

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, designer of nature's cycles and the judge of human events, continue to guide us through all the seasons of life.

Eight weeks ago today, this Nation was viciously attacked by terrorists. Help the Members of this House and all Americans to understand what has happened to us since then. That first day knocked us into a delirium of astonishment, anger, and loss. Give us now a second wind of Your Spirit.

You, Lord of revelation, have promised to be with us. Reveal to us through prayer the true nature of this Nation. Study in us the nature of war and its destructive forces.

Make Your presence known to us by faith renewed in You, Almighty God, and faith in others and in ourselves. Give us hope by the solidarity of friends in the family of nations, and continue to surprise us with the indomitable love of freedom arising from the depths of this people. May this strength never be stymied by distracting news-clips or extinguished by fear.

Rather, we have chosen to settle in for the unpredictable season of war, as we wrestle to pray "Thy will be done" in us, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

DISPENSING WITH CALL OF PRIVATE CALENDAR ON TODAY

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SUBSTANTIAL AMOUNTS OF NUCLEAR COMPONENTS MISSING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. According to news reports, the Department of Energy cannot find substantial amounts of plutonium and uranium. The plutonium and uranium were, according to a Department spokesman, either loaned out to research groups or, quite simply, it was "just the fault of sloppy bookkeeping."

Unbelievable. It appears that these two powerful components of nuclear destruction are being regulated as well as condoms at a Vegas brothel.

Beam me up here.

I yield back the need to find these lost items, before bin Laden delivers them to our front lawn.

SUPPORT TRADE PROMOTION AUTHORITY FOR PRESIDENT

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, renewing Trade Promotion Authority for the President is vitally important for small business exporters. Many will be surprised to learn that 97 percent of all U.S. exporters are small businesses and that 69 percent of all U.S. exporters employ less than 20 workers. In addition, the number of small business exporters has increased from 66,000 in 1987 to 224,000 in 1999.

Lowering foreign trade barriers helps small business exporters more than large companies. While most large companies can either export or set up a factory overseas, most small business exporters have only one choice, and that is to export from America.

There are many complicated issues that face small business exporters, such as streamlining foreign customs practice. Let us give the President the tools he needs to negotiate away these unfair trade barriers.

WHERE IS AVIATION SECURITY BILL?

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, where is the aviation security bill? I will tell you where it is. It has been hijacked. Americans are demanding that we act and that we act quickly; yet the House leadership continues to play politics.

The travel industry is also demanding that we act quickly; yet we fail to move.

It has been over 7 weeks since the September 11 date, and the American public knows that we could have already sent this bipartisan piece of legislation to the President to be signed. Yet this weekend we had the managers at the O'Hare Airport allow knives and other dangerous items to slip through. In Kentucky, we also had an occurrence.

Even Secretary of Transportation Mineta has concluded that the "Fed-

eral Government must take direct control of the security system."

Airport security is national security. National security should be handled by highly trained, motivated Federal workers.

We cannot afford to stand still. We must move forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules but not before 6:30 p.m. today.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2047) to authorize appropriations for the United States Patent and Trademark Office for fiscal year 2002, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 2002".

SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for fiscal year 2002 an amount equal to the fees collected in fiscal year 2002 under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.

(a) *ELECTRONIC FILING AND PROCESSING.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this Act referred to as the "Director") shall, during the 3-year period beginning October 1, 2001, develop an electronic system for the filing and processing of patent and trademark applications, that—*

- (1) *is user friendly; and*
- (2) *includes the necessary infrastructure—*

(A) to allow examiners and applicants to send all communications electronically; and

(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) *AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 2, there is authorized to be appropriated to carry out subsection (a) of this section not more than \$50,000,000 for fiscal year 2002. Amounts made available pursuant to this subsection shall remain available until expended.*

SEC. 4. STRATEGIC PLAN.

(a) *DEVELOPMENT OF PLAN.—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan*

that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on October 1, 2002—

(1) enhance patent and trademark quality;
(2) reduce patent and trademark pendency; and

(3) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 3, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—The Director shall, not later than January 15, 2002, or 4 months after the date of the enactment of this Act, whichever is later, submit the plan developed under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

SEC. 5. EFFECTIVE DATE.

This Act shall take effect on October 1, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2047, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2047 and urge the House to adopt the measure. The purpose of this bill is to authorize the Patent and Trademark Office to retain all of the user fee revenue it collects in fiscal year 2002 for agency operations subject to appropriations. In addition, the PTO is to earmark a portion of this revenue to address problems relating to its computer systems and to develop a 5-year strategic plan to establish goals and methods by which the agency can enhance patent and trademark quality, while reducing application pendency.

The bill will allow us to move forward and to make the PTO a more responsive and efficient agency that will better serve the needs of inventors and trademark filers.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope we will pass this bill very clearly and overwhelmingly. A lot of lip service is paid to the role

that innovation plays in our economy. The time has come to put our money where our mouth is. Indeed, it is not even our money.

What we are talking about here is trying to change a practice whereby patent application fees have been used to support other governmental programs, rather than devote all of that to the Patent Office.

It should be noted that we raised patent fees a few years ago. When we raised them, the assumption, the implicit promise, was these fees would go to improving the patent process. To take fees from people seeking patents and diverting them to other purposes is a grave error. We ought to be maximizing our ability to service the innovators in this economy, and we do that by allowing these fees to stay here.

Now, I do want to say, I understand what happens. It is the members of the Committee on Appropriations who, from time to time, use some of these fees. I do not wish to speak harshly of them. Some of my best friends are appropriators, and I hope they remember that at this season of conference reports. But they are themselves squeezed when they are given responsibilities to fund and inadequate revenues with which to fund them. In some cases the temptation is very strong for them to look at the revenues at the Patent Office and divert them to other purposes.

The answer, Mr. Speaker, is not to divert revenues from the Patent Office to pay for these other programs, but to stop this practice of reducing the Government's revenues by tax cuts that leave us unable to afford programs for which there is great demand and great need. In other words, this practice of raiding the patent fees to fund other programs is one of the negative consequences of reducing government revenues through irresponsible tax cuts below the level necessary to sustain important government activity.

So I look forward to passing this bill; and I hope we will be able to keep the promise once made that, patent fees having been raised, the Patent Office would get the benefit of them.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in strong support of H.R. 2047, the Patent and Trademark Office (PTO) Authorization Act of 2002.

The U.S. Patent and Trademark Office, located in my congressional district, is the agency most involved in the growth of innovation and commercial activity in our country.

Patents and trademark registrations help create new industries and high-wage jobs. This process is critical to our global competitiveness and technological leadership.

The PTO is entirely supported with the fees paid by patent and trademark applicants. It receives no taxpayer funds.

Since 1992, however, Congress has been withholding an increasing portion of these fees for use in other Department of Commerce agencies. More than \$800 million has been withheld to date. This alarming practice is made worse by the fact that since 1992, the

PTO has experienced a 75 percent increase in its workload. As a result, the PTO is in near-crisis mode and is starved for funding.

The increasing delays at the PTO—now more than two years to get a patent, and getting worse—are intolerable, not just for the companies involved but for the whole economy.

H.R. 2047 takes several important steps to combat these unsettling trends. This bill authorizes full funding for the Patent and Trademark Office. This bipartisan measure also directs the PTO to develop an electronic system for filing and processing of patent and trademark applications.

Furthermore, H.R. 2047 requires the administration to develop a 5-year strategic plan aimed at improving the quality of issued patents and trademarks, while reducing the waiting time.

In today's economic climate, we as a nation cannot afford to neglect the PTO's vital mission of fostering new technologies and protecting American inventors. It is absolutely critical that inventors get the protection they need to encourage the innovation and the creativity that makes this country prosper. Strong patents and trademarks help our economy and U.S. consumers.

This bipartisan bill offers a new approach that will provide adequate resources for the PTO to handle its huge workload and enable our country to maintain its global leadership in technology and innovation.

I thank Chairman COBLE and Congressman BERMAN for their leadership on H.R. 2047 and urge my colleagues to support it.

Mr. COBLE. Mr. Speaker, H.R. 2047 would help to correct the diversion problem at the PTO by authorizing the agency to keep all of the fee revenue it raises in fiscal year 2002, subject to appropriations. In addition, and consistent with this emphasis on oversight, the legislation sets forth two problem areas that PTO should address in the coming fiscal year, irrespective of its overall budget: First, the PTO Director is required to develop an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Fifty-million dollars are earmarked for this project in fiscal year 2002. Second, the Director, in consultation with the Patent and Trademark Public Advisory Committees, must develop a strategic plan that prescribes the goals and methods by which PTO will enhance patent and trademark quality, reduce pendency, and develop a 21st century electronic system for the benefit of filers, examiners, and the general public.

Mr. Speaker, H.R. 2047 will allow the patent and trademark communities to get more bang for their filing and maintenance buck, while enhancing the likelihood that the agency will receive greater appropriations in the upcoming fiscal year and in the future. It is a bill that benefits the PTO, its users, and the American economy. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, we all know that the Patent and Trademark Office is crucial to America's economy, reviewing technologies and granting patents on thousands of new inventions every year. And this year along has seen a thirteen percent rise in patent applications.

We also know the PTO is losing resources and cannot handle the increased workload.

The PTO takes no money from taxpayers; instead, it is fully funded by user fees, generating \$1 billion per year. Unfortunately, appropriators and the administration treat the PTO like a savings and loan and divert its money every year for other government programs. To date, over \$600 million in fees has been diverted since 1992. This coming year alone, the appropriators are taking \$200 million.

Not surprisingly, this diversion is taking its toll. The PTO cannot hire or retain qualified patent examiners with advanced scientific degrees; they prefer the more lucrative salaries in the private sector. The PTO also cannot update its computer systems to thoroughly search databases of information and determine whether patent applications really disclose new and nonobvious inventions; this makes it that more likely for the PTO to issue a bad patent. Finally, just a few years ago it took the PTO 19.5 months to rule on a patent application; it now takes 26 months, and is expected to be 38.6 months by 2006. At that rate, inventions will be obsolete before they're patented.

We cannot let the PTO and American inventors continue to suffer this way. H.R. 2047—introduced by Chairman COBLE, Ranking Member BERMAN, and myself—resolves the problem by letting the PTO keep all of its fiscal year 2002 fees. It also lets the PTO use some of its money to modernize its electronic filing systems. The bill finally requires the PTO to develop a five-year strategic plan explaining what resources it needs to better serve its customers. This plan will make it easier for Congress to make future oversight decisions. I urge my colleagues to vote "yes" on this legislation.

Mr. SMITH of Texas. Mr. Speaker, the high-tech industry plays a prominent role in our economy. That's why it's important to allow the U.S. Patent and Trade Office (USPTO) to retain its user fees. Timely and quality service provided by the PTO helps spur innovation and strengthen our economy.

H.R. 2047 is a good bill that has three basic components. It allows the patent office to retain its fees, which are normally distributed for other government operations. This extra funding will speed up the processing of patent applications that now takes an average of nearly 27 months. If these fees continue to be diverted, pendency—the time from filing to granting of a patent—may increase to 38 months by 2006.

In recent years, the number of technology and biotechnology patents has increased. Now more than ever, it's important to ensure that the PTO has adequate funding through its own fee mechanisms. The PTO must produce high quality patents on a timely basis. It is struggling to keep up with the workload and lacks new technology that is desperately needed to do its job.

The bill directs and PTO to develop and implement an electronic system for filing and processing applications. It also orders the director of the patent office to develop a 5-year strategic plan to improve and streamline patent operations.

I urge my colleagues to support this important measure so that the PTO can improve its critical role in our economy.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2047, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEED-BASED EDUCATIONAL AID ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 768) to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Need-Based Educational Aid Act of 2001".

SEC. 2. AMENDMENT.

Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking "2001" and inserting "2008".

SEC. 3. GAO STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the effect of the antitrust exemption on institutional student aid under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note).

(2) CONSULTATION.—The Comptroller General shall have final authority to determine the content of the study under paragraph (1), but in determining the content of the study, the Comptroller General shall consult with—

(A) the institutions of higher education participating under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) (referred to in this Act as the "participating institutions");

(B) the Antitrust Division of the Department of Justice; and

(C) other persons that the Comptroller General determines are appropriate.

(3) MATTERS STUDIED.—

(A) IN GENERAL.—The study under paragraph (1) shall—

(i) examine the needs analysis methodologies used by participating institutions;

(ii) identify trends in undergraduate costs of attendance and institutional undergraduate grant aid among participating institutions, including—

(I) the percentage of first-year students receiving institutional grant aid;

(II) the mean and median grant eligibility and institutional grant aid to first-year students; and

(III) the mean and median parental and student contributions to undergraduate costs of attendance for first year students receiving institutional grant aid;

(iii) to the extent useful in determining the effect of the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note), examine—

(I) comparison data, identified in clauses (i) and (ii), from institutions of higher education that do not participate under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note); and

(II) other baseline trend data from national benchmarks; and

(iv) examine any other issues that the Comptroller General determines are appropriate, including other types of aid affected by section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note).

(B) ASSESSMENT.—

(i) IN GENERAL.—The study under paragraph (1) shall assess what effect the antitrust exemption on institutional student aid has had on institutional undergraduate grant aid and parental contribution to undergraduate costs of attendance.

(ii) CHANGES OVER TIME.—The assessment under clause (i) shall consider any changes in institutional undergraduate grant aid and parental contribution to undergraduate costs of attendance over time for institutions of higher education, including consideration of—

(I) the time period prior to adoption of the consensus methodologies at participating institutions; and

(II) the data examined pursuant to subparagraph (A)(iii).

(b) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2006, the Comptroller General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains the findings and conclusions of the Comptroller General regarding the matters studied under subsection (a).

(2) IDENTIFYING INDIVIDUAL INSTITUTIONS.—The Comptroller General shall not identify an individual institution of higher education in information submitted in the report under paragraph (1) unless the information on the institution is available to the public.

(c) RECORDKEEPING REQUIREMENT.—

(1) IN GENERAL.—For the purpose of completing the study under subsection (a)(1), a participating institution shall—

(A) collect and maintain for each academic year until the study under subsection (a)(1) is completed—

(i) student-level data that is sufficient, in the judgment of the Comptroller General, to permit the analysis of expected family contributions, identified need, and undergraduate grant aid awards; and

(ii) information on formulas used by the institution to determine need; and

(B) submit the data and information under paragraph (1) to the Comptroller General at such time as the Comptroller General may reasonably require.

(2) NON-PARTICIPATING INSTITUTIONS.—Nothing in this subsection shall be construed to require an institution of higher education that does not participate under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) to collect and maintain data under this subsection.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on September 30, 2001.

Amend the title so as to read: "An Act to amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws, and for other purposes."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days