

by tax strategy patents and for including the tax strategy patent provision in S. 23.

Patents on tax strategy methods threaten the integrity, fairness, and administration of the tax system, and Grant Thornton believes resolving this problem must be an essential component of any patent reform legislation. Grant Thornton wants to encourage you to aggressively oppose efforts to remove or weaken the tax strategy patent provision in S. 23.

Tax strategy patents grant private legal parties virtual 20-year monopolies over particular methods of compliance with U.S. tax laws. Taxpayers cannot satisfy their legal obligations using a patented interpretation of the tax code, allowing patent holders to privatize tax provisions that Congress intended for everyone. This makes a uniform application of the U.S. Tax Code impossible, potentially forcing taxpayers to pay more tax than Congress intended and more tax than similarly situated taxpayers. Tax strategy patents threaten to undermine public confidence in the nation's tax laws, hinder compliance, and mislead taxpayers into believing that a patented strategy has been approved by the IRS solely because a patent was granted. In addition, tax strategy patents increase the costs and burdens of compliance. Preparers and taxpayers must not only determine the proper tax treatment of an item, but also whether that treatment is covered by a patent, whether the patent might be infringed by properly reporting the item, and whether the patent is valid.

Grant Thornton believes that no one should have a patent on the application of the law to the facts and that the granting of tax strategy patents should be prohibited by legislation. Grant Thornton supports the provision in Section 14 of S. 23, which is based on the freestanding legislation S. 139. The new provision builds on previous legislative efforts that enjoyed wide bipartisan support in both chambers. In the 110th Congress, the House passed a patent reform bill that would have barred tax strategy patents.

The new language in S. 23 would designate any claim on a patent application for a "strategy for reducing, avoiding, or deferring tax liability" as indistinguishable from prior art, and thus preclude applicants from using a tax strategy as the point of novelty. Grant Thornton believes this provision needs to be enacted quickly. Over 130 tax strategy patents have already been approved and more than 150 are currently pending.

Grant Thornton agrees that patents should continue to be available for tax preparation software, so long as the patent does not extend to tax strategies embedded in the software. Grant Thornton believes the bill sufficiently addresses the serious concerns raised by tax strategy patents without infringing on the rights of others to copyright, trademark or patent software that assists in the implementation of tax planning.

Grant Thornton is the U.S. member firm of Grant Thornton International, one of the six global accounting, tax and business advisory organizations. Through member and correspondent firms in over 100 countries, including 49 offices in the United States, the partners and employees of Grant Thornton member firms provide personalized attention and the highest quality service to public and private clients around the globe.

Sincerely yours,

DAVID B. AUCLAIR,  
Managing Principal, Washington National  
Tax Office.

Mr. GRASSLEY. However, now, in order to allay the concerns of Intuit, makers of Turbo Tax, I have worked with Senator BAUCUS to make clear that tax preparation software such as Turbo Tax is not a tax strategy.

Financial management software, however, is a little murkier. While products such as Quicken and QuickBooks are not tax strategies, tax strategies can be embedded in financial management products and software. The investment banks and the law firms that have patented tax strategies often use software that could be deemed financial management software. The Tax Adviser article I mentioned earlier and got unanimous consent to have printed in the RECORD describes some of these. With financial management software, patent claims that include inventions that are severable from tax strategies may be entitled to patent protection, but the tax strategy itself will remain available to all taxpayers.

So it is important to protect intellectual property rights for true tax preparation and financial management software. However, we must be sure to protect the rights of taxpayers to have equal access to legal tax strategies.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SURFACE TRANSPORTATION EXTENSION ACT OF 2011

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 662, the surface transportation extension bill; that the bill be read three times and the Senate proceed to a vote on passage of the bill; and that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 662) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

Mrs. BOXER. Madam President, I am so pleased the Senate has passed H.R. 662, the Surface Transportation Extension Act of 2011. This legislation provides a clean extension of Federal surface transportation programs through the end of the fiscal year.

H.R. 662 was passed by the House of Representatives yesterday by an overwhelming bipartisan vote of 421-4. This legislation had previously been approved by voice vote in the House Transportation and Infrastructure Committee.

Under this extension, States will receive \$23.1 billion for the remainder of fiscal year 2011. This equates to over

800,000 jobs nationwide that would be created or saved.

As chairman of the Senate Environment and Public Works Committee, I am working with my colleagues on both sides of the aisle and both sides of the Capitol to move forward on a transportation authorization that will put people to work, bring our Nation's highways, bridges, and transit systems up to a state of good repair, and reduce congestion and its impacts on commerce and communities.

The committee is planning to markup a new authorization by spring. However, this extension is necessary in order to give Congress time to enact this authorization.

I have letters from several organizations who urged Congress to pass H.R. 662. These letters were signed by AAA; American Association of State Highway and Transportation Officials, AASHTO; American Bus Association; American Highway Users Alliance; American Motorcyclist Association; Americans for Transportation Mobility, which includes 12 organizations; American Trucking Associations; Owner-Operator Independent Drivers Association; and U.S. Chamber of Commerce.

This broad and diverse coalition composed of businesses, workers, and users of the highways, recognized the need to enact this legislation today.

Investments in transportation infrastructure are an important part of the solution to the serious economic challenges we are facing. This is especially true in the construction industry, which has been hit hard by the economic downturn. According to January data released by the U.S. Bureau of Labor Statistics, the construction industry has an unemployment rate of over 22 percent.

Not only will this extension of SAFETEA-LU save jobs in the short term, an extension through the end of the fiscal year will provide the opportunity for Congress to enact a new surface transportation bill.

I am so pleased that my colleagues did the right thing and approved this legislation that will save hundreds of thousands of jobs, improve our nation's infrastructure, and provide a solid foundation for economic recovery.

I ask unanimous consent that several letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 28, 2011.

Hon. GARY L. ACKERMAN,  
House of Representatives, Rayburn House Office  
Building, Washington, DC.

DEAR REPRESENTATIVE ACKERMAN: Our organizations represent drivers, riders, and businesses that pay the federal highway user fees that fund the Highway Trust Fund (HTF). One of our top goals is to ensure that user fees are properly dedicated to federal programs that improve our nation's highway safety and mobility.

This year, Congress is expected to consider a major long-term transportation bill that will reform and streamline federal highway

programs, adopt new performance standards, and take steps to ensure that users of the system see real value and benefit for their investment. We look forward to working with you on this critical legislation over the course of the year.

In the interim, Congress must pass an extension of the existing authorization act, SAFETEA-LU. Congressmen Mica, Rahall, Duncan, DeFazio, and Hanna, have introduced H.R. 662, the Surface Transportation Extension Act of 2011, which extends current highway funding through the end of the fiscal year. Two weeks ago, the bill was reported out of the House Transportation & Infrastructure Committee by unanimous voice vote.

We hope that H.R. 662 will pass unanimously and we ask for your strong support when it is considered this week. The extension does not include any funding for earmarks and is consistent with the highway spending level proposed in the Continuing Resolution. Moreover, the Highway Trust Fund has more than enough revenue to fully fund this extension of authority. After H.R. 662 is enacted, the continuing resolution on appropriations will continue to set a spending limit on the various authorized accounts.

Failure to enact H.R. 662 would create more problems than simply a shutdown of government agencies. It would also halt highway projects from coast-to-coast because contractors would not be able to be reimbursed for their work. As highway users, we'd like to see these projects completed on time and under budget.

Thank you for your support. If you have any questions about H.R. 662, please do not hesitate to contact us prior to the vote.

Sincerely,

ROBERT L. DARBELNET,  
*President and CEO,*  
AAA.

EDWARD MORELAND,  
*Senior Vice President,*  
*Government Relations,*  
*American Motorcyclist Association.*

PETER J. PANTUSO,  
*President and CEO,*  
*American Bus Association.*

BILL GRAVES,  
*President and CEO,*  
*American Trucking Associations.*

GREGORY M. COHEN,  
*President and CEO,*  
*American Highway Users Alliance.*

TODD SPENCER,  
*Executive Vice President,*  
*Owner-Operator Independent Drivers Association.*

AMERICANS FOR  
TRANSPORTATION MOBILITY,  
*Washington, DC, February 28, 2011.*

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The Americans for Transportation Mobility (ATM) Coalition strongly urges you to pass H.R. 662, the "Surface Transportation Extension Act of 2011," that would extend the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) as well as expenditure authority for the Highway Trust Fund through the end of FY2011. While the ATM Coalition continues to support Congressional efforts to enact a well-funded, long-term surface transportation bill, the absence of such a bill makes this extension essential to creating and sustaining jobs and maintaining America's transportation infrastructure. Furthermore, this extension pro-

vides much needed certainty for the construction industry, states, and localities as they begin the 2011 construction season.

SAFETEA-LU expired September 30, 2009, and has since been operating on a series of short-term extensions—the latest of which expires at the end of this week. The uncertainty created by the lack of a multi-year federal commitment to improving America's highway and public transportation facilities is contributing to a slowdown in transportation development activity in many states. The jobs impact of this situation has rippled throughout the economy. Workers at design and engineering firms, construction companies, equipment manufacturers, and materials providers have lost their jobs and even more positions are on the line due to uncertainty in federal funding, at a time in which the U.S. unemployment rate remains at record highs.

Congress must not delay in passing a robust, multi-year highway and transit reauthorization in the 112th Congress. While reauthorization entails a host of challenging policy and revenue issues, this effort should be viewed as a key opportunity to move U.S. infrastructure into the 21st century, bolster economic recovery efforts, and improve all Americans' way of life. If local, state, and national leaders continue to ignore this important issue, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

To help prevent further job loss and ensure vital transportation investments continue, the ATM Coalition strongly urges you to extend SAFETEA-LU and expenditure authority for the Highway Trust Fund through the end of fiscal year 2011.

Sincerely,

AMERICANS FOR TRANSPORTATION MOBILITY.

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
*Washington, DC, February 28, 2011.*

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The U.S. Chamber of Commerce, the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector and region, strongly supports H.R. 662, the "Surface Transportation Extension Act of 2011."

The Chamber recognizes that Congress needs time to formulate a long-term reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU reauthorization). At the same time, the 2011 construction season is imminent and unemployment in the construction sector is at a staggering 22.5 percent. States, localities, and other project sponsors need clarity now regarding the federal funding commitments for this construction season.

An extension shorter than the remainder of the fiscal year would delay the job-creating capacity, safety, and connectivity projects that are needed to address the transportation challenges that cost our economy in wasted fuel, lost productivity, and delayed shipments of manufacturing inputs, consumer goods, and other items critical to the underlying growth of our businesses.

The Chamber urges Congress to approve H.R. 662 so that agencies and project sponsors can provide highway and public transportation investments during the 2011 construction season that contribute to much-needed economic growth, and support the backbone of business supply chains.

Sincerely,

R. BRUCE JOSTEN,  
*Executive Vice President,*  
*Government Affairs.*

AMERICAN ASSOCIATION OF STATE  
HIGHWAY AND TRANSPORTATION  
OFFICIALS,

*Washington, DC.*

TO THE MEMBERS OF THE UNITED STATES CONGRESS: The American Association of State Highway and Transportation Officials (AASHTO) supports passage of H.R. 662, the "Surface Transportation Extension Act of 2011," that would extend the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) as well as expenditure authority for the Highway Trust Fund through the end of FY 2011. While AASHTO continues to support Congressional efforts to enact a well-funded, long-term surface transportation bill, the absence of such a bill makes this extension essential to creating and sustaining jobs and maintaining America's transportation infrastructure. Furthermore, this extension provides much needed certainty for the construction industry, states, and localities as they begin the 2011 construction season.

SAFETEA-LU expired September 30, 2009, and has since been operating on a series of short-term extensions—the latest of which expires at the end of this week. The uncertainty created by the lack of a multi-year federal commitment to improving America's highway and public transportation facilities will contribute to a slowdown in transportation development activity in many states. The jobs impact of this situation has rippled throughout the economy. Workers at design and engineering firms, construction companies, equipment manufacturers, and materials providers have lost their jobs and even more positions are on the line due to uncertainty in federal funding, at a time in which the U.S. unemployment rate remains at record highs.

Congress must not delay in passing a robust, multi-year highway and transit reauthorization in the 112th Congress. While reauthorization entails a host of challenging policy and revenue issues, this effort should be viewed as a key opportunity to move U.S. infrastructure into the 21st century, bolster economic recovery efforts, and improve all Americans' way of life. If local, state, and national leaders continue to ignore this important issue, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

To help prevent further job loss and ensure vital transportation investments continue, AASHTO strongly urges you to extend SAFETEA-LU and expenditure authority for the Highway Trust Fund through the end of fiscal year 2011.

Sincerely,

JOHN HORSLEY,  
*Executive Director.*

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 662) was ordered to a third reading, was read the third time, and passed.

Mr. LEAHY. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, what is the pending business?

PATENT REFORM ACT OF 2011—  
Continued

The PRESIDING OFFICER. The clerk will report the pending business. The bill clerk read as follows:

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, since this debate began, we have heard a lot about how the America Invents Act will help unleash the American inventive spirit. As a matter of personal pride, I point out that Vermonters have a long history of innovation and invention, and it is that creative spirit which has given rise to some interesting and even revolutionary inventions.

Few people may know that Vermont is issued the most patents per capita of any State in the country. Fewer still may know that the first-ever patent issued in the United States, which was reviewed by Secretary of State Thomas Jefferson and signed by George Washington, was granted to a Vermonter in 1790. It was Samuel Hopkins of Pittsford who began the great tradition of American innovation.

Throughout America's history, Vermont has contributed to our economic prosperity with inventive ideas. Thaddeus Fairbanks of St. Johnsbury patented the platform scale in 1830, which revolutionized the way in which large objects were weighed. Charles Orvis, of Manchester, the founder of the well-known sporting goods retailer Orvis, patented the open fly fishing reel in 1874. Many other inventions originated from Vermont in the early years of America, including an electric motor, an internal combustion engine, and the paddle wheel steamship.

Today, that innovative Vermont spirit continues. Vermonters have been contributing to the American economy through innovation and invention every year.

Exploring new ways to modify existing products to limit the environmental impact is a quintessentially Vermont idea. Researchers at the University of Vermont have developed and are now seeking a patent for a wood finish that releases fewer toxins into the air than standard finishes. They do it by utilizing whey protein instead of petroleum. In the State of the Union Address, President Obama noted that advances in green technology will be a key driver of our economy in the 21st century. Vermont inventors have been and will continue to be out in front in this area.

Computer technology will also be a driver of our 21st-century economy. Vermonters are active in producing the next generation of this technology as well. Viewers across the country were

fascinated by the recent appearance of IBM's Watson supercomputer on "Jeopardy." Components used to power Watson were invented by IBM researchers in Vermont, and I am sure those Vermonters watched proudly as Watson defeated Jeopardy legends Ken Jennings and Brad Rutter in the recent man-versus-machine matchup.

Modernizing the patent system will help to ensure Vermont inventors will still be able to compete, not just on a national stage but in the international marketplace.

Much has changed since Samuel Hopkins received the first U.S. patent in 1790, but the need for a flexible and efficient patent system has remained constant. Inventors from Burlington to the Bay Area require the appropriate incentives to invest in the research required to create the next platform scale or the next Watson computer or the next lifesaving medical device.

Over the last 6 years, I have worked on meaningful, comprehensive patent reform legislation. During that time, I have kept in mind the tradition of great Vermont innovators such as Thaddeus Fairbanks and Charles Orvis. I was also pleased that we had key Republicans and Democrats working together to get this legislation before the Senate.

The next generation of Vermonters is as eager as the last to show America and the world what they can produce. Vermont may be one of the smallest States in our Nation, but it is bustling with creativity. The America Invents Act will ensure that the next Samuel Hopkins can flourish well into the 21st century.

Senator GRASSLEY and I had a couple of matters we were going to take care of. I see a distinguished colleague seeking recognition. Before I yield the floor, might I ask my friend how much time he may need?

Mr. CORKER. I will speak briefly. I apologize. The chairman has done such a wonderful job working this bill through. I came down earlier, but I wasn't able to speak.

Mr. LEAHY. I will yield so my colleague can speak, and then the Senator from Iowa will be back, and we can continue with our other business.

The PRESIDING OFFICER. The Senator from Tennessee.

FUNDING THE GOVERNMENT

Mr. CORKER. Madam President, as in morning business, I rise to speak on another topic that is actually related to us being competitive.

I think everybody understands that we had another bipartisan event that just occurred recently where we kept government funded, if you will, for another couple of weeks beyond the deadline that was coming in the next day or so. I applaud the efforts of both sides to work together to make that happen.

Speaking of competitiveness, it is very difficult for a government to function having short-term CRs every 2 weeks. What I urge, while this work is going on on the floor, is that the House

and the Senate, both sides of the aisle, work toward a longer term CR. I know we are working on reductions in spending which have to take place to keep our government in check and keep our country in the place it needs to be, but the work we need to do to fund the government for the rest of the year is actually the easy work we are going to be facing as it relates to spending.

Today, I saw where Vice President BIDEN has been asked by the White House—the President—to take the lead on this issue. I take that as a good sign. I saw Secretary Geithner today. He is planning on engaging on this issue.

I urge that we do the work we need to do. We all know there are going to be painful and tough decisions coming. A lot of people have been arguing and debating against spending cuts and are talking about the havoc it is going to create for government. I imagine that Secretary Gates over at the Defense Department is trying to deal with overseas operations and trying to deal with investing in the future, and other agencies of government would much rather see what these cuts are going to be and plan accordingly versus working on a 2-week CR.

I am just urging that we do the tough work we have to do. All of us know it will be painful. All of us know we are going to have to prioritize. All of us know there will be a number of constituencies around the country that will be less than happy. But for the good of our country, let's go ahead and together, Democrats and Republicans, Independents and the administration, work together toward a solution.

I know the House sent over a continuing resolution bill that takes us through the rest of the year. We have not yet seen what the Democratic majority in the Senate might offer. It is my hope that something is being worked on. I think the American people in the functioning of this government—those who cause this government to function—need to know what those cuts will be, where we are going.

Speaking on that note—and I will close with this—one of the things most frustrating to me as a Senator who came from the world of business is that we never know where we are going. We debate the current issues. We never plan for the future.

I hope that as a part of all we are doing this spring, this incredible opportunity we have in this body to deal with the issue of spending, with the issue of deficits, it is my hope that as a part of this, what we will do is pass a global cap on spending, a comprehensive cap that takes us from where we are today into a place that has been a 40-year historic average. Senator MCCASKILL and many others have joined me in something called the CAP Act. It is the type of responsible legislation we need to pass to get our country back where it needs to be.

We know we have a huge spending problem today. There are many explanations for that. But as a country, to