

exceeded 75 percent of its commitment authority to insure mortgages under the General Insurance and Special Risk Insurance (GI/SRI) Fund. FHA Commissioner David Stevens further warned that without an additional \$5 billion in commitment authority, the agency's current limitation would be fully exhausted by late August or September. Without swift action, that warning is now a reality.

As you know, during this period of significant turmoil in the credit markets, FHA's multifamily and health care programs have been a critical source of stable and affordable financing. We cannot afford a suspension of these important programs.

NMHC and NAA strongly urge passage of this critical legislation.

Sincerely,

DOUGLAS M. BIBBY,  
President, National  
Multi Housing  
Council.

DOUGLAS S. CULKIN, CAE,  
President, National  
Apartment Associa-  
tion.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. FRANK) that the House suspend the rules and pass the bill, H.R. 5872, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5893, INVESTING IN AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 111-577) on the resolution (H. Res. 1568) providing for consideration of the bill (H.R. 5893) to amend the Internal Revenue Code of 1986 to create jobs through increased investment in infrastructure, to eliminate loopholes which encourage companies to move operations offshore, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5850, TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2011

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 111-578) on the resolution (H. Res. 1569) providing for consideration of the bill (H.R. 5850) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2011, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### UNITED STATES PATENT AND TRADEMARK OFFICE SUPPLEMENTAL APPROPRIATIONS ACT, 2010

Mr. MOLLOHAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5874) making supplemental appropriations for the United States Patent and Trademark Office for the fiscal year ending September 30, 2010, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5874

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2010, and for other purposes, namely:

#### DEPARTMENT OF COMMERCE

##### UNITED STATES PATENT AND TRADEMARK OFFICE

For an additional amount for "Salaries and Expenses" of the United States Patent and Trademark Office, \$129,000,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2010, so as to result in a fiscal year 2010 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year 2010, should the total amount of offsetting fee collections be less than \$2,016,000,000, this amount shall be reduced accordingly.

##### BUREAU OF THE CENSUS

##### PERIODIC CENSUSES AND PROGRAMS

Of funds made available under this heading by Public Law 111-117, \$129,000,000 are hereby rescinded.

This Act may be cited as the "United States Patent and Trademark Office Supplemental Appropriations Act, 2010".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from Virginia (Mr. WOLF) each will control 20 minutes.

The Chair recognizes the gentleman from West Virginia.

##### GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 5874.

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

There was no objection.

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

Mr. Speaker, the United States Patent and Trademark Office, on an annual basis practically, has budgetary problems. It arises from the system under which they are funded and estimate their own finances, and the Appropriations Committee responds to that. It's imperfect because their predictions are obviously imperfect. They are talking about revenues that they may or may not receive into the future.

This legislation addresses their concerns for this year. The activities of

the U.S. Patent and Trademark Office are fully financed by user fees. And every year Congress appropriates an amount for the agency's activities that is equal to what the agency estimates it will collect in fees.

Based on higher-than-estimated fee collections to date in fiscal year 2010, it appears that the agency could potentially collect more in fees this year than was earlier estimated, and these additional fees would be unavailable to the agency this year under its current 2010 appropriation level.

What this bill, Mr. Speaker, will do, is allow USPTO to spend up to an additional \$129 million in patent and trademark fees if the agency actually collects fees over and above the current appropriation level of \$1.887 billion. This additional appropriation was requested by President Obama's administration and is based on a revised CBO estimate of the agency's fee collections for fiscal year 2010. This bill reflects the administration's and Congress's commitment to make fee revenue available to USPTO for patent and trademark activities.

The timely and efficient processing of patent and trademark applications is critical to the competitiveness of American businesses and the contributions of individual inventors to economic growth. The USPTO currently takes an average of over 34 months to complete the examination of patent application and has maintained a backlog of unexamined applications for several years. There are approximately 1.2 million patent applications now in the system, with over 750,000 awaiting an initial review by a USPTO patent examiner.

We should be clear, however, about what this bill will do and what this bill will not do. If the additional fees are actually collected in the remaining weeks of the fiscal year, the additional \$129 million in budget authority provided by this bill will begin to help the agency address the ongoing patent pendency and backlogs.

□ 1950

Mr. Speaker, what this bill will not do is fix the underlying structural flaws in USPTO's revenue mechanisms that are the major cause for the patent pendency and backlog problems that have plagued USPTO for years. The only path to a meaningful and permanent reduction in patent pendency and the backlog is for stakeholders to support, and Congress to approve, new fee authorities for USPTO that will lead to patent fees that reflect the actual cost to the agency and to our government. But that is beyond the scope of this appropriations bill.

Before concluding, Mr. Speaker, I want to reiterate that the Appropriations Committee consistently appropriates budget authority for USPTO based on the agency's own estimates of fee collections, and the current year appropriation was no exception to this rule. The administration's request for

this supplemental appropriation is based on higher-than-expected fee collections.

In cases where fees collected by USPTO but not appropriated in an annual appropriations bill are credited to a specific account within the general Treasury, those additional resources can be made available for appropriation to USPTO in subsequent appropriations acts, such as the one we are considering today.

While the bill before us today will not address the underlying problems at USPTO, it will provide additional relief to the agency as it seeks to address the patent backlog issue, and I urge my colleagues to support it.

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

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

Yesterday the House passed a supplemental appropriations bill under suspension of the rules. I think—and I would ask somebody to look—I think this Congress, and every Congress has a history and has a name. I think this will be called “the suspension Congress.” We have taken more legislation up under suspension of the rules, without any opportunity for people to be offering amendments. I think whatever side you’re on, whatever party you’re in, there really ought to be the opportunity for Members to offer amendments.

And so I think, I don’t know how you would do it, but I officially would request that maybe the Clerk of the House look to see how many bills at the end of this year were passed by suspension and to see if I was right by calling this “the suspension Congress.”

We are now resorting to considering an odds and ends bill at the end again on suspension. This bill could clearly be put on our own bill. On July 12, the administration requested language to allow the Patent and Trademark Office to spend an additional \$129 million in fiscal year 2010, with the desired effect being the reduction of backlogs in processing patent applications.

The bill before the House does that, and fully offsets the spending, as requested, with a rescission from excess amounts appropriated for the 2010 Census. The language in the bill differs somewhat from the language requested by the administration. I personally—and maybe others on the committee had—but personally I have not seen the bill until today after it had been placed on the suspension calendar. So you’re going to bring a bill up under suspension and the minority, maybe other people in the minority, but we haven’t been given the opportunity even to see it. Since there was no subcommittee or full committee consideration and no discussion with the minority prior to introduction, I don’t know why the changes were made to the request. It sort of says we’re not going to talk to the minority; we’re not going to discuss these things. Frankly I would tell the Patent and Trademark Office,

“You haven’t been up here to talk to anybody.” Just because the party in power happens to be the majority party, this ought to be an issue of non-partisan, or bipartisan working together. But again it all just sort of rolls out and comes up.

Finally, I would just say that this issue could have easily been addressed in regular order, either in committee markup or on the supplemental where I am sure the chairman, Mr. MOLLOHAN, as we go to conference on a bill—and I appreciate the leadership of Mr. MOLLOHAN on the committee—we could have rolled it in for timely action on the FY11 CJS appropriations bill. I don’t know why we’re doing it at this hour.

Secondly, anytime one party pushes the other party, and I would say this to my own party. If we ever get back into the majority, we ought to be sure that we treat the minority the way that we wanted to be treated when we were in the minority, because there were times past when we were in the majority that we maybe treated the minority in ways that we should not have treated them.

And so I would just say, speaking only for myself, but the party that I belong to, I think it’s important if or when we return to the majority that we have respect for the minority, to notify them and tell them and do everything we possibly can to make sure that we’re doing things in a bipartisan basis, particularly on bills that are not Republican or Democrat but are good for the country.

With that, I would reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I note the distinguished ranking member’s comments about “the suspension Congress” and lack of notice with regard to pieces of legislation.

I would just point out that, first of all, he is very familiar with this bill and very familiar with the USPTO. He has handled this legislation very competently as chairman and as ranking member and as a member of the committee. So he is very familiar, I know, with the subject matter of which we speak and the difficulty that USPTO faces because of the structural nature of the way it achieves funding every year.

He also knows that their estimating at the beginning of the year is an imperfect process because it’s a prediction and it’s based upon that prediction coming true in the future and it rarely does. They are either underestimating, or they overestimate. In this case they have financial needs that can be better met with this additional \$129 million. And the good news for USPTO is that they underestimated last year. Consequently, if they continue to collect fees at the current rate, they will collect \$129 million more than they projected.

Given that, it is only right that we try to address those needs in the context of their newly projected fee collections so that they will be able to re-

duce this unacceptable backlog. As the gentleman points out, in a negative way, that’s not known really until it happens or if the trend line begins to become apparent; and it is becoming apparent.

We’re going on recess here in a couple of days. It would be great to have notice on everything; a week in advance, or 3 days in advance or whenever in advance it would be satisfactory. This is a pretty simple proposal actually and I don’t think it’s difficult to understand.

I must say we on the majority side weren’t noticed many minutes before the minority was about the approach to this. I know the gentleman is—or I believe from his remarks and his attitude in the past with regard to recognizing USPTO’s needs, not a current but its structural needs of how you fund it, is certainly not opposing this.

I just wanted to assure him that there is no intent on our part in any way to mislead the gentleman.

Mr. WOLF. If the gentleman will yield, I just want the record to show that Mr. MOLLOHAN and his staff have been very fair. And I would not want to have the connection of what I said earlier with regard to that. Mr. MOLLOHAN and his entire staff have been very, very fair and have treated us very, very well. I didn’t want that to be inferred.

With that, I thank the gentleman.

Mr. MOLLOHAN. I would be very chagrined if we ever did anything but treat the gentleman fair. He is an outstanding Member of the Congress.

Mr. Speaker, a lot of Members are very interested in USPTO and interested in fixing it on the authorizing side and, of course, on the appropriations side.

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Three of those many Members who are particularly interested in USPTO have cosponsored this legislation. One of them is PATRICK MURPHY of Pennsylvania. Mr. MURPHY is here to speak on the legislation. The other two are Chairman CONYERS and Chairman MORAN: Chairman CONYERS in the authorizing committee, and Chairman MORAN is a distinguished member of the Appropriations Committee. I just want to note that they’ve been at the forefront of fighting for PTO and adequate funding so that they can reduce the backlog of which we speak today.

Mr. MURPHY is a young Member, a distinguished member of the Commerce, Justice, Science Subcommittee which funds USPTO. He’s taken a particular interest in this issue, becoming very knowledgeable about it, and has been in the forefront of moving this legislation that would help them.

It is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. PATRICK J. MURPHY of Pennsylvania. Mr. Speaker, I thank Chairman MOLLOHAN. I appreciate your leadership on this issue and allowing me to partner with you on this important piece of legislation.

Mr. Speaker, we need to continue to get our economy back on the right track, and this bill is about boosting American technology and innovation. It's about making things in America again. Right now, at an office building outside of Washington, D.C., over 1 million patent applications sit gathering dust. Hundreds of thousands have yet to be looked at for the first time. Those applications could be the next iPhone, the next Netbook, or the next Google. But the agency tasked with reviewing those applications just can't keep up. So they sit and they sit, often for years. In fact, the average time that it takes a patent to be approved is about 30 months, but when you consider that today technologies often become obsolete within 18 months or less, it is clear that a process that takes 2½ years is simply too long, and it hurts our competitiveness.

Those applications at the U.S. Patent and Trade Office, or USPTO, represent the greatest this country has to offer in terms of new ideas and new technologies. They contain any number of breakthroughs that could help to propel our economy out of the recession, expand small businesses, and create new jobs. And they could be the key to helping our Nation maintain its technological edge globally. Patent activity among our biggest competitors like China, India, and South Korea have shown exponential growth, but this bill is one step in providing the USPTO the resources necessary to keep pace with the flow of innovation and ensure American businesses and workers can compete globally. And it is fully offset with a reduction in spending for the U.S. Census Bureau.

We need to make sure that the USPTO can hire the necessary patent examiners, install up-to-date information technology, and make other operational changes necessary to get at this backlog. This is an issue that's of critical importance for our economy and the job market. I encourage my colleagues to join me in supporting this commonsense and paid-for legislation. I know the manufacturers in Bucks County, Pennsylvania, and across our country care about it.

I want to thank, again, the leadership of Chairman MOLLOHAN.

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

Mr. MOLLOHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. MOLLOHAN) that the House suspend the rules and pass the bill, H.R. 5875.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## EMERGENCY BORDER SECURITY SUPPLEMENTAL APPROPRIATIONS ACT, 2010

Mr. PRICE of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5875) making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5875

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

### DEPARTMENT OF HOMELAND SECURITY

#### U.S. CUSTOMS AND BORDER PROTECTION

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$356,900,000, to remain available until September 30, 2012, of which \$78,000,000 shall be for costs to maintain U.S. Customs and Border Protection Officer staffing on the Southwest Border of the United States, \$58,000,000 shall be for hiring additional U.S. Customs and Border Protection Officers for deployment at ports of entry on the Southwest Border of the United States, \$208,400,000 shall be for hiring additional Border Patrol agents for deployment to the Southwest Border of the United States, \$2,500,000 shall be for forward operating bases on the Southwest Border of the United States, and \$10,000,000 shall be to support integrity and background investigation programs: *Provided*, That section 104 shall not apply to \$151,000,000 of the amount under this heading.

#### BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for "Border Security Fencing, Infrastructure, and Technology", \$14,000,000, to remain available until September 30, 2012, for costs of designing, building, and deploying tactical communications for support of enforcement activities on the Southwest Border of the United States.

#### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for "Air and Marine Interdiction, Operations, Maintenance, and Procurement", \$32,000,000, to remain available until September 30, 2012, for costs of acquisition and deployment of unmanned aircraft systems.

#### CONSTRUCTION AND FACILITIES MANAGEMENT

For an additional amount for "Construction and Facilities Management", \$9,000,000, to remain available until September 30, 2012, for costs to construct up to three forward operating bases for use by the Border Patrol to carry out enforcement activities on the Southwest Border of the United States.

#### U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$30,000,000 to remain available until September 30, 2012, for law enforcement activities targeted at reducing the threat of violence along the Southwest Border of the United States.

#### FEDERAL EMERGENCY MANAGEMENT AGENCY STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", \$50,000,000, to remain

available until September 30, 2011, for Operation Stonegarden.

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$8,100,000, to remain available until September 30, 2011, for costs to provide basic training for new U.S. Customs and Border Protection Officers and Border Patrol agents.

#### GENERAL PROVISIONS

##### (INCLUDING RESCISSIONS)

SEC. 101. For an additional amount for the Department of Justice for necessary expenses for increased law enforcement activities related to Southwest border enforcement, \$201,000,000, to remain available until September 30, 2012: *Provided*, That funds shall be distributed to the following accounts and in the following specified amounts—

- (1) "Administrative Review and Appeals", \$2,118,000;
- (2) "Detention Trustee", \$7,000,000;
- (3) "Legal Activities, Salaries and Expenses, General Legal Activities", \$3,862,000;
- (4) "Legal Activities, Salaries and Expenses, United States Attorneys", \$9,198,000;
- (5) "United States Marshals Service, Salaries and Expenses", \$29,651,000;
- (6) "United States Marshals Service, Construction", \$8,000,000;
- (7) "Interagency Law Enforcement, Interagency Crime and Drug Enforcement", \$21,000,000;
- (8) "Federal Bureau of Investigation, Salaries and Expenses", \$25,262,000;
- (9) "Drug Enforcement Administration, Salaries and Expenses", \$35,805,000;
- (10) "Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses", \$39,104,000; and
- (11) "Federal Prison System, Salaries and Expenses", \$20,000,000.

SEC. 102. (a) From unobligated balances made available to U.S. Customs and Border Protection "Border Security Fencing, Infrastructure, and Technology", \$100,000,000 are rescinded: *Provided*, That section 104 shall not apply to this subsection.

(b) From unobligated balances of prior year appropriations made available for "Transportation Security Administration—Aviation Security" in chapter 5 of title III of Public Law 110–28, \$15,500,000 are rescinded.

(c) From unobligated balances of prior year appropriations made available for "Federal Emergency Management Agency—Administrative and Regional Operations" in chapter 4 of title II of Public Law 109–234, \$34,500,000 are rescinded.

(d) From unobligated balances of prior year appropriations made available for "Department of Commerce—Bureau of the Census—Periodic Censuses and Programs" in title I of Public Law 111–117; 123 Stat. 3115, \$51,000,000 are rescinded: *Provided*, That section 104 shall not apply to this subsection.

SEC. 103. Notwithstanding any other provision of law, from available funds, the Department of Defense shall pay in fiscal years 2010 and 2011 the full costs associated with the deployment of the National Guard along the Southwest Border of the United States.

SEC. 104. Each amount made available herein is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

This Act may be cited as the "Emergency Border Security Supplemental Appropriations Act, 2010".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from