

Redeveloping our rare-earth capabilities will be no easy task—in fact, the hurdles for financing such a refinery are significant.

The cost to construct a modern rare-earth refinery capable of supplying a U.S. consumption of 20,000 tons per year is estimated at more than \$1 billion.

I do not believe it is practical or desirable for the United States to depend upon any single rare-earth mining company to supply our Nation's rare-earth production or supply chain requirements.

This is why our legislation will require a feasibility study on building a U.S. cooperative refinery to process rare-earth ores from mines in the United States or other allied countries.

Such a cooperative, similar to our successful agricultural co-ops all across rural America, will set the stage for the U.S. Government to establish reserves and protect national security.

To brag on my home State for a minute—Missouri would be ideally suited for the location of a cooperative refinery, given the importance of the Pea Ridge deposit.

Missouri's experienced mining and minerals-processing workforce, its favorable access and costs to the utilities needed to operate a refinery and central location and transportation infrastructure all make Missouri well positioned to help preserve our Nation's strategic and economic security.

In dealing with the tremendous costs of establishing a production and refining facility, the legislation would also provide the Department of Defense \$20 million to support the defense supply chain and also \$30 million for the development of rare Earth magnets.

The time has come for our country to act and for this Congress—certainly the next Congress—to take the necessary steps to secure our economic and strategic future. By ensuring that our Nation has its own domestic supply of rare Earths and the ability to process them, we should be able to compete in the 21st century.

The bill Senator BAYH and I have introduced will do just that. While introducing legislation during the last days of the lameduck may seem like a "Hail Mary," this issue is too important to continue to ignore, and we felt it was necessary to launch a "Hail Mary" in hopes there will be others of our colleagues who will catch it and run with the ball in the next session of Congress—to mix up the metaphors badly.

In fact, ignoring our growing rare Earth needs and the overseas dominance and China's monopoly is how we got into this mess. Senator BAYH and I have laid the groundwork for this bill, and I hope my colleagues in January will call it back up and see it passed.

The bottom line is this: Just as we cannot afford to be dependent solely on foreign oil cartels for our Nation's energy, counting on any one or a few countries to supply all of America's rare Earth needs crucial to our techno-

logical innovation and national security needs is too risky a bet.

I thank my colleagues for listening. I hope they will take up the ball in the next Congress and make sure we begin to deal with this very important problem very seriously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say, at this point, to the Senator from Missouri, that I greatly appreciate the comments he made. This question of our dependence on a whole series of things which matter to our national security, including these rare minerals, is an enormously important one, and I think he has done a good service to the Senate to bring it to our attention. So I thank him for that.

Let me also say we are open for business. We would love to get going on some amendments on the START treaty, and I look forward to the opportunity to debate those amendments and, hopefully, have some votes on them in the course of the afternoon.

Until such time as that may become a reality, 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. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### LEGISLATIVE SESSION

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as if in legislative session for the purpose of processing some cleared legislative items.

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

#### REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 505, H.R. 5901.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.

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

Mr. KERRY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment which is at the desk be considered and agreed to, and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4834) was agreed to as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

“(a) APPOINTMENT AND COMPENSATION.—

“(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) JUDGE-APPOINTED EMPLOYEES.—

“(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

“(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

“(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

“(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,