

NOT VOTING—10

| | | |
|------------|-----------|-------------|
| Akaka | Inhofe | Rockefeller |
| Ayotte | Lieberman | Toomey |
| Boozman | McCain | |
| Gillibrand | Paul | |

The nomination was confirmed.

The PRESIDING OFFICER. The motions to reconsider are laid on the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

PATENT REFORM ACT OF 2011—
Resumed

Mr. LEAHY. Mr. President, I understand that the Senator from Colorado has an amendment that could be disposed of quickly and which is agreeable to both sides.

I yield to the Senator from Colorado. The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 116

Mr. BENNET. Mr. President, I thank Chairman LEAHY, Senator GRASSLEY, Senator HATCH, and all of the members of the Judiciary Committee for their hard work on patent reform. Moving this bill forward has been a difficult task. I look forward to supporting the bill as we are in the process of amending it and improving it.

This legislation is critical for our economic growth if we are going to rebuild our economy and win the future. We need to make sure our patent system promotes research and development, investment, job creation, and global competitiveness.

This evening, I want to call up two amendments to this legislation that I believe address the need for efficiency and quality at the U.S. Patent and Trademark Office.

Mr. President, I call up amendment No. 116, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET] proposes an amendment numbered 116.

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

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

The amendment is as follows:

(Purpose: To reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination)

On page 86, between lines 8 and 9, insert the following:

(1) REDUCTION IN FEES FOR SMALL ENTITY PATENTS.—The Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code, so long as the fees of the prioritized examination program are set to recover the estimated cost of the program.

On page 86, line 9, strike “(i)” and insert “(j)”.

Mr. BENNET. My first amendment, sponsored by Senator AYOTTE, can help small businesses utilize the Patent Office's Track I program by reducing their fees for participating. Track I allows applicants to get their patent processed more quickly, but the cost can be burdensome for small entities. This amendment would reduce small business costs by 50 percent.

This Track I program will give applicants the opportunity for prioritized examination of a patent within 12 months of its filing date. On average, the pendency period for first action was 25.7 months in 2010 and 35.3 months for final disposition. By moving this process along for small businesses, we will stimulate business activity and create jobs.

The 50-percent discount is in line with other small entity filing fee discounts offered by the Patent and Trademark Office and will ensure startups and smaller inventors will be at a more level playing field in order to take advantage of Track I.

I encourage my colleagues to support my small business amendment at the appropriate time.

Mr. President, I yield to the chairman.

Mr. LEAHY. Mr. President, I appreciate the amendment of the Senator from Colorado. When it comes to a vote, I think it will probably be unanimous. I suspect there will not even be a requirement for a rollcall vote. It does have this mandatory reduction in fees for small businesses at the Patent Office. I know the Senator is a strong advocate for small business in Colorado. The Patent Office has a backlog of more than 700,000 applications that haven't yet had a first response. This hits small businesses and independent ventures particularly hard because they can least afford a delay in receiving their rights. They have done a lot to reduce that backlog, but they need this legislation to finish it. They have the fast track process, where applicants pay additional fees to cover the costs and the examiners work overtime. Not all small businesses can afford the fast track application fee, and the Senator from Colorado, Mr. BENNET, wisely recognized that not all can afford that.

His amendment will ensure that small businesses and independent vendors will receive a 50-percent reduction in the fee. When the time comes for a vote, I will strongly support the amendment. I suspect both sides will strongly support it. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. I thank the Senator from Vermont for his leadership and for his kind words about the amendment.

AMENDMENT NO. 117

At this time, I ask unanimous consent to set aside the pending amend-

ment and call up my second amendment, which is currently at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET] proposes an amendment numbered 117.

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

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

The amendment is as follows:

(Purpose: To establish additional USPTO satellite offices)

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

SEC. 18. SATELLITE OFFICES.

(a) ESTABLISHMENT.—Subject to available resources, the Director shall establish 3 or more satellite offices in the United States to carry out the responsibilities of the Patent and Trademark Office.

(b) PURPOSE.—The purpose of the satellite offices established under subsection (a) are to—

(1) increase outreach activities to better connect patent filers and innovators with the Patent and Trademark Office;

(2) enhance patent examiner retention;

(3) improve recruitment of patent examiners; and

(4) decrease the number of patent applications waiting for examination and improve the quality of patent examination.

(c) REQUIRED CONSIDERATIONS.—In selecting the locale of each satellite office to be established under subsection (a), the Director shall—

(1) ensure geographic diversity among the offices, including by ensuring that such offices are established in different States and regions throughout the Nation; and

(2) rely upon any previous evaluations by the Patent and Trademark Office of potential locales for satellite offices, including any evaluations prepared as part of the Patent and Trademark Office's Nationwide Workforce Program that resulted in the 2010 selection of Detroit, Michigan as the first ever satellite office of the Patent and Trademark Office.

(d) PHASE-IN.—The Director shall satisfy the requirements of subsection (a) over the 3-year period beginning on the date of enactment of this Act.

(e) REPORT TO CONGRESS.—Not later than the end of the first fiscal year that occurs after the date of the enactment of this Act, and each fiscal year thereafter, the Director shall submit a report to Congress on—

(1) the rationale of the Director in selecting the locale of any satellite office required under subsection (a);

(2) the progress of the Director in establishing all such satellite offices; and

(3) whether the operation of existing satellite offices is achieving the purposes required under subsection (b).

(f) DEFINITIONS.—In this section, the following definitions shall apply:

(1) DIRECTOR.—The term “Director” means the Director of the United States Patent and Trademark Office.

(2) PATENT AND TRADEMARK OFFICE.—The term “Patent and Trademark Office” means the United States Patent and Trademark Office.

On page 104, line 23, strike “SEC. 18.” and insert “SEC. 19.”.

Mr. BENNET. Mr. President, my amendment provides for the establishment of three regional satellite PTO

offices in the next 3 years. The Patent and Trademark Office has struggled to hire and retain over 6,000 examiners at a single location in Alexandria, VA. This has resulted in one-third of patent examiners having been with the U.S. Patent and Trademark Office for less than 3 years. Ideally, the Patent and Trademark Office would recruit examiners from all across the country, leveraging regional expertise.

The PTO recently recognized this weakness in our patent infrastructure by announcing an initial satellite pilot in Detroit, MI. My amendment seeks to support this effort and further connect innovators to the U.S. Patent and Trademark Office.

The establishment of satellite offices will help the USPTO to recruit and retain workers from across the country. Regional offices will draw local scientists, engineers, and patent attorneys into the USPTO, which add real-world expertise to the patent review process.

Regional satellite offices will also increase outreach activities and connection to patent filers, enhance the ability of the USPTO to recruit and retain patent examiners, and improve the quality and pendency for patent applications.

Europe currently uses four patent offices as a recruitment tool and is known for the ability to attract and retain highly qualified examiners. In short, the limitations of our lone patent office are placing our economy at a competitive disadvantage. It is essential, therefore, that we establish satellite offices in locations that will connect innovators and businesses across the country.

I ask Senators to support my amendment at the appropriate time.

Again, I thank the chairman for his leadership, and I look forward to working with him and the rest of this body to craft a good piece of legislation that helps America take the lead in the world's increasingly competitive innovation economy.

Mr. LEAHY. Mr. President, I know the Senator has advocated for satellite offices. His amendment speaks for geographic diversity. Otherwise, every one of us would be asking for one in our State. Vermont, which receives more patents per capita than any other State in the Union, would be asking for one, and so forth. He does not try to tilt the balance in favor of a particular State but he calls for geographic diversity. That is very wise. When the amendment comes to a vote, I will be there to support it.

Mr. President, parliamentary inquiry: What is pending?

The PRESIDING OFFICER. Amendment No. 117.

Mr. LEAHY. Was that set aside so he could introduce his second amendment?

The PRESIDING OFFICER. That is his second amendment.

Mr. LEAHY. That is what is pending now?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

AMENDMENT NO. 115

Mr. LEE. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 115 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, once the Senator has introduced his amendment and has spoken, will he be willing to set that aside so that other amendments on the patent bill can come up?

Mr. LEE. Yes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. LEE] proposes an amendment numbered 115.

(Purpose: To express the sense of the Senate in support of a balanced budget amendment to the Constitution)

At the appropriate place, insert the following:

SEC. ____ . SENSE OF THE SENATE.

It is the sense of the Senate that Congress should pass and the States should agree to an amendment to the Constitution requiring a Federal balanced budget.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. This is a self-explanatory amendment. I am a supporter of this legislation, the patent reform bill. I also point out that this amendment does not bring about any substantive change to that legislation, nor does it lock anyone into a particular variation of a balanced budget amendment proposal.

I am happy to work out an agreement as to the timing for a possible vote, and I hope we can get to that sometime soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes, with the time to be shared between myself and Senator RISCH.

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

RELATIVE TO THE DEATH OF
FORMER SENATOR JAMES A.
MCCLURE

Mr. CRAPO. Mr. President, Senator RISCH and I are here today—in fact, I note we are joined on the floor by our former colleague Senator Larry Craig—to honor one of Idaho's greatest statesmen who passed away on Saturday. We rise to honor the distinguished life of Senator James A. McClure, a mentor and a dear friend of mine. As I indicated, Senator Craig is here. Senator Craig is the one who followed Senator McClure into the seat in the Senate. We appreciate him making the effort to get here to also share his concerns

and condolences, and frankly, to help honor Senator McClure.

I join Senator McClure's wife Louise and their family and friends and all of Idaho in mourning the passing of Senator McClure and honoring his great legacy. His sound guidance, strong advocacy for Idaho, and his personal encouragement will be missed by all of us, but definitely not forgotten.

Throughout his decades of public service, Jim McClure set a standard for public servants that will endure for generations. Senator McClure dedicated much of his life to honorable service to our Nation. At the age of 18, he joined the U.S. Navy and served honorably in World War II. He then returned to Idaho and attended law school at the University of Idaho, worked as a prosecuting attorney for Payette County, and served in the Idaho State Senate. With 6 years in the U.S. House of Representatives, and 18 years in the U.S. Senate, his exemplary service in the Congress spanned 24 years.

His unfailing good will, respect for others, and his essential Western conservatism helped him to maintain throughout his life the kind of service that is still the best model for how to engage in today's public policy debates. He was recognized by all as a gentleman but a powerful advocate.

Senator McClure's legacy as a Congressman and a Senator is broad, and on many issues, such as energy and natural resource management, his service to Idaho is historic. Jim utilized his service as chairman of the Senate Committee on Energy and Natural Resources to advocate for Idaho issues and their ideals. He also helped to guide the Senate through his chairmanship of the Senate Republican Conference from 1981 to 1985. Jim worked diligently to achieve solutions to Idaho and national challenges. He also had a forward-thinking focus on fiscal discipline—one that we could well use in the Senate today—and on energy independence, another critical issue which we continue to battle for today. These are critical issues he helped set the foundation for and, frankly, which his wisdom would have helped to solve.

Jim was a friend and a role model for me and I am sure for many others in Idaho and throughout the Nation. His dedication, kind treatment of others, and skillful proactive and principled approach are long going to endure. He will be sorely missed, but his lifetime of accomplishments will be with the people of Idaho forever.

I offer my sympathy and my love to Louise and to the entire McClure family and to Jim's many friends and associates.

Mr. President, I yield the time to Senator RISCH.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, we have come to the floor to mourn the loss of a great statesman in Idaho. Jim McClure was loved uniformly across