the Leahy amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

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

DELIVERY SYSTEM REFORM

Mr. WHITEHOUSE. Mr. President, I am here to speak about a report that was released by the Centers for Disease Control, which I think is instructive for the American health care system. We are currently in a process of change in health care. Changing the way health care is delivered in our country is going to take years of hard work, of experimentation, and of learning. There are stakeholders on both the Federal and State level who are out there right now, working to implement models of care that increase the coordination and efficiency with which health care is delivered, improve the quality of the care that is delivered, improve the outcomes that patients experience, and control costs—bring down costs. This delivery system reform is the real issue of health care reform in our time. I emphasize, it is a win-win for system—improving the quality of care while lowering the cost for the system.

This report, called ''Vital Signs,'' released this week by the Centers for Disease Control, illustrates how just one type of quality reform, reducing hospital-acquired infections, has already improved health outcomes and resulted in significant cost savings. Hospital-acquired infections are a tragic reality of our health care system. Nearly 1 in every 20 hospitalized patients in the United States is affected by a hospital-acquired infection each year. The most deadly of these infections occurs when a tube inserted into a patient's vein is either not put in properly or not kept clean. Bloodstream infections resulting from these tubes—what are called central line infections—kill as many as 1 in 4 patients who become infected.

I suspect, if we sat all the Members of the Senate down, there would be very few of us who could not identify a friend, a loved one, a family member, somebody we knew who had been exposed to a hospital-acquired infection.

The deaths from hospital-acquired infections are not only numerous but tragic and particularly tragic because they are largely preventable. These are what should be considered a zero event.

Studies have shown that when providers follow a strict checklist of very basic instructions, including things as simple as washing your hands with soap, cleaning a patient's skin with antiseptic, and placing full sterile drapes over the patient, those rates of hospital-acquired infection plummet.

The CDC's ''Vital Signs'' report is further evidence of how effective these guidelines are at reducing and in some cases nearly eliminating central line bloodstream infections from intensive care units. The report's findings show that from 2001 to 2009, State and Federal efforts to promote and adopt CDC guidelines and best practices for preventing hospital-acquired infections contributed to a 58-percent decrease in the number of central line bloodstream infections among ICU patients—58 percent decrease in just 8 years, from 2001 to 2009.

A percentage is a fine thing, it is a statistic, but it does not have a lot of meat on its bones. What does this 58 percent mean? It represents up to 27,000 lives saved, 27,000 families who got their loved one home from the hospital instead of having that terrible conversation with the doctor, explaining to them why their loved one passed away. If that were not enough, it also represents approximately $1.8 billion in cost savings to our health care system—27,000 lives and $1.8 billion saved from reductions in just one type of hospital-acquired infection in just one type of care setting.

The promising news from the CDC report is that the steps health care providers are taking to prevent this type of infection are working. The bad news is, we are not doing enough to reduce the occurrence of bloodstream infections in other health care settings. The report found that in 2009, approximately 60,000 central line bloodstream infections occurred in nonintensive care unit settings such as hospital wards or kidney dialysis clinics. This should not be acceptable to us, especially given the tools we know we have to prevent these infections from happening.

Simply put, we can do better. We can save more lives. We can improve the quality of care people receive and, in the process, save billions of dollars in our health care system. The CDC is already working to support partnerships between health care providers to more broadly implement these now-proven quality reforms. This is a good start.

In my home State, I have very proudly watched the Rhode Island Intensive Care Unit Collaborative, a partnership of health care stakeholders led by an organization called the Rhode Island Quality Institute, take the lead in implementing similar quality reforms to reduce the rate of hospital-acquired infections in our intensive care units. Rhode Island is the only State in the country to have 100 percent of its adult intensive care units participating in a collaborative of this kind, and I commend it to any one of my colleagues. It began years ago in Michigan with the Keystone Project and it spread across the country to the Pronovost principles, and in Rhode Island we have run with it. It has only been a few years, but the results, much like those reported by the CDC, are eye-opening. I will quantify this by saying we began with very first-rate hospitals in Rhode Island. We are in that high-tech Northeast corridor. We are near the Boston medical centers, so we are starting from a very high base of care in Rhode Island hospitals. But even from that good base, the collaborative reported significant improvements in two types of deadly infections: central line bloodstream infections and pneumonia, among patients on ventilators.

The collaborative estimates from 2007 to June 2010, just over 7 years, the effort had saved 73 intensive care unit lives—73 lives of intensive care unit patients—it eliminated the need for over 3,200 expensive hospital days, and it saved hospitals, patients, and insurers $11.5 million.

This evidence underscores the potential for similar types of delivery system reforms which, by improving the quality of care, lower the cost. An array of different strategies can lead to these savings, quality reforms such as this that avoid errors and adverse consequences; prevention programs that save lives and money by getting in there before the disease takes off; a robust health information infrastructure that allows for safer and better coordinated care between your primary health care provider, your specialists, your imaging place, the laboratory, the hospital where you had to be admitted; payment policies that reward better results, not just more procedures; and, finally, better administrative efficiency

so more health care dollars actually go to health care instead of being burned up on bureaucracies and battles over who gets paid and all the rest that weighs down our health care system.

The President's Council of Economic Advisers noted recently that up to 30 percent of health care costs, or about 5 percent of GDP, could be saved without compromising health outcomes. Five percent of GDP is around $700 billion. Mr. President, $700 billion a year saved through this kind of win-win is a target worth fighting hard to achieve. I agree with the Council's observation, but from my experience, I think we can achieve these savings not just without compromising health outcomes, I think we can achieve these savings while improving health outcomes.

Implementing these reforms and achieving these reforms will not be easy. It is not just flipping a switch, it is a journey and that journey will have turns and it will have obstacles. It is a process, as very expert reviewers have said, of learning, of experimentation, of adaptation. But we have been down paths such as that before with great success, and the evidence I presented today shows how well it can work in health care.

So I urge my colleagues, I urge the administration and State leaders to continue working together in all of these areas to make reforming our health care delivery system a priority. The future of our health care system and the good health of our constituents and the good health of our country's fisc all depend on it.

I will conclude by saying something I have said before, which is that I give great credit to the Obama administration for working in this area. I believe our health care reform bill put every possible pilot, experiment program, and model for testing these different types of delivery reform systems on the table. Very expert reviewers have looked at it and said: I cannot think of a thing they did not try. Everything is in there. On top of that, the Obama administration has put first-rate people who really get this side of the equation, people such as Don Berwick and David Blumenthal, in charge. So a lot of very good things have lined up to take full advantage of these kinds of win-win savings.

The only thing that I think is missing is that the administration has not yet set a hard goal for itself to hit. It still talks about bending the health care cost curve. Well, fine, but that is not a measurable goal.

We are coming up on the anniversary of President Kennedy's pledge to put a man on the Moon. Way back then, when we feared losing the space race to the Soviet Union, if the President of the United States had said: I am committed to bending the curve of the rate of America's space exploration, that would have been an unmemorable and an ineffective Presidential intervention. Instead, President Kennedy put a hard benchmark out there that everybody in the world would know we had failed at if we missed it. That was to put a man on the Moon within a decade and bring him home safely. We did not know then how we could do it. We believed we could. We are optimists. We are innovators.

This is a country of innovation and of the ''big idea.'' By putting that marker out there, President Kennedy drove what was then a smaller Federal bureaucracy toward that goal. I believe we need an equally specific goal from the administration on this front in order to make sure our considerably larger Federal bureaucracy is fully purposed toward achieving that because the goals are going to be so significant.

I congratulate the CDC on their report. I wish to remind my colleagues how valuable this kind of health care reform is. It is not what we yell about here, but it is out there right now saving lives and saving money. We need to encourage it and we need to expand it, and the more the administration can put a hard goal out there for itself, the quicker we will get where we need to be, to the great benefit of ourselves as a country and our individual fellow American citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

(The remarks of Mr. WHITEHOUSE pertaining to the introduction of S. 486 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AMENDMENT NO. 142

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to set aside the pending amendments and, on behalf of Senator BINGAMAN, call up amendment No. 142.

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

The clerk will report.

The assistant editor of the Daily Digest read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for Mr. BINGAMAN, proposes an amendment numbered 142.

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

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

The amendment is as follows:

AMENDMENT NO. 142

(Purpose: To require the PTO to disclose the length of time between the commencement of each inter partes and post-grant review and the conclusion of that review)

On page 50, between lines 2 and 3, insert the following:

''(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.''.

On page 65, between lines 9 and 10, insert the following:

''(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.''.

Mr. WHITEHOUSE. Mr. President, it is my understanding that this amendment is agreeable to both sides; therefore, I ask for its adoption.

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

The amendment (No. 142) was agreed to.

Mr. WHITEHOUSE. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

BUDGET CHOICES

Mr. SANDERS. Mr. President, as you well know, Congress is now engaged in a debate of huge consequence; that is, the budget. The budget of a nation, like the budget of a family, expresses who we are as a people and what our priorities are. Where you spend your money, where you make your investments tells you everything about what we believe in.

I am more than aware that this country faces a $1.6 trillion deficit and a $14 trillion national debt. And these are enormously important issues, but they are issues that have to be dealt with in a sensible way, and they are issues that have to be dealt with within a broader context.

So I think the very first question we have to ask is, How did we get to where we are today? Is the problem, in fact, that we spend too much money on Head Start and childcare, that we just shower so much on our children, or is the converse the truth in that we have the highest rate of childhood poverty of any major country on Earth?

How did we get into the deficit? Well, let me tick it off. And when we discuss how we got into the deficit situation, the irony here is that those people who are yelling loudest about the deficit, who are fighting hardest to make savage and Draconian cuts on basic programs, are precisely the people who led us to where we are today.

I voted against the war in Iraq for a number of reasons, one of them being that it was not paid for. Do you happen to recall that as we went into the war in Iraq—which will end up costing us about $3 trillion by the time we take care of our last veteran—do you recall much discussion about how that war was going to be paid for? In fact, do you remember one word of how that war was going to be paid for? I don't remember that. I was in the middle of that debate. Mr. President, $3 trillion, and no one said: Oh, we cannot afford it.

When the crooks on Wall Street, through their illegal behavior, their reckless behavior, drove this country into the recession we are in right now and they came begging to the Congress for their welfare check of some $800 billion, do you recall too many of the people who voted for that saying: Gee, we cannot afford to do it. It is going to drive up the deficit. How are we going to provide Wall Street with an $800 billion bailout? I don't recall that discussion.

When I was in the House a number of years ago, Congress passed an initiative from President Bush for a Medicare Part D prescription drug program. I believe seniors must have prescription drugs, but that legislation, which was written by the insurance companies and the drug companies, was not paid for.

When our Republican friends fought vigorously for tax breaks for billionaires, which would result in significantly less money coming into the Treasury, driving up the deficit, do you recall much discussion about how we were going to pay for that? I don't recall that discussion.

I find it ironic that when we give tax breaks to billionaires, no worry about the deficit. When we bail out Wall Street, no worry about the deficit. But suddenly when we provide childcare to low-income children who are in desperate need of help in the midst of a recession, suddenly everybody is concerned about the deficit. Frankly, I call that absolute hypocrisy. It is hypocrisy to say we can give tax breaks to billionaires and not worry about the deficit, but we have to cut back on the needs of working families, the middle class, the sick, the poor, and the elderly.

This country, at this particular moment, has to make some very basic decisions. The decision we must make is whether, in the midst of this horrendous recession, when the middle class is hurting, when poverty is increasing, do we go after, as our Republican friends in the House want us to, programs that are virtually life and death for millions and millions of working-class and lower income people.

I don't know about West Virginia, but I can tell my colleagues that in Vermont it is very hard for working families to get adequate, affordable, and good-quality childcare, early education for their children. It is a major problem all over the country. Yet our Republican friends say we should balance the budget by cutting Head Start $1.1 billion, a 20-percent cut from 2010, and throwing over 200,000 kids off Head Start. If you are a working mom who sends her kids to Head Start now, it feels pretty good that your kid is getting a good quality, early childhood education, getting nourishment. They watch these kids for health care problems. We are going to throw over 200,000 kids off Head Start.

I worked very hard to expand the community health center program, which I know is so important in West Virginia and Vermont. The Presiding Officer and I argue about which State has the greater coverage. It is enormously important. A few years ago, about 20 million people accessed the community health center program. We are now working so that in 5 years 40 million Americans will be able to walk in the door, regardless of their income, get health care, dental care, low-cost prescription drugs, and mental health counseling. It is working. President Obama has been very strong on this issue. Secretary of HHS Kathleen Sebelius has been very strong on this issue. It is working.

Here is the irony. When we give people good quality primary health care, they don't have to go to the emergency room. The emergency room costs 10 times more than treatment at a community health center. When we open the doors for primary health care, people do not get very sick. They don't end up in the hospital. Study after study shows that when we invest in community health centers, we save the taxpayers money. We save Medicaid money and Medicare money because people have access to medical care when they need it. The Republican House wants to cut community health centers by $1.3 billion, denying 11 million Americans the opportunity to receive the health care they need.

In my State—and I am sure all over the country—people who are applying for disability help, for Social Security are upset about how long the process takes. Our Republican friends want to make major cuts in the Social Security Administration, which means that half a million people are going to find delays in getting their claims processed.

Everybody in America knows that one of the great problems we face is the expense of college. We know hundreds of thousands of bright young people can't even afford to go to college. We know that many people are graduating deeply in debt. One of the accomplishments we have managed to bring about in the last few years is to significantly expand the Pell grant program so low- and moderate-income families will find it easier to send their children to college. Our Republican friends in the House have decided, in their wisdom, that what they want to do is reduce by 17 percent Pell grants, which means that 9.4 million lower income college student would lose some or all of their Pell grants. Here we are, trying to compete with the rest of the world. We are falling, in many cases, further and further behind in terms of the percentage of our young people graduating college. The costs of college are soaring. The Republican solution is to cut the major program which makes it easier for working families to send their kids to college.

The Community Services Block Grant Program is the infrastructure by which we get emergency services, food, help to pay for emergency services for lower income people, housing needs, making sure people keep the electricity on. That would be decimated by the Republicans.

In the midst of a recession, what they want to do is to cut $2 billion from the Workforce Investment Act and other job training programs when we desperately need that job training to make sure our people can get the jobs that are out there and available. Often they don't have the skills to do that.

My point is a pretty simple one. As a nation, we have to make some choices. The top 1 percent today are doing phenomenally well. That is a fact. Our friends on Wall Street whom we bailed out are now making more money than they did before they caused this recession. The top 1 percent now earns about 23 percent of all income in America, more than the bottom 50 percent. The top 1 percent, the richest people in terms of their effective tax rate, what they pay is now lower than at any time in memory. So we have the wealthy doing phenomenally well, tax rates going down. We have showered huge tax breaks on them. Then we say, to balance the budget, we have to cut nutrition programs for our kids, Social Security Administration, Pell grants, Head Start, and many other programs which millions of people depend upon.

The question we as Americans have to decide is, When the rich get richer, do we give them more tax breaks while the poor get poorer and we cut programs for them? I don't think, frankly, that is what the American people want.

There was a poll that came out yesterday or today. It was an NBC News and Wall Street Journal poll. The questions dealt with the deficit and how the American people think we should go forward in dealing with the deficit. Here are some interesting results. When asked what do Americans want the Federal Government to do to reduce the deficit, the highest percentage said it is totally acceptable or mostly acceptable to impose a surtax on millionaires to reduce the deficit. Eighty-one percent of the people said that for obvious reasons. The rich are getting richer. Given the choice of asking people who are already doing well to pay a little more in taxes or to cut programs that working families need, the choice is not terribly hard.

Seventy-four percent of the American people believe it is totally acceptable or mostly acceptable to eliminate tax credits for the oil and gas industry. Sixty-eight percent of the public believe it is totally acceptable or mostly acceptable to phase out the Bush tax cuts for families earning over $250,000 a year.

What the American people are saying in this poll, and I believe all over the country, is obvious. Given the choice of decimating programs that working families depend upon or asking the wealthiest people who have been receiving huge amounts of tax breaks to start paying their fair share, it ''ain't'' a tough answer. The answer the American people are saying is: We cannot move toward a balanced budget just by cutting, cutting, and cutting. A budget has two parts. Everybody in America understands that. It is the money we spend; it is the money that comes in. In the case of the U.S. Government, we have to address our budget deficit in both ways. We have to raise revenue. We do that primarily by asking the wealthiest to pay a little bit more in taxes. Yes, we do have to cut some programs. There is waste out there. There

are programs that can and should be cut. That is what we do. We don't just cut, cut, cut and then give tax breaks to the very wealthiest people.

The Senate has, along with our friends in the House, the responsibility, the constitutional responsibility of coming up with a budget. I certainly hope the President intends to play an active role. I hope the President is prepared to do the right thing and to understand that revenue, asking the wealthiest to start paying their fair share of taxes, is one important component of how we move forward toward a balanced budget. But if the President chooses not to participate or if the President chooses not to take that avenue, that does not mean to say that we in the Senate should not go forward. I intend to work as hard as I can to come up with a deficit reduction program which is fair but responsible. Being responsible means it includes revenue and not only cuts. There are a whole lot of ways to bring in revenue in a fair and progressive way. It is not only asking the wealthiest to pay their fair share of taxes, it is ending abusive and illegal offshore tax shelters. According to a number of studies, we will lose $100 billion this year because corporations and wealthy individuals are stashing their money in tax havens in the Cayman Islands and in Bermuda. Before we cut nutrition programs for pregnant women, maybe we do away with those tax havens.

We have to begin the process of ending tax breaks for big oil and gas companies. ExxonMobil, the most profitable corporation in the history of the world, not only paid nothing in Federal income taxes in 2009, but they received a $156 million tax refund from the IRS, according to their own shareholders report. Maybe before we start cutting the Social Security Administration or Pell grants for college students, we might want to ask the most profitable corporation in America to start paying some Federal income tax.

On and on it goes. My point is, now is the moment when we have to do the right thing for working families. There is a lot of pain out there. A lot of people are hurting. This recession has taken a heavy toll. In the middle of these tough times, we don't stick a knife into the people and make it even worse. We have to move toward deficit reduction. I believe that. But I believe we don't do it on the backs of the sick, the elderly, the poor, and the most vulnerable. I think we need shared sacrifice. Some of the wealthiest people are going to have to play their part in deficit reduction as well.

Mr. President, on behalf of the majority leader, there will be no further rollcall votes today. The next rollcall vote is expected on Monday at 5:30 p.m.

Mr. KYL. Mr. President, I rise to submit for the RECORD some of the materials I have quoted from during the Senate's debate on the first-to-file provisions of the America Invents Act. These materials are produced by the National Association of Manufacturers and by the 21st Century Coalition for Patent Reform, an industry group that has been the leading advocate for the bill. They offer a detailed explanation of and case for the bill's shift from the current first-to-invent system to a first-to-file system of establishing patent priority.

I ask unanimous consent that the following materials be printed in the RECORD.

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

[From the Coalition for 21st Century Patent Reform, Mar. 2, 2011]

S. 23 AMERICA INVENTS ACT REQUIRES FIRST-INVENTOR-TO-FILE PROVISIONS

Any language that dilutes, delays or deletes FITF will gut meaningful patent reform.

An amendment to dilute, delay or delete the first-inventor-to-file provisions of S. 23 would effectively gut the substance of the America Invents Act. The Coalition opposes any such amendment and, were such an amendment to pass, we would oppose passage of the stripped- down bill that would result.

The first-inventor-to-file provisions currently in S. 23 form the lynchpin that makes possible the quality improvements that S. 23 promises. The Statement of Administration Policy lays out precisely what is at stake: ''By moving the United States to a first-to-file system, the bill simplifies the process of acquiring rights. This essential provision will reduce legal costs, improve fairness, and support U.S. innovators seeking to market their products and services in a global marketplace.''

Most of the arguments in opposition to the bill and FITF appear be to decades-old contentions that have been fully and persuasively rebutted. As one example, the National Research Council of the National Academies assembled a group of leading patent professionals, economists and academics who spent four years intensely studying these issues and concluded in 2004 that the move to FITF represented a necessary change for our patent system to operate fairly, effectively and efficiently in the 21st century.

Without retaining S. 23's current FITF provisions, the bill would no longer provide meaningful patent reform. As an example, the new provisions on post-grant review of patents, an important new mechanism for assuring patent quality, could no longer be made to work. Instead of a patent reform bill, what would remain of S. 23 would be essentially an empty shell.

Thus, we could not continue our support for passage of S. 23 without the first-inventor-to-file provisions present in the bill. It would place us in the unfortunate position of opposing moving forward with a bill where we have been among the longest, most ardent supporters.

After yesterday's 97 to 2 vote, it is time to move this excellent vehicle for comprehensive patent reform—in its current form—through to final Senate passage.

S. 23 MEANS NEW IDEAS CREATING NEW PRODUCTS CREATING NEW MANUFACTURING JOBS

Let S. 23 Make the Patent System Work for the 21st Century U.S. Economy

Keep the first-inventor-to-file provisions of S. 23 in the bill to afford all inventors the benefits for a more transparent, objective, predictable and simple patent law:

The first-inventor-to-file provisions of S. 23 protect independent inventors—they will particularly benefit from the simplicity of the first-inventor-to-file rule and actually gain patents that they otherwise would forfeit.

Eliminate the potential prejudice to U.S. patent inventors arising from the 1994 law that opened our patent system to foreign-origin invention date proofs.

Simplify the rules for patent applications so they can be processed more rapidly, at reduced cost, and become more effective patents for investing in new products:

Limit ''prior art'' used to bar a patent from issuing to only those disclosures made available to the public before the patent was sought and disclosures in earlier-filed patent applications.

Remove all arcane and subjective tests for deciding whether to issue a patent.

Repeal the ''patent interference'' provisions that inject delay, cost and uncertainty into the patenting process.

Let members of the public provide patent examiners with relevant publications and other public documents, before deciding whether a patent can be granted.

Keep and apply rigorous standards for issuing patents, but assure that they are simple, transparent and objective—making patenting rules more predictable.

Assure the highest possible quality for patents that have been granted:

Permit members of the public to challenge whether newly issued patents meet each of the rigorous standards for patenting—and require the United States Patent and Trademark Office to promptly cancel any patents that do not.

Authorize supplemental examination proceedings, before a patent is enforced, to allow patent owners to present the USPTO with information that may be used to assure the scope of the patent is commensurate with its contribution.

Allow the USPTO to set fees for the services it performs for processing patent applications sufficient to cover the costs of promptly completing a high-quality examination.

Make patent lawsuits fair and just for both patent owners and accused infringers.

Limit the ability of a party to recover false patent marking to the amount of the party's actual competitive injuries.

S. 23 PROTECTS INVENTORS ONCE THEY PUBLICLY DISCLOSE THEIR WORK

Protections the 1994 WTO Agreement Took Away, S. 23 Puts Back.

After inventors publicly disclose their work, competitors should not be able to take advantage of those disclosures by filing for patents on the disclosed work.

Once inventors have published on their work—or have made it available to the public using any other means—their competitors should not be able to run off to the USPTO and seek patents on the work that the inventor has already publicly disclosed. The same goes for permitting a competitor to belatedly seek a patent on a trivial or obvious variation of what the inventor had earlier disclosed publicly. This common-sense truth should apply even if competitors can lay claim to having themselves done the same work, but elected to keep secret the work that other inventors have publicly disclosed.

In a word, a competitor seeking a patent on what such an inventor has already published can be thought of as being akin to interloping. The competitor who is spurred into action by another inventor's publication can be regarded as interfering with the understandable and justifiable expectation of inventors who have promptly disclosed their work: they expect that they themselves should be the ones able to secure patents on

the disclosed work or, by publishing without later seeking patents, that they (as well as other members of the public) should remain free to continue to use what they have publicly disclosed.

S. 23 would increase the protection for inventors once they make their inventions available to the public by cutting off the potential for any sort of interloping. S. 23 operates to solidify an inventor's ''grace period'' that applies after the inventor has published or otherwise made available to the public his or her work. In brief, under S. 23, interloping in any form is prohibited—an inventor who elects to publish an invention will no longer need to have any concern that the publication will spur a competitor into a subsequent patent filing that could preclude the inventor from obtaining a patent or—even worse—from continuing to use his or her published work.

S. 23 better protects inventors than does current U.S. patent law in addressing interloping—by making the one-year ''grace period'' bulletproof.

Today, inventors enjoy a one-year ''grace period'' under U.S. patent law. What this means is that inventors themselves can still seek patents on their inventions even if they have made those inventions available to the public before seeking any patents on them. When inventors file for patents during the one-year period after making a public disclosure, their own disclosures are not useable as ''prior art'' against their patents.

However, the ''first to invent'' principle of current U.S. patent law makes relying on the one-year ''grace period'' fraught with some significant risk. The risk comes from the ability of a competitor who learns of the inventor's work through the public disclosure to race off to the USPTO and seek a patent for itself on the disclosed invention. The competitor can interlope in this manner by filing a patent application and alleging its own ''date of invention'' at some point before the inventor's public disclosure was made.

This makes relying on the current ''grace period'' a risky hit or miss. If an inventor waits until the end of the one-year ''grace period'' to seek a patent on the invention he or she made available to the public, an interloping competitor, spurred into quickly filing a patent application, may be issued a patent before the USPTO acts on the ''grace period'' inventor's patent application. The ''grace period'' inventor may be forced to fight to get into a patent interference against a competitor's already-issued patent, hoping to get the USPTO to cancel the competitor's patent so the inventor's own patent can be issued.

Interferences are notoriously difficult to win for an inventor who is not the ''first to file.'' The number of situations where someone other than the first to file for a patent on an invention actually succeeds in proving an earlier invention date are very few and very far between. Indeed, the most recent estimate is that striking down a competitor's earlier filed application or patent in a patent interference is less likely than the competitor being struck down by lightning.

What does S. 23 do about this defect in the ''grace period'' under current U.S. patent law? Quite simply, it wholly excises the defect—it will be gone in its entirety. It makes an inventor's public disclosure of the inventor's own work a bar to anyone thereafter seeking to patent that work itself, as well as any obvious variations of what the inventor made available to the public. In short, it is a complete fix to the risk a competitor will use the inventor's public disclosure as a spur to filing its own patents based on its own work.

S. 23 closes the door to interloping by foreign-based competitors that was opened in 1995 when the WTO agreement forced changes to U.S. law.

Under the World Trade Organization agreement reached in 1994, the United States was forced to change its patent law to benefit foreign-based entities seeking U.S. patents. This change allowed foreign-based entities to take advantage of their secret activities, undertaken outside the United States, in order to establish ''invention dates'' that could be used under U.S. patent law to obtain valid patents. Specifically—and for the very first time—foreign-based competitors could seek U.S. patents on products that had already been publicly disclosed by U.S.-based inventors. The Uruguay Round Agreements Act, which took effect in 1995, implemented this treaty obligation.

Before this change in U.S. patent law, foreign-based competitors could not use their secret activities outside the United States as a basis for showing that they had made an invention before its publication by a U.S.-based inventor. Up until 1995, once a U.S. inventor published information on a new product or otherwise publicly disclosed an invention, foreign-based competitors were barred from obtaining U.S. patents on the disclosed product and any aspect of it, including trivial and obvious modifications of it.

S. 23, if enacted, would put foreign-based entities back into the position they were in prior to 1995—once a U.S. inventor publishes or makes any other type of public disclosure of a new product, the ability for a foreign-based competitor to then file patent applications seeking to patent the disclosed product would be totally cut off.

Congress should act promptly to end the potential for interloping by foreign-based competitors once U.S.-based inventors have published on their work.

With each passing year, the percentage of U.S. patent filings made by foreign-based entities increases. In 1966, 1 in 5 U.S. patent filings was by a foreign-based entity. That ratio became 1 in 4 in 1969, and 1 in 3 in 1974, before reaching 1 out of every 2 in 2008. Since 2008, the majority of patent filings in the United States came from foreign-based entities. Given the rapid growth in patent filings by Asian (especially Chinese) inventors, this trend may well accelerate in the decade ahead.

As foreign-based entities become more sophisticated in their use of the U.S. patent system, U.S. inventors are put at an ever-greater risk that patenting strategies by foreign-based entities will disadvantage U.S.-based inventors, either in electing to use the ''grace period'' or even when they file for a patent before making a public disclosure.

How S. 23 operates to protect inventors once they make their work public

S. 23 puts an end to any use of ''dates of invention'' in order to determine whether a U.S. patent is valid or not. In addition, S. 23 strips out of the U.S. patent law any grounds for invalidating a U.S. patent based on any type of secret activity undertaken by inventors themselves, such as secret ''offers for sale'' of their inventions before seeking patents. Finally, it further secures the benefits of the one-year ''grace period'' by preventing the contemporaneous work of an inventor's co-workers or research partners from being cited as a basis for barring the inventor from obtaining a patent.

The consequence of placing this collection of inventor-friendly features into S. 23 is that, once a U.S. inventor publishes or otherwise makes a public disclosure of his or her inventions, the potential for interloping is entirely removed and the ability of the publicly-disclosing inventor to patent the disclosed invention is fully preserved during a one-year ''grace period.'' The public disclosure by U.S. small business or other U.S.-based small entity, for example, is a bar to anyone else seeking a patent, not only on the publicly disclosed subject matter, but on any trivial or obvious variations of it. Similarly, once a U.S. inventor initially files a patent application (even a provisional one) that subsequently forms the basis for a published patent application or patent, the same protections against competitor efforts to patent the inventor's prior-disclosed work apply.

How can Congress accomplish all of this good for the country? Enact S. 23!

Reverse the WTO's impact, end interloping threats, and protect U.S. inventors.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
March 2, 2011.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges you to oppose amendment 133 offered by Sen. Dianne Feinstein (D-CA) to S. 23, The America Invents Act.

The amendment would remove a key provision in S. 23, The America Invents Act, which is strongly supported by manufacturers, the creation of a ''first-inventor-to-file'' system.

The NAM supports transitioning the United States from a ''first-to-invent'' system to a ''first-to-file'' system to eliminate unnecessary cost and complexity in the U.S. patent system. Manufacturers large and small operate in the global marketplace and the United States needs to move toward a system that will provide more patent protection around the world for our innovative member companies. The ''first-to-file'' provision currently included in S. 23 achieves this goal.

Thank you for your consideration and your support for the ''first-to-file'' system.

Sincerely,

DOROTHY COLEMAN.

Mr. COBURN. Mr. President, I want to thank all of the cosponsors who joined in support of my amendment, particularly Senators BOXER and GRASSLEY, who recognized the importance of this amendment for the proper functioning of the PTO and for the underlying legislation. Furthermore, I want to thank Chairman LEAHY and Ranking Member GRASSLEY for including my amendment in the managers' amendment to the patent reform legislation.

Our Founding Fathers recognized the value that intellectual property provides to this country and sought to protect innovation as they did physical property. Article I, section 8 of our Constitution states ''The Congress shall have power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.''

It is necessary for the Federal Government to protect and enforce intellectual property rights domestically and internationally. Intellectual property is important to our country, businesses and individual rights holders, and I believe a strong patent system is one crucial element in maintaining our

country's leadership in innovation, invention and investments. While I do believe it is the goal of this patent reform legislation to strengthen and improve our patent system, I do not believe that such goals are possible without reform to the financial crisis facing the patent office.

My amendment would provide an immediate solution to this crisis. The amendment creates a lockbox—a new revolving fund at the Treasury—where user fees that are paid to the PTO for a patent or a trademark go directly into the revolving fund for PTO to use to cover its operating expenses. Congress would not have the ability to take those fees and divert them to other general revenue purposes.

I do not think everyone in this body understands what it means for the PTO to be a wholly fee-supported agency. PTO does not receive any taxpayer funds. PTO receives fees through the payment of patent and trademark user fees—fees paid by small inventors, companies and universities to protect their ideas and technology. While those that pay these fees expect efficiency and quality from the PTO, they do not receive it. Because of the current PTO funding structure—where PTO user fees are deposited into the Treasury, but PTO is then required to ask for annual appropriations—Congress, who only has authority over taxpayer funds, maintains control over the user-funded PTO. When PTO's fee income is greater than what Congress provides via appropriations, we spend the ''excess'' on other general revenue purposes. As a result, those that pay to use the patent system are not receiving the quality service they deserve.

It is more than mere coincidence that the two major problems at the PTO, (1) the growing number of unexamined patent applications or ''backlog,'' and (2) the increased time it takes to have a patent application examined or ''pendency,'' are the result of a ''lack of connection between the monies flowing into the agency and those available for expenditure.'' In fact, the latest data from the PTO shows that the patent processing backlog is almost 26 months. That is, it takes 26 months for the patent examiner to even pick up the application to take his ''first action.'' Total overall pendency—from filing to final action—is approximately 35 months. The PTO also states the total number of patent applications pending is over 1.16 million, with over 718,000 of those waiting for a patent examiner to take his first action. One of the primary reasons for these incredibly long waiting periods is a lack of resources at the PTO. By providing a permanent end to fee diversion, Congress has the ability to contribute greatly to the enhanced efficiency of this agency.

This is not the first time Congress has been confronted with its diversion of PTO user fees. Since the early 1980s, Congress has addressed issues related to this issue. Beginning in the late 1990s, our own congressional reports have documented the problems with fee diversion from the PTO, and the domino effect it has on PTO's efficient operation.

In 1997, the House Report on the Patent and Trademark Office Modernization Act stated: ''Unfortunately, experience has shown us that user fees paid into the surcharge account have become a target of opportunity to fund other, unrelated, taxpayer-funded government programs. The temptation to use the surcharge, and thus a significant portion of the operating budget of the PTO, has proven increasingly irresistible, to the detriment and sound functioning of our nation's patent and trademark systems . . . this, of course, has had a debilitating impact on the [PTO].''

It is disturbing to me, and should be to all Members, that many of the same practices that this 1997 report notes as those that suffer from lack of consistent PTO funding still occur today—14 years later.

Yet Congress continued to grapple with PTO's funding problem into the early 2000s. In 2003, the House noted in its report on the Patent and Trademark Fee Modernization Act that ''by denying PTO the ability to spend fee revenue in the same fiscal year in which it collects the revenue, an equivalent amount may be appropriated to some other program without exceeding their budget caps. Although the money is technically available to PTO the following year, it has already been spent.'' In 2007, I offered a different version of my current amendment to patent reform legislation considered by the Judiciary Committee. My amendment passed without opposition. Last year, I offered this amendment in the Judiciary Committee, and it was tabled by a vote of 10–9. Yet, in 2008, this body adopted by unanimous consent an amendment by Senator HATCH to the fiscal year 2009 budget resolution that condemns the diversion of funds from the PTO.

Clearly, for more than a decade, both Houses of Congress have recognized that many of the efficiency and operational problems at the PTO could be remedied by giving the PTO authority over its own fee collections. However, we have yet to take the responsibility to relinquish the control over these user fees that we think we deserve. In fact, in the current arrangement, Congress cannot resist the temptation to take what is not ours and divert it to nonpatent related functions. This is especially tempting during bad economic times, which we have recently been experiencing. Such an arrangement flies in the face of logic, commonsense budgeting and overwhelming support from the entire patent industry for providing the PTO with a consistent source of funding. Ending fee diversion is one of the only areas of 100 percent agreement within an industry that has often been divided on other issues in this bill. My amendment is supported by: PTO; Intellectual Property Owners Association, IPO; American Intellectual Property Law Association, AIPLA; International Trademark Association, INTA; The 21st Century Coalition; Coalition for Patent Fairness, CPF; Innovation Alliance; American Bar Association, ABA; U.S. Chamber of Commerce; Wisconsin Alumni Research Foundation, WARF; BIO; Intellectual Ventures; National Treasury Employees Union, NTEU; Intel; and IBM.

The PTO cannot effectively manage the changes made in this legislation without permanent access to its user fees. I agree that there are aspects of the patent system that need to be updated and modernized to better serve those that use the PTO, and this bill makes reforms to the current patent system. In fact, one of those changes involves giving the PTO fee setting authority. Section 9 of the bill states that the PTO shall have authority to set or adjust any fee established or charged by the office provided that the fee amounts are set to recover the estimated cost to the PTO for its activities. This is a great provision to put in the bill, but it is only one side of the funding story. In fact, providing the PTO with fee setting authority alone is at odds with the way Congress currently funds the PTO. If I were the PTO director, why would I take advantage of this provision by increasing fees to a point where I think they would cover my operational costs, when I know that Congress has the ability to take whatever it wants of those increased fees and spend it on something other than what I budgeted those fees to cover?

In fact, PTO Director Kappos has specifically commented on fee diversion at the PTO. During his confirmation hearing in 2009, Director Kappos stated in his testimony that the PTO faces many challenges and one of the most immediate is ''the need for a stable and sustainable funding model.'' In his private meeting with me prior to his hearing, he discussed his experience as a high-level manager, officer and counsel at IBM. He acknowledged that, despite the vast knowledge and experience that he can bring to the PTO, he could not run PTO efficiently without access to sustainable funding.

In March 2010, Director Kappos appeared before the House CJS Appropriations Subcommittee and stated the PTO was likely to collect at least $146 million more than its 2010 appropriation. He was right, and in July 2010, the PTO had to ask for more funds from Congress in separate legislation, but it was only given $129 million. As a result, PTO ended up collecting at least $53 million above that amount, which it could not access.

In April 2010, Director Kappos made similar comments at a meeting in Reno, NV. When discussing the pending Senate legislation, Director Kappos stated, ''I am going to make USPTO much better whether we get new legislation or not . . . There is more than

one way to solve our problems. Lack of funding is a real issue . . . It's very hard to cut down on a huge backlog with a lack of funding . . . Lack of funding hits you at every corner at the USPTO. Just do the math . . . We'll all be dead and gone by the time we get rid of the backlog of appeals at the current rate. It is so overwhelming and it all comes down to the resources you need. It comes down to money.''

In January 2011, Director Kappos appeared at a House Judiciary Committee PTO Oversight hearing. He stated, ''uncertainty about funding constrained our ability to hire or allow examiners to work overtime on pending applications during the last year.''

It baffles me that these comments have not been heeded by Congress. Director Kappos believes much progress can be made without legislation as long as there is a sustainable funding model.

Similar words appear in the House Report on the 2003 Patent and Trademark Fee Modernization Act: ''While the agency has demonstrated a commitment to embrace top-to-bottom reform consistent with congressional mandates, it is equally clear that PTO requires additional revenue to implement these changes.'' Yet, our PTO director, who has incredible plans for this agency, cannot accomplish those due to revenue shortfalls that have plagued the agency for decades—a problem Congress has the ability to permanently fix.

Congress has not ended its diversion of fees from the PTO.

On a regular basis, from 1992 to 2004, the amount Congress ''allowed'' the PTO to keep via appropriations was less than the fees PTO collected. At the height of this problem in 1998, Congress withheld $200 million from the PTO and diverted it to other general revenue purposes. As recently as 2004, Congress diverted $100 million from the PTO, in 2007, it was $12 million, and in 2010, it was $53 million. In total, since 1992, Congress has diverted more than $800 million that the PTO will never be able to recover.

Now, beyond the concern that appropriators have with relinquishing control over PTO funding, some might say that the practice of fee diversion has ended in recent years, making this amendment unnecessary. Under public pressure from numerous sectors of the American innovation industry, in 2005 and 2006 and 2008 and 2009, it is true Congress gave PTO all of the funds it estimated in its budget request. So, some argue that no permanent solution to PTO fee diversion is necessary because of Congress's proven restraint.

However, it is not entirely true that all fee diversion has ended. First, it is inaccurate to say there has been no fee diversion since 2004. According to the PTO, $12 million was diverted in 2007, and $53 million in 2010—a type of diversion slightly different from the past. From 1992–2004, PTO provided an estimate of its fees, but appropriators diverted funds by appropriating to the PTO less than its estimate and applying the difference to other purposes. In 2007 and 2010, PTO provided its estimate and, it is true, appropriators provided an amount equal to that estimate. But, PTO collected more than what appropriators gave them, and those fees were diverted to other purposes rather than being returned to PTO the following year. Without access to those funds, PTO lost $12 million in 2007 and $53 million 2010, for a total of $65 million.

Second, Congress has engaged in ''soft diversion'' of PTO funds through earmarking PTO fees. From 2005–2010, appropriators directed PTO to spend its user fees on specific, earmarked items in appropriations bills totaling over $29 million. Such items included: $20 million for ''initiatives to protect U.S. intellectual property overseas;'' $1.75 million for the National Intellectual Property Law Enforcement Coordination Council, NIPLECC; $8 million for PTO to participate in a cooperative with a nonprofit to conduct policy studies on the activities of the UN and other international organizations, as well as conferences. While we all agree it is important to protect intellectual property rights abroad, PTO should be able to have discretion to decide how much of its budget should be directed for those purposes.

Third, the PTO faces a huge backlog of unexamined patents, as well as an enormous patent pendency problem for those applications already being processed. Fee diversion from the PTO has exacerbated these waiting periods through a congressional Ponzi-scheme. Even if we were to accept that fee diversion stopped in 2005, CBO states that approximately $750 million was diverted from 1992–2007. With the addition of the $53 million diverted last year, the PTO has lost over $800 million due to fee diversion. Thus, PTO has been constantly trying to recover from years of a ''starvation funding diet.''

So, when the PTO presents a budget of what it needs to process applications in the next 1-year period, that money is actually going towards processing applications sitting in the backlog. As a result, Congress is really not providing PTO with what it needs for the year in which it receives appropriations. Rather, it is giving short-shrift to the current year's needs because PTO must apply its fees not to the inventor who submitted his application this year, but to those who paid and submitted applications years ago.

Lack of funding is exacerbated under a continuing resolution. In fact, PTO's lack of access to its user fees is further amplified in a year with a continuing resolution, such as this fiscal year. Under this CR, the PTO can only spend at the level given to it by the Appropriations Committee in 2010, which is approximately $1.5 million per day less than the President's fiscal year 2011 budget request.

PTO already has to wait on year-to-year funding that may not materialize, and under a CR the problem is worse since PTO cannot get access to their fees until the CR is lifted. In January, the PTO Director noted at the House Judiciary PTO oversight hearing, ''our spending authority under the continuing funding resolutions and the lack of a surcharge assessment through early March, however, represent foregone revenue of approximately $115 million as compared to what was proposed in the President's fiscal year 2011 budget request.''

Thus, under the House-proposed CR, without a specific provision inserted to allow the PTO to collect all of the fees it collects, PTO will not be able to access its future fee collections. My amendment would solve this problem of constantly using time and resources at both the PTO and Congress to ensure the PTO receives the funding it deserves and does not suffer from Congress's inability to properly fund the government.

As the above problems show, even without direct diversion, PTO still faces the possibility of having its fees diverted by other means. Thus, while I recognize that some effort has been made by Congress, it is no consolation to me or to the PTO Director that, in recent years, appropriators have ''restrained'' themselves and provided the PTO with all of the fees that it collected. ''But, such recent restraint does not guard against future diversion.''

In 2007, the American Intellectual Property Law Association stated in a letter to House Speaker NANCY PELOSI, ''there is nothing to prevent the devastating practice of fee diversion from returning . . . While everyone wishes for a more rapid recovery by the Office, it must be remembered that the current situation is the result of a 12 year starvation funding diet. It will take permanent, continued full funding of the USPTO . . . to overcome these challenges.''

An amendment to permanently end fee diversion is the only effective remedy. The only true solution to the problem of PTO fee diversion that will give solace to those in the patent community and to the PTO Director is a permanent end to fee diversion so the PTO can effectively and efficiently budget for its future operational needs.

The President's fiscal year 2012 Budget also supports a sustainable funding model for the PTO. It states, ''another immediate priority is to implement a sustainable funding model that will allow the agency to manage fluctuations in filings and revenues while sustaining operations on a multi-year basis. A sustainable funding model includes: (1) ensuring access to fee collections to support the agency's objectives; [and] (2) instituting an interim patent fee increase. . . .''

In fact, as I stated earlier, in 2008, this body approved, by unanimous consent, an amendment to the 2009 budget resolution by Senator HATCH that condemns the diversion of funds from the

PTO. My amendment is in the same vein—if we will vote to condemn fee diversion, we should also vote to remedy the problem.

I believe we cannot have true patent reform without ending fee diversion and providing the PTO with a permanent, consistent source of funding, which is why I believe very strongly that this amendment should be adopted. As my colleague Senator HATCH so effectively stated in Judiciary Committee markup this year, ''fee diversion is nothing less than a tax on innovation.''

Finally, I would like to point out that nothing in this amendment allows the PTO to escape congressional oversight and accountability. You have all heard me talk about the need for more transparency in all areas of our government, and this is no exception. Enacting this amendment will not put the PTO on ''auto-pilot'' or reduce oversight of PTO operations. In fact, the amendment requires extensive transparency and accountability from the PTO, giving Congress plenty of opportunities to conduct vigorous oversight.

My amendment provides four different methods by which Congress will hold PTO accountable: (1) an annual report, (2) an annual spending plan to be submitted to the Appropriations Committees of both Houses, (3) an independent audit, and (4) an annual budget to be submitted to the President each year during the budget cycle. Furthermore, nothing in this amendment changes the current jurisdiction of any congressional committee, Appropriations or Judiciary, to call PTO before it to demand information, answers and accountability. In fact, it has the potential to yield more information to Congress via the four reporting requirements than provided by other agencies.

This amendment is not about authorizers versus appropriators, but rather it is about giving the PTO and its very capable and experienced director the opportunity to improve the agency and provided top-notch service to PTO applicants. It is also about making oversight of the PTO a priority for all committees of jurisdiction. It is about stimulating our economy because when the PTO is fully funded, patents are actually granted, which creates jobs in new companies and in the development and marketing of innovative new products. It is about fulfilling our responsibility to ensure efficiency, accountability and transparency in our government so that we reduce our deficit and provide our grandchildren relief from the immense financial burden they currently bear.

Thus, to truly reform the patent system in this country, more than any legislation, it is necessary for the PTO to be able to permanently and consistently access the user fees—not taxpayer funds—it collects. Therefore, I urge my colleagues to support this amendment.

Mr. BAUCUS. Mr. President, I want to take a few minutes to explain in detail the tax strategy patent provision in the pending patent reform legislation that was drafted jointly by Judiciary Committee Ranking Member CHUCK GRASSLEY and me. As chairman of the Senate Finance Committee, I am concerned by the growth in the number of patents that have been sought and issued for tax strategies for reducing, avoiding, or deferring a taxpayer's tax liability. Section 14 of S. 23 would prevent the granting of patents on these tax strategies so that the Internal Revenue Code can be applied uniformly while balancing the critical need to protect intellectual property.

Let me explain. Our Federal tax system relies on the voluntary compliance of millions of taxpayers. In order for the system to work, the rules must be applied in a fair and uniform manner. To that end, everyone has the right to arrange financial affairs so as to pay the minimum amount legally required under the Internal Revenue Code.

Patents granted on tax strategies take away this right and undermine the integrity and fairness of the tax system. These patents have been on ideas as simple as funding a certain type of tax-favored trust with a specific type of financial product or calculating the ways to minimize the tax burden of converting to an alternative retirement plan. Rather than allowing these tax planning approaches to be available to everyone, these patents give the holder the exclusive right to exclude others from the transaction or financial arrangement. As a result, they place taxpayers in the undesirable position of having to choose between paying more than legally required in taxes or paying a royalty to a third party for use of a tax planning invention that reduces those taxes.

The patentability of tax strategies also adds another layer of complexity to the tax laws by requiring taxpayers or their advisors to conduct patent searches and exposing them to potential patent infringement suits. And, in situations where a patent is obtained on a tax shelter designed to illegally evade taxes, the fact that a patent was granted may mislead unknowing taxpayers into believing that the strategy is valid under the tax law.

Section 14 of S. 23 addresses these concerns by providing that any strategy for reducing, avoiding, or deterring tax liability, whether known or unknown by anyone other than the inventor at the time of the invention or application for patent, will be deemed insufficient to differentiate a claimed invention from the prior art for purposes of evaluating an invention under section 102 or under section 103 of the Patent Act. Applicants will not be able to rely on the novelty or nonobviousness of a tax strategy embodied in their claims in order to distinguish their claims from prior art. The ability to interpret the tax law and implement such interpretations remains in the public domain, available to all taxpayers and their advisers.

Under the provision, the term ''tax liability'' refers to any liability for a tax under any Federal, State, or local law, or law of any foreign jurisdiction, including any statute, rule, regulation, or ordinance that levies, imposes, or assesses such tax liability.

Generally, tax strategies rely on tax law to produce the desired outcome; that is, the reduction, avoidance, or deferral of tax liability. Tax law can include regulations or other guidance, as well as interpretations and applications thereof. Inventions subject to this provision would include, for example, those especially suitable for use with tax-favored structures that must meet certain requirements, such as employee benefit plans, deferred compensation arrangements, tax-exempt organizations, or any other entities or transactions that must be structured or operated in a particular manner to obtain certain tax consequences. The provision applies whether the effect of an invention is to aid in satisfying the qualification requirements for the desired tax-favored entity status, to take advantage of the specific tax benefits offered in a tax-favored structure, or to allow for tax reduction, avoidance, or deferral not otherwise automatically available to such entity or structure.

Inventions can serve multiple purposes. In many cases, however, the tax strategy will be inseparable from any other aspect of the invention. For example, a structured financial instrument or arrangement that reduces the after-tax cost of raising capital or providing employee benefits is within the scope of the provision, even if such instrument or arrangement has utility to issuers, investors, or other users that is independent of the tax benefit consequences. No taxpayer should be precluded from using such an instrument or arrangement to obtain any reduction, avoidance, or deferral of tax that attends it.

At the same time, there may be situations in which some aspects of an invention are separable from the tax strategy. For example, a patent application may contain multiple claims. In this case, any claim that encompasses a tax strategy will be subject to the provision and the novelty or nonobviousness of the tax strategy will be deemed insufficient to differentiate that claim from the prior art. However, any other claim that does not involve a tax strategy would not be subject to the provision. In such a case, if the invention includes claims that are separable from the tax strategy, such claims could, if otherwise enforceable, be enforced.

The mere fact that any computations necessary to implement an invention that is a strategy for reducing, avoiding, or deferring tax liability are done on a computer, or that the invention is claimed as computer implemented, does not exclude the strategy from the provision. In such a case, the claims, if separable from the tax strategy, would be evaluated under sections 102 and 103

without regard to the tax strategy. If those nontax related and separable claims still met the requirements for patentability, a patent would issue, but not on the tax strategy.

The provision is not intended to deny patent protection for inventions that do not comprise or include a business method. For example, an otherwise valid patent on a process to distill ethanol would not violate the rule set forth in this provision merely because a tax credit for the production of ethanol for use as a fuel may be available. Similarly, the mere fact that implementation of an otherwise patentable invention could result in reduced consumption of products subject to an excise tax would not make the invention subject to this provision.

The provision is also not intended to deny patent protection for tax return preparation software 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. Similar to the review of computer-implemented strategies, such software would still be entitled to patent protection to the extent otherwise patentable. Such patents, however, could not preclude non-users of such software from implementing any tax strategy. No inference is intended as to whether any software is entitled under present law to patent protection as distinct from copyright protection. Nor is an inference intended as to whether any particular strategy for reducing, avoiding, or deferring tax liability is otherwise patentable under present law.

In general, the U.S. Patent and Trademark Office may seek advice and assistance from Treasury and the IRS to better recognize tax strategies. Such consultation should help ensure that patents do not infringe on the ability of others to interpret the tax law and that implementing such interpretations remains in the public domain, available to all taxpayers and their advisors.

The practical result of this provision is that no one can be granted an exclusive right to utilize a tax strategy. The provision is intended to provide equal access to tax strategies.

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

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, 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 legislative clerk read 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 S. 23, the America Invents Act.

Harry Reid, Patrick J. Leahy, Debbie Stabenow, John F. Kerry, Jeanne Shaheen, Christopher A. Coons, Tom Harkin, Mark Begich, Jeff Bingaman, Al Franken, Kay R. Hagan, Michael F. Bennet, Richard Blumenthal, Sheldon Whitehouse, Amy Klobuchar, Bill Nelson, Benjamin L. Cardin, Richard J. Durbin.

Mr. REID. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture occur immediately upon disposition of the judicial nominations in executive session on Monday, March 7; further, that the mandatory quorum under rule XXII be waived.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

RECOGNIZING THE GOVERNMENT PRINTING OFFICE

Mr. REID. Mr. President, I rise today to recognize the Government Printing Office, GPO, on the occasion of its 150th anniversary. GPO opened its doors on March 4, 1861, the same day President Abraham Lincoln took the oath of office. Since then GPO has used ever changing technologies to produce and deliver government information for Congress, Federal agencies, and the public. GPO plays a vital role in providing the printed and electronic documents necessary for Congress to conduct its legislative business.

I ask my colleagues to join me in congratulating the GPO on its 150th anniversary.

REMEMBERING LEONARD TRUMAN ''BUCK'' FERRELL

Mrs. MCCASKILL. Mr. President, today I pay tribute to a patriot, a businessman, a loyal father, and an American hero. Though Leonard Truman Ferrell—''Buck'' to his many family and friends—was laid to rest at Arlington Cemetery this morning, I know that his legacy lives on in the community that he helped build, the family that he nurtured, and the soldiers with whom he served. Today I would like to take a few moments to honor Buck's life and the contributions he made to his community.

Born and raised in southeast Missouri, Buck was imbued from an early age with those quintessential American values so prevalent among the members of the Greatest Generation: integrity, service to others, determination, and an undying sense of patriotism. Since Buck's family didn't have much money growing up, he learned at a young age to live within his means and to place little value on worldly possessions. ''My father didn't have a lot of worldly goods,'' Buck once said, ''but he was a rich man in character.'' I know I speak for many when I say that Buck, first and foremost, was also a man rich in character.

Buck was also a patriot of the highest order. Having served in the U.S. Army during the Korean war, he fought for 2 years on the Korean Peninsula and earned, among other decorations, the Combat Infantry Badge, the Presidential Unit Citation, two Silver Stars, and two Purple Hearts. Wounded multiple times, Buck never faltered and steadfastly manned his post, whether in a frontline foxhole or as a heavy weapons trainer for new recruits. In light of his outstanding service, Buck was even offered a battlefield commission. Though he chose not to accept the commission, Buck returned home and remained an active member in a number of veterans' organizations, like the American Legion and the Veterans of Foreign Wars, for the rest of his life. Never forgetting the country that he fought to protect, he raised—every morning—an American flag in his front yard.

As you can guess, Buck's dedication to others and stalwart work ethic continued long after his military service ended. For 25 years, he worked at the McCrate Equipment store in Caruthersville, MO, and retired as the general manager. As a member and former deacon at First Baptist Church, Buck helped sustain a thriving congregation, and he also took on a number of leadership roles in the local Masonic Lodge and Kiwanis Club. His extensive community involvement earned him the Pioneer Heritage Award from the Pemiscot County Historical Society and recognition by the Missouri State Legislature for his enduring impact in southeast Missouri.

But even with all of these commitments, Buck always had time for family. He and his wife Patsy Malin Ferrell raised four wonderful children, were the beloved grandparents to four grandchildren, and one great-granddaughter. In fact, I can personally attest to the great job the Ferrells did with their children—their talented daughter Christy is currently an invaluable member of my staff and is seated along with many other members of the Ferrell family, in the gallery today. My prayers are with them all in this time of loss.

Mr. President, I ask today that my fellow Senators join me in recognizing Buck Ferrell, not only because he was a great Missourian, but also because he embodied the true American values that have cemented American society for generations. Buck worked hard, served God, fought for his country, and loved his family. In short, he lived a life worth living.

100TH ANNIVERSARY OF THEODORE ROOSEVELT DAM

Mr. KYL. Mr. President, the story of human settlement in Arizona is in many respects the story of the extraordinary efforts people have made to harness water supplies for their use and benefit. Early Arizonans were keenly aware of the importance of the State's many rivers. Recognizing the immense power and unpredictability of those river flows, settlers devised an ambitious water system known as the Salt River Project, SRP. The keystone of their efforts, the Theodore Roosevelt Dam, celebrates its centennial this month.

More than a century ago, Arizonans understood that water reclamation is crucial to life in the Salt River Valley. Arizona farmers organized to lobby the U.S. Congress for a Federal reclamation law that would throw the weight of the Federal Government behind local projects. Together with the vision of President Theodore Roosevelt and the persuasive power of private citizens, Congress passed the National Reclamation Act in 1902. The Salt River Valley Water Users' Association was incorporated the following year.

SRP was the first major undertaking authorized by the National Reclamation Act, and Roosevelt Dam was a critical component of SRP's development. Upon its completion on March 18, 1911, the Roosevelt Dam was the largest masonry structure in the world. The dam captured the Salt River's flows, providing a secure water supply, flood control, and irrigation to communities in central Arizona. In addition to water management, the Roosevelt Dam generated power for mining, agriculture, and Arizona's growing population.

Today, economic growth in the region continues to depend on Roosevelt Dam and its ability to provide a reliable water storage and delivery system, as well as power. The dam is still in operation and provides 70 percent of the surface water available to SRP water shareholders and customers in and around Phoenix. While SRP's mission has evolved with Arizona's population growth, its core function has remained constant to provide a sustainable water resource for central Arizona.

As Arizona continues to develop, we will need the same foresight and entrepreneurial spirit to serve the water needs of a new generation of Arizonans. Mr. President, that is why today I honor those who made SRP and the Roosevelt Dam a reality 100 years ago.

THE CONTINUING RESOLUTION

Mr. KERRY. Mr. President, I voted in favor of the continuing resolution to keep our government and all its essential services open and operating for the next 2 weeks. I cast this vote because I believe a government shutdown is in no one's interests, but I am deeply disappointed in the political process that has put us in this position and my patience is nearly exhausted with yet another short-term solution and band-aid approach. A 2-week extension that merely defers tough decisions on funding the fiscal year that started more than 5 months ago is hardly progress. A 2-week extension is preferable to a government shutdown, but it does not provide the certainty that is needed. The American people deserve better than a stalled process which delays important decisions of how we can reduce our Federal budget deficit while maintaining our important investments in infrastructure, research, education, technology, and clean energy which will result in new jobs and will bolster our long-term competitiveness.

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 towards a long-term solution to reduce both our current budget deficit and our staggering debt. We will need to reduce Federal spending and make appropriate changes to our entitlement programs to meet the fiscal challenges facing our country. To do this appropriately, everything—revenue, tax reform, spending and entitlements—needs to be on the table.

As we make these difficult decisions, we must keep in mind that this cannot be done by just eliminating programs which protect vulnerable citizens or simply by increasing taxes on our wealthiest citizens. Instead, we must find a way to share the sacrifices necessary to bring our budget into balance over the long-term while continuing to invest in scientific and medical research, education, infrastructure and energy that will help create new industries and jobs in the future.

I want to be crystal clear about what is wrong with today's dialogue. For the last months we have heard the sound bites. We have heard elected officials say they are for small government, lower taxes, and more freedom. But what do they really mean?

Do they want a government too limited to have invented the Internet, now a vital part of our commerce and communications? A government too small to give America's auto industry and all its workers a second chance to fight for their survival? Taxes too low to invest in the research that creates jobs and industries and fills the Treasury with the revenue that educates our children, cures disease, and defends our country? We have to get past slogans and sound bites, reason together, and talk in real terms about how America can do its best.

If we are going to balance the budget and create jobs, we can't pretend that we can do it by just eliminating earmarks and government waste. We have to look at the plain facts of how we did it before, and by the way, you don't have to look far. 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 a result we saw the longest economic expansion in history, created over 22 million jobs, and generated unprecedented wealth in America, with every income bracket rising. But we did it by making tough choices. The Clinton economic plan committed the country to a path of discipline that helped unleash the productive potential of the American people. We invested in the workforce, in research, in development. We helped new industries. Then, working with Republicans, we came up with a budget framework that put our nation on track to be debt free by 2012 for the first time since Andrew Jackson's administration.

How we got off track is a story that doesn't require retelling. But the truth of how we generated the 1990s economic boom does need to be told. We didn't just cut our way to a balanced budget; we grew our way there. The question now is, What are the tough decisions we are going to make today? What are the issues we are going to wrestle with together at a moment of enormous challenge?

This process cannot be done in two weeks, but it should have already begun—and it needs to begin today. The American people deserve no less.

THANKING THE PEOPLE OF AUSTRALIA

Mr. LIEBERMAN. Mr. President, on the morning of March 7, the Prime Minister of Australia, Julia Gillard, will take the stage in front of the Lincoln Memorial to announce a $3 million donation on behalf of the Australian Government to the Vietnam Veterans Memorial Fund to help build the Education Center at the Vietnam Wall. This generous contribution is a testament to the strength of the United States' relationship with the Australian people and is critical to our continuing efforts to honor the men and women who served in Vietnam.

As one who strongly supported legislation to establish the Education Center, I want to recognize and commend the Prime Minister, the legislature and the Australian people for their deep commitment to helping it come to fruition. Australian soldiers made terrible sacrifices during the Vietnam war. More than 500 Australian servicemen lost their lives, andsome 3,000 were wounded, injured, or struck ill.

For years, Australia has been a steadfast ally and friend of the United States. Besides Vietnam, Australian soldiers fought alongside Americans during many of our struggles in the 20th century, including World War I, World War II, the Korean war, and more recently in Iraq. Currently, over 1500 Australian troops are fighting alongside our Armed Forces in Afghanistan, working to train Afghan troops.

The Vietnam Veterans Memorial bears the names of the more than 58,000

brave men and women who gave their lives in service to our great country during the Vietnam war. It is a memorial, built by the American people, designed to ensure that names of those who made the ultimate sacrifice would never be lost to history.

By telling the stories of the men and women who fought and died in Vietnam, the Education Center will help visitors understand their courage, sacrifice and devotion.

And through interactive exhibits and primary source materials, visitors will be able to better understand the profound impact the Vietnam war had on their family members, their home towns, their communities and the Nation. Visitors will understand the importance of The Wall and the role it continues to play in healing the wounds left by the war.

The Vietnam Memorial has always been profoundly meaningful to me, both as a moving way to honor those who died and a remarkably effective means of healing the terrible national wounds from that war. The Education Center will be an important complement for both of those efforts. I hope to continue to play a role in making the Education Center a reality and look forward to the day that the United States can share the rich stories there with all visitors. When that time comes, I will be grateful to the Australian people and mindful of their kind generosity.

I wish to thank the Prime Minster, the government of Australia, and the Australian people for their strong support for this worthy endeavor.

ADDITIONAL STATEMENTS

RECOGNIZING FORT LUPTON MIDDLE SCHOOL

● Mr. BENNET. Mr. President, today I wish to honor the students and staff at Fort Lupton Middle School, whose relentless hard work and dedication to improving student achievement and setting students on the course toward success has earned the school the title of National Middle School of the Year.

The award is presented by the National Association of Middle School Principals to schools that go the extra mile to address the needs of students at the middle school level through academics and activities. And Fort Lupton Middle School's teachers and students are willing to go that extra mile and then some.

In a story published earlier this year in the Fort Lupton Press, sixth-grade language arts teacher Liz McCachren said that most people assume that her job as a middle school teacher isn't very fun. ''I want people to know that it's not scary,'' she said. ''There's nothing scary about these kids or this building. It's a really good middle school. . . . The students just make my day brighter. Every day, I can't wait to be here. That's why this school is unique. Because we like each other. We work together.''

By working together, the teachers at Fort Lupton created Power Hour, giving students time to do their homework while teachers are available to assist. And it is not just teachers working together. Students are taking ownership of their education and helping one another succeed. Through the program ''Where Everybody Belongs,'' Fort Lupton eighth graders serve as mentors for incoming sixth graders, so they adjust to their new school and surroundings and are better equipped for success.

Programs like these help lay the groundwork for student success, and they have built a sense of pride and community at Fort Lupton Middle School. These kids are excited and eager to learn, and they are setting a wonderful example for their peers across the state of Colorado and the country.

As we continue to push forward to do the important work of improving public education and make sure our public schools prepare our kids to be leaders in the 21st century economy, we must continue to listen to the voices, ideas and aspirations of principals, parents and students, like those at Fort Lupton Middle School.

I join all members of the Fort Lupton community and the State of Colorado in congratulating these bright kids and their teachers for a job well done and look forward to their continued success.●

50TH ANNIVERSARY OF WEST VIRGINIA UNIVERSITY, PARKERSBURG

● Mr. ROCKEFELLER. Mr. President, today I recognize and celebrate the 50th anniversary of the founding of West Virginia University at Parkersburg. For five decades now, West Virginia University at Parkersburg has provided affordable and accessible higher education opportunities to the citizens of the Mid-Ohio Valley and the State of West Virginia.

West Virginia University at Parkersburg began with humble roots. In 1961, the college opened in an abandoned elementary school as the Parkersburg Branch of West Virginia University. One hundred and four students enrolled that fall.

West Virginians believed in the ability of West Virginia University at Parkersburg to grow and succeed. In 1965, the citizens of Wood County passed a bond levy to build the college's campus at its present location, making it the only state-supported school to be funded by a local initiative. Truly, West Virginia University at Parkersburg is a college built by its community.

In 1971, it became one of the State's first freestanding community colleges. It developed a solid reputation—which continues today for—its quality technical programs and transfer degrees. In 1989, when the State legislature restructured higher education in West Virginia, it was reestablished as a regional campus of West Virginia University.

Today, West Virginia University at Parkersburg is a WVU-affiliated institution, and is the only community college in West Virginia accredited to offer bachelor's degrees. Growing from its modest beginnings with 104 students, the commuter campus now has more than 4,500 area residents enrolled in classes, making it the fourth-largest public college in West Virginia.

Its students are a blend of traditional and nontraditional students pursuing more than 40 programs of study. Most are the first in their family to attend college. Many juggle classes, work, and often families as well. They may ''stop out,'' and later return. Throughout the campus, you can see pride in pursuing the dream and the reality of completing a college degree.

And, throughout its growth and many changes, the college has stayed true to its mission and reinvented itself to serve changing educational needs and deliver workforce-ready graduates prepared to excel in a global economy. As it marks its 50th anniversary, West Virginia University at Parkersburg remains committed to serving the Mid-Ohio Valley region as an accessible, student-centered learning community that is recognized as an exceptional place to learn.

Thousands of West Virginians have started or resumed their college educations at West Virginia University at Parkersburg. It truly is ''the community's college.'' I salute Dr. Marie Gnage and the past presidents at West Virginia University at Parkersburg for a half century of excellence in education, training, and community engagement.●

RECOGNIZING LOST VALLEY SKI AREA

● Ms. SNOWE. Mr. President, outdoor recreational activities are a staple of Maine's winter, past and present. From skiing to snowmobiling, visitors have flocked to Maine for decades to get a chance to enjoy the mounds of fresh snow our State enjoys every year. I rise today to recognize Lost Valley Ski Area, located in the city of Auburn, which this year is celebrating its 50th year of operation.

Lost Valley has been an Auburn staple since it was founded by Otto Wallingford and Dr. Camille Gardner in 1961, when it first began enticing people from the Twin Cities and the surrounding areas to its slopes to learn how to ski. It was then that a 700-foot tow rope was installed in a little known area named Perkins Ridge, where children used to navigate through the trees to a clearing, or ''The Lost Valley,'' as it was called. That clearing now holds ''the Lodge,'' where after a long day on the slopes, newly minted skiers can enjoy a hot cup of cocoa by the stone hearth. Additionally, the 55 acres of trails are now

co-owned by Linc Hayes and Connie King, two small business owners who have dedicated their time to continue the mountain tradition.

Mr. Wallingford is not only known for opening Lost Valley for Mainers and tourists alike, but is also considered one of the fathers of snowmaking and grooming. He was the originator of the ''fan gun,'' a piece of snowmaking equipment that sprays a mist that is fanned to cover a large area. His first attempts created more ice than snow, but that was eventually remedied by removing water from the snowmaking system. He then developed, 30 years before they became a fad, snow guns on elevated poles.

It was not, however, Mr. Wallingford's penchant for creating snow, but his dedication to improving skiing conditions that brought him to the forefront of the ski industry. In order to create a more skiable terrain, Otto transformed old farm equipment into the predecessor of the modern ''snow groomer.'' An agricultural engineering graduate from the University of Maine, Mr. Wallingford used a tractor and attached a roller with a chain-like material that pulverized the snow. His ''Powder Maker'' was so successful that he crafted and sold them to other ski resorts both in the U.S. and abroad. A majority of his original snowmaking equipment is still in use at Lost Valley today! Following the tradition of providing a mountain that caters to all ages and skill levels, Lost Valley Ski Area offers the Central Maine Adaptive Sports Program, or CMAS. The CMAS provides a disabled person the chance to ski, and ''focuses on student's abilities rather than their disabilities.'' The program is staffed by volunteers who coach skiers one-on-one in order for them to learn the basic skills. It is both the physical activity and the focus on gaining self confidence that keeps students coming back. Through this and other programs at Lost Valley, students are able to train for the Olympics and ''Go for the Gold,'' like famed skier and three-time Olympian Julie Parisien, who grew up skiing at Lost Valley.

Maine is home to scores of innovators and philanthropists. Linc Hayes and Connie King are following in that tradition by keeping Lost Valley Ski area a beacon of history, learning, and fun. Their commitment of providing a place for all to enjoy snow sports is what makes Lost Valley such a special place. I thank them and everyone at Lost Valley for their efforts, and wish them 50 more years of success.●

REMEMBERING RAYMOND ''BUTCH'' SWANSON

● Mr. TESTER. Mr. President today I wish to pay tribute to Raymond ''Butch'' Swanson, of Anaconda, MT.

Butch passed away last evening. People in Anaconda say that Butch had the biggest heart of anyone they had ever known. He always put others' needs ahead of his own. He was the first one to show up with chicken noodle soup if a neighbor was sick. He was the nephew who helped an ailing uncle. He was the man who walked to his mother's house to wind her antique clock each week until her death.

He was an extraordinary teacher. He taught first grade and loved it. Every student was like his own son or daughter, and he always pushed them, letting them know that their dreams were possible. It was his life's work.

That devotion to his students came through in his love for his family. He was a proud and loving father and grandfather, who engaged fully in the raising of his four children. He doted on his two grandchildren.

Most important, he was a proud, loving, and great husband. His wife Kathy serves in the Montana House of Representatives. Butch was so proud of Kathy and her incredible work in the legislature for Montanans.

He not only served his family and his community, he served the State and the country he loved so much in the Montana National Guard.

Anaconda will miss Butch Swanson. To the generations of students he taught, to his family and to his community, Butch Swanson was a caretaker who always put other people first. He lived a quiet, humble life and is a lesson to us all on what it means to be a fine person, a fine Montanan, and a fine American. ●

MESSAGE FROM THE HOUSE

At 5:27 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4. An act to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

ENROLLED BILL SIGNED

At 5:49 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 662. An act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4. An act to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–778. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Shungnak, AK'' ((RIN2120–AA66) (Docket No. FAA–2010–1104)) received in the Office of the President of the Senate on March 1, 2011; to the Committee on Commerce, Science, and Transportation.

EC–779. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska'' (RIN0648–BA31) received in the Office of the President of the Senate on March 1, 2011; to the Committee on Commerce, Science, and Transportation.

EC–780. A communication from the Policy Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service'' (FCC 11–2) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Commerce, Science, and Transportation.

EC–781. A communication from the Policy Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service'' (FCC 10–103) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Commerce, Science, and Transportation.

EC–782. 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 (Enfield, New Hampshire; Hartford and White River Junction, Vermont; and Keesville and Morrisonville, New York)'' (MB Docket No. 05–162) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2011; to the Committee on Commerce, Science, and Transportation.

EC–783. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Commission's Rules of Practice and Procedure'' (RIN3072–AC41) received in the Office of the President of the Senate on February 28, 2011; to the Committee on Commerce, Science, and Transportation.

EC–784. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model MD–90–30 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1043)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–785. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0761)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–786. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1108)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–787. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700 , 701, and 702) Airplanes, Model CL–600–2D15 (Regional Jet Series 705) Airplanes, and Model CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1109)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–788. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A and 400T Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0954)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–789. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–600 and A300 B4–600R Series Airplanes, Model A300 F4–605R Airplanes, and Model A300 C4–605R Variant F Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0801)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–790. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200 and –300 and A340–200 and –300 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0852)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–791. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 767 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0377)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–792. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1038)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–793. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1113)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–794. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A340–200, –300, –500, and –600 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0040)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–795. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A340–200, –300, –500, and –600 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0039)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–796. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1112)) received during adjournment of the Senate in the Office of the President of the Senate on February 25, 2011; to the Committee on Commerce, Science, and Transportation.

EC–797. A communication from the Director of National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the 2010 Report on Apportionment of Membership on the Regional Fishery Management Councils; to the Committee on Commerce, Science, and Transportation.

EC–798. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment'' (FCC 10–181) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Commerce, Science, and Transportation.

EC–799. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Potassium benzoate; Exemption from the Requirement of a Tolerance'' (FRL No. 8863–2) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–800. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Peroxyacetic Acid; Amendment to an Exemption from the Requirement of a Tolerance'' (FRL No. 8865–3) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Agriculture, Nutrition , and Forestry.

EC–801. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fomesafen; Pesticide Tolerances'' (FRL No. 8858–5) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–802. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to the Family Subsistence Supplemental Allowance Program for the period October 1, 2009, through September 30, 2010; to the Committee on Armed Services.

EC–803. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Panama; to the Committee on Banking, Housing, and Urban Affairs.

EC–804. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–805. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Final Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–806. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Final Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2010–0002)) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–807. A communication from the Associate General Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Evaluation and Oversight: Changes to the Public Housing Assessment System (PHAS) and Determining and Remedying Substantial Default'' (RIN2577–AC68) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–808. 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 ''Definition of Readily Tradable on an Established Securities Market'' (Notice 2011–19) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–809. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''Report on Federal Agency Cooperation on Permitting Natural Gas Pipelines''; to the Committee on Energy and Natural Resources.

EC–810. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Kentucky; Louisville Nonattainment Area; Determination of Attainment of the 1997 Annual Fine Particle Standard'' (FRL No. 9277–2) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–811. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines'' (FRL No. 9277–3) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–812. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: New Substitute in the Motor Vehicle Air Conditioning Sector under the Significant New Alternatives Policy (SNAP) Program'' (FRL No. 9275–8) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–813. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Knoxville 1997 8-Hour Ozone Nonattainment Area to Attainment for the 1997 8-Hour Ozone Standards'' (FRL No. 9277–1) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–814. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Updating Cross-References for the Oklahoma State Implementation Plan'' (FRL No. 9275–7) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–815. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program'' (FRL No. 9274–4) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Environment and Public Works.

EC–816. 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 ''2011 Census Count'' (Notice 2011–15) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Finance.

EC–817. 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 ''Super Completed Contract Method IDD No. 3'' (LBandI–4–2020–029) received in the Office of the President of the Senate on March 2, 2011; to the Committee on Finance.

EC–818. 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 ''Annual Price Inflation Adjustments for Passenger Automobiles First Placed in Service or Leased in 2011 Pursuant to Section 280F'' (Rev. Proc. 2011–21) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Finance.

EC–819. A communication from the Secretary of Health and Human Services, transmitting a report relative to the Federal Coordinated Health Care Office, established by section 2602 of the Patient Protection and Affordable Care Act; to the Committee on Finance.

EC–820. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. civilian contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–821. A communication from the Department of State, transmitting, pursuant to law, an annual report relative to the defense articles and defense services that were licensed for export under Section 38 of the Arms Export Control Act during fiscal year 2009; to the Committee on Foreign Relations.

EC–822. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Medical Device Data Systems'' ((21 CFR Part 880) (Docket No. FDA–2008–N–0106)) received in the Office of the President of the Senate on March 3, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–823. A communication from the Secretary of Education, transmitting, pursuant to law, the Fiscal Year 2010 Annual Performance Report; to the Committee on Health, Education, Labor, and Pensions.

EC–824. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, two reports entitled ''The National Healthcare Quality Report 2010'' and ''The National Healthcare Disparities Report 2010''; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Mae A. D'Agostino, of New York, to be United States District Judge for the Northern District of New York.

Timothy J. Feighery, of New York, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2012.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. KERRY (for himself and Mr. ROCKEFELLER):

S. 467. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. PAUL, and Mr. INHOFE):

S. 468. A bill to amend the Federal Water Pollution Control Act to clarify the authority of the Administrator 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 Environment and Public Works.

By Mr. TESTER:

S. 469. A bill to rescind amounts made available for water treatment improvements for the city of Kalispell, Montana, and make the amounts available for Federal deficit reduction; to the Committee on Appropriations.

By Mr. CASEY (for himself, Mr. DURBIN, Mrs. MURRAY, Mr. COONS, and Mr. FRANKEN):

S. 470. A bill to establish an Early Learning Challenge Fund to support States in building and strengthening systems of high-quality early learning and development programs and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Mr. DURBIN, Mr. BROWN of Ohio, Mr. SCHUMER, Ms. KLOBUCHAR, Mr. LEVIN, and Mrs. GILLIBRAND):

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; to the Committee on Environment and Public Works.

By Mr. BEGICH (for himself, Mrs. MURRAY, Ms. MURKOWSKI, and Mrs. BOXER):

S. 472. A bill to increase the mileage reimbursement rate for members of the armed services during permanent change of station and to authorize the transportation of additional motor vehicles of members on change of permanent station to or from nonforeign areas outside the continental United States; to the Committee on Armed Services.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. PORTMAN, and Ms. LANDRIEU):

S. 473. A bill to extend the chemical facility security program of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself, Mr. COBURN, Ms. AYOTTE, Mr. ENZI, and Mr. BROWN of Massachusetts):

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; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COBURN:

S. 475. A bill to enact President Obama's recommendations for program terminations; to the Committee on Appropriations.

By Mr. PRYOR:

S. 476. A bill to discontinue the Voice of America: Radio Marti and Television Marti broadcasts to Cuba; to the Committee on Foreign Relations.

By Mr. PRYOR:

S. 477. A bill to limit Government printing, Government travel costs, and Federal vehicle costs; to the Committee on Homeland Security and Governmental Affairs.

By Mr. PRYOR:

S. 478. A bill to amend the Internal Revenue Code of 1986 to apply a 100 percent continuous levy to Medicare providers and certain Federal contractors with delinquent tax debt; to the Committee on Finance.

By Mr. PRYOR:

S. 479. A bill to amend title 40, United States Code, to enhance authorities with regard to real property that has yet to be reported excess, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. GILLIBRAND (for herself, Mr. KERRY, Mr. LAUTENBERG, and Mr. LEAHY):

S. 480. A bill to temporarily expand the V nonimmigrant visa category to include Haitians whose petition for a family-sponsored immigrant visa was approved on or before January 12, 2010; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Ms. KLOBUCHAR, and Mr. FRANKEN):

S. 481. A bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCONNELL, Mr. MORAN, Ms. MURKOWSKI, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, Mr. WICKER, Mr. MCCAIN, and Mr. MANCHIN):

S. 482. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 483. A bill to amend title XVIII of the Social Security Act to provide for the treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; to the Committee on Finance.

By Mr. BENNET (for himself and Mr. UDALL of Colorado):

S. 484. A bill to direct the Secretary of Education to pay to Fort Lewis College in the State of Colorado an amount equal to the tuition charges for Indian students who are not residents of the State of Colorado; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 485. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WHITEHOUSE (for himself, Mr. REED, Mr. MERKLEY, Mr. SANDERS, and Mr. TESTER):

S. 486. A bill to amend the Servicemembers Civil Relief Act to enhance protections for members of the uniformed services relating to mortgages, mortgage foreclosure, and eviction, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MCCAIN:

S. 487. A bill to ensure that private property, public safety, and human life are protected from flood hazards that directly result from post-fire watershed conditions that are created by wildfires on Federal land; to the Committee on Energy and Natural Resources.

By Mr. CARDIN:

S. 488. A bill to require the FHA to equitably treat homebuyers who have repaid in full their FHA-insured mortgages, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REED (for himself, Mr. DURBIN, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. FRANKEN, and Mr. LEAHY):

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; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA:

S. 490. A bill to amend title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON of South Dakota (for himself, Mr. COCHRAN, Mr. KOHL, Mr. ENZI, Ms. COLLINS, Mr. FRANKEN, Mr. TESTER, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. WICKER, Mrs. MCCASKILL, Mr. ROBERTS, Mr. PRYOR, Mr. CONRAD, Mr. BROWN of Ohio, Mr. SCHUMER, Mrs. MURRAY, Mrs. BOXER, Mr. BAUCUS, Ms. STABENOW, Ms. CANTWELL, and Mr. NELSON of Nebraska):

S. Res. 87. A resolution designating the year of 2012 as the ''International Year of Cooperatives''; to the Committee on the Judiciary.

By Ms. SNOWE:

S. Res. 88. A resolution expressing the sense of the Senate that businesses of the United States should retain the option to organize as those businesses choose, including as flow-through entities, and not be forced to reorganize as C corporations; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. BURR, Mr. MANCHIN, Mr. UDALL of Colorado, Mr. BEGICH, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. KERRY, Mr. WYDEN, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MCCAIN, and Mr. BINGAMAN):

S. Res. 89. A resolution relating to the death of Frank W. Buckles, the longest surviving United States veteran of the First World War; considered and agreed to.

By Mrs. SHAHEEN (for herself, Mr. CARDIN, Ms. SNOWE, Ms. COLLINS, Mr. DURBIN, Ms. MIKULSKI, Mr. LAUTENBERG, Mrs. BOXER, Mr. BEGICH, Mr. WHITEHOUSE, and Mrs. MURRAY):

S. Res. 90. A resolution supporting the goals of ''International Women's Day'' and recognizing this year's centennial anniversary of International Women's Day; considered and agreed to.

By Mr. CASEY (for himself, Ms. SNOWE, and Mrs. HAGAN):

S. Res. 91. A resolution supporting the goals and ideals of Multiple Sclerosis Awareness Week; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. ALEXANDER):

S. Res. 92. A resolution to authorize the payment of legal expenses of Senate employees out of the contingent fund of the Senate; considered and agreed to.

By Mr. ROCKEFELLER (for himself, Mr. BURR, Mr. MANCHIN, Mr. UDALL of Colorado, Mr. BEGICH, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. KERRY, Mr. WYDEN, Ms. LANDRIEU, Mr. BROWN of Massachusetts, and Mr. MCCAIN):

S. Con. Res. 10. A concurrent resolution authorizing the remains of Frank W. Buckles, the last surviving United States veteran of the First World War, to lie in honor in the rotunda of the Capitol; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. VITTER, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 89, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 222

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 222, a bill to limit investor and homeowner losses in foreclosures, and for other purposes.

S. 228

At the request of Mr. BARRASSO, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 228, a bill to preempt regulation of, action relating to, or consideration of greenhouse gases under Federal and common law on enactment of a Federal policy to mitigate climate change.

S. 242

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 242, a bill to amend title 10, United States Code, to enhance the roles and responsibilities of the Chief of the National Guard Bureau.

S. 254

At the request of Mr. FRANKEN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 254, a bill to reduce the rape kit backlog and for other purposes.

S. 282

At the request of Mr. COBURN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 282, a bill to rescind unused earmarks.

S. 310

At the request of Mr. COBURN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 310, a bill to end unemployment payments to jobless millionaires.

S. 344

At the request of Mr. REID, the name of the Senator from Mississippi (Mr.

COCHRAN) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 387

At the request of Mrs. BOXER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 387, a bill to amend title 37, United States Code, to provide flexible spending arrangements for members of uniformed services, and for other purposes.

S. 388

At the request of Mrs. BOXER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 388, a bill to prohibit Members of Congress and the President from receiving pay during Government shutdowns.

S. 425

At the request of Mr. UDALL of Colorado, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 425, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 434

At the request of Mr. COCHRAN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr. JOHANNS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 434, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

At the request of Ms. MIKULSKI, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 434, supra.

S. CON. RES. 4

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. CON. RES. 7

At the request of Mr. BARRASSO, the names of the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. RISCH), the Senator from Mississippi (Mr. WICKER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Con. Res. 7, a concurrent resolution supporting the Local Radio Freedom Act.

AMENDMENT NO. 133

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 133 proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

AMENDMENT NO. 135

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 135 intended to be proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Mr. ROCKEFELLER):

S. 467. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator ROCKEFELLER and I are reintroducing the Strengthen the Earned Income Tax Credit Act of 2011. Since 1975, the earned income tax credit, EITC, has been an innovative tax credit which helps low-income working families. President Reagan referred to the EITC as ''the best antipoverty, the best pro-family, the best job creation measure to come out of Congress.'' According to the Center on Budget and Policy Priorities, the EITC lifts more children out of poverty than any other government program. It lifted 6.5 million people, including 3.3 million children, above the poverty line in 2009.

Last Congress, we were successful in making temporary improvements to the EITC by providing marriage penalty relief and increasing the credit rate for families with three or more children. Both of these provisions have been part of our legislation.

It is time for us to reexamine the EITC and determine where we can strengthen it. The Finance Committee of which I am a member has started a series of hearings on tax reform. I believe the tax code should be thoroughly reviewed to see what is working and not working and what can be made simpler. This legislation expands the EITC permanently, but as part of tax reform I would be open to changing the program. However, those currently benefiting from the EITC should not be harmed in tax reform and there should still be tax relief which encourages work and helps low-income families with children.

We need to help the low-income workers who struggle day after day trying to make ends meet. They have been left behind in the economic policies of the last eight years. We need to begin a discussion on how to help those that have been left behind. The EITC is the perfect place to start.

The Strengthen the Earned Income Tax Credit Act of 2011 strengthens the EITC by making the following changes: makes permanent marriage penalty relief; makes permanent the credit for families with three or more children; expands the credit for individuals with no children; simplifies the credit; and increases the penalty for tax preparers.

The legislation would make the marriage penalty relief included in the American Recovery and Reinvestment Act permanent. Under the American Recovery and Reinvestment Act, the phase-out income level for married taxpayers that file a joint return would be $5,000 higher than the income level for unmarried filers starting in 2009 and in 2010. This level would be indexed for inflation after 2009. The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 extended this provision through 2012. Without this provision, many single individuals that marry find themselves faced with a reduction in their EITC. In Massachusetts, approximately 100,500 children a year benefit from the EITC because of this provision.

Second, the legislation makes permanent the credit for families with three or more children. Under prior law, the credit amount is based on one child or two or more children. The American Recovery and Reinvestment Act created a third child category for 2009 and 2010 and Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 extended this provision through 2012. This change benefits approximately 116,000 children a year in Massachusetts.

Third, this legislation would increase the credit amount for childless workers. The EITC was designed to help childless workers offset their payroll tax liability. The credit phase-in was set to equal the employee share of the payroll tax, 7.65 percent. However, in reality, the employee bears the burden of both the employee and employer portion of the payroll tax. A typical single childless adult will begin to owe Federal income taxes in addition to payroll taxes when his or her income is only $10,655, which is below the poverty line. These changes will result in a full time worker receiving the minimum wage to be eligible for the maximum earned income credit amount.

This legislation doubles the credit rate for individual taxpayer and married taxpayers without children. The credit rate and phase-out rate of 7.65 percent is doubled to 15.3 percent. For 2007, the maximum credit amount for an individual would increase from $457 to $929. In addition, the legislation would increase the credit phase-out income level from $7,590 to $12,690 for individuals and from $12,670 to $17,770 for married couples. This increase is indexed for inflation and includes the marriage penalty relief. Under current law, workers under age 25 are ineligible for the childless workers EITC. The Strengthen the Earned Income Tax Credit Act of 2011 would change the age

to 21. This age change will provide an incentive for labor for less-educated younger adults.

Fourth, the Strengthen the Earned Income Tax Credit Act of 2011 simplifies the EITC by modifying the abandoned spouse rule, clarifying the qualifying child rules, and repealing the disqualified investment test.

Finally, the legislation includes a provision which increases the penalty imposed on paid preparers who fail to comply with EITC due diligence requirements from $100 to $500. Unfortunately, about a quarter of EITC returns include errors and more than a majority of EITC returns are prepared by a preparer. This should help ensure that preparers comply with the due diligence requirements.

This legislation will help those who most need our help. It will put more money in their pay check. We need to invest in our families and help individuals who want to make a living by working. I urge my colleagues to support an expansion of the EITC.

By Mr. MCCONNELL (for himself, Mr. PAUL, and Mr. INHOFE):

S. 468. A bill to amend the Federal Water Pollution Control Act to clarify the authority of the Administrator 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 Environment and Public Works.

Mr. MCCONNELL. Mr. President, my friend and colleague from Kentucky, Senator PAUL, and I would like at this time to address the Senate about a bill we are introducing.

Coal is an enormously vital sector of Kentucky's economy. More than 200,000 jobs in my State depend on it, including the jobs of approximately 18,000 coal miners. Coal is tremendously important to our country as well. One-half of the country's electricity comes from coal. Yet, as we are faced with a weakened economy and high unemployment, an overreaching Environmental Protection Agency in Washington is blocking new jobs for Kentuckians and Americans by waging a literal war on coal.

To mine for coal, coal operators must receive what are called 404 permits. Those come from the EPA in order to operate. One such mine in southern West Virginia followed all of the proper procedures and got the green light from EPA to proceed with operations back in 2007.

But now, 3½ years later, in an unprecedented reversal, the EPA has retroactively ''reinterpreted'' its authority, withdrawn the permit it issued, and shut down the mine. The EPA's reinterpretation cost 280 Americans their jobs.

The EPA also announced that 79 of the 404 permit applications still being considered would be subject to ''enhanced environmental review''—''enhanced environmental review''—effectively putting them in limbo along with the jobs and economic activity they could create. Some of those permits are for jobs in Kentucky.

The EPA's action simply defies logic. Not only are they changing the rules in the middle of the game, they are retroactively changing the rules to shut down mines they already approved. No mine, regardless of whether it has been operating for years in full compliance of every rule and regulation, can be assured that Uncle Sam will not come along and shut them down.

Thousands of Kentuckians who work in coal mining or have jobs dependent on mining are literally in jeopardy. Other industries are at risk also. Farmers, developers, the transportation industry, and others also need permits from the EPA to continue to operate. They, too, could see these permits revoked.

The EPA has turned the permitting process into a backdoor means of shutting down coal mines by sitting on permits indefinitely, thus removing any regulatory certainty. What they are doing is outside the scope of their authority and the law and represents a fundamental departure from the permitting process as originally envisioned by Congress.

That is why I rise today to introduce, along with my good friends, Senator RAND PAUL and Senator JAMES INHOFE, the Mining Jobs Protection Act in the Senate.

This bill will tell the EPA to ''use it or lose it'' when deciding whether to invoke its veto authority of a 404 permit within a reasonable timeframe, giving permit applicants the certainty they need to do business.

The bill would ensure that all 404 permits move forward to be either approved or rejected, so applicants are not left in limbo, unsure how to act.

The bill also ensures that EPA cannot use its veto retroactively.

While being fair to permit applicants, the bill still preserves the EPA's full veto authority to protect human health and the environment.

Here is how the legislation would work. Once the EPA receives the 404 permit, it will have 30 days to determine if it is considering using its veto authority. If the Agency is considering doing so, it must publish that fact in the Federal Register, cite any potential concerns, and detail what must be done to address those concerns within the initial 30 days. The EPA then has an additional 30 days, for a total of 2 months, to invoke its veto authority. If the Agency does not use its veto authority within 60 days, the permit automatically moves forward and EPA's veto authority expires. All permits that have already been applied for would go through this process, ensuring every permit gets a fair shake.

Any permits vetoed prior to the passage of the bill would be reconsidered by the Army Corps of Engineers. It was important to me that this legislation address every 404 permit, not just one or a few.

This is a fair process that allows the EPA to act as vigorously as necessary to protect the environment and those of us living in it while also giving permit applications the certainty of knowing within a reasonable timeframe whether to proceed with mining operations and knowing that once they have the green light, it is not going to be subsequently revoked. More important, this legislation will allow my State and others to protect the coal and related industry jobs we already have and grow new ones in the future.

I wish to thank my colleague from Kentucky and Senator INHOFE for standing alongside me on this matter that is so important to our States but also to the country as a whole. This is not just a Kentucky issue. We think our bill strikes a fair balance toward conserving the best of America's natural beauty while also building toward a brighter future.

The EPA's mission is important but so is job creation. Particularly when unemployment is higher than all of us would like, both sides of the equation must be considered. So I look forward to working with my colleagues on both sides of the aisle to make the Mining Jobs Protection Act a law.

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. 468

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 ''Mining Jobs Protection Act''.

SEC. 2. PERMITS FOR DREDGED OR FILL MATERIAL.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORITY OF ADMINISTRATOR TO DISAPPROVE SPECIFICATIONS.—

''(1) IN GENERAL.—The Administrator, in accordance with this subsection, may prohibit the specification of any defined area as a disposal site, and may deny or restrict the use of any defined area for specification as a disposal site, in any case in which the Administrator determines, after notice and opportunity for public hearings and consultation with the Secretary, that the discharge of those materials into the area will have an unacceptable adverse effect on—

''(A) municipal water supplies;

''(B) shellfish beds and fishery areas (including spawning and breeding areas);

''(C) wildlife; or

''(D) recreational areas.

''(2) DEADLINE FOR ACTION.—

''(A) IN GENERAL.—The Administrator shall—

''(i) not later than 30 days after the date on which the Administrator receives from the Secretary for review a specification proposed to be issued under subsection (a), provide notice to the Secretary of, and publish in the Federal Register, a description of any potential concerns of the Administrator with respect to the specification, including a list of

measures required to fully address those concerns; and

''(ii) if the Administrator intends to disapprove a specification, not later than 60 days after the date on which the Administrator receives a proposed specification under subsection (a) from the Secretary, provide to the Secretary and the applicant, and publish in the Federal Register, a statement of disapproval of the specification pursuant to this subsection, including the reasons for the disapproval.

''(B) FAILURE TO ACT.—If the Administrator fails to take any action or meet any deadline described in subparagraph (A) with respect to a proposed specification, the Administrator shall have no further authority under this subsection to disapprove or prohibit issuance of the specification.

''(3) NO RETROACTIVE DISAPPROVAL.—

''(A) IN GENERAL.—The authority of the Administrator to disapprove or prohibit issuance of a specification under this subsection—

''(i) terminates as of the date that is 60 days after the date on which the Administrator receives the proposed specification from the Secretary for review; and

''(ii) shall not be used with respect to any specification after issuance of the specification by the Secretary under subsection (a).

''(B) SPECIFICATIONS DISAPPROVED BEFORE DATE OF ENACTMENT.—In any case in which, before the date of enactment of this subparagraph, the Administrator disapproved a specification under this subsection (as in effect on the day before the date of enactment of the Mining Jobs Protection Act) after the specification was issued by the Secretary pursuant to subsection (a)—

''(i) the Secretary may—

''(I) reevaluate and reissue the specification after making appropriate modifications; or

''(II) elect not to reissue the specification; and

''(ii) the Administrator shall have no further authority to disapprove the modified specification or any reissuance of the specification.

''(C) FINALITY.—An election by the Secretary under subparagraph (B)(i) shall constitute final agency action.

''(4) APPLICABILITY.—Except as provided in paragraph (3), this subsection applies to each specification proposed to be issued under subsection (a) that is pending as of, or requested or filed on or after, the date of enactment of the Mining Jobs Protection Act''.

SEC. 3. REVIEW OF PERMITS.

Section 404(q) of the Federal Water Pollution Control Act (33 U.S.C. 1344(q)) is amended—

(1) in the first sentence, by striking ''(q) Not later than'' and inserting the following:

''(q) AGREEMENTS; HIGHER REVIEW OF PERMITS.—

''(1) AGREEMENTS.—

''(A) IN GENERAL.—Not later than'';

(2) in the second sentence, by striking ''Such agreements'' and inserting the following:

''(B) DEADLINE.—Agreements described in subparagraph (A)''; and

(3) by adding at the end the following:

''(2) HIGHER REVIEW OF PERMITS.—

''(A) IN GENERAL.—Subject to subparagraph (C), before the Administrator or the head of another Federal agency requests that a permit proposed to be issued under this section receive a higher level of review by the Secretary, the Administrator or other head shall—

''(i) consult with the head of the State agency having jurisdiction over aquatic resources in each State in which activities under the requested permit would be carried out; and

''(ii) obtain official consent from the State agency (or, in the case of multiple States in which activities under the requested permit would be carried out, from each State agency) to designate areas covered or affected by the proposed permit as aquatic resources of national importance.

''(B) FAILURE TO OBTAIN CONSENT.—If the Administrator or the head of another Federal agency does not obtain State consent described in subparagraph (A) with respect to a permit proposed to be issued under this section, the Administrator or Federal agency may not proceed in seeking higher review of the permit.

''(C) LIMITATION ON ELEVATIONS.—The Administrator or the head of another Federal agency may request that a permit proposed to be issued under this section receive a higher level of review by the Secretary not more than once per permit.

''(D) EFFECTIVE DATE.—This paragraph applies to permits for which applications are submitted under this section on or after January 1, 2010.''.

Mr. PAUL. Mr. President, I rise in support of this legislation. I think this is a good first step to reining in an out-of-control, unelected bureaucracy. I think the EPA has gone way beyond its mandated duty and is now at the point of stifling industry in our country. We see this and hear this across the State of Kentucky, as well as across the country. The President doesn't seem to understand why the country thinks he is against business and against progress. One can't be for job creation if one is against the job creators.

As the minority leader indicated, we have nearly 100,000 jobs and hundreds of thousands of other jobs connected to coal. This really applies to the rest of the country as well. Over half of the electricity in our country comes from coal. Over 90 percent of the electricity in Kentucky comes from coal. Yet we have mining operations that went through the process, some of them taking up to 10 years. I think the mine in question went through a 10-year process, spent millions of dollars to try to get started to provide electricity for the rest of us. Yet then the EPA comes in at the last minute.

There is said to be nearly 200 permits out there languishing. I asked the question of my staff this morning: How many have been applied for and how many have been granted? The EPA won't even tell us that. But from talking to those trying to produce the coal, to produce the electricity for our country, they said they can't get permits. In fact, there is one coal company in Kentucky that is now suing the Federal Government, saying they have taken his property. They have effectively taken his property because he can't get a permit. This is a real problem. The average expectancy for getting a permit in our country now for all mines is 7 years.

We wonder why we are languishing as we depend on everyone else for our energy. We want to be energy independent, and we sit on top of some of our country's most natural resources in oil and coal. Yet we won't produce our own. We have to become so involved and there are so many justifications for war across the world and this and that. Yet we refuse to use our own resources.

This is a very good step in trying to make the process better. All it is saying is that the EPA cannot have unlimited time to sit on our permits. This is saying there have to be rules.

I say this is a first step because I think the last election was about saying that unelected bureaucrats should not write law. That is what has happened. The President and many of his supporters have indicated they can't get cap and trade through the elected body, so they are going to go through the back door, through regulations. The American people need to stand up and say that unelected bureaucrats should not and cannot be allowed to write law. That is essentially what is happening now. I think this is a great first step. I compliment the minority leader for bringing this forward, and I wholeheartedly support it.

By Mr. BEGICH (for himself, Mrs. MURRAY, Ms. MURKOWSKI, and Mrs. BOXER):

S. 472. A bill to increase the mileage reimbursement rate for members of the armed services during permanent change of station and to authorize the transportation of additional motor vehicles of members on change of permanent station to or from nonforeign areas outside the continental United States; to the Committee on Armed Services.

Mr. BEGICH. Mr President, last week I had the privilege to travel to the Army's National Training Center to see the 1st Stryker Brigade Combat Team from Alaska train. I was amazed at what our soldiers do to prepare for the defense of our country.

Despite their upcoming deployment to Afghanistan in May, these Arctic Warriors were not thinking about themselves. They were thinking about their families. Over and over I heard how important their family's security and support system was to them, especially as they prepared to deploy.

To help out our military families today I am pleased to introduce the Service Members Permanent Change of Station Relief Act with my cosponsors Senator PATTY MURRAY, Senator BARBARA BOXER, and Senator LISA MURKOWSKI. This bill will improve financial security for our military families by increasing reimbursement for out-of-pocket expenses they often incur during government directed moves.

First, the bill will provide reimbursement to military families for costs incurred transporting a second car on a change of permanent duty station to or from Alaska, Hawaii or Guam. As with their counterparts in civilian life, many military families today own and rely on a second vehicle to work, take care of their children and meet day-to-day needs of the family. By doing this, we can save our military families $2,000 in personal expenses they pay to transport a second car.

Additionally, the bill increases the gas mileage reimbursement rate to $.51 per mile during a move to allow for compensation of all costs and depreciation resulting from use of a personal vehicle for a government move.

Our military families make great personal sacrifices for our country. Providing the Arctic Warriors and other military members a little peace of mind about the financial security of their families is the least we can do. I ask my colleagues to cosponsor 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. 472

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 ''Service Members Permanent Change of Station Relief Act''.

SEC. 2. MILEAGE REIMBURSEMENT RATE FOR MEMBERS OF THE UNIFORMED SERVICES FOR TRAVEL RELATED TO CHANGE OF PERMANENT STATION.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking ''monetary allowance'' and all that follows through the period at the end and inserting the following: ''monetary allowance in place of the cost of transportation—

''(i) in the case of a member for whom travel has been authorized in connection with a change of a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a), at the business standard mileage rate set by the Internal Revenue Service pursuant to section 1.274.5(j)(2) of title 26, Code of Federal Regulations; and

''(ii) in the case of a member's dependent for whom such travel has been authorized, at the rate provided in section 5704 of title 5.''.

SEC. 3. TRANSPORTATION OF ADDITIONAL MOTOR VEHICLE OF MEMBERS ON CHANGE OF PERMANENT STATION TO OR FROM NONFOREIGN AREAS OUTSIDE THE CONTINENTAL UNITED STATES.

(a) AUTHORITY TO TRANSPORT ADDITIONAL MOTOR VEHICLE.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking the sentence following paragraph (4);

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by inserting ''(1)'' after ''(a)''; and

(4) by adding at the end the following new paragraph:

''(2) One additional motor vehicle of a member (or a dependent of the member) may be transported as provided in paragraph (1) if—

''(A) the member is ordered to make a change of permanent station to or from a nonforeign area outside the continental United States and the member has at least one dependent of driving age who will use the motor vehicle; or

''(B) the Secretary concerned determines that a replacement for the motor vehicle transported under paragraph (1) is necessary for reasons beyond the control of the member and is in the interest of the United States and the Secretary approves the transportation in advance.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by striking ''his dependents'' and inserting ''a dependent of the member'';

(2) by striking ''him'' and inserting ''the member'';

(3) by striking ''his)'' and inserting ''the member)'';

(4) by striking ''his new'' and inserting ''the member's new''; and

(5) in paragraph (1)(C), as redesignated by subsection (a)—

(A) by striking ''clauses (1) and (2)'' and inserting ''subparagraphs (A) and (B)''; and

(B) by inserting ''or'' after the semicolon.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 2012, and apply with respect to a permanent change of station order issued on or after that date to a member of the uniformed services.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. PORTMAN, and Ms. LANDRIEU):

S. 473. A bill to extend the chemical facility security program of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, the law granting the Federal Government, for the first time, the authority to regulate the security of the Nation's highest risk chemical facilities is due to expire on March 18. We cannot allow this to occur. Given the success of this law and its vital importance to all Americans, I am introducing legislation today with Senators PRYOR, PORTMAN, and LANDRIEU to extend and improve the law.

More than 70,000 products are created through the use of chemicals, helping to supply the consumer, industrial, construction, and agricultural sectors of our economy. The United States is home to thousands of facilities that manufacture, use, or store chemicals.

This industry is vital to our economy, with annual sales of $725 billion, exports of $171 billion, and more than 780,000 employees.

After September 11, 2001, we realized that chemical facilities were vulnerable to terrorist attack. Given the hazardous chemicals present at many locations, terrorists could view them as attractive targets, yielding loss of life, significant injuries, and major destruction if successfully attacked.

In 2005, as Chairman of the Senate Homeland Security and Governmental Affairs Committee, I held a series of hearings on chemical security. Following these hearings, Senators LIEBERMAN, CARPER, LEVIN, and I introduced bipartisan legislation authorizing the Department of Homeland Security to set and enforce security standards at high-risk chemical facilities. That bill was incorporated into the homeland security appropriations act that was signed into law in 2006.

To implement this new authority, DHS established the Chemical Facility Anti-Terrorism Standards program, or CFATS. The program sets 18 risk-based performance standards that high-risk chemical facilities must meet. These security standards cover a range of threats, such as perimeter security, access control, theft, internal sabotage, and cyber security.

High-risk chemical facilities covered by the program must conduct mandatory vulnerability assessments, develop site security plans, and invest in protective measures.

The Department must approve these assessments and site security plans, using audits and inspections to ensure compliance with the performance standards. The Secretary has strong authority to shut down facilities that are non-compliant.

This risk-based approach has made the owners and operators of chemical plants partners with the Federal Government in implementing a successful, collaborative security program.

This landmark law has been in place slightly more than four years. Taxpayers have invested nearly $300 million in the program, and chemical plants have invested hundreds of millions more to comply with the law. As a direct result, security at our Nation's chemical facilities is much stronger today.

Now we must reauthorize the program. Simply put, the program works and should be extended.

Changing this successful law, as was proposed last year by the House of Representatives in partisan legislation, would discard what is working for an unproven and burdensome plan.

We must not undermine the substantial investments of time and resources already made in CFATS implementation by both DHS and the private sector. Worse would be requiring additional expenditures with no demonstrable increase to the overall security of our Nation.

In the 111th Congress, the Senate and the House of Representatives debated a provision that would alter the fundamental nature of CFATS. The provision would have required the Department to completely rework the program. It would have mandated the use of so-called ''inherently safer technology,'' or IST.

What is IST? It is an approach to process engineering. It is not, however, a security measure.

An IST mandate may actually increase or unacceptably transfer risk to other points in the chemical process or elsewhere in the supply chain.

For example, many drinking water utilities have determined that chlorine remains their best and most effective drinking water treatment option. Their decisions were not based solely on financial considerations, but also on many other factors, such as the characteristics of the region's climate, geography, and source water supplies, the size and location of the utility's facilities, and the risks and benefits of chlorine use compared to the use of alternative treatment processes.

According to one water utility located in an isolated area of the northwest United States, if Congress were to force it to replace its use of gaseous

chlorine with sodium hypochlorite, then the utility would have to use as much as seven times the current quantity of treatment chemicals to achieve comparable water quality results. In turn, the utility would have to arrange for many more bulk chemical deliveries, by trucks, into a watershed area. The greater quantities of chemicals and increased frequency of truck deliveries would heighten the risk of an accident resulting in a chemical spill into the watershed. In fact, the accidental release of sodium hypochlorite into the watershed would likely cause greater harm to soils, vegetation, and streams than a gaseous chlorine release in this remote area.

Currently, DHS cannot dictate specific security measures, like IST. Nor should it. The Federal Government should set performance standards, but leave it up to the private sector to decide precisely how to achieve those standards.

Forcing chemical facilities to implement IST could cost jobs at some facilities and affect the availability of many vital products.

Last year, the Society of Chemical Manufacturers and Affiliates testified that mandatory IST would restrict the production of pharmaceuticals and microelectronics, hobbling these industries. The increased cost of a mandatory IST program may force chemical companies to simply transfer their operations overseas, costing American workers thousands of jobs.

To be clear, some owners and operators of chemical facilities may choose to use IST. But that decision should be theirs—not Washington's. Congress should not dictate specific industrial processes under the guise of security when a facility could choose other alternatives that meet the Nation's security needs.

Last July, the Homeland Security Committee unanimously approved bipartisan legislation I authored with Senators PRYOR, VOINOVICH, and LANDRIEU to extend CFATS for three more years.

Additionally, the bill would have established voluntary exercise and training programs to improve collaboration with the private sector and state and local communities under the CFATS program; created a voluntary technical assistance program; and created a chemical facility security best practices clearinghouse and private sector advisory board at DHS to assist in the implementation of CFATS.

Today, along with Senators PRYOR, PORTMAN, and LANDRIEU, I am reintroducing this bill. The Continuing Chemical Facilities Antiterrorism Security Act of 2011 is a straight-forward, common-sense reauthorization of the CFATS program.

I am conscious of the risks our Nation faces through an attack on a chemical facility. That is why I authored this law in the first place and battled considerable opposition to get it enacted. We should support the continuation of this successful security program without the addition of costly, unproven Federal mandates. I urge my colleagues to support this important bill.

By Ms. SNOWE (for herself, Mr. COBURN, Ms. AYOTTE, Mr. ENZI, and Mr. BROWN, of Massachusetts):

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; to the Committee on Homeland Security and Governmental Affairs.

Ms. SNOWE. Mr. President, I rise today, with Senators COBURN, AYOTTE, ENZI, and BROWN of Massachusetts, to introduce the Small Business Regulatory Freedom Act of 2011, a vital measure that will help ensure that the federal government fully consider small business job creation in the bills we pass here in Congress and in the rules and regulations that agencies promulgate.

As the former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I believe there is no more urgent imperative than job creation in our country. For the past 21 months, the unemployment rate has stood at 9 percent or above. We cannot allow these outrageous levels of unemployment to become the new normal. Therefore, it is essential that we focus like a laser on jumpstarting our economy. Now is the time to tear down barriers to job creation, not build them higher.

Unfortunately, recent data suggests that not only is this administration failing to tear down barriers to small business job creation, but rather is actively constructing new obstacles. In fiscal year 2010 alone, this administration embarked on nothing short of regulatory rampage, stampeding over small business, through the promulgation of 43 new major regulations promulgated in fiscal year 2010, imposing $26.5 billion in new regulatory compliance costs, and that's on top of the $1.75 trillion in annual compliance costs that the SBA Office of Advocacy recently reported.

Simply put, this is unacceptable. Too often, the Federal Government considers the regulatory impact on small firms merely as an afterthought rather than a top priority. In my recent street tours and meetings in Maine, aside from taxes, small businesses complain most about the onerous regulations emanating from every agency, every sphere of Washington, DC. Consider that, according to the U.S. Chamber of Commerce, the health reform law, which I opposed, mandates 41 separate rulemakings, at least 100 additional regulatory guidance documents, and 129 reports. What's most alarming, small firms with fewer than 20 employees bear a disproportionate burden of complying with federal regulations, paying an annual regulatory cost of $10,585 per employee, which is 36 percent higher than the regulatory cost facing larger firms.

This must change, and the ''Small Business Regulatory Freedom Act of 2011,'' aims to do just that. Our bill reforms the flawed rulemaking process to ensure that federal agencies consider small business impact before a rule is promulgated, not after. Our legislation, which is strongly supported by the National Federation of Independent Business, NFIB, would amend the Regulatory Flexibility Act, RFA, the seminal legislation enacted in 1980 that requires Federal agencies to conduct small business analyses for any proposed or final regulation that would impose a significant impact on a substantial number of small firms.

The first provision in our bill would enhance these small business analyses, by requiring agencies to draw in rules with foreseeable ''indirect'' economic effects under the definition of rules covered by the RFA. Such rules are currently exempt from the RFA, which currently only applies to ''direct'' economic impact. The RFA has already saved billions for small businesses by forcing government regulators to be sensitive to their direct impact on small firms. If billions of dollars can be filtered out of direct regulatory mandates upon small business while improving workplace safety and environmental conditions, even more can be saved by filtering out unnecessary or duplicative costs to those small businesses indirectly impacted by regulation.

The bill would also expand judicial review requirements currently in the RFA to allow small entities to seek review and an injunction at the proposed rule stage if agencies fail to fully consider small business impact as they are required to by law. This will help to ensure that federal agencies complete meaningful initial analyses under the RFA. Currently, small entities can only seek review on the date of the final regulatory action.

In addition, our legislation would amend and clarify the requirements under the RFA for the periodic review of rules. Many questions have arisen as a result of the ambiguous language in the RFA that have caused some confusion as to what rules require periodic review and when. Our bill clarifies the requirements for ''periodic review'' under Section 610 of the RFA so that both existing rules and rules that are promulgated after enactment of the Small Business Regulatory Freedom Act of 2011 are periodically reviewed within 10 years and every ten years thereafter. Along with each review, an agency must also create and update small business compliance guides to assist small businesses comply with that agencies regulations. The requirements of periodic review would also apply to these compliance guides and must be updated when the rule is reviewed.

Unfortunately, past efforts to encourage agencies to periodically review their regulations have failed because of

the lack of an enforcement mechanism. Our bill rectifies this issue. To ensure agency compliance the bill includes a sunset provision. If the Chief Counsel for the SBA Office of Advocacy determines that an agency has failed to conduct the necessary periodic review of a rule, then that rule will sunset and cease to have effect.

Moreover, the bill would expand the small business review panel process requirement, SBREFA panels, to apply to all agencies. These panels currently only apply to the Environmental Protection Agency, EPA, Occupational Safety and Health Administration, OSHA, and, thanks to an amendment that I included in the Wall Street Reform legislation, the new Consumer Financial Protection Bureau, CFPB. These panels have worked well at EPA and OSHA since 1996, so why not apply this stipulation to every federal agency, so small businesses are considered first, and not as an afterthought?

Furthermore, our bill would extend the RFA to informal agency guidance documents, so that Federal agencies must conduct small business economic analyses before publishing informal guidance documents. Many agencies, including the OSHA, have repeatedly subverted the rulemaking process through the use of guidance documents or ''reinterpretations'' so that they don't have to adhere to their RFA obligations, including small business review panels—this provision will help to end that practice.

This legislation also seeks to clarify language included in the RFA that has led to a great deal of confusion regarding RFA applicability to the IRS, and would once and for all ensure that indeed the IRS is covered under the RFA ending the longstanding practice of the IRS utilizing some unprecedented interpretations to circumvent compliance with the RFA—this bill closes those loopholes. For example, the IRS has argued that paperwork requirements are mandated by Congress and thus it is Congress that is creating the requirement, not the IRS. Our bill would clarify the definitions so the IRS and other agencies can no longer dodge conducting its RFA obligations.

Our bill will also update a dormant provision of the Small Business Regulatory Enforcement Fairness Act, SBREFA, by requiring that federal agencies review existing penalty structures within 6 months of enactment and every two years thereafter to mitigate penalty provisions on small firms. Too often agencies, like OSHA, set or update their penalty structures without considering small business economic impact. Our provision should end this practice.

Strengthening how Federal agencies execute their small business analyses is also a central requirement for real reform. This legislation will accomplish this goal through three fundamental reforms:

First, it would require a calculation of the additional cumulative impact the proposed rule will impose on small entities, including job creation and employment effects, beyond what is already imposed on small firms by the agency.

Second, the bill would require federal agencies to notify the Chief Counsel for the SBA Office Advocacy about any draft rule that will trigger an RFA analysis when the agency submits the draft rule to OMB's Office of Information and Regulatory Affairs, OIRA.

Third, our legislation would strengthen final regulatory flexibility analyses under RFA. Currently, small business analyses in final rules are only required to produce a summary analysis, general statement, or explanation regarding a rule's effect on small entities. In practice this has allowed agencies to avoid an in depth analysis of a rule's effect. Our legislation would enhance reporting so an agency must include a detailed analysis. It also would require the promulgating agency to publish the entire final analysis on its web site and in the Federal Register.

Our bill will also ensure that before an agency certifies that a proposed rule will not impose an economic impact on small business, it must first determine the average cost of the rule for small entities affected or reasonably presumed to be affected; the number of small firms affected or presumed to be affected; and the number of affected small entities for which the cost of the rule will be significant. Also, before a certification statement can be published the agency must send a copy of the certification to, and consult with, the Chief Counsel for Advocacy on the accuracy of the certification and statement.

Finally, the bill will clarify that the Chief Counsel for the SBA Office of Advocacy to be an attorney with expertise or knowledge of the regulatory process. This will ensure that the President nominates a qualified individual who will be the most effective advocate for small business possible. We also provide additional powers to the Chief Counsel by allowing him or her to comment on any regulatory action, not just during the notice and comment rulemaking process. In the past, the Office of Advocacy has refused to weigh in on matters outside the rulemaking process—e.g., guidance documents—citing a lack of authority to do so.

In a November 2010 Senate Small Business Committee hearing, it was noted that if there were a 30 percent cut in regulatory costs, an average 10-person firm would save, on average nearly $32,000, enough to hire one additional person. There is no doubt, reducing the regulatory burden on American small businesses will create jobs. After 21 straight months with unemployment at or above nine percent, it is more imperative than ever that we finally liberate American small businesses from the regulatory burden holding them down.

It is essential that we pass this legislation. I urge my colleagues to support my bill so we can ensure that our nation's small businesses and their employees are provided with much needed relief.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 474

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 ''Small Business Regulatory Freedom Act of 2011''.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential

for job creation and job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job creation or job loss.

SEC. 3. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) any direct economic effect of the rule on small entities; and

''(B) any indirect economic effect on small entities, including potential job creation or job loss, that is reasonably foreseeable and that results from the rule, without regard to whether small entities are directly regulated by the rule.''.

SEC. 4. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

SEC. 5. PERIODIC REVIEW AND SUNSET OF EXISTING RULES.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Small Business Regulatory Freedom Act of 2011, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b)(1) Each plan established under subsection (a) shall provide for—

''(A) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Small Business Regulatory Freedom Act of 2011—

''(i) not later than 8 years after the date of publication of the plan in the Federal Register; and

''(ii) every 8 years thereafter; and

''(B) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Small Business Regulatory Freedom Act of 2011—

''(i) not later than 8 years after the publication of the final rule in the Federal Register; and

''(ii) every 8 years thereafter.

''(2)(A) If an agency determines that the review of the rules and guides described in paragraph (1)(A) cannot be completed before the date described in paragraph (1)(A)(i), the agency—

''(i) shall publish a statement in the Federal Register certifying that the review cannot be completed; and

''(ii) may extend the period for the review of the rules and guides described in paragraph (1)(A) for a period of not more than 2 years, if the agency publishes notice of the extension in the Federal Register.

''(B) An agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration and Congress notice of any statement or notice described in subparagraph (A).

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) With respect to each agency, not later than 6 months after each date described in subsection (b)(1), the Chief Counsel for Advocacy of the Small Business Administration shall determine whether the agency has completed the review required under subsection (b).

''(2) If, after a review under paragraph (1), the Chief Counsel for Advocacy of the Small Business Administration determines that an agency has failed to complete the review required under subsection (b), each rule issued by the agency that the head of the agency determined under subsection (a) has a significant economic impact on a substantial number of small entities shall immediately cease to have effect.''.

SEC. 6. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ALL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b), by striking ''a covered agency'' each place it appears and inserting ''an agency''; and

(2) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 609.—Section 609 of title 5, United States Code, is amended—

(A) by striking subsection (d), as amended by section 1100G(a) of Public Law 111–203 (124 Stat. 2112); and

(B) by redesignating subsection (e) as subsection (d).

(2) SECTION 603.—Section 603(d) of title 5, United States Code, as added by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(3) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and apply on and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582).

SEC. 7. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. 8. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 3 of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. 9. MITIGATING PENALTIES ON SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 110 Stat. 862) is amended by adding at the end the following:

''(d) REVIEW OF POLICIES AND PROGRAMS.—

''(1) REVIEW REQUIRED.—Not later than 6 months after the date of enactment of this subsection, and every 2 years thereafter, each agency regulating the activities of small entities shall review the policy or program established by the agency under subsection (a) and make any modifications to the policy or program necessary to comply with the requirements under this section.

''(2) REPORT.—Not later than 6 months after the date of enactment of this subsection, and every 2 years thereafter, each agency described in paragraph (1) shall submit a report on the review and modifications required under paragraph (1) to—

''(A) the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(B) the Committee on Small Business and the Committee on the Judiciary of the House of Representatives.''.

SEC. 10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(1) by striking subsection (b) and inserting the following:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job creation and employment by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job creation or job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job creation or job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. 11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. 12. QUALIFICATIONS OF THE CHIEF COUNSEL FOR ADVOCACY AND AUTHORITY FOR THE OFFICE OF ADVOCACY.

(a) QUALIFICATIONS OF CHIEF COUNSEL FOR ADVOCACY.—Section 201 of Public Law 94–305 (15 U.S.C. 634a) is amended by adding at the end the following: ''The Chief Counsel for Advocacy shall be an attorney with business experience and expertise in or knowledge of the regulatory process.''.

(b) ADDITIONAL POWERS OF OFFICE OF ADVOCACY.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended in the section heading by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification.**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.''; and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

By Mr. HARKIN (for himself, Ms. KLOBUCHAR, and Mr. FRANKEN):

S. 481. A bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am pleased to join with Senators KLOBUCHAR and FRANKEN to reintroduce the Federal Response to Eliminating Eating Disorders Act, or the FREED Act. The FREED Act is a comprehensive legislative effort to confront eating disorders in the United States, to learn more about their devastating impact, and to offer support and care to those who suffer from these illnesses.

Eating disorders such as anorexia nervosa, bulimia nervosa, and binge eating disorder are widespread, insidious, and too often fatal. Today, at least 5 million Americans suffer from eating disorders. Because these conditions often go undiagnosed and unreported, the actual number may be closer to 11 million Americans, including 1 million males. These disorders don't discriminate by gender, race, income, or age.

Eating disorders are dangerous conditions, though their consequences are often underestimated. Eating disorders are associated with serious heart conditions, kidney failure, osteoporosis, infertility, gastrointestinal disorders, and even death. The National Institute of Mental Health estimates that one in 10 people with anorexia nervosa will die of starvation, cardiac arrest, or some other medical complication. Let me repeat that—one in 10. That is deeply disturbing, and demands a much more aggressive federal response. Moreover, fatalities resulting from eating disorders are grossly underreported, because deaths are typically recorded by listing the immediate cause of death, such as cardiac arrest, rather than the underlying cause, which is the eating disorder.

Nonetheless, despite the prevalence and very serious health impacts of eating disorders, we simply do not know enough about the causes of eating disorders, or how to stop them from developing in the first place. Research suggests a genetic component to eating disorders, but we must learn more in order to effectively prevent these deadly conditions before they start.

The good news is that eating disorders are treatable. With appropriate nutritional, medical, and psychotherapeutic interventions, those who suffer from eating disorders can be successfully and fully treated and go on to live full and healthy lives. But right now, only one in 10 people receive treatment. We know how to help people with eating disorders and we need a renewed commitment to do just that.

The FREED Act takes an important step forward in authorizing resources for research, screening, treatment, and prevention of eating disorders.

First, the FREED Act expands research efforts at the National Institutes of Health to examine the causes and consequences of eating disorders. In order to effectively prevent and treat these conditions, it is imperative that we understand them. The FREED Act also improves surveillance and data collection systems at CDC so that we will have accurate information and epidemiological data on eating disorders. Such surveillance will provide us with the necessary information to be as effective as possible with our interventions.

Second, the FREED Act expands access to treatment services and screening for eating disorders for Medicaid beneficiaries, and authorizes funds for a patient advocacy network that will help individuals with eating disorders find treatment. Furthermore, the FREED Act improves the training and education of health care providers and educators so they know how to identify and treat individuals suffering from eating disorders. Too often, eating disorders go undiagnosed when health care providers lack the necessary training to identify these illnesses.

Finally, we need to step up crucial efforts to prevent these disorders from occurring in the first place. As I have said so many times, we don't have a genuine health care system in America; we have a sick care system. In other words, if you get sick, you get treatment. But we spend just pennies on the dollar to prevent disease and illness in the first place and need to place a much more robust emphasis on wellness, nutrition, physical activity, and public health. With this in mind, the FREED Act authorizes funds to develop and implement evidence-based prevention programs and promote healthy eating behaviors in schools, athletic programs, and other community-based programs, where we can reach Americans at risk of developing these conditions.

Eating disorders touch the lives of so many of us and our families and friends; nearly half of all Americans personally know someone with an eating disorder. We must do a better job at the federal level of conducting research, understanding treatment, and preventing these conditions. The FREED Act builds on the investments we made in prevention, wellness, and mental health in the Affordable Care Act and mental health parity. Millions of American will benefit from our attention to this significant public health problem.

I thank Senators KLOBUCHAR and FRANKEN for partnering with me on the reintroduction of this bill, and urge our colleagues to join us in supporting this important federal response to eating disorders.

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. 481

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 ''Federal Response to Eliminate Eating Disorders Act''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Estimates, based on current research, indicate that at least 5,000,000 people in the United States suffer from eating disorders including anorexia nervosa, bulimia nervosa, binge eating disorder, and eating disorders not otherwise specified (referred to in this Act as ''EDNOS'').

(2) Anecdotal evidence suggests that as many as 11,000,000 people in the United States, including 1,000,000 males, may suffer from eating disorders.

(3) Eating disorders occur in all nations and in all populations, and among people of all ages and races and of both genders.

(4) Eating disorders are diseases with grave health consequences and high rates of mortality.

(5) Health consequences associated with eating disorders include heart failure and other serious cardiac conditions, electrolyte imbalance, kidney failure, osteoporosis, debilitating tooth decay, and gastrointestinal disorders, including esophageal inflammation and rupture, gastric rupture, peptic ulcers, and pancreatitis.

(6) Anorexia nervosa has one of the highest overall mortality rates of any mental illness. According to the National Institute of Mental Health, 1 in 10 people with anorexia nervosa will die of starvation, cardiac arrest, or another medical complication.

(7) The risk of death among adolescents with anorexia nervosa is 11 times greater than in disease-free adolescents.

(8) Anorexia nervosa has the highest suicide rate of all mental illnesses.

(9) New research suggests that bulimia nervosa has a much higher rate of mortality than is reflected in current statistics, because of the failure to identify the underlying eating disorder.

(10) Binge eating disorder is the most common eating disorder, with an estimated 3.5 percent of American women and 2 percent of American men expected to suffer from this disorder in their lifetime. Binge eating disorder is characterized by frequent episodes of uncontrolled overeating and is associated with obesity, heart disease, gall bladder disease, and diabetes.

(11) Research demonstrates that there is a significant genetic component to the development of eating disorders.

(12) Certain populations, including adolescent females and athletes of both genders, are at higher risk of developing an eating disorder.

(13) Different types of eating disorders may affect certain races and genders disproportionately.

(14) Despite the serious health consequences and the high risk of death, Federal research funding for eating disorders has lagged behind research concerning other diseases, when compared by the number of individuals affected by, and the relative health consequences of, the diseases.

(15) The ability of individuals suffering from eating disorders, particularly bulimia nervosa, binge eating disorder, and EDNOS to access appropriate treatment is unacceptably low.

(16) The development of an eating disorder is frequently preceded by unhealthy weight control behaviors commonly identified as disordered eating, including skipping meals, using diet pills, taking laxatives, self-induced vomiting, and fasting. Such disordered eating behaviors should be included in enhanced research prevention and training efforts.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to expand research into the prevention of eating disorders;

(2) to expand research on effective treatment and intervention of eating disorders and to support evidence-based programs designed to prevent eating disorders;

(3) to expand research on the causes, courses, and outcomes of eating disorders;

(4) to increase the number of people properly screened and diagnosed with an eating disorder;

(5) to improve training and education of health care and behavioral care providers and of school personnel at all levels of elementary and secondary education;

(6) to improve surveillance and data systems for tracking the prevalence, severity, and economic costs of eating disorders; and

(7) to enhance access to comprehensive treatment for eating disorders.

TITLE I—EATING DISORDER DETECTION AND RESEARCH

SEC. 101. EXPANSION AND COORDINATION OF THE ACTIVITIES OF THE NATIONAL INSTITUTE OF HEALTH AND THE NATIONAL INSTITUTE OF MENTAL HEALTH WITH RESPECT TO RESEARCH ON EATING DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 409K. EXPANSION AND COORDINATION OF ACTIVITIES WITH RESPECT TO RESEARCH ON EATING DISORDERS.

''(a) IN GENERAL.—The Director of NIH, pursuant to the general authority of such director, shall expand, intensify, and coordinate the activities of the National Institutes of Health with respect to research on eating disorders.

''(b) GRANTS.—The Director of NIH may award grants to public or private entities to pay all or part of the cost of planning, establishing, improving, and providing basic operating support for such entities to establish consortia in eating disorder research and to carry out the activities described in subsection (e).

''(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

''(1) be public or nonprofit private entity (including a health department of a State, a political subdivision of a State, or an institution of higher education); and

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(d) REQUIREMENTS OF CONSORTIA.—

''(1) IN GENERAL.—Each consortium established as described in subsection (b) may use the facilities of a single lead institution, or may be formed from several cooperating institutions, meeting such requirements as may be prescribed by the Director of NIH.

''(2) COORDINATION OF CONSORTIA.—The Director of NIH—

''(A) may, as appropriate, provide for the coordination of information among consortia established under subsection (b); and

''(B) shall ensure regular communication between members of the various consortia established using grants awarded under this section.

''(3) REPORTS.—The Director of NIH shall require each consortium to prepare and submit to such director annual reports on the activities of such consortium.

''(e) ACTIVITIES.—Each consortium receiving a grant under subsection (b) shall conduct basic, clinical, epidemiological, population-based, or translational research regarding eating disorders, which may include research related to—

''(1) the identification and classification of eating disorders and disordered eating;

''(2) the causes, diagnosis, and early detection of eating disorders;

''(3) the treatment of eating disorders, including the development and evaluation of new treatments and best practices;

''(4) the conditions or diseases related to, or arising from, an eating disorder; and

''(5) the evaluation of existing prevention programs and the development of reliable prevention and screening programs.

''(f) COLLABORATION.—The Secretary, acting through the Director of NIH and the Director of the National Institute of Mental Health, shall identify relevant Federal agencies (including the other institutes and centers of the National Institutes of Health, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Substance Abuse and Mental Health Services Administration, the Health Resources and Services Administration, and the Office on Women's Health) that shall collaborate with respect to activities conducted under subsection (d).

''(g) PUBLIC INPUT.—The Director of NIH shall provide for a mechanism—

''(1) to educate and disseminate information on the existing and planned programs and research activities of the National Institutes of Health with respect to eating disorders; and

''(2) through which the Director of NIH may receive comments from the public regarding such programs and activities.

''(h) DISSEMINATION OF INFORMATION.—The Director of NIH shall provide for a mechanism for making the results and information generated by the consortia publicly available, such as through the Internet.

''(i) DEFINITION.—For purposes of this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.''.

SEC. 102. INTERAGENCY COORDINATING COUNCIL; SURVEILLANCE AND RESEARCH PROGRAM; STUDY ON ECONOMIC COST.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART W—PROGRAMS RELATING TO EATING DISORDERS

"SEC. 399OO. INTERAGENCY EATING DISORDERS COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Interagency Eating Disorders Coordinating Council (referred to in this section as the 'Coordinating Council').

''(b) RESPONSIBILITIES.—The Coordinating Council shall—

''(1) develop and annually update a summary of advances in eating disorder research concerning causes of, prevention of, early screening for, treatment and access to services related to, and supports for individuals affected by, eating disorders;

''(2) monitor Federal activities with respect to eating disorders;

''(3) make recommendations to the Secretary regarding any appropriate changes to such activities, and to the Director of NIH, with respect to the strategic plan developed under paragraph (4);

''(4) develop and annually update a strategic plan for the conduct of, and support for, eating disorder research, including proposed budgetary recommendations; and

''(5) submit annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives the strategic plan developed under paragraph (4) and all updates to such plan.

''(c) MEMBERSHIP.—

''(1) CHAIRPERSON.—The Director of NIH shall serve as the chairperson of the Coordinating Council and shall be responsible for the leadership and oversight of the activities of the Coordinating Council.

''(2) MEMBERS IN GENERAL.—The Coordinating Council shall be composed of—

''(A) representatives of—

''(i) the Agency for Healthcare Research and Quality;

''(ii) the Substance Abuse and Mental Health Administration;

''(iii) the research institutes at the National Institutes of Health, as the Director of NIH determines appropriate;

''(iv) the Health Resources and Services Administration;

''(v) the Centers for Medicare & Medicaid Services;

''(vi) the Office on Women's Health;

''(vii) the Centers for Disease Control and Prevention;

''(viii) the Department of Education; and

''(ix) any other Federal agency that the chairperson determines is appropriate; and

''(B) the additional members appointed under paragraph (3).

''(3) ADDITIONAL MEMBERS.—Not fewer than ⅓ of the total membership of the Coordinating Council shall be composed of non-Federal public members to be appointed by the Secretary, including representatives of—

''(A) academic medical centers or schools of medicine, nursing, or other health professions;

''(B) health care professionals who are actively involved in the treatment of eating disorders;

''(C) researchers with expertise in eating disorders; and

''(D) at least 2 individuals with a past or present diagnosis of an eating disorder or parents of individuals with a past or present diagnosis of an eating disorder.

''(d) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE; OTHER PROVISIONS.—

''(1) ADMINISTRATIVE SUPPORT.—The Coordinating Council shall receive necessary and appropriate administrative support from the Secretary.

''(2) TERMS OF SERVICE.—Members of the Coordinating Council appointed under subsection (c)(2) shall serve for a term of 4 years, and may be reappointed for one or more additional 4 year-terms. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

''(3) MEETINGS.—

''(A) IN GENERAL.—The Coordinating Council shall meet at the call of the chairperson or upon the request of the Secretary. The Coordinating Council shall meet not fewer than 2 times each year.

''(B) NOTICE.—Notice of any upcoming meeting of the Coordinating Council shall be published in the Federal Register.

''(C) PUBLIC ACCESS.—Each meeting of the Coordinating Council shall be open to the public and shall include appropriate periods of time for questions by the public.

''(4) SUBCOMMITTEES.—In carrying out its functions the Coordinating Council may establish subcommittees and convene workshops and conferences.

''(e) EATING DISORDER.—In this part, the term 'eating disorder' includes anorexia nervosa, bulimia nervosa, binge eating disorder, and eating disorders not otherwise specified, as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders or any subsequent edition.

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.

''SEC. 399OO–1. EATING DISORDER SURVEILLANCE AND RESEARCH PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants or cooperative agreements to eligible entities for the purpose of improving the collection, analysis and reporting of State epidemiological data on eating disorders.

''(b) ACTIVITIES.—An eligible entity shall assist with the development and coordination of eating disorder surveillance efforts within a region and may—

''(1) provide for the collection, analysis, and reporting of epidemiological data on eating disorders through the existing surveillance programs;

''(2) develop recommendations to enhance existing surveillance programs to more accurately collect epidemiological data on disordered eating and eating disorders, including the prevalence, incidence, trends, correlates, mortality, and causes of eating disorders and the effects of eating disorders on quality of life;

''(3) develop recommendations to improve requirements for ensuring that eating disorders are accurately recorded as underlying and contributing causes of death; and

''(4) assist with the development and coordination of surveillance efforts within a region.

''(c) ELIGIBLE ENTITIES.—To be eligible to receive an award under this section, an entity shall—

''(1) be a public or nonprofit private entity (including a health department of a State, a political subdivision of a State, or an institution of higher education); and

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(d) TECHNICAL ASSISTANCE.—In making awards under this section, the Secretary may provide direct technical assistance in lieu of cash.

''(e) REPORTS.—Each entity awarded a grant or cooperative agreement under this section shall annually submit to the Secretary a report describing the activities conducted using grant funds and providing recommendations for improving the collection, analysis, and reporting of epidemiological data on eating disorders.

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.

''SEC. 399OO–2. STUDY REGARDING ECONOMIC COSTS OF EATING DISORDERS.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct a study evaluating the economic costs of eating disorders. Such study may examine years of productive life lost, missed days of work, reduced work productivity, costs of medical and mental health treatment, costs to family, and costs to society as a result of eating disorders.''.

TITLE II—EATING DISORDER EDUCATION AND PREVENTION; STUDIES ON EATING DISORDERS AND BODY MASS INDEX; PUBLIC SERVICE ANNOUNCEMENTS

SEC. 201. GRANTS TO PREVENT EATING DISORDERS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 102, is further amended by adding at the end the following:

''SEC. 399OO–3. GRANTS TO PREVENT EATING DISORDERS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to plan, implement, and evaluate programs to prevent eating disorders and obesity and the acute and chronic medical conditions that accompany such conditions, and to promote healthy body image and appropriate nutrition-based eating behaviors.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a State, local or tribal educational agency, an accredited institution of higher education, a State or local health department, or a community based organization; and

''(2) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity receiving a grant under this section shall fund development and testing of school-, clinic-, community-, or health department-based programs designed to promote healthy eating behaviors and to prevent eating disorders including—

''(1) developing evidence-based interventions to prevent eating disorders, including educational or intervention programs regarding nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and life skills, that take into account cultural and developmental issues and the role of family, school, and community;

''(2) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors, physical activity, and emotional wellness, the connection between emotional and physical health, and the prevention of bullying based on body size, shape, and weight;

''(3) forming partnerships with parents and caregivers to educate adults about identifying unhealthy eating behaviors and promoting healthy eating behaviors, physical activity, and emotional wellness; and

''(4) integrating eating disorder prevention and awareness in physical education, health, education, athletic training programs, and after-school recreational sports programs, to the extent possible.

''(d) REQUIREMENTS OF GRANT RECIPIENTS.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A recipient of a grant under this section shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A recipient of a grant under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 10 percent of the total cost of such activities.

''(3) EVALUATION.—Each recipient of a grant under this section shall provide to the Secretary, in such form and manner as the Secretary shall specify, relevant data and an evaluation of the activities of the grant recipient in promoting healthy eating behaviors and preventing eating disorders. Evaluation reports shall be made publicly available, such as through the Internet.

''(e) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 1 percent of the total amount appropriated for a fiscal year to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about preventing and treating eating disorders and obesity.

''SEC. 399OO–4. STUDY OF EATING DISORDERS IN ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, AND INSTITUTIONS OF HIGHER EDUCATION.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the National Center for Health Statistics of the Centers for Disease Control and Prevention and the National Center for Education Statistics of the Department of Education shall conduct a joint study, or enter into a contract to have a study conducted, on the impact eating disorders have on educational advancement and achievement. The study shall—

''(1) determine the incidence of eating disorders and disordered eating among students, and the morbidity and mortality rates associated with eating disorders;

''(2) evaluate the extent to which students with eating disorders are more likely to miss school, have delayed rates of development, or have reduced cognitive skills;

''(3) report on current State and local programs to increase awareness about the dangers of eating disorders among youth and to prevent eating disorders and the risk factors for eating disorders, and evaluate the value of such programs; and

''(4) make recommendations on measures that could be undertaken by Congress, the Department of Education, States, and local educational agencies to strengthen eating

disorder prevention and awareness programs including development of best practices.

"SEC. 399OO–5. STUDY OF THE SUITABILITY OF MANDATING BODY MASS INDEX REPORTING IN ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Education, shall conduct a study on mandatory reporting of body mass index, including—

''(1) how many schools are currently conducting mandatory reporting of body mass index;

''(2) how schools are assessing the impacts of such mandatory reporting on body mass index; and

''(3) how schools are assessing potential unintended consequences of such mandatory reporting on students, including those related to parent and peer relations.

"SEC. 399OO–6. PUBLIC SERVICE ADVERTISEMENTS.

''The Secretary, in consultation with the Director of the National Institutes of Health and the Secretary of Education, shall carry out a program to develop, distribute, and promote the broadcasting of public service announcements to improve public awareness of, and to promote the identification and prevention, of eating disorders.

"SEC. 399OO–7. AUTHORIZATION OF APPROPRIATIONS.

''To carry out sections 399OO–3, 399OO–4, 399OO–5, and 399OO–6, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.''.

SEC. 202. SENSE OF THE SENATE.

It is the sense of the Senate that critically necessary programs to reduce obesity in children may also unintentionally increase the unhealthy weight control behaviors that can lead to development of eating disorders, and that federally funded programs to combat obesity should take this connection into consideration.

TITLE III—IMPROVING TRAINING IN HEALTH PROFESSIONS, EDUCATION, AND RELATED FIELDS

SEC. 301. GRANTS FOR HEALTH PROFESSIONALS.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

"SEC. 760. GRANTS FOR HEALTH PROFESSIONALS.

''(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in collaboration with the Director of the Centers for Disease Control and Prevention, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, post-graduate medical, nursing (including advanced practice nursing students), dental, mental and behavioral health, pharmacy, and other health professions students or residents with an understanding of, and clinical skills pertinent to identifying and treating, eating disorders.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

''(1) be an accredited school of allopathic or osteopathic medicine, or an accredited school of nursing, public health, social work, dentistry, behavioral and mental health, or pharmacy, or an accredited medical, dental, or nursing residency program;

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—

''(1) REQUIRED USES.—Amounts provided under a grant awarded under this section shall be used to fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to—

''(A) better identify patients at-risk of becoming overweight or obese or developing an eating disorder;

''(B) detect overweight or obesity or eating disorders among a diverse patient population;

''(C) counsel, refer, or treat patients with overweight or obesity or an eating disorder;

''(D) educate patients and the families of patients about effective strategies to establish healthy eating habits and appropriate levels of physical activity; and

''(E) assist in the creation and administration of community-based overweight and obesity and eating disorder prevention efforts.''

''(2) PERMISSIVE USE.—Amounts provided under a grant under this section may be used to offer community-based training opportunities in rural areas for medical, nursing, and other health professions students and residents on eating disorders, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas.

''(d) REQUIREMENTS OF GRANTEES.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 10 percent of the total cost of such activities.

''(e) EATING DISORDER.—In this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2012 through 2016.''.

SEC. 302. TRAINING IN ELEMENTARY AND SECONDARY SCHOOLS.

Section 5131(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7215(a)) is amended by adding at the end the following:

''(28) Programs to improve the identification of students with eating disorders (as defined in section 399OO of the Public Health Service Act), increase awareness of such disorders among parents and students, and train educators (including teachers, school nurses, school social workers, coaches, school counselors, and administrators) on effective eating disorder prevention, screening, detection and assistance methods.''.

TITLE IV—IMPROVING AVAILABILITY AND ACCESS TO TREATMENT

SEC. 401. MEDICAID COVERAGE FOR EATING DISORDER TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (28), by striking ''and'' at the end;

(B) by redesignating paragraph (29) as paragraph (30); and

(C) by inserting after paragraph (28) the following new paragraph:

''(29) eating disorder treatment services (as defined in subsection (ee)(1)); and''; and

(2) by adding at the end the following new subsection:

''(ee) EATING DISORDER TREATMENT SERVICES.—

''(1) DEFINITION.—The term 'eating disorder treatment services' means services relating to diagnosis and treatment of an eating disorder (as defined in section 399OO of the Public Health Service Act), including screening, counseling, pharmacotherapy (including coverage of drugs described in paragraph (2)), and other necessary health care services.

''(2) COVERAGE FOR PHARMACOLOGICAL TREATMENT OF EATING DISORDERS.—For purposes of paragraph (1), eating disorder treatment services shall include drugs provided as part of care in an inpatient setting, covered outpatient drugs (as defined in section 1927(k)(2)), and non-prescription drugs described in section 1927(d)(2)(A) that are prescribed, in accordance with generally accepted medical guidelines, for treatment of an eating disorder.''.

(b) INCREASED FMAP FOR EATING DISORDER TREATMENT SERVICES.—

(1) EFFECTIVE UNTIL JANUARY 1, 2013.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended in the first sentence—

(A) by striking ''and'' before ''(4)''; and

(B) by inserting before the period at the end the following: '', and (5) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance for eating disorder treatment services (as defined in subsection (ee)(1)) provided to an individual who is eligible for such assistance and has an eating disorder (as defined in section 399OO of the Public Health Service Act)''.

(2) EFFECTIVE JANUARY 1, 2013.—Section 4106(b) of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended—

(A) in paragraph (1), by striking ''(4)'' each time such term appears and inserting ''(5)''; and

(B) in paragraph (2), by striking '', and (5)'' and inserting '', and (6)''.

(c) INCLUSION IN EPSDT SERVICES.—Section 1905(r)(1)(B) of such Act (42 U.S.C. 1396d(r)(1)(B)) is amended—

(1) in clause (iv), by striking ''and'' at the end;

(2) in clause (v), by striking the period at the end and inserting ''; and''; and

(3) by inserting after clause (v) the following new clause:

''(vi) appropriate diagnostic services relating to eating disorders (as defined in section 399OO of the Public Health Service Act).''.

(d) EXCEPTION FROM OPTIONAL RESTRICTION UNDER MEDICAID DRUG COVERAGE.—Section 1927(d)(2)(A) of such Act (42 U.S.C. 1396r–8(d)(2)(A)) is amended by inserting before the period at the end the following: '', except for drugs that are prescribed, in accordance with generally accepted medical guidelines, for the purpose of treatment of an individual who is eligible for medical assistance under the State plan and has an eating disorder (as defined in section 399OO of the Public Health Service Act)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs and services furnished on or after January 1, 2012.

SEC. 402. GRANTS TO SUPPORT PATIENT ADVOCACY.

Subpart II of part D of title IX of the Public Health Service Act is amended by adding at the end the following:

"SEC. 938. GRANTS TO SUPPORT PATIENT ADVOCACY.

''(a) GRANTS.—The Secretary, acting through the Director, shall award grants under this section to develop and support patient advocacy work to help individuals with eating disorders obtain adequate health care services and insurance coverage.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or nonprofit private entity (including a health department of a State or tribal agency, a community-based organization, or an institution of higher education);

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) comprehensive strategies for advocating on behalf of, and working with, individuals with eating disorders or at risk for developing eating disorders;

''(B) a plan for consulting with community-based coalitions, treatment centers, or eating disorder research experts who have experience and expertise in issues related to eating disorders or patient advocacy in providing services under a grant awarded under this section; and

''(C) a plan for financial sustainability involving State, local, and private contributions.

''(c) USE OF FUNDS.—Amounts provided under a grant awarded under this section shall be used to support patient advocacy work, including—

''(1) providing education and outreach in community settings regarding eating disorders and associated health problems, especially among low-income, minority, and medically underserved populations;

''(2) facilitating access to appropriate, adequate, and timely health care for individuals with eating disorders and associated health problems;

''(3) assisting in communication and cooperation between patients and providers;

''(4) representing the interests of patients in managing health insurance claims and plans;

''(5) providing education and outreach regarding enrollment in health insurance, including enrollment in the Medicare program under title XVIII of the Social Security Act, the Medicaid program under title XIX of such Act, and the Children's Health Insurance Program under title XXI of such Act;

''(6) identifying, referring, and enrolling underserved populations in appropriate health care agencies and community-based programs and organizations in order to increase access to high-quality health care services;

''(7) providing technical assistance, training, and organizational support for patient advocates; and

''(8) creating, operating, and participating in State or regional networks of patient advocates.

''(d) REQUIREMENTS OF GRANTEES.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 5 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 75 percent of the total cost of such activities.

''(3) REPORTING TO SECRETARY.—A grantee under this section shall annually submit to the Secretary a report, at such time, in such manner, and containing such information as the Secretary may require, including a description and evaluation of the activities described in subsection (c) carried out by such entity.

''(e) EATING DISORDER.—In this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2012 through 2016.''.

By Mr. REED (for himself, Mr. DURBIN, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. FRANKEN, and Mr. LEAHY):

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; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, today I am introducing the Preserving Homes and Communities Act. I introduced an earlier version of this legislation in 2009. I am pleased to again be joined by Senators DURBIN, LEAHY, MERKLEY, WHITEHOUSE, and FRANKEN as cosponsors of this bill.

The sheer number of foreclosures across the country is startling. Since the beginning of 2009, there have been approximately 5 million foreclosures, and the Center for Responsible Lending estimates there will be a total of 9 million foreclosures between 2009 and 2012. In my home state of Rhode Island, the numbers are similarly shocking because 1 in every 10 mortgaged homeowners is in foreclosure or seriously delinquent on their mortgage payment.

Rhode Island families have felt the effects of the recession and the national housing crisis harder than most, which is why I worked with the Obama Administration and led the effort to expand the Hardest Hit Fund to include Rhode Island. This program is just getting underway, and my hope is that it will provide much needed targeted assistance to struggling homeowners and expand the number of loss mitigation tools in order to prevent more Rhode Islanders from falling into foreclosure.

Unfortunately, additional efforts are needed because the foreclosure crisis has grown in complexity as a result of the revelations last fall pointing to poorly handled, if not illegal, foreclosure processing. Cutting these corners at the risk of severe legal consequences raises serious questions about not only the value of mortgage related investments, but also the loan modification efforts of servicers.

I will persist in my efforts to fight improper foreclosures and to bring Rhode Islanders the relief they deserve, and this commitment continues today with the introduction of the Preserving Homes and Communities Act. This bill has been updated and enhanced from its predecessor in the last Congress to reflect the fact that some provisions have been enacted into law and to address emerging issues that are standing in the way of saving as many homes as possible.

Most importantly, this bill, like the one I introduced in 2009, eliminates the so called ''dual-track'' in which a homeowner is evaluated for a home loan modification while simultaneously being foreclosed upon. The prospect of losing one's home is daunting enough, and unfortunately, too many troubled homeowners have received a modification notice one day followed by a foreclosure notice the next day. This is just too confusing and injects additional uncertainty at the most unnerving time for a troubled homeowner. Simply put, there should be no dual track. There should be one track, and while a troubled homeowner is being evaluated for a loan modification, they should have the comfort of knowing that foreclosure proceedings will not be initiated. This bill establishes this single track.

Second, in light of the repeated difficulties that troubled homeowners have faced in contacting and remaining in touch with their servicers, this bill continues to provide a means for more State and local governments to establish mediation programs. These programs provide a process by which a neutral third party presides over discussions between homeowners and servicers to review and discuss alternatives to foreclosure.

Third, with this bill, I continue my efforts to fund the National Housing Trust Fund, which would enable the building, preservation, and rehabilitation of affordable rental housing through the proceeds received from the warrant provisions I crafted for the financial rescue package in 2008. These warrant provisions ensured that as banking institutions recovered from their near collapse, American taxpayers, who bankrolled their recovery, would also benefit from the upside. To date, more than $8 billion in warrant proceeds have been recouped by taxpayers. As I have stated before, my view is that some of these returns from providing a firmer foundation for our financial institutions would be put to good use by providing a firmer foundation for affordable rental housing in our country by finally funding the National Housing Trust Fund.

This bill also has several new provisions. First, in response to repeated concerns that the loan modification process has been lacking in transparency, this bill creates a dispute resolution mechanism within the loan modification process itself. Under this bill, troubled homeowners and servicers may work out their disagreements with a neutral third party on a fair playing field with all the information required to evaluate whether a home loan modification application was properly evaluated.

Second, this legislation addresses the recent robo-signing allegations by requiring servicers, if a home loan modification is denied, to prove that they actually have the legal right to foreclose.

Third, this bill responds to difficulties faced by individuals who, for example, have come to own and live in a mortgaged home through the death of a loved one. These unfortunate life events are tough enough. As long as these individuals live in these homes as

their primary residences and are having difficulties paying their mortgages due to financial hardship, they too would have to be evaluated for a loan modification before banks could foreclose under my legislation.

Fourth, this bill adds another provision to the section placing reasonable limits on foreclosure fees and costly markups by prohibiting abusive fees charged in response to lapsed home insurance policies. Under this bill, when a home insurance policy lapses, the servicer may only charge a fee in an amount equal to the cost of continuing or re-establishing the home insurance policy. No more, and no less.

Lastly, I think it's important to make one final point about this bill. It provides the means for servicers to legitimately evaluate struggling homeowners for loan modifications, but it does not require servicers to work with homeowners who have clearly abandoned their homes, as determined by the Secretary of Housing and Urban Development. This bill is narrowly and responsibly tailored to prevent foreclosures that can be avoided and to ensure that all finalized foreclosures are properly and objectively processed. In short, this legislation is fair.

The foreclosure crisis has persisted for far too long, and it is time to finally address this issue once and for all. The Preserving Homes and Communities Act provides a path to stabilizing the housing sector as a means of bolstering and sustaining our economic recovery. I hope my colleagues will join me and Senators DURBIN, LEAHY, MERKLEY, WHITEHOUSE, and FRANKEN in supporting this bill and taking the legislative steps necessary to address foreclosures.

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. 489

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 ''Preserving Homes and Communities Act of 2011''.

SEC. 2. DEFINITION.

In this Act, the term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 3. LOAN MODIFICATION REQUIREMENTS.

(a) DEFINITIONS.—In this section—

(1) the term ''covered mortgagee'' means—

(A) an original lender under a federally related mortgage loan;

(B) any servicer, affiliate, agent, subsidiary, successor, or assignee of a lender under a federally related mortgage loan; and

(C) any purchaser, trustee, or transferee of any mortgage or credit instrument issued by an original lender under a federally related mortgage loan;

(2) the term ''covered mortgagor''—

(A) means an individual—

(i) who—

(I) is a mortgagor under a federally related mortgage loan—

(aa) made by a covered mortgagee; and

(bb) secured by the principal residence of the mortgagor; or

(II) is eligible to assume a federally related mortgage loan described in clause (I) in a manner described in paragraph (3), (5), (6), or (7) of section 341(d) of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1701j–3(d)), if the principal residence of the individual is the principal residence securing the federally related mortgage loan; and

(ii) who cannot make payments on a federally related mortgage loan due to financial hardship, as determined by the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection; and

(B) does not include an individual who the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection, determines has abandoned the principal residence securing the federally related mortgage loan;

(3) the term ''federally related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602);

(4) the term ''home loan modification protocol'' means a home loan modification protocol that—

(A) is developed under a home loan modification program developed or put into effect by the Secretary of the Treasury, the Secretary, or the Director of the Bureau of Financial Protection;

(B) includes principal reduction; and

(C) to the extent possible, in the case of real property on which there is a first lien and a subordinate lien securing a federally related mortgage loan, requires that any principal reduction with respect to the first lien be accompanied by a proportional principal reduction with respect to the subordinate lien;

(5) the term ''qualified loan modification'' means a modification to the terms of a mortgage agreement between a covered mortgagee and a covered mortgagor that—

(A) is made pursuant to a determination by the covered mortgagee using a home loan modification protocol that a modification would—

(i) produce a greater net present value than not modifying the loan to—

(I) the covered mortgagee; or

(II) in the aggregate, all persons that hold an interest in the mortgage agreement; and

(ii) produce mortgage payments that, at a minimum, are reduced to an affordable and sustainable amount, based on a debt-to-income ratio that takes into account the total housing debt and gross household income of the covered mortgagor;

(B) applies for the remaining term of the original mortgage agreement, prior to modification or amendment; and

(C) permits the maximum amount of principal reduction that produces a greater net present value than foreclosure to the persons described in subparagraph (A)(i); and

(6) the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(b) LOAN MODIFICATION PROCEDURES.—

(1) INITIATION OF FORECLOSURE.—A covered mortgagee may not initiate a nonjudicial foreclosure or a judicial foreclosure against a covered mortgagor that is otherwise authorized under State law unless—

(A) the covered mortgagee has used its best efforts to determine whether the covered mortgagor is eligible for a qualified loan modification;

(B) in the case of a covered mortgagor who the covered mortgagee determines is eligible for a qualified loan modification, the covered mortgagee has used its best efforts to promptly offer a qualified loan modification to the covered mortgagor; and

(C) in the case of a covered mortgagor who the covered mortgagee determines is not eligible for a qualified loan modification, the covered mortgagee has made available to the covered mortgagor documentation of—

(i) a loan modification calculation or net present value calculation, including the information necessary to verify and evaluate the calculation, made by the covered mortgagee in relation to the federally related mortgage using a home loan modification protocol;

(ii) the loan origination, including any note, deed of trust, or other document necessary to establish the right of the mortgagee to foreclose on the mortgage, including proof of assignment of the mortgage to the mortgagee and the right of the mortgagee to enforce the relevant note under the law of the State in which the real property securing the mortgage is located;

(iii) any pooling and servicing agreement that the covered mortgagee believes prohibits a qualified loan modification;

(iv) the payment history of the covered mortgagor and a detailed accounting of any costs or fees associated with the account of the covered mortgagor; and

(v) the specific alternatives to foreclosure considered by the covered mortgagee, including qualified loan modifications, workout agreements, and short sales.

(2) FORECLOSURE IN PROGRESS.—If a covered mortgagee initiated a nonjudicial foreclosure or a judicial foreclosure proceeding against a covered mortgagor before the date of enactment of this Act, the covered mortgagee—

(A) shall use its best efforts to take all steps necessary to—

(i) suspend the foreclosure or foreclosure proceeding, as permitted under the law of the State in which the real property securing the federally related mortgage loan is located, including the cancellation of any sale date that has been scheduled with respect to the real property securing the federally related mortgage loan; and

(ii) toll any deadlines limiting the rights of the covered mortgagor, whether imposed by statute, scheduling order, or otherwise, until the covered mortgagee has complied with the requirements under this section; and

(B) may not—

(i) conduct or schedule a sale of the real property securing the federally related mortgage loan; or

(ii) cause judgment to be entered against the covered mortgagor.

(3) REEVALUATION OF APPLICATION FOR QUALIFIED LOAN MODIFICATION.—If, after receiving information under paragraph (1)(C), a covered mortgagor is able to demonstrate that the covered mortgagor is eligible for a qualified loan modification, the covered mortgagee shall—

(A) promptly reevaluate the application by the covered mortgagor for a qualified loan modification; and

(B) if the covered mortgagor is eligible, offer the covered mortgagor a qualified loan modification.

(4) DISPUTE RESOLUTION.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury, the Secretary, and the Director of the Bureau of Financial Protection shall ensure that any home loan modification protocol established by the Secretary of the Treasury, the Secretary, or the Director of the Bureau of Financial Protection, respectively, includes a procedure with a neutral third party to resolve disputes between covered mortgagors

and covered mortgagees regarding applications for qualified loan modifications.

(5) NO WAIVER OF RIGHTS.—A covered mortgagee may not require a covered mortgagor to waive any right of the covered mortgagor as a condition of making a qualified loan modification.

(6) CERTIFICATION REQUIRED PRIOR TO SALE OF REAL PROPERTY SECURING MORTGAGE.—

(A) CERTIFICATION.—A covered mortgagee shall submit to the appropriate State entity in the State in which the real property securing a federally related mortgage loan is located a certification that the covered mortgagee has complied with all requirements of this section, before—

(i) the covered mortgagee may sell the real property; or

(ii) a purchaser at sale may file an action to recover possession of the real property.

(B) RECORDATION OF DEED PROHIBITED WITHOUT CERTIFICATION.—The government official responsible for recording deeds and other transfers of real property in a jurisdiction may not permit the recordation of a deed transferring title after a foreclosure relating to a federally related mortgage loan in the jurisdiction unless the government official certifies that—

(i) the person conducting the sale has demonstrated that the requirements of this subsection have been met with respect to the federally related mortgage loan; or

(ii) the requirements of this subsection do not apply to the federally related mortgage loan.

(C) VOIDING OF SALE.—A sale of property in violation of this subsection is void.

(D) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury and Director of the Bureau of Consumer Financial Protection, shall issue regulations establishing the content of the certification under this subparagraph.

(7) BAR TO FORECLOSURE.—Failure to comply with this subsection is a bar to foreclosure under the applicable law of a State.

(8) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent a covered mortgagee from offering or making a loan modification with a lower payment, lower interest rate, or principal reduction beyond that required by a modification made using a home loan modification protocol with respect to a covered mortgagor.

(c) FEES PROHIBITED.—

(1) LOAN MODIFICATION FEES PROHIBITED.—A covered mortgagee may not charge a fee to a covered mortgagor for carrying out the requirements under subsection (b).

(2) FORECLOSURE-RELATED FEES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and (C), a covered mortgagee may not charge a foreclosure-related fee to a covered mortgagor before—

(i) the covered mortgagee has made a determination under subsection (b)(1); and

(ii) the mortgage has entered the foreclosure process.

(B) DELINQUENCY FEES.—A covered mortgagee may charge 1 delinquency fee for each late payment by a covered mortgagor, if the fee is specified by the mortgage agreement and permitted by other applicable Federal and State law. A delinquency fee may be collected only once on an installment however long it remains in default.

(C) OTHER FEES.—A covered mortgagee may charge a covered mortgagor 1 property valuation fee and 1 title search fee in connection with a foreclosure.

(3) FEES NOT IN CONTRACT.—A covered mortgagee may charge a fee to a covered mortgagor only if—

(A) the fee was specified by the mortgage agreement before a modification or amendment; and

(B) the fee is otherwise permitted under this subsection.

(4) FEES FOR EXPENSES INCURRED.—

(A) IN GENERAL.—A covered mortgagee may charge a fee to a covered mortgagor only—

(i) for services actually performed by the covered mortgagee or a third party in relation to the mortgage agreement, before a modification or amendment; and

(ii) if the fee is reasonably related to the actual cost of providing the service.

(B) HOME PRESERVATION SERVICES.—A covered mortgagee may charge a fee to a covered mortgagor for home preservation services, only if the covered mortgagor has not submitted a payment under the federally related mortgage during the 60-day period ending on the date the fee is charged.

(5) FORCEPLACED INSURANCE.—

(A) FEE PERMITTED.—If a home insurance policy on the real property securing a federally related mortgage loan lapses due to the failure of a covered mortgagor to make a payment, a covered mortgagee may charge the covered mortgagor a fee in an amount equal to the actual cost of continuing or reestablishing the home insurance policy on the same terms in effect before the lapse.

(B) RECOVERY OF FEE.—A covered mortgagee may recover the fee described in subparagraph (A)—

(i) by establishing an escrow account in accordance with section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609); or

(ii) in equal monthly amounts during one 12-month period.

(6) PENALTY.—The Director of the Bureau of Consumer Financial Protection shall collect from any covered mortgagee that charges a fee in violation of this subsection an amount equal to $6,000 for each such fee.

(d) REGULATIONS.—Not later than 3 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection, shall issue by notice any requirements to carry out this section. The Secretary shall subsequently issue, after notice and comment, final regulations to carry out this section.

(e) BUREAU OF CONSUMER FINANCIAL PROTECTION HOME LOAN MODIFICATION PROTOCOL.—Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall develop a home loan modification protocol.

(f) TREASURY AND HUD HOME LOAN MODIFICATION PROTOCOLS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury and the Secretary shall make any changes to the home loan modification protocol of the Secretary of the Treasury and the Secretary, respectively, that are necessary to carry out this Act.

SEC. 4. MEDIATION INITIATIVES.

(a) DEFINITIONS.—In this section—

(1) the term ''mortgagee'' includes the agent of a mortgagee; and

(2) the term ''mediation'' means a process in which a neutral third party presides over discussions between mortgagors and mortgagees to review and discuss available loss mitigation options in order to avoid foreclosure.

(b) GRANT PROGRAM ESTABLISHED.—The Secretary shall establish a grant program to make competitive grants to State and local governments to establish mediation programs that assist mortgagors facing foreclosure.

(c) MEDIATION PROGRAMS.—A mediation program established using a grant under this section shall—

(1) require participation in the program by—

(A) any mortgagee that seeks to initiate or has initiated a judicial or nonjudicial foreclosure; and

(B) any mortgagor who is subject to a judicial or nonjudicial foreclosure;

(2) require that a representative of the mortgagee who has authority to decide on loss mitigation options (including loan modification) participate, in person, in scheduled sessions;

(3) require any mortgagee or mortgagor required to participate in the program to make a good faith effort to resolve promptly, through mediation, issues relating to the default on the mortgage;

(4) if mediation is not made available to the mortgagor before a foreclosure proceeding is initiated, allow the mortgagor to request mediation at any time before a foreclosure sale;

(5) provide that any proceeding to foreclose that is initiated by the mortgagee shall be stayed until the mediator has issued a written certification that the mortgagee complied in good faith with its obligations under the mediation program established under this section;

(6) provide for—

(A) supervision by a State court (or a State court in conjunction with an agency or department of a State or local government) of the mediation program;

(B) selection and training of neutral, third-party mediators by a State court (or an agency or department of the State or local government);

(C) penalties to be imposed by a State court, or an agency or department of a State or local government, if a mortgagee fails to comply with an order to participate in mediation; and

(D) consideration by a State court (or an agency or department of a State or local government) of recommendations by a mediator relating to penalties for failure to fulfill the requirements of the mediation program;

(7) require that each mortgagee that participates in the mediation program make available to the mortgagor, before and during participation in the mediation program, documentation of—

(A) a loan modification calculation or net present value calculation, including the information necessary to verify and evaluate the calculation, made by the mortgagee in relation to the mortgage using a home loan modification protocol;

(B) the loan origination, including any note, deed of trust, or other document necessary to establish the right of the mortgagee to foreclose on the mortgage, including proof of assignment of the mortgage to the mortgagee and the right of the mortgagee to enforce the relevant note under the law of the State in which the real property securing the mortgage is located;

(C) any pooling and servicing agreement that the mortgagee believes prohibits a loan modification;

(D) the payment history of the mortgagor and a detailed accounting of any costs or fees associated with the account of the mortgagor; and

(E) the specific alternatives to foreclosure considered by the mortgagee, including loan modifications, workout agreements, and short sales;

(8) prohibit a mortgagee from shifting the costs of participation in the mediation program, including the attorney's fees of the mortgagee, to a mortgagor;

(9) provide that—

(A) any holder of a junior lien against the property that secures a mortgage that is the subject of a mediation—

(i) be notified of the mediation; and

(ii) be permitted to participate in the mediation; and

(B) any proceeding initiated by a holder of a junior lien against the property that secures a mortgage that is the subject of a mediation be stayed pending the mediation;

(10) provide information to mortgagors about housing counselors approved by the Secretary; and

(11) be free of charge to the mortgagor and mortgagee.

(d) RECORDKEEPING.—A State or local government that receives a grant under this section shall keep a record of the outcome of each mediation carried out under the mediation program, including the nature of any loan modification made as a result of participation in the mediation program.

(e) TARGETING.—A State that receives a grant under this section may establish—

(1) a statewide mediation program; or

(2) a mediation program in a specific locality that the State determines has a high need for such program due to—

(A) the number of foreclosures in the locality; or

(B) other characteristics of the locality that contribute to the number of foreclosures in the locality.

(f) FEDERAL SHARE.—The Federal share of the cost of a mediation program established using a grant under this section may not exceed 50 percent.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2011 through 2014.

SEC. 5. OVERSIGHT OF PUBLIC AND PRIVATE EFFORTS TO REDUCE MORTGAGE DEFAULTS AND FORECLOSURES.

(a) DEFINITIONS.—In this section—

(1) the term ''heads of appropriate agencies'' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Director of the Bureau of Consumer Financial Protection, the Director of the Office of Financial Research of the Department of the Treasury, and a representative of State banking regulators selected by the Secretary;

(2) the term ''mortgagee'' means—

(A) an original lender under a mortgage;

(B) any servicers, affiliates, agents, subsidiaries, successors, or assignees of an original lender; and

(C) any subsequent purchaser, trustee, or transferee of any mortgage or credit instrument issued by an original lender; and

(3) the term ''servicer'' means any person who collects on a home loan, whether such person is the owner, the holder, the assignee, the nominee for the loan, or the beneficiary of a trust, or any person acting on behalf of such person.

(b) MONITORING OF HOME LOANS.—

(1) IN GENERAL.—The Secretary, in consultation with the heads of appropriate agencies, shall develop and implement a plan to monitor—

(A) conditions and trends in homeownership and the mortgage industry, in order to predict trends in foreclosures to better understand other critical aspects of the mortgage market; and

(B) the effectiveness of public and private efforts to reduce mortgage defaults and foreclosures.

(2) REPORT TO CONGRESS.—Not later than 1 year after the development of the plan under paragraph (1), and each year thereafter, the Secretary shall submit a report to Congress that—

(A) summarizes and describes the findings of the monitoring required under paragraph (1); and

(B) includes recommendations or proposals for legislative or administrative action necessary—

(i) to increase the authority of the heads of appropriate agencies to levy penalties against any mortgagee, or other person or entity, who fails to comply with the requirements described in this section;

(ii) to improve coordination between public and private initiatives to reduce the overall rate of mortgage defaults and foreclosures; and

(iii) to improve coordination between initiatives undertaken by Federal, State, and local governments.

SEC. 6. HOUSING TRUST FUND.

From funds received or to be received by the Secretary of the Treasury from the sale of warrants under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.), the Secretary of the Treasury shall transfer and credit $1,000,000,000 to the Housing Trust Fund established under section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) for use in accordance with such section.

Mr. WHITEHOUSE. Mr. President, I rise today to speak in support of legislation I have introduced with Senators REED, MERKLEY, SANDERS and TESTER to enhance foreclosure protections for our servicemembers and their families, and to help ensure that their rights under the Servicemembers Civil Relief Act are not violated.

We have all heard horror stories about how servicers treat homeowners in distress. When these abusive mortgage practices harm the men and women who are sent into harm's way to protect our country, it is a particular tragedy and it deserves our urgent attention.

Not only are these practices illegal and morally repugnant, they can also be a dangerous distraction from our military mission. Holly Petraeus, General Petraeus' wife, leads the Consumer Financial Protection Bureau's Office for Service Member Affairs, and she testified on this issue during a recent hearing before the House Veterans' Affairs Committee. As she put it, ''[i]t is a terrible situation for the family at home and for the servicemember abroad who feels helpless.''

Service members over at the point of the spear in Afghanistan have enough to worry about without worrying about the bank foreclosing on their family.

According to recent media reports, it has come to light that financial institutions have repeatedly failed to comply with the Servicemembers Civil Relief Act or ''SCRA''. These violations led to thousands of mortgage overcharges and a number of unlawful foreclosures. Under the SCRA, it is illegal to foreclose on a protected servicemember unless an authorization by a judge is obtained. Then, the judge can only act after a hearing is held in which the military homeowner is represented.

One of the most troubling cases is the story of SGT James B. Hurley, who lost his home while he was serving in Iraq. Like many Reservists, Sergeant Hurley made less money serving on active duty than he did in his civilian job. So, when he was mobilized, it became a real struggle for his family to afford his mortgage and they fell behind in making his payments.

The SCRA was designed to protect our servicemembers from financial challenges associated with deployments, and it should have prevented the bank from foreclosing on Sergeant Hurley. However, the bank violated the SCRA, foreclosing on Sergeant Hurley illegally, and forcing his wife and children out of their home. Sergeant Hurley returned from combat, as a disabled veteran, only to find that the bank had sold the home that he worked so hard to build.

The current economic climate has hit our returning veterans particularly hard, adding to the financial challenges our deployed servicemembers already face. According to a recent Department of Labor report, the unemployment rate for veterans rose to 9.9 percent overall, and 15.2 percent for veterans of the wars in Iraq and Afghanistan.

These heartbreaking statistics underscore how difficult it can be to readjust economically to life at home. For our returning servicemembers that need time to get back on financial solid footing, to rebuild what they had to walk away from to defend the rest of us, we should do everything we can to accommodate their needs, especially during these difficult economic times.

The Protecting Servicemembers from Mortgage Abuses Act of 2011, which I am introducing would encourage compliance with the SCRA by doubling the maximum criminal penalties for violations of its foreclosure and eviction protections. It would also double civil penalties in cases where the Attorney General has commenced a civil action against the lender.

In addition, the bill will give servicemembers the time they need after returning from deployment to regain solid financial footing, by extending the period of foreclosure protection coverage from 9 to 24 months after military service has ended.

I hope Senators on both sides of the aisle will come together and join me in supporting legislation to discourage loan servicers from further violations and help to protect the financial and emotional well-being of our troops.

By Mr. AKAKA.

S. 490. A bill to amend title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today, many dependent children of veterans who permanently and totally disabled from a service connected disability or who died in the line of duty are no longer being covered by their health insurance program. I am introducing important legislation that would make a critical adjustment to current eligibility requirements for children who receive health care under the Civilian Health and Medical Program of the Department of Veterans Affairs program.

CHAMPVA was established in 1973 within the Veterans Administration to provide health care services to dependents and survivors of our Nation's veterans. CHAMPVA enrollment has grown steadily over the years and, as of fiscal year 2009, covers more than 336,000 beneficiaries.

Under the current law, a dependent child loses eligibility for CHAMPVA upon turning 18-years-old, unless the child is enrolled in school on a full-time basis. After losing full-time status at school, or upon turning 23-years-old, an eligible child of a veteran would lose eligibility.

The landmark health care reform act that was enacted into law last year includes a provision that requires private health insurance to cover dependent children until age 26.

I believe it is only fair to afford children who are CHAMPVA beneficiaries the same eligibility as dependent children whose parents have private sector coverage. Beneficiaries are already being cut off from coverage. We need to take prompt action to extend coverage to the dependents of these veterans who have given so much to our country. I urge my colleagues to support this necessary modification.

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. 490

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

SECTION 1. INCREASE OF MAXIMUM AGE FOR CHILDREN ELIGIBLE FOR MEDICAL CARE UNDER CHAMPVA PROGRAM.

(a) INCREASE.—Subsection (c) of section 1781 of title 38, United States Code, is amended to read as follows:

''(c)(1) Notwithstanding clauses (i) and (iii) of section 101(4)(A) of this title and except as provided in paragraph (2), for purposes of this section, a child who is eligible for benefits under subsection (a) shall remain eligible for benefits under this section until the child's 26th birthday, regardless of the child's marital status.

''(2) Before January 1, 2014, paragraph (1) shall not apply to a child who is eligible to enroll in an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986).

''(3) This subsection shall not be construed to limit eligibility for coverage of a child described in section 101(4)(A)(ii) of this title.''.

(b) EFFECTIVE DATE.—Such subsection, as so amended, shall apply with respect to medical care provided on or after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 87—DESIGNATING THE YEAR OF 2012 AS THE ''INTERNATIONAL YEAR OF COOPERATIVES''

Mr. JOHNSON of South Dakota (for himself, Mr. COCHRAN, Mr. KOHL, Mr. ENZI, Ms. COLLINS, Mr. FRANKEN, Mr. TESTER, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. WICKER, Mrs. MCCASKILL, Mr. ROBERTS, Mr. PRYOR, Mr. CONRAD, Mr. BROWN of Ohio, Mr. SCHUMER, Mrs. MURRAY, Mrs. BOXER, Mr. BAUCUS, Ms. STABENOW, Ms. CANTWELL, and Mr. NELSON of Nebraska) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 87

Whereas in the United States, there are more than 29,000 cooperatives with 120,000,000 members;

Whereas cooperatives in the United States generate 2,000,000 jobs and make a substantial contribution to the economy of the United States with annual sales of $652,000,000,000 and assets of $3,000,000,000,000;

Whereas the cooperative business model has empowered people around the world to improve their lives through economic and social progress;

Whereas cooperatives are a major economic force in developed countries and a powerful business model in developing countries, employing approximately 100,000,000 people;

Whereas there are millions of cooperatives, which are owned and governed by more than 1,000,000,000 members, operating in every nation of the world;

Whereas the economic activity of the largest 300 cooperatives in the world is equal to that of the 10th largest national economy;

Whereas United Nations Resolution 64/136, adopted by the General Assembly on December 18, 2009, designates the year 2012 as the ''International Year of Cooperatives'';

Whereas the theme of the International Year of Cooperatives is ''Cooperative Enterprise Builds a Better World''; and

Whereas cooperatives are the businesses of the people, and for more than a century, have been a vital part of the world economy: Now, therefore, be it

Resolved, That the Senate—

(1) designates the year 2012 as the ''International Year of Cooperatives'';

(2) congratulates cooperatives and members of cooperatives in the United States and around the world on the recognition of the United Nations of 2012 as the ''International Year of Cooperatives'';

(3) recognizes the vital role cooperatives play in the economic and social well-being of the United States;

(4) urges the establishment of a National Committee for the 2012 International Year of Cooperatives to be comprised of representatives from each Federal agency, all cooperative sectors, and key stakeholders;

(5) recognizes the importance of raising the profile of cooperatives and demonstrating the manner by which cooperatives build local wealth, generate employment, and provide competition in the marketplace; and

(6) encourages highlighting the positive impact of cooperatives and developing new programs for domestic and international cooperative development.

Mr. JOHNSON of South Dakota. Mr. President, today I submitted a resolution with my friend, Senator THAD COCHRAN of Mississippi, to recognize and celebrate the importance of cooperatives to our economy, and our rural communities in particular. In 2009, the United Nations General Assembly officially declared 2012 as ''The International Year of Cooperatives'' through a resolution calling on governments to recognize the important role cooperatives play in providing economic opportunity for millions of people in the United States and throughout the world. Our resolution highlights the impact of cooperatives and encourages the development of programs, both here and abroad, for cooperative development.

The Capper-Volstead Act of 1922 was the first legal protection for the cooperative business model in which a business is democratically controlled and owned by its members and operates for the mutual benefit of its members. The membership of a cooperative is comprised of the individuals who use the business' services or buy its goods. The Capper-Volstead Act was originally enacted with the purpose of legally empowering farmers to pool their marketing resources and to improve farmers' bargaining power with the buyers of their products. The cooperative business model has since expanded to other areas of the economy, and has contributed significantly to economic growth in rural communities.

A recent study from the University of Wisconsin Center for Cooperatives found that today, 29,000 U.S. cooperatives operate at 73,000 places of business throughout the country. They have a significant impact on the economy, employing around 2 million people and generating more than $650 billion in revenue annually. Additionally, the member-owned and controlled nature of cooperatives, particularly in rural States like South Dakota, helps to ensure that economic activity remains in the community. Having a membership stake in a local business tends to make one more likely to buy goods or services from that business, thereby contributing to local economic development. Research has even shown that when consumers find out a business is organized as a cooperative, they are more likely to do business with that entity.

Overall, Americans hold 350 million memberships in cooperatives. A majority of our Nation's farmers are members of nearly 3,000 farmer-owned cooperatives, which provide more than 250 thousand jobs in our economy. There are more than 900 rural electric cooperatives servicing 42 million people in almost every State, and over 91 million people bank at more than 7,500 credit unions throughout the country. In South Dakota alone, 81 farm supply and marketing cooperatives claim 65,000 memberships, generating $5.3 billion in annual revenue. The 50 credit unions located in my home State hold 24,600 memberships and generate $2.2 billion in assets. Additionally, there are 125,000 members of the 30 electric cooperatives and 49,000 members of 11 telephone cooperatives throughout the State. Cooperatives clearly take many different forms in our communities, providing jobs and opportunities for rural residents, and in the case of agriculture, provide new markets for the products they produce.

My resolution will officially include the United States in recognizing 2012 as the International Year of Cooperatives,

and encourage the growth and development of businesses throughout the world. I hope my colleagues will join me in recognizing and celebrating the contributions of cooperatives and pass this important resolution this year.

SENATE RESOLUTION 88—EXPRESSING THE SENSE OF THE SENATE THAT BUSINESSES OF THE UNITED STATES SHOULD RETAIN THE OPTION TO ORGANIZE AS THOSE BUSINESSES CHOOSE, INCLUDING THE FLOW-THROUGH ENTITIES, AND NOT BE FORCED TO REORGANIZE AS C CORPORATIONS

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 88

Whereas the tremendous growth in businesses organized as flow-through entities, including S corporations, has resulted in the number of flow-through entities far exceeding the number of C corporations;

Whereas there are more than 26,000,000 businesses operating as flow-through entities in the United States, representing 82 percent of all United States businesses, relative to just 5,900,000 C corporations;

Whereas these flow-through and small businesses create 70 percent of all new jobs and are responsible for 44 percent of the total private payroll in the United States;

Whereas under the Internal Revenue Code of 1986 as in effect in March 2011, these job-generating businesses are taxed at individual tax rates based on the individual income of the business owners, making these businesses highly sensitive to changes in individual tax rates;

Whereas as of March 2011, 50 percent of all income above $250,000 is attributable to flow-through businesses;

Whereas, if individual tax rates increase after 2012 in accordance with the proposals set forth by the President, flow-through businesses will face a massive aggregate tax increase, potentially in excess of $800,000,000,000;

Whereas the Secretary of the Treasury has proposed forcing flow-through entities to reorganize as C corporations to make them subject to double taxation as a way to impose more taxes on these businesses in order to pay for the budgetary policies of the President; and

Whereas forcing corporate reorganizations for purely tax-driven reasons represents a misguided incentive, a misallocation of precious business resources, and a serious threat to job creation: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Government should preserve the organizational options available for businesses to operate as the businesses choose, including as flow-through entities;

(2) raising taxes on businesses that create jobs will be detrimental to the economic recovery of the United States;

(3) generating increased tax revenue on the backs of the small businesses of the United States is inconsistent with, and will impede, job creation; and

(4) any legislative approach to comprehensive fundamental tax reform should include a debate on the individual rates at which most businesses in the United States should be taxed, rather than narrowly focusing on corporate tax rates or forcing small business owners into corporate status for tax purposes.

Ms. SNOWE. Mr. President, I rise to submit a sense of the Senate resolution that clarifies my opposition to tax increases on the job-creating sector of our economy—small business.

It is becoming increasingly clear, and increasingly concerning, that the administration is proposing to raise taxes on America's small businesses, either by forcing them to reorganize as subchapter C corporations solely for tax reasons and be subjected to new and additional taxes, or, by allowing them to remain organized as flow-through entities, where they will face massive increases after 2012 when current tax rates expire. Our Nation simply cannot afford an impending tax increase of over $800 billion. Subjecting small businesses to the double taxation of corporate-entity status would be a major mistake.

There has been tremendous growth in the number of flow-through entities—that is, non-C corporations—over the past 30 years and this growth has only accelerated in the last decade. Since 1997, S corporations have outnumbered C corporations. Fifty percent of all income above $250,000 currently is attributable to flow-through businesses. By 2007, only 5.9 million out of a total 32.1 million U.S. businesses, or just 18 percent, were C corporations, meaning the overwhelming number of businesses in this country organize as flow-through entities.

The administration is proposing to eliminate choice and require C corporation formation purely to generate revenue. C corporate form helps generate revenue because it is inherently a double tax, first at the entity then at the individual shareholder level. The Treasury Secretary said that this proposed change could subject up to $3 trillion to new and additional income taxes.

In this regard, the administration is proposing to raise taxes on America's small businesses: either by forcing them to reorganize as C corporations solely for tax reasons and be subjected to new and additional levies, or if the administration deigns to let them remain organized as flow-through entities, then they will be hit with massive increased taxes after 2012 when current tax rates expire—an impending tax increase of over $800 billion that job creators cannot afford.

Individual income tax rates absolutely affect these businesses. The growth in the number of flow-through businesses is critical to understanding why the increase in individual rates is so damaging to small business job generation.

When we talk about flow-through entities what we really mean are America's small businesses. A discussion of tax reform must not ignore the small businesses that make up the backbone of America. The administration continues to talk about corporate tax reform but it should be talking about business tax reform, which of necessity must include a real discussion of individual tax rates.

Many of America's small businesses choose the flow-through option to avoid double taxation. Forcing them to convert to C corporate status is simply another way to increase their costs and raise their taxes. This would hurt job creation since 70 percent of our good American jobs are created by these businesses.

I urge my colleagues to review my proposal and join me in telling those who would raise taxes on the millions of businesswomen and businessmen we are counting on to create the jobs we need to put the recession firmly behind us—no thank you.

SENATE RESOLUTION 89—RELATING TO THE DEATH OF FRANK W. BUCKLES, THE LONGEST SURVIVING UNITED STATES VETERAN OF THE FIRST WORLD WAR

Mr. ROCKEFELLER (for himself, Mr. BURR, Mr. MANCHIN, Mr. UDALL of Colorado, Mr. BEGICH, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. KERRY, Mr. WYDEN, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MCCAIN, and Mr. BINGAMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 89

Whereas Frank Woodruff Buckles is the last known American World War I veteran, who passed away on February 27, 2011, at the age of 110, and represents his generation of veterans;

Whereas America's support of Great Britain, France, Belgium, and its other allies in World War I marked the first time in the Nation's history that American soldiers went abroad in defense of liberty against foreign aggression, and it marked the true beginning of the ''American century'';

Whereas more than 4,000,000 men and women from the United States served in uniform during World War I, among them 2 future presidents, Harry S. Truman and Dwight D. Eisenhower;

Whereas 2,000,000 individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas;

Whereas the United States suffered 375,000 casualties during World War I, including 116,516 deaths;

Whereas the events of 1914 through 1918 shaped the world, the United States, and the lives of millions of people in countless ways; and

Whereas Frank Woodruff Buckles is the last veteran to represent the extraordinary legacy of the World War I veterans: Now, therefore, be it

Resolved, That—

(1) the Senate recognizes the historic contributions of all United States veterans who served in the First World War; and

(2) when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Frank W. Buckles, the longest surviving United States veteran of the First World War.

SEC. 2. The Secretary of the Senate is directed to transmit an enrolled copy of this resolution to the family of the deceased.

SENATE RESOLUTION 90—SUPPORTING THE GOALS OF ''INTERNATIONAL WOMEN'S DAY'' AND RECOGNIZING THIS YEAR'S CENTENNIAL ANNIVERSARY OF INTERNATIONAL WOMEN'S DAY

Mrs. SHAHEEN (for herself, Mr. CARDIN, Ms. SNOWE, Ms. COLLINS, Mr. DURBIN, Ms. MIKULSKI, Mr. LAUTENBERG, Mrs. BOXER, Mr. BEGICH, Mr. WHITEHOUSE, and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 90

Whereas there are more than 3,300,000,000 women in the world today;

Whereas women around the world participate in the political, social, and economic life of their communities, play a critical role in providing and caring for their families, contribute substantially to the growth of economies, and, as both farmers and caregivers, play an important role in advancing food security for their communities;

Whereas President Barack Obama said, ''[o]ur common prosperity will be advanced by allowing all humanity – men and women – to reach their full potential'';

Whereas Secretary of State Hillary Rodham Clinton said, ''Put simply, we have much less hope of addressing the complex challenges we face in this new century without the full participation of women. Whether the economic crisis, the spread of terrorism, regional conflicts that threaten families and communities, and climate change and the dangers it presents to the world's health and security, we will not solve these challenges through half measures. Yet too often, on these issues and many more, half the world is left behind.'';

Whereas the ability of women to realize their full potential is critical to the ability of a nation to achieve strong and lasting economic growth and political and social stability;

Whereas according to the 2010 World Economic Forum Global Gender Gap Report, ''reducing gender inequality enhances productivity and economic growth'';

Whereas according to the International Monetary Fund, ''focusing on the needs and empowerment of women is one of the keys to human development'';

Whereas despite some achievements made by individual women leaders, women around the globe are still vastly underrepresented in high level positions and in national and local legislatures and governments and, according to the Inter-Parliamentary Union, women account for only 19.2 percent of national parliamentarians;

Whereas although strides have been made in recent decades, women around the world continue to face significant obstacles in all aspects of their lives including denial of basic human rights, discrimination, and gender-based violence;

Whereas according to the World Bank, women account for approximately 70 percent of individuals living in poverty worldwide;

Whereas according to UNESCO, women account for 64 percent of the 796,000,000 adults worldwide who lack basic literacy skills;

Whereas according to the International Center for Research on Women, there are more than 60,000,000 child brides in developing countries, some of whom are as young as 7 years old;

Whereas according to the Food and Agriculture Organization, the majority of women living in rural areas of the developing world are heavily engaged in agricultural labor, yet they receive less credit, land, agricultural inputs, and training than their male counterparts;

Whereas according to the International Union for Conservation of Nature, women in developing countries are disproportionately affected by changes in climate because of their need to secure water, food, and fuel for their livelihood;

Whereas according to the World Health Organization, as many as 1 in 5 women report being sexually abused before the age of 15;

Whereas March 8 is recognized each year as International Women's Day, a global day to celebrate the economic, political, and social achievements of women past, present, and future and a day to recognize the obstacles that women still face in the struggle for equal rights and opportunities; and

Whereas the milestone 100th anniversary of International Women's Day is a testament to the dedication and determination of women and men around the world to address gender inequality: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of ''International Women's Day'';

(2) recognizes the significance of the 100th anniversary of International Women's Day;

(3) recognizes that the empowerment of women is inextricably linked to the potential of nations to generate economic growth and sustainable democracy;

(4) recognizes and honors the women in the United States and around the world who have worked throughout history to ensure that women are guaranteed equality and basic human rights;

(5) reaffirms its commitment to ending discrimination and violence against women and girls, to ensuring the safety and welfare of women and girls, and to pursuing policies that guarantee the basic human rights of women and girls worldwide; and

(6) encourages the people of the United States to observe International Women's Day with appropriate programs and activities.

SENATE RESOLUTION 91—SUPPORTING THE GOALS AND IDEALS OF MULTIPLE SCLEROSIS AWARENESS WEEK

Mr. CASEY (for himself, Ms. SNOWE, and Mrs. HAGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 91

Whereas multiple sclerosis can impact men and women of all ages, races, and ethnicities;

Whereas more than 400,000 Americans live with multiple sclerosis;

Whereas approximately 2,100,000 people worldwide have been diagnosed with multiple sclerosis;

Whereas every hour of every day, someone is newly diagnosed with multiple sclerosis;

Whereas an estimated 8,000 to 10,000 children and adolescents are living with multiple sclerosis;

Whereas the exact cause of multiple sclerosis is still unknown;

Whereas the symptoms of multiple sclerosis are unpredictable and vary from person to person;

Whereas there is no laboratory test available that definitively diagnoses a case of multiple sclerosis;

Whereas multiple sclerosis is not genetic, contagious, or directly inherited, but studies show that there are genetic factors that indicate that certain individuals may be susceptible to the disease;

Whereas multiple sclerosis symptoms occur when an immune system attack affects the myelin in nerve fibers of the central nervous system, damaging or destroying the myelin and replacing the myelin with scar tissue, thereby interfering with or preventing the transmission of nerve signals;

Whereas in rare cases, multiple sclerosis is so progressive that the disease is fatal;

Whereas there is no known cure for multiple sclerosis;

Whereas the Multiple Sclerosis Coalition, an affiliation of multiple sclerosis organizations dedicated to the enhancement of the quality of life for all those affected by multiple sclerosis, recognizes and celebrates Multiple Sclerosis Awareness Week;

Whereas the mission of the Multiple Sclerosis Coalition is to increase opportunities for cooperation and provide greater opportunity to leverage the effective use of resources for the benefit of the multiple sclerosis community;

Whereas the Multiple Sclerosis Coalition recognizes and celebrates Multiple Sclerosis Awareness Week for 1 week in March of each year;

Whereas the goals of Multiple Sclerosis Awareness Week are—

(1) to invite people to join the movement to end multiple sclerosis;

(2) to encourage each individual in the United States to do something that demonstrates a commitment to moving toward a world free of multiple sclerosis; and

(3) to acknowledge those individuals who have dedicated their time and talent to helping to promote multiple sclerosis research and programs; and

Whereas in 2011, the week of March 14, 2011, through March 20, 2011, has been designated as Multiple Sclerosis Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Multiple Sclerosis Awareness Week;

(2) encourages the States, territories, possessions, and localities of the United States to support the goals and ideals of Multiple Sclerosis Awareness Week by issuing proclamations designating Multiple Sclerosis Awareness Week;

(3) encourages media organizations to participate in Multiple Sclerosis Awareness Week by helping to educate the public about multiple sclerosis;

(4) commends the efforts of the States, territories, possessions, and localities of the United States that support the goals and ideals of Multiple Sclerosis Awareness Week;

(5) recognizes and reaffirms the commitment of the United States to creating a world free of multiple sclerosis by—

(A) promoting awareness about people who are living with multiple sclerosis; and

(B) promoting new education programs, supporting research, and expanding access to medical treatment;

(6) recognizes all people in the United States living with multiple sclerosis and expresses gratitude to their family members and friends who are a source of love and encouragement to those individuals; and

(7) salutes the health care professionals and medical researchers who—

(A) provide assistance to those individuals in the United States living with multiple sclerosis; and

(B) continue to work to find ways to stop the progression of the disease, restore nerve function, and end multiple sclerosis forever.

SENATE RESOLUTION 92—TO AUTHORIZE THE PAYMENT OF LEGAL EXPENSES OF SENATE EMPLOYEES OUT OF THE CONTINGENT FUND OF THE SENATE

Mr. SCHUMER (for himself and Mr. ALEXANDER) submitted the following resolution; which was considered and agreed to:

S. RES. 92

Resolved,

SECTION 1. AUTHORIZATION OF THE PAYMENT OF LEGAL EXPENSES.

(a) IN GENERAL.—The Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate the legal expenses incurred by Jean Manning and Erica Watkins for the employment of private counsel to represent them with respect to official actions and responsibilities before the grand jury in the United States District Court for the District of Columbia.

(b) DETERMINATION.—The amount of expenses paid pursuant to subsection (a) shall be determined by the Committee on Rules and Administration.

SENATE CONCURRENT RESOLUTION 10—AUTHORIZING THE REMAINS OF FRANK W. BUCKLES, THE LAST SURVIVING UNITED STATES VETERAN OF THE FIRST WORLD WAR, TO LIE IN HONOR IN THE ROTUNDA OF THE CAPITOL

Mr. ROCKEFELLER (for himself, Mr. BURR, Mr. MANCHIN, Mr. UDALL of Colorado, Mr. BEGICH, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. KERRY, Mr. WYDEN, Ms. LANDRIEU, Mr. BROWN of Massachusetts, and Mr. MCCAIN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. HONORING VETERANS OF THE FIRST WORLD WAR.

(a) IN GENERAL.—In recognition of the historic contributions of United States veterans who served in the First World War, the remains of Frank W. Buckles, the last surviving United States veteran of the First World War, shall be permitted to lie in honor in the rotunda of the Capitol from March 14, 2011 to March 15, 2011, so that the citizens of the United States may pay their last respects to those great Americans.

(b) IMPLEMENTATION.—The Architect of the Capitol, under the direction and supervision of the President pro tempore of the Senate and the Speaker of the House of Representatives shall take the necessary steps to implement subsection (a).

AMENDMENTS SUBMITTED AND PROPOSED

SA 141. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table.

SA 142. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 23, supra.

SA 143. Mr. REID of Nevada (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 144. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 23, supra; which was ordered to lie on the table.

SA 145. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 141. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 94, between lines 22 and 23, insert the following:

(e) EXCLUSION.—This section shall not apply to that part of an invention that is a method, apparatus, computer program product or system 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.

SA 142. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 50, between lines 2 and 3, insert the following:

''(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.''.

On page 65, between lines 9 and 10, insert the following:

''(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.''.

SA 143. Mr. REID of Nevada (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 93, before line 18, insert the following:

''(d) EPSCOR.—For purposes of this section, a micro entity shall include an applicant who certifies that—

''(1) 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), in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR); or

''(2) 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, which is in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR).''.

SA 144. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DAMAGES.

Section 284 of title 35, United States Code, is amended—

(1) by striking ''Upon finding'' and inserting the following: ''(a) IN GENERAL.—Upon finding'';

(2) by striking ''fixed by the court'' and all that follows through ''When the damages'' and inserting the following: ''fixed by the court. When the damages'';

(3) by striking ''shall assess them.'' and all that follows through ''The court may receive'' and inserting the following: ''shall assess them.In either event the court may increase the damages up to 3 times the amount found or assessed. Increased damages under this subsection shall not apply to provisional rights under section 154(d) of this title. The court may receive''; and

(4) by adding at the end the following:

''(b) PROCEDURE FOR DETERMINING DAMAGES.—

''(1) IN GENERAL.—The court shall identify the methodologies and factors that are relevant to the determination of damages, and the court or jury shall consider only those methodologies and factors relevant to making such determination.

''(2) DISCLOSURE OF CLAIMS.—By no later than the entry of the final pretrial order, unless otherwise ordered by the court, the parties shall state, in writing and with particularity, the methodologies and factors the parties propose for instruction to the jury in determining damages under this section, specifying the relevant underlying legal and factual bases for their assertions.

''(3) SUFFICIENCY OF EVIDENCE.—Prior to the introduction of any evidence concerning the determination of damages, upon motion of either party or sua sponte, the court shall consider whether one or more of a party's damages contentions lacks a legally sufficient evidentiary basis. After providing a nonmovant the opportunity to be heard, and after any further proffer of evidence, briefing, or argument that the court may deem appropriate, the court shall identify on the record those methodologies and factors as to which there is a legally sufficient evidentiary basis, and the court or jury shall consider only those methodologies and factors in making the determination of damages under this section. The court shall only permit the introduction of evidence relating to the determination of damages that is relevant to the methodologies and factors that the court determines may be considered in making the damages determination.

''(c) SEQUENCING.—Any party may request that a patent-infringement trial be sequenced so that the trier of fact decides questions of the patent's infringement and validity before the issues of damages and willful infringement are tried to the court or the jury. The court shall grant such a request absent good cause to reject the request, such as the absence of issues of significant damages or infringement and validity. The sequencing of a trial pursuant to this subsection shall not affect other matters, such as the timing of discovery. This subsection does not authorize a party to request that the issues of damages and willful infringement be tried to a jury different than the one that will decide questions of the patent's infringement and validity.''.

SA 145. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 83, between lines 6 and 7, insert the following:

(8) REPORT ON SMALL PUBLIC UNIVERSITIES AND ELIGIBLE INSTITUTIONS.—Not later than 12 months after the date of enactment of this Act, the Director shall report to Congress on—

(A) the number of patent applications received by the Patent and Trademark Office during the prior 5-year period from small public universities and eligible institutions, as defined in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q); and

(B) whether the patent fee structure set forth under this Act and title 35 of the United States Code hinders the ability of such universities and institutions to benefit from the provisions under chapter 18 of title 35, United States Code (commonly known as the ''Bayh-Dole Act'').

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on March 3, 2011, at 2:30 p.m. in SR 328A.

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

COMMITTEE ON ARMED SERVICES

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2011, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BENNET. 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 3, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 3, 2011, at 2:30 p.m., to hold a hearing entitled, ''Navigating a Turbulent Global Economy—Implications for the United States.''

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

COMMITTEE ON THE JUDICIARY

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 3, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on March 3, 2011, at 10 a.m. to conduct a hearing entitled ''Closing the Gap: Exploring Minority Access to Capital and Contracting Opportunities.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNET. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 3, 2011 at 2:30 p.m.

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

RELATIVE TO THE DEATH OF FRANK WOODRUFF BUCKLES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 89.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 89) relating to the death of Frank Woodruff Buckles, the longest surviving veteran of the First World War.

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

Mr. ROCKEFELLER. Mr. President, today I want to honor the passing of America's last surviving veteran of the First World War, Mr. Frank Woodruff Buckles. It is important that we as a nation express our deep appreciation for the sacrifices that Mr. Buckles and his brothers-in-arms endured for our country nearly a century ago. Men like Frank have fought in numerous battles in the defense of this Nation and have made sure that we as Americans are able to enjoy the quality of life that we so cherish.

Mr. Buckles witnessed the world change dramatically throughout his lifetime and had experiences that most of us can only dream about. He saw the metamorphosis that defined the American social and cultural revolutions of the last century. As a young man, he served in the Army's ambulance corps in France and Germany, where he evacuated wounded soldiers from the battlefield. As a civilian during the Second World War, he spent more than three years in a Japanese prison camp in the Philippines.

As a tribute to Mr. Buckles and for all the World War I veterans that he represents, we must remember all of his brothers and sisters who defended our country along with him. Nearly 4.5 million U.S. soldiers, sailors, airmen and Marines joined forces with over 37 million Allied soldiers to defeat the Central Powers. These service members witnessed atrocities such as gas warfare that were unprecedented at the time. Each and every one of them made their own significant contribution to the war effort that cannot be understated. This generation of dynamic and dedicated Americans was able to alter the course of history for the betterment of each and every one of us here today.

As a tribute to Mr. Buckles, I have introduced a bipartisan resolution so he can lie in honor in the Capitol Rotunda on March 14 to allow the American people to properly pay their respects. To further honor his generations' sacrifices, Mr. Frank Buckles will be buried at Arlington National Cemetery with full military honors. President Obama has ordered all flags flown over government buildings be flown at half-mast on this day as we mourn the loss of a citizen and a generation who will forever hold a place in our nation's history.

I want to conclude by offering my deepest sympathies to Mr. Buckles' daughter, Susannah Buckles Flanagan. She has been the loving daughter at his side in recent years taking such good care of him which allowed him to live at home in dignity, surrounded by family and friends.

As America's longest surviving veteran of World War I, Frank Buckles represented our final link to a generation that built a legacy as the defenders of the free world in the first large scale global conflict. I can promise you that his legacy and the legacy of all veterans will live on forever in the ideals and values that make America the strongest nation in the world.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 89) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 89

Whereas Frank Woodruff Buckles is the last known American World War I veteran, who passed away on February 27, 2011, at the age of 110, and represents his generation of veterans;

Whereas America's support of Great Britain, France, Belgium, and its other allies in World War I marked the first time in the Nation's history that American soldiers went abroad in defense of liberty against foreign aggression, and it marked the true beginning of the ''American century'';

Whereas more than 4,000,000 men and women from the United States served in uniform during World War I, among them 2 future presidents, Harry S. Truman and Dwight D. Eisenhower;

Whereas 2,000,000 individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas;

Whereas the United States suffered 375,000 casualties during World War I, including 116,516 deaths;

Whereas the events of 1914 through 1918 shaped the world, the United States, and the lives of millions of people in countless ways; and

Whereas Frank Woodruff Buckles is the last veteran to represent the extraordinary legacy of the World War I veterans: Now, therefore, be it

Resolved, That—

(1) the Senate recognizes the historic contributions of all United States veterans who served in the First World War; and

(2) when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Frank W. Buckles, the longest surviving United States veteran of the First World War.

SEC. 2. The Secretary of the Senate is directed to transmit an enrolled copy of this resolution to the family of the deceased.

Mr. REID. Mr. President, I had the good fortune a short time ago, when we had a ceremony in the Rotunda of the Capitol, to meet Mr. Buckles and talk to him. It is amazing he had such vitality at such an old age. I am happy this matter is completed.

SUPPORTING THE GOAL OF ''INTERNATIONAL WOMEN'S DAY''

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 90.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 90) supporting the goal of ''International Women's Day'' and recognizing this year's centennial anniversary of International Women's Day.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is ordered.

The resolution (S. Res. 90) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 90

Whereas there are more than 3,300,000,000 women in the world today;

Whereas women around the world participate in the political, social, and economic life of their communities, play a critical role in providing and caring for their families, contribute substantially to the growth of economies, and, as both farmers and caregivers, play an important role in advancing food security for their communities;

Whereas President Barack Obama said, ''[o]ur common prosperity will be advanced by allowing all humanity – men and women – to reach their full potential'';

Whereas Secretary of State Hillary Rodham Clinton said, ''Put simply, we have much less hope of addressing the complex challenges we face in this new century without the full participation of women. Whether the economic crisis, the spread of terrorism, regional conflicts that threaten families and communities, and climate change and the dangers it presents to the world's health and security, we will not solve these challenges through half measures. Yet too often, on these issues and many more, half the world is left behind.'';

Whereas the ability of women to realize their full potential is critical to the ability of a nation to achieve strong and lasting economic growth and political and social stability;

Whereas according to the 2010 World Economic Forum Global Gender Gap Report, ''reducing gender inequality enhances productivity and economic growth'';

Whereas according to the International Monetary Fund, ''focusing on the needs and empowerment of women is one of the keys to human development'';

Whereas despite some achievements made by individual women leaders, women around the globe are still vastly underrepresented in high level positions and in national and local legislatures and governments and, according to the Inter-Parliamentary Union, women account for only 19.2 percent of national parliamentarians;

Whereas although strides have been made in recent decades, women around the world continue to face significant obstacles in all aspects of their lives including denial of basic human rights, discrimination, and gender-based violence;

Whereas according to the World Bank, women account for approximately 70 percent of individuals living in poverty worldwide;

Whereas according to UNESCO, women account for 64 percent of the 796,000,000 adults worldwide who lack basic literacy skills;

Whereas according to the International Center for Research on Women, there are more than 60,000,000 child brides in developing countries, some of whom are as young as 7 years old;

Whereas according to the Food and Agriculture Organization, the majority of women living in rural areas of the developing world are heavily engaged in agricultural labor, yet they receive less credit, land, agricultural inputs, and training than their male counterparts;

Whereas according to the International Union for Conservation of Nature, women in developing countries are disproportionately affected by changes in climate because of their need to secure water, food, and fuel for their livelihood;

Whereas according to the World Health Organization, as many as 1 in 5 women report being sexually abused before the age of 15;

Whereas March 8 is recognized each year as International Women's Day, a global day to celebrate the economic, political, and social achievements of women past, present, and future and a day to recognize the obstacles that women still face in the struggle for equal rights and opportunities; and

Whereas the milestone 100th anniversary of International Women's Day is a testament to the dedication and determination of women and men around the world to address gender inequality: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of ''International Women's Day'';

(2) recognizes the significance of the 100th anniversary of International Women's Day;

(3) recognizes that the empowerment of women is inextricably linked to the potential of nations to generate economic growth and sustainable democracy;

(4) recognizes and honors the women in the United States and around the world who have worked throughout history to ensure that women are guaranteed equality and basic human rights;

(5) reaffirms its commitment to ending discrimination and violence against women and girls, to ensuring the safety and welfare of women and girls, and to pursuing policies that guarantee the basic human rights of women and girls worldwide; and

(6) encourages the people of the United States to observe International Women's Day with appropriate programs and activities.

SUPPORTING THE GOALS AND IDEALS OF MULTIPLE SCLEROSIS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 91.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 91) supporting the goals and ideals of Multiple Sclerosis Awareness Week.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 91) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 91

Whereas multiple sclerosis can impact men and women of all ages, races, and ethnicities;

Whereas more than 400,000 Americans live with multiple sclerosis;

Whereas approximately 2,100,000 people worldwide have been diagnosed with multiple sclerosis;

Whereas every hour of every day, someone is newly diagnosed with multiple sclerosis;

Whereas an estimated 8,000 to 10,000 children and adolescents are living with multiple sclerosis;

Whereas the exact cause of multiple sclerosis is still unknown;

Whereas the symptoms of multiple sclerosis are unpredictable and vary from person to person;

Whereas there is no laboratory test available that definitively diagnoses a case of multiple sclerosis;

Whereas multiple sclerosis is not genetic, contagious, or directly inherited, but studies show that there are genetic factors that indicate that certain individuals may be susceptible to the disease;

Whereas multiple sclerosis symptoms occur when an immune system attack affects the myelin in nerve fibers of the central nervous system, damaging or destroying the myelin and replacing the myelin with scar tissue, thereby interfering with or preventing the transmission of nerve signals;

Whereas in rare cases, multiple sclerosis is so progressive that the disease is fatal;

Whereas there is no known cure for multiple sclerosis;

Whereas the Multiple Sclerosis Coalition, an affiliation of multiple sclerosis organizations dedicated to the enhancement of the quality of life for all those affected by multiple sclerosis, recognizes and celebrates Multiple Sclerosis Awareness Week;

Whereas the mission of the Multiple Sclerosis Coalition is to increase opportunities for cooperation and provide greater opportunity to leverage the effective use of resources for the benefit of the multiple sclerosis community;

Whereas the Multiple Sclerosis Coalition recognizes and celebrates Multiple Sclerosis Awareness Week for 1 week in March of each year;

Whereas the goals of Multiple Sclerosis Awareness Week are—

(1) to invite people to join the movement to end multiple sclerosis;

(2) to encourage each individual in the United States to do something that demonstrates a commitment to moving toward a world free of multiple sclerosis; and

(3) to acknowledge those individuals who have dedicated their time and talent to helping to promote multiple sclerosis research and programs; and

Whereas in 2011, the week of March 14, 2011, through March 20, 2011, has been designated as Multiple Sclerosis Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Multiple Sclerosis Awareness Week;

(2) encourages the States, territories, possessions, and localities of the United States to support the goals and ideals of Multiple Sclerosis Awareness Week by issuing proclamations designating Multiple Sclerosis Awareness Week;

(3) encourages media organizations to participate in Multiple Sclerosis Awareness Week by helping to educate the public about multiple sclerosis;

(4) commends the efforts of the States, territories, possessions, and localities of the United States that support the goals and ideals of Multiple Sclerosis Awareness Week;

(5) recognizes and reaffirms the commitment of the United States to creating a world free of multiple sclerosis by—

(A) promoting awareness about people who are living with multiple sclerosis; and

(B) promoting new education programs, supporting research, and expanding access to medical treatment;

(6) recognizes all people in the United States living with multiple sclerosis and expresses gratitude to their family members and friends who are a source of love and encouragement to those individuals; and

(7) salutes the health care professionals and medical researchers who—

(A) provide assistance to those individuals in the United States living with multiple sclerosis; and

(B) continue to work to find ways to stop the progression of the disease, restore nerve function, and end multiple sclerosis forever.

AUTHORIZING PAYMENT OF LEGAL EXPENSES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 92, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 92) to authorize the payment of legal expenses of Senate employees out of the contingent fund of the Senate.

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

Mr. SCHUMER. Mr. President, earlier this week the joint leadership group of the Senate made the following recommendation to Senate legal counsel regarding representation of two Senate employees in an upcoming judicial proceeding:

RECOMMENDATION OF ACTION TO AVOID CONFLICT OR INCONSISTENCY IN THE REPRESENTATION OF SENATE PARTIES

Having been notified of an apparent conflict of interest by the Senate Legal Counsel pursuant to §710(a) of the Ethics in Government Act of 1978, 2 U.S.C. §288i(a), and as contemplated by §710(b) and (d) of that Act, 2 U.S.C. §288i(b) and (d), it is recommended that the Senate Legal Counsel take the following action in order to avoid a potential conflict that could arise between the Legal Counsel's responsibilities to the Select Committee on Ethics and representation of Jean Manning and Erica Watkins, Senate employees who are being subpoenaed to testify and produce documents before a federal grand jury. In the event that Ms. Manning or Ms. Watkins requests legal representation in connection with her appearance before the grand jury, the Senate Legal Counsel shall refer Ms. Manning and Ms. Watkins to the Committee on Rules and Administration for assistance in arranging for the employment of private counsel to represent them with respect to official actions and responsibilities.

The Joint Leadership Group

March ___, 2011

Mr. SCHUMER. Ms. Manning and Ms. Watkins have now contacted the Committee on Rules and Administration for assistance in arranging for the employment of private counsel to represent them with respect to testimony and document production before the Federal grand jury in the District of Columbia.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, that there be no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 92) was agreed to, as follows:

S. RES. 92

Resolved,

SECTION 1. AUTHORIZATION OF THE PAYMENT OF LEGAL EXPENSES.

(a) IN GENERAL.—The Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate the legal expenses incurred by Jean Manning and Erica Watkins for the employment of private counsel to represent them with respect to official actions and responsibilities before the grand jury in the United States District Court for the District of Columbia.

(b) DETERMINATION.—The amount of expenses paid pursuant to subsection (a) shall be determined by the Committee on Rules and Administration.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 35, 36, 37, 38, and 39; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc; that there be no intervening action or debate; that no further motions be in order to any of these nominations; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Daniel L. Shields III, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

Pamela L. Spratlen, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Sue Kathrine Brown, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Montenegro.

David Lee Carden, of New York, to be Representative of the United States of America to the Association of Southeast Asian Nations, with the rank of Ambassador Extraordinary and Plenipotentiary.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Eric G. Postel, of Wisconsin, to be an Assistant Administrator of the United States Agency for International Development.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Monday, March 7, 2011, at 4:30 p.m., the Senate proceed to executive session to consider the following nominations: Calendar Nos. 4, 32, and 33; that there be an hour of debate equally divided in the usual form; that upon the use or yielding back of that time, Calendar No. 32 be confirmed and the Senate proceed to vote without intervening action or debate on Calendar No. 33 and Calendar No. 4, in that order; that the motions to reconsider be considered made and laid upon the table; that there be no intervening action or debate; that there be no further motions in order to these nominations; that any statements relating to the nominations be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session.

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

MEASURE READ THE FIRST TIME—H.R. 4

Mr. REID. Mr. President, I am told there is a bill at the desk due for its first reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 4) to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

Mr. REID. Mr. President, I ask for a second reading on this matter in order to place the bill on the calendar, but under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, MARCH 4, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Friday, March 4; 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; and following any leader remarks there be a period of morning business with Senators allowed to speak for up to 10 minutes each during that time.

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

PROGRAM

Mr. REID. Mr. President, as a result of cloture being filed on S. 23, the America Invents Act, the filing deadline for first-degree amendments is 1 p.m. tomorrow. Senators should expect a series of three rollcall votes to begin at 5:30 p.m. on Monday. The first two votes will be on those judicial nominations we have already spoken of this evening, and the third vote will be on cloture on the America Invents Act.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate this evening, I ask unanimous consent that it adjourn under the provisions of S. Res. 89 as a further mark of respect to the memory of Frank W. Buckles, the longest surviving U.S. veteran of World War I.

There being no objection, the Senate, at 6:39 p.m., adjourned until Friday, March 4, 2011, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, March 3, 2011:

DEPARTMENT OF STATE

DANIEL L. SHIELDS III, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

PAMELA L. SPRATLEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

SUE KATHRINE BROWN, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONTENEGRO.

DAVID LEE CARDEN, OF NEW YORK, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ERIC G. POSTEL, OF WISCONSIN, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.