SA 129. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 120. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 119. Mr. BENNET (for himself and Mr. UDALL of Colorado) 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:

1. On page 32, line 12, strike “DEFENSES; EVIDENTIARY REQUIREMENTS”.
2. On page 32, strike line 13 and all that follows through page 32, line 2.
3. On page 37, line 1, strike “(b)” and insert “(a)”. On page 37, line 20, strike “(c)” and insert “(b)”.
4. On page 38, line 3, strike “(d)” and insert “(c)”. On page 38, line 13, strike “(e)” and insert “(d)”.
5. On page 77, strike line 23 and all that follows through page 78, line 6.
6. On page 78, line 7, strike “(b)” and insert “(a)”. On page 78, line 20, strike “(c)” and insert “(b)”.

SA 118. Mr. BENNET (for himself, Mr. Brown of Massachusetts, Mr. Risch, Mr. Coons, Mr. Bingaman, and Mr. CRAPRO) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table; as follows:

1. On page 32, line 12, strike “DEFENSES; EVIDENTIARY REQUIREMENTS”.
2. On page 32, strike line 13 and all that follows through page 32, line 2.
3. On page 37, line 1, strike “(b)” and insert “(a)”. On page 37, line 20, strike “(c)” and insert “(b)”.
4. On page 38, line 3, strike “(d)” and insert “(c)”. On page 38, line 13, strike “(e)” and insert “(d)”.
5. On page 77, strike line 23 and all that follows through page 78, line 6.
6. On page 78, line 7, strike “(b)” and insert “(a)”. On page 78, line 20, strike “(c)” and insert “(b)”.

SEC. 18. TELEVISION ACCESS.

(a) SHORT TITLE.—This section may be cited as the “Four Corners Television Access Act of 2011.”

(b) SATELLITE CARRIAGE OF CERTAIN TELEVISION BROADCAST SIGNALS.—Section 341 of Communications Act of 1934 is amended by adding at the end the following:

“(2) TRANSMISSION PERMITTED.—Notwithstanding the provisions of section 325(b), a cable system, translator, or other multi-channel video programming distributor may retransmit the signal of any television broadcast station described in paragraph (1) within a covered county.

(3) DEFINITION OF COVERED COUNTY.—For purposes of this subsection, a county is a covered county if—

(A) it is one of the counties located in the 44 largest designated market area for the year 2008 according to Nielsen Media Research; and

(B) it had a combined total of 27,540 television households, according to the Nielsen DMA Market Atlas by Nielsen Media Research for 2008.”.

SEC. 19. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.

There is established in the United States Patent and Trademark Office an Office of the Patent Ombudsman Program. The duties of the Program’s staff shall include providing support and services relating to patent filings to small business concerns.

SEC. 20. PATENT APPLICATIONS.

(a) Applications for Small Entities.—If an application for a patent is filed by a small entity entitled to receive limited assistance by the Office, the Office shall, at the time of filing of the application, provide for the small entity to receive special assistance in processing the application.

(b) Preliminary Injunctions.—If a civil action alleging infringement of a patent is filed within 3 months of the grant of the patent, the court may not stay its consideration of the patent owner’s motion for a preliminary injunction against infringement of the patent, on the basis that a petition for post-grant review has been filed or that such a proceeding has been instituted.

On page 59, strike lines 13 through 19.

On page 65, line 21, strike “18 months” and insert “1 year”.

On page 66, line 3, strike “18 months” and insert “1 year”.

On page 66, lines 4 and 5, strike “and shall apply only to patents that are described in section 201(d)”.

On page 66, line 8, after the period insert the following: “During the 4 year period following the effective date of subsections (a) and (d), the Director may, in his discretion, continue to apply the provisions of chapter 31 of title 35, United States Code, as amended by paragraph (3), if subsection (a) had not been enacted to such extent as to preclude the application of subsection (a) or under section 324 as are instituted only on the basis of prior art consisting of patents and printed publications.”

On page 69, line 2, strike “18 months” and insert “1 year”.

On page 69, line 14, strike “18 months” and insert “1 year”.

On page 74, line 22, strike “18 months” and insert “1 year”.

On page 75, line 16, strike “18 months” and insert “1 year”.

On page 75, line 22, strike “18 months” and insert “1 year”.

On page 76, line 5, strike “18 months” and insert “1 year”.

On page 77, strike line 23 and all that follows through page 78, line 6.

On page 78, line 7, strike “(b)” and insert “(a)”.

On page 78, line 20, strike “(c)” and insert “(b)”.

On page 79, strike lines 1 through 17, and insert the following:

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established, authorized, or charged thereunder, for all services performed by or materials furnished by the Office, provided that patent and trademark fees are in the aggregate set to recover the estimated cost to the Office for processing, activities, services, and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the Office.

On page 79, lines 19–21, strike “filling, processing, issuing, and maintaining patent applications and patents, searching, examining, issuing, appealing, and maintaining patent applications and patents.”

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 patent prosecution, searching, examining, issuing, and maintaining patent applications and patents for small entities that qualify for reduced fees under section 4(b)(1) of title 35, United States Code, by 50 percent for small entities that qualify for reduced fees under section 4(b)(2) of title 35, United States Code, by 75 percent for small entities that qualify for reduced fees under section 4(b)(3) of title 35, United States Code, so long as the fees of the prioritized examination program set are to recover the estimated cost of the program.

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

On page 91, between lines 14 and 15, insert the following:

(2) Petition for Post-Grant Review.—If a petition for post-grant review has been filed with respect to a patent, the court may not stay its consideration of the petition.”
(b) No Provision of Facilities Authorized.—The repeal made by the amendment in subsection (a)(1) shall not be construed to authorize the provision of any court facilities of administrative support services outside of the District of Columbia.

On page 91, line 13, strike "(b)" and insert "(c)".

On page 91, line 23, strike "under either subsection" and all that follows through "shall certify" on page 92, line 2.

On page 92, between lines 7 and 8, insert the following:

"(d)".

On page 92, line 7, before the semicolon insert "not including applications filed in another country, provisional applications under section 111(b), or international applications filed under the treaty defined in section 35(a) for which the basic national fee under section 41(a) was not paid".

On page 92, between lines 7 and 8, strike "has 5 or fewer employees and that such entity has" and insert "has".

On page 93, line 7, strike "that does" and all that follows through line 11, and insert the following: "exceeding 3 times the most recently reported median household income, as reported by the Bureau of Census; and"

On page 93, line 2, before the semicolon insert "the following definitions shall apply:

(c) Foreign Currency Exchange Rate.—If an applicant's or entity's gross income in the period that is 4 years after the date that the applicant was an employee, a relative of an employee, or has any affiliation with the entity of higher education.

On page 93, strike lines 4 and 5, and insert "such entity has" and "has".

On page 93, line 1, strike "(3) has not as-

(a) References.—Except as otherwise expressly provided, wherever in this section or any regulation adopted pursuant to a section of this Act or a chapter, the reference shall be considered to be made to that section or chapter in title 35, United States Code.

(b) Transitional Program.—(1) Establishment.—Not later than 1 year after the date of enactment of this Act, the Director shall issue regulations establishing and implementing a transitional post-grant review proceeding of the invalidity of covered business-method patents. The transitional proceeding implemented pursuant to this subsection shall be regarded as, and shall have the same effects and procedures of, a post-grant review under chapter 32, subject to the following exceptions and qualifications:

(A) Section 321(c) and subsections (e)(2), (f), and (g) of section 323 shall not apply to a transitional proceeding.

(B) A person may not file a petition for a transitional proceeding with respect to a covered business-method patent unless the person or his real party in interest has been sued for infringement of the patent or has been charged with infringement under that patent.

(C) A petitioner in a transitional proceeding who challenges the validity of 1 or more claims of a covered business-method patent on a ground raised under section 102 of title 35, United States Code, or in a proceeding before the International Trade Commission that a claim in a patent on a ground on which the petitioner raised during a transitional proceeding that resulted in a final written decision.

(D) The Director may institute a transitional proceeding only for a patent that is a covered business-method patent.

(2) Effective Date.—The regulations issued pursuant to paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all covered business-method patents that issued before the date of enactment, except that the regulations shall not apply to a patent described in the first sentence of section 5(f)(2) of this Act during the period that a petition for post-grant review of that patent would satisfy the requirements of section 321(c).

(3) Sunset.—(A) In General.—This subsection, and the regulations issued pursuant to paragraph (1) shall take effect on the date that is 4 years after the date that the regulations issued pursuant to paragraph (1) take effect.

(B) Applicability.—Notwithstanding subsection (A), this subsection and the regulations issued pursuant to paragraph (1) shall continue to apply to any petition for a transitional proceeding that is filed prior to the date that this subsection is repealed pursuant to subparagraph (A).

(c) Request for Stay.—(1) In General.—If a party seeks a stay of a civil action alleging infringement of a patent under section 281 in relation to a transitional proceeding for that patent, the court shall decide whether to enter a stay based on:

(A) Whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial;

(B) Whether discovery is complete and whether a trial date has been set;

(C) Whether a stay, or the denial thereof, would unfairly prejudice the party or present a clear tactical advantage for the moving party; and

(D) Whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court.

(d) Review.—A party may take an immediate interlocutory appeal from a district court's decision under paragraph (1). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedents.

(2) Definition.—For purposes of this section, the term "covered business method patent" means a patent that claims a method or corresponding apparatus for performing data processing operations utilized in the practice, administration, or management of a financial product or service, except that the practice, administration, or management of a financial product or service, including its marketing, sale, or use, is not a covered business method patent.

(e) Rule of Construction.—Nothing in this section shall be construed as amending or interpreting categories of patent-eligible subject matter pursuant to section 101.

SECTION 19. TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.

(a) Authority to Cover Certain Travel-Related Expenses.—Section 2(b)(11) of title 35, United States Code, is amended by inserting ", and the Office is authorized to expend funds to cover the subsistence expenses and travel-related expenses, including per diem, lodging costs, and transportation costs, of non-federal employees attending such program after "world".

(b) Payment of Administrative Judges.—Section 3(b) of title 35, United States Code, is amended by adding at the end the following:

"(6) Administrative Patent Judges and Administrative Trademark Judges.—The Director has the authority to fix the rate of basic pay for the administrative patent judges appointed pursuant to section 6 of this title and the administrative trademark judges appointed pursuant to section 17 of the Trademark Act of 1946 (15 U.S.C. 1007) at not greater than the rate of basic pay payable for Level III of the Executive Schedule. The payment of a rate of basic pay under this paragraph shall be considered to be in addition to the pay limitation of section 5306(e) or 5373 of title 5."

SECTION 20. PATENT AND TRADEMARK OFFICE FUNDING.

(a) 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) Fund.—The term "Fund" means the public enterprise revolving fund established under section (c).

(3) Office.—The term "Office" means the United States Patent and Trademark Office.

(4) "Trademark Act of 1946" means an Act entitled "Act to provide for the registration and
obligation, representation, or other commitment; and (ii) by striking “shall be deposited into the Fund on or after the effective date of subsection (b)(1)—
(A) any fees collected under sections 41, 42, and 43 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund, provided, however, that no funds collected pursuant to section 41(h) of this Act or section 1(a)(2) of Public Law 111–145 shall be deposited in the Fund.
(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund shall be available, without fiscal year limitation, to—
(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 41 of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and necessary, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office relating to patents and trademarks, as such services, programs, activities, and duties are described under—
(i) title 35, United States Code; and
(ii) the Trademark Act of 1946; and
(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(4) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—
(1) be submitted to the Committee on Appropriations of the House of Representatives of the Congress for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;
(2) contain a plan of the Office, including specific expense and staff needs for the upcoming fiscal year;
(3) describe the long term modernization plans of the Office;
(4) set forth details of any progress towards such modernization plans made in the previous fiscal year;
(5) include the results of the most recent audit carried out under subsection (f).

(5) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally accepted accounting procedures.

(6) BUDGETARY EFFECTS.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement of Budgetary Effects of PAYGO Legislation for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 122. Mr. COONS 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 77, strike line 23 and all that follows through page 78, line 6.
On page 78, line 7, strike “(b)” and insert “(a)”.
On page 78, line 20, strike “(c)” and insert “(b)”.

SEC. 123. Mr. KIRK (for himself and Mr. PAYOR) 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 104, between lines 22 and 23, insert the following:

SEC. 18. PATENT OMBUDSMAN PROGRAM FOR SMALL BUSINESS CONCERNS.
Subject to available resources, the Director or the Trademark Office shall establish a Patent Ombudsman Program for the United States Patent and Trademark Office for the purpose of providing support and services relating to patent filings to small businesses.

SEC. 124. Mr. MENENDEZ 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 104, strike line 23 and insert the following:

SEC. 19. EFFECTIVE DATE.
SA 127. 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 94, between lines 18 and 19, insert the following:

(c) EXCLUSION.—This section does not apply to tax preparation computer software or financial management computer software that is novel and nonobvious as computer software.

On page 94, line 19, strike "(c)" and insert "(d)".

SA 128. Mr. FRANKEN 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 104, between lines 22 and 23, insert the following:

SEC. 18. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

Section 1865(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

"(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment, ."

SA 129. Mr. RISCH 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 42, line 19, strike "6 months" and insert "1 year".

SA 130. Mr. RISCH 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 38, strike line 17 and all that follows through page 53, line 12.

SA 131. 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 79, line 18, strike "(and micro entities—" and insert "(micro entities, HBCUs, and other minority-serving institutions—"

On page 80, line 2, strike the period and insert "and to any eligible institution defined in section 8(d)(3)(C);"

SA 132. Mr. CARDIN (for himself and Ms. LANDRIEU) 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 20, strike line 11 and all that follows through "(iv)" on line 14, and insert the following:

(ii) the effects of the change on small business concerns owned and controlled by women, as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632), and small business concerns owned and controlled by socially and economically disadvantaged individuals, as that term is defined in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C));

(iv) the cost savings and other potential benefits to small business concerns of the change; and


NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 8, 2010, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy .senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, March 10, 2011, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy .senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Monday, March 8, 2010, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy .senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 9, 2010, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy .senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.