

funds within the grant program shall be included as well as any other sources of Federal, State or private funds. In addition, within three days of publication, each relevant agency shall be required to submit to the primary House and Senate committees all back-up information and materials on the methodology of the award selections, including how these awards are consistent with program assistance and goals; also included shall be all benchmarks and deadlines including rationales for the program(s)."

SA 4294. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4175 proposed by Mr. LAUTENBERG to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

(c) **LIABILITY FOR DEEPWATER HORIZON OIL SPILL.**—

(1) **IN GENERAL.**—Congress finds that—

(A) executives of British Petroleum Exploration & Production, Incorporated (referred to in this subsection as "BP") testified before Congress in May 2010 that BP would pay all legitimate claims relating to the Deepwater Horizon explosion and oil spill that exceed existing applicable economic liability limitations;

(B) a letter from the Group Chief Executive of BP to the Secretaries of Homeland Security and the Interior dated May 16, 2010, evidences an offer of BP to modify the oil and gas leasing contract involved in the Deepwater Horizon incident to incorporate new terms of liability by stating that BP is "prepared to pay above \$75 million" on "all legitimate claims" relating to that explosion and oil spill;

(C) that offer is acceptable to Congress and to the Secretary of the Interior;

(D) all documented legitimate claims pursuant to the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) for economic damages relating to the Deepwater Horizon explosion and oil spill should be paid by BP without limit on liability;

(E) BP should provide to the Federal Government any claims relating to the Deepwater Horizon explosion and oil spill that BP fails to pay; and

(F) if the Federal Government finds pursuant to the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) that such claims are legitimate under that Act, the claims should be returned to BP for immediate payment.

(2) **DIRECTIVE TO SECRETARY OF THE INTERIOR.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary of the Interior (referred to in this subsection as the "Secretary") shall—

(1) accept the new terms of liability offered by BP in the letter described in paragraph (1)(B); and

(11) consider the oil and gas leasing contract involved in the Deepwater Horizon incident as being amended to reflect those new terms.

(B) **PAYMENT OF CLAIMS.**—

(1) **IN GENERAL.**—As an inherent condition of the amended lease described in subparagraph (A), BP shall present to the Secretary each claim relating to the Deepwater Horizon explosion and oil spill that BP fails to pay.

(11) **FINDING OF LEGITIMACY.**—As a further inherent condition of the amended lease, if the Secretary finds a claim described in

clause (1) to be legitimate for payment by BP, the claim shall be returned to BP for immediate payment.

SA 4295. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . . EXCISE TAX ON PATENT TERM EXTENSIONS.

(a) **EXCISE TAX ON PATENT TERM EXTENSIONS GRANTED PURSUANT TO CERTAIN EXTENSION REQUESTS.**—Chapter 36 of the Internal Revenue Code of 1986 is amended by adding after subchapter D the following new subchapter:

"Subchapter E—Tax on Patent Term Extensions Granted Pursuant to Certain Extension Requests

"SEC. 4491. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the acceptance of an extension of a patent term pursuant to a request under section 156(1) of title 35, United States Code.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) shall be—

"(A) \$65,000,000 with respect to any application for a patent term extension, filed with the United States Patent and Trademark Office before the date of the enactment of this section, for a drug intended for use in humans that is in the anticoagulant class of drugs; or

"(B) the amount determined under paragraph (2) with respect to any other application for a patent term extension.

"(2) CALCULATION OF TAX.—The amount determined under this paragraph is the amount which the Secretary estimates to be equal to the sum of—

"(A) any net increase in direct spending arising from the extension of the patent term (including direct spending of the United States Patent and Trademark Office and any other department or agency of the Federal Government),

"(B) any net decrease in revenues arising from such patent term extension, and

"(C) any indirect reduction in revenues associated with payment of the tax under this section.

"(3) DETERMINATION BY SECRETARY.—The Secretary, in determining the amount under paragraph (2), shall consult with the Director of the Office of Management and Budget, the Director of the United States Patent and Trademark Office, and either the Secretary of Health and Human Services or, in the case of a drug product subject to the Act commonly referred to as the 'Virus-Serum-Toxin Act' (21 U.S.C. 151 et seq.), the Secretary of Agriculture.

"(c) BY WHOM PAID.—The tax imposed by this section shall be paid by the owner of record of the patent, or its agent. The Director of the United States Patent and Trademark Office, after consultation with the Secretary, shall inform the owner of record of the patent, or its agent, of the tax determined under subsection (b) at the time the Director provides notice of the length of the period of the extension of the patent term that will become effective pursuant to a request under section 156(1) of title 35, United States Code.

"(d) PAYMENT.—The tax imposed by this section shall be payable within 60 days after the Director of the United States Patent and Trademark Office provides notice to the owner of record of the patent, or its agent,

under subsection (c) of the amount of tax imposed. Unless such payment is made within such 60 days, a patent term extension pursuant to a request under section 156(1) of title 35, United States Code, shall not become effective and no tax shall be due under this section.

"(e) TAX PAYMENT NOT AVAILABLE FOR OBLIGATION.—Taxes received under this section are not available for obligation."

(b) **CLERICAL AMENDMENT.**—The table of subchapters for chapter 36 of such Code is amended by adding after the item relating to subchapter D the following new item:

"SUBCHAPTER E. TAX ON PATENT TERM EXTENSIONS GRANTED PURSUANT TO CERTAIN EXTENSION REQUESTS."

(c) **AMENDMENT.**—Section 156 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(1) ACCEPTANCE OF FILINGS IN CERTAIN CASES.—The Director shall accept an application under this section that was filed not later than 3 business days after the expiration of the 60-day period provided in subsection (d)(1) if the owner of record of the patent, or its agent, submits a request to the Director to proceed under this subsection not later than 5 business days after the expiration of that 60-day period. An application accepted by the Director under this subsection shall be treated as if it had been filed within the period specified in subsection (d)(1)."

(d) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Section 156(d)(1) of title 35, United States Code, is amended in the second sentence, by inserting "or subsection (1)" after "paragraph (5)".

(2) Section 156 (e)(2) of title 35, United States Code, is amended by inserting "or before a request under subsection (1) respecting the application is resolved" after "respecting the application" and inserting "certificate of extension" after "such".

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to any application for a patent term extension pursuant to section 156 of title 35, United States Code—

(A) that is made on or after the date of the enactment of this Act, or

(B) that, on the date of the enactment of this Act, is pending, that is described in section 4491(b)(1)(A) of the Internal Revenue Code of 1986 as added by subsection (a) of this section, or as to which a decision denying the application is subject to judicial review on such date.

(2) **TREATMENT OF CERTAIN APPLICATIONS.**—In the case of any application described in paragraph (1)(B), the 5-business-day period specified in section 156(1) of title 35, United States Code, as added by subsection (c) of this section, shall be deemed to begin on the date of the enactment of this Act, and, if the original term of the patent to be extended has expired, any extension or interim extension of the term of the patent granted pursuant to a request under section 156(1) of title 35, United States Code, shall be effective from the original expiration date of the patent.

NOTICE OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XVI, and rule XXII, Paragraph 2, for the purpose of