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

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

PATENT REFORM ACT OF 2011

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

The assistant legislative clerk read as follows:

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

Pending:

Leahy amendment No. 114, to improve the bill.

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

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

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

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

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

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

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

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

STATEMENT OF ADMINISTRATION POLICY

S. 23—PATENT REFORM ACT OF 2011

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

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

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

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

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

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

(By Edward Wyatt, Feb. 20, 2011)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As New York Times reporter Edward Wyatt notes:

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

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

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

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

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

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

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

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

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

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

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

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

The clerk will report.

AMENDMENT NO. 121

The assistant legislative clerk read as follows:

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

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

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

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

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

Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. Without objection——

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

The PRESIDING OFFICER. The Senator cannot reserve.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

I yield to the distinguished Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 113, AS MODIFIED

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

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

The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

At the appropriate place add the following:

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

Mr. DEMINT. I yield the floor.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 123

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

The PRESIDING OFFICER. Is there objection?

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

Mr. KIRK. That is correct.

Mr. LEAHY. I will not object.

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

The bill clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 121

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

The Senator from Michigan.

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

RECESS

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

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

PATENT REFORM ACT OF 2011—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

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

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

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

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

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

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

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

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

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