

his excellent presentation of George Washington's Farewell Address. It has been an important Senate tradition for many years. I thank him for his reading of that for all of us on this important occasion.

#### BUDGET CUT DEBATE

Mr. McCONNELL. Mr. President, I wish to start by welcoming everyone back from the recess. It is good to be back. Time away from Washington is an opportunity to step back and measure the priorities of party against those of people who sent us here to make sure they are properly aligned.

As the two parties reengage this week in a debate about our Nation's finances, it is vital that we focus not on mere partisan advantage but on what is right for the Nation. When it comes to the two choices before us of either maintaining an unsustainable status quo on spending or beginning to cut spending, the choice could not be more clear.

This morning's news brought word that a 47-member panel of some of the Nation's top business economists view government overspending as the top threat to our economy. In other words, a majority of those experts think Washington's inability to live within its means is the single greatest threat to our Nation's economic future. This is not a groundbreaking observation. After all, Americans have been telling lawmakers for more than 2 years that business as usual simply will not cut it anymore. They want us to get our fiscal house in order and to start to create the right conditions for private sector job growth. But today's news is further confirmation of the stakes in the debate over spending and that Democrats in Congress need to rethink the approach they have taken up to now.

The message from the November elections is quite clear: Stop spending money we don't have. Yet Democratic leaders persist in defending budgets that do just that well into the future.

Earlier this month, the President unveiled a 10-year budget for the government. At no point in this 10-year projection would the government spend less than it takes in. It does not even try. Just look at the estimates for this year alone. Unless we start to cut this year's projected spending, Washington will spend more than \$1.5 trillion more than it takes in—\$1.5 trillion more than it takes in this year—about \$350 billion more in red ink than we had last year. That is \$350 billion more in red ink than we had last year. Think about that—a \$350 billion increase in deficit spending over last year after an election in which the voters unambiguously said they want us to cut spending and stop adding debt.

Next year, Democrats in Congress want us to do it again. Once again, they plan to spend more than \$1 trillion more than we take in, and the same pattern the year after that. They want to spend hundreds of billions of

dollars more than we take in. And on and on.

All of this overspending, of course, just adds to our overall debt. When you add it all up, the numbers are truly staggering. As a result of Democratic budgets, the Federal debt 5 years from now is expected to exceed \$20 trillion—5 years from now, \$20 trillion. Interest payments alone on that debt will exceed  $\frac{1}{2}$  trillion a year. That is just interest payments on the \$20 trillion debt— $\frac{1}{2}$  trillion a year. Talk about a disconnect.

The American people have spent the last 2 years trying to get their own fiscal houses in order. Millions have lost their jobs. Millions more have lost their homes. Meanwhile, what have the Democrats in Washington been up to? On the day the President was sworn into office, the national debt was \$10.6 trillion. In the 25 months since, it has increased by about \$3.5 trillion. And despite a national uprising over this profligacy and an election that represented a wholesale repudiation of it, here is the President's response: Spend more. He calls it investments.

What about Democratic leaders in Congress? Are they reading the writing on the wall? Until this past weekend, they insisted they could not agree to cut a dime in spending—not a dime. Rather than look for ways the two parties can work together to rein in spending, they looked for ways to marginalize those who are working hard to come up with ways to do it. They called anybody who wanted to cut a dime in spending an extremist. I will tell you what is extreme, Mr. President. What is extreme is \$20 trillion in debt. That is what is extreme. Or  $\frac{1}{2}$  trillion in interest payments a year is extreme. Refusing to agree to even try to live within your means is extreme.

Tomorrow, the House will have a vote on a 2-week spending bill. This bill represents an effort to change the culture in Washington. It says: Let's start to change the mentality around here. Let's find \$4 billion that all of us can agree to cut and cut it and continue from that good start. Democratic leaders in Congress have resisted even this up until a few days ago. Now they have started to suggest they might be willing to agree to it. This is progress.

This week, Democrats will have the opportunity to show they have gotten the message. They can show they agree the time has come to change the status quo. Less spending, lower debt, reining in the size and scope of government, that is what is needed. That is how we will create the conditions for private sector job growth.

Democratic leaders in Congress have tried record spending and deficits. What has it gotten us? More than \$3 trillion more in debt and 3 million more jobs lost—\$3 trillion in new debt while we lost 3 million jobs. Democrats have an opportunity this week to show they get it. They have an opportunity to show that the status quo on spend-

ing and debt is no longer an option, to turn a corner. A lot depends on how they respond to that opportunity. Will they continue to see what they can get away with or will they finally concede that the old way of doing business must come to an end?

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period for the transaction of morning business until 3:30 p.m. today. Senators during that period of time will be able to speak for up to 10 minutes each. At 3:30 p.m., we will move to consideration of S. 23, which is the Patent Reform Act. At 4:30 p.m., the Senate will turn to executive session to consider the nominations of Amy Totenberg, of Georgia, to be a U.S. district judge and Steve C. Jones, of Georgia, to be a U.S. district judge. The time until 5:30 p.m. will be equally divided and controlled in the usual form. At 5:30 p.m., Senators should expect a voice vote on confirmation of the Totenberg nomination, to be followed by a rollcall vote on confirmation of the Jones nomination. We hope to complete action on the patent reform bill and consider a continuing resolution during this week's session.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period for the transaction of morning business until 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SPENDING

Mr. CORKER. Mr. President, I rise today to talk about our dilemma in the Federal Government. The American people are watching as we try to deal with our spending issues. I know there is a big debate over the 2-week spending issue, an issue where we are trying

to cut \$4 billion. Hopefully, some re-solve will come to that.

What the American people are seeing is that unless there is some type of gun to our heads or some type of urgent situation in front of us, we do not have the ability in this body to deal with spending issues in a disciplined or courageous way. Everybody understands that, and they understand that the only way we are looking at whatever spending cuts will take place—I know right now there are discussions over what they might be, but the only reason this issue is being addressed is that we have this deadline of government funding ending in the next week.

I know the Presiding Officer is someone who served as a county executive and had to balance budgets each year and had to figure out a way to live within their means. I know that upon arriving here a few months ago, he had to be totally aghast at the fact that we are taking in \$2.2 trillion this year and spending \$3.7 trillion this year. If we put all the discretionary spending we have, if we took every bit of non-mandatory spending or discretionary spending off the table, we still would not have a balanced budget. Everybody in this country knows that where we are is totally out of line. We are spending a little over 24 percent of our country's economic output today. Over the last 40 years, we have spent about 20.6 percent of our country's GDP.

I, along with CLAIRE MCCASKILL from Missouri, have put a bill in place. We have a number of cosponsors. We put in something called the CAP Act. We hope that over the course of this next year—over the course of the next several months—this is a bill that will actually pass. What it does, I think in a very logical way, is it says we are spending at levels relative to our economy today that are out of proportion, and let's go from where we are today to the 4-year average over a 10-year period. Mr. President, you have to agree that this is just a logical thing that gives us time to go from where we are today over the next 10 years to where the country has been, spending relative to our country's output for the last 40 years.

What this also does is it puts Congress in a straitjacket. Again, I think everybody who is watching knows that if we didn't have this CR—this continuing resolution bill—that is ending this week and if government wasn't going to shut down if it wasn't funded, there would be no negotiations taking place right now over spending. We all know that. So this puts in place a straitjacket on Congress—one that is very needed, unfortunately—to take us from here to there over a 10-year period. What happens if we don't meet the requirements of this declining spending relative to our economy is that sequestration comes into play. On a pro-rata basis—based on the relative weight of certain accounts to the overall spending levels, the OMB comes in and takes from every account of government on a pro-rata basis.

One of the problems we have had in this country is we want to deal with those things that are easy, and that is discretionary spending, in many cases. Nondefense discretionary spending ends up being about \$600 billion, roughly, of the \$3.7 trillion we are spending. Everybody in the world knows there is no way for us to solve our problem by only dealing with discretionary spending. So what this bill would do is put all items on the balance sheet. In other words, it would include all the entitlements.

I don't think there is a person in this body who believes if we continue as we are, if we don't redesign the programs the seniors are counting on—Medicare and Social Security—if we don't redesign these programs so they will be sustained for the long haul, then seniors are not going to have them. So this bill will force us in Congress to deal with designing these programs in such a way they will be here for the long haul. It puts everything on the table. Again, there is not a thinking person in Washington who doesn't know we have to address these issues.

There are a lot of people who say: Well, we cannot do these draconian things right now because we are in the middle of a recession. Hopefully, it looks like it is changing and hopefully changing very rapidly, but these changes would begin from where we are in the year 2013. So we would have a year or so to redesign these programs. We could act in an appropriate way to ensure they were here for the future but also put them in place in a manner that doesn't kill the American taxpayer, and we would cap spending. We have a multiyear averaging process in this bill to make sure, if there is a change in the economy in 1 year, we don't just have this volatile situation, but we would have the ability, 1 year in advance, to know what the appropriate spending levels are. It gives Congress the ability to act upon that throughout the year.

Again, if Congress doesn't act, then 45 days after a year ends, OMB comes in and puts in place something called sequestration—automatically takes money out of these accounts. I think that gives us the impetus to want to make sure we actually act. I don't think there is anybody in Congress who wants OMB coming in and taking money out of accounts. So that would be, in essence, the thing that would give us the sense of urgency we badly need in this body.

This is a problem that exists on both sides of the aisle and that is why I have sought bipartisan support for this bill. I have tried to put something in place that is very logical—I know that is not often the case here—something Americans across the country can understand and also those here in Washington will see as something that works toward a solution and gets us to where we need to go.

I think all of us understand the demographic changes that are taking

place in our country. I think all of us know that over the next 10 years, 20 million more Americans are going to be on Medicare and 20 million more Americans will be on Social Security. We are right on the cusp of that bubble. I am certainly getting ready to be a part of that. The Presiding Officer may not necessarily be there yet, but the point is this is something that has to occur for the good of our country.

So this is called the CAP Act. Again, what it will do is ensure that long after the point in time when the CR window opens and closes, long after the time the debt ceiling vote happens a little later this year—long after those occur and the American people have moved on to other issues and, obviously, Congress has moved on to other issues—we keep in place this fiscal discipline, this straitjacket, to take us where we need to go.

The Presiding Officer and I were in Pakistan and Afghanistan last week, and we witnessed some of the problems we are having there. We also witnessed the brilliance of our men and women in uniform and also many hard-working individuals at the State Department. While those threats are threats we are dealing with that are very important to the American people, I think most of us know the biggest threat today to our country is our inability to deal appropriately with our financial circumstances. I think we all know if we don't deal with that pretty soon, we are going to be putting our country's future in jeopardy. We will be putting in jeopardy the future of these wonderful people who sit in front of me.

The thing that is fascinating about this issue is, unlike what we saw in Pakistan and in Afghanistan, where we are relying on other people, this is something we can do ourselves. We have 100 percent control over spending in Washington—100 percent control of this is held in the hands of 100 Senators and 435 House Members. This is not something where we are depending on other countries or we are concerned about what might happen elsewhere. This is something we ourselves can deal with.

So what I have tried to put in place, along with CLAIRE MCCASKILL and others—and there are growing numbers of other people who are part of this process—is something that causes us to be responsible to the American people. So I hope others will join this. It is my hope we will do three things: I hope we will vote and pass on cuts in Federal spending today. I hope that will happen over the next short period of time. Whether it is some of the things we are looking at on the CR or maybe it is recommendations that have been put in place by the President's deficit reduction commission, I hope what we will do as a body is go ahead and vote to pass real cuts now.

Secondarily, what I hope will happen is that we will put in place something like the CAP Act to make sure we continue that fiscal discipline long after

people move on to other topics; that we keep that straitjacket in place so we do those things that are, again, responsible not only to this generation but future generations.

Thirdly, I hope we figure out a way, through some type of amendment, to ensure that, on into the future, we have put something in place at the Federal level which causes us to be fiscally responsible in this country. All of us know what it means to have to make choices. All of us have households. Many of us have led cities and States. Many of us have had businesses. We all understand what happens in the real world, and it is something that certainly needs to happen here. That has been sorely lacking for a long time.

So I thank the Chair for the time on the floor today, and I hope to talk about this many more times. I have been doing it, I assure you, throughout the State of Tennessee and in multiple forums in the Senate.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORKER. Mr. President, I had the opportunity to speak with you in the last several moments, and you had a couple questions about the CAP Act that I was just discussing on the floor. The Presiding Officer had some great questions about what it takes to overcome the CAP Act, in the event we were able to pass it.

It is just a 10-page bill. It is very eloquent. It doesn't have a lot of "whereases." It is just a business document that takes us from where we are to where we need to be. But, in essence, to override it, it would take a two-thirds vote. It would take two-thirds of the House and the Senate to actually override or get out of the straitjacket, if you will. There were previous bills, such as Gramm-Rudman and other types of bills that tried to keep Washington fiscally focused, and those bills required 60 votes. So this would be a higher threshold.

So, yes, if there was some type of national emergency and we needed to move beyond this straitjacket for 1 year or 6 months or something like that, a two-thirds vote could do that. I mean, 67 votes is a pretty tough threshold, and hopefully it is the kind of threshold necessary to keep the kind of discipline in place that we need.

So it is a 10-page bill. Again, it is very eloquent. I think it lays out a solution for us that hopefully will be a part of anything we do over the next several months.

I understand, after talking with the Presiding Officer over the last several

days, while traveling to these various countries, that he, along with many of our other colleagues—I know I did myself—came here to solve problems, not to message. In a body such as this, it is tough to solve these kinds of problems, but the only way to do it is to offer a pragmatic solution.

I know there are some people who are interested, sometimes, in messaging. I have tried to offer something that I think will take us from a place that is very much out of line in spending to a place that is more appropriate.

I might also say I thought the President's deficit reduction commission had some very good points as it relates to tax reform. I think all of us are aware of the \$1.2 trillion in tax expenditures that exist.

I was doing an event over the last several days, and a gentleman raised his hand and asked me: What do you mean by tax expenditures? Isn't the money ours until we give it to the Federal Government? Why would you call it a tax expenditure?

I think people realize in our Tax Code there are all kinds of exclusions and subsidies and favored companies and favored this and favored that. If we did away with all of those, there would be \$1.2 trillion we could use to lower everybody's rate, and we could make our Tax Code much more simple. The deficit reduction commission says we could take our corporate rates from where they are down to a level of about 26 percent—somewhere between 23 and 29 percent—and lower everybody's rates individually. I think most Americans, instead of filling out all these forms to see if they benefit from these various subsidies and credits, would much rather know that everybody is on the same playing field; that some favored company is not in a situation where they are more favored than another; that everybody is on the same basis.

I think there has been some good work done there. I hope we are able to take votes on that over the next several months. But there is a very elegant, pragmatic solution that has been offered that would go hand in hand with these types of measures and would cause us, over the next 10 years, to exercise the kind of fiscal discipline this country needs to confront what I think threatens our national security, even more than the things we saw on the ground in the Middle East last week.

With that, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. VITTER. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there an objection?

Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## PATENT REFORM ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 23, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 23) to amend title 35, United States Code, to provide for patent reform.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

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

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patent Reform Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. First inventor to file.
- Sec. 3. Inventor's oath or declaration.
- Sec. 4. Damages.
- Sec. 5. Post-grant review proceedings.
- Sec. 6. Patent Trial and Appeal Board.
- Sec. 7. Preissuance submissions by third parties.
- Sec. 8. Venue.
- Sec. 9. Fee setting authority.
- Sec. 10. Supplemental examination.
- Sec. 11. Residency of Federal Circuit judges.
- Sec. 12. Micro entity defined.
- Sec. 13. Funding agreements.
- Sec. 14. Tax strategies deemed within the prior art.
- Sec. 15. Best mode requirement.
- Sec. 16. Technical amendments.
- Sec. 17. Clarification of jurisdiction.
- Sec. [17]18. Effective date; [rule of construction.]

### SEC. 2. FIRST INVENTOR TO FILE.

(a) DEFINITIONS.—Section 100 of title 35, United States Code, is amended by adding at the end the following:

"(f) The term 'inventor' means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

"(g) The terms 'joint inventor' and 'co-inventor' mean any 1 of the individuals who invented or discovered the subject matter of a joint invention.

"(h) The term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

"(i)(1) The term 'effective filing date' of a claimed invention in a patent or application for patent means—