

S. RES. 92

Resolved,

SECTION 1. AUTHORIZATION OF THE PAYMENT OF LEGAL EXPENSES.

(a) IN GENERAL.—The Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate the legal expenses incurred by Jean Manning and Erica Watkins for the employment of private counsel to represent them with respect to official actions and responsibilities before the grand jury in the United States District Court for the District of Columbia.

(b) DETERMINATION.—The amount of expenses paid pursuant to subsection (a) shall be determined by the Committee on Rules and Administration.

SENATE CONCURRENT RESOLUTION 10—AUTHORIZING THE REMAINS OF FRANK W. BUCKLES, THE LAST SURVIVING UNITED STATES VETERAN OF THE FIRST WORLD WAR, TO LIE IN HONOR IN THE ROTUNDA OF THE CAPITOL

Mr. ROCKEFELLER (for himself, Mr. BURR, Mr. MANCHIN, Mr. UDALL of Colorado, Mr. BEGICH, Mrs. McCASKILL, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. KERRY, Mr. WYDEN, Ms. LANDRIEU, Mr. BROWN of Massachusetts, and Mr. MCCAIN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. HONORING VETERANS OF THE FIRST WORLD WAR.

(a) IN GENERAL.—In recognition of the historic contributions of United States veterans who served in the First World War, the remains of Frank W. Buckles, the last surviving United States veteran of the First World War, shall be permitted to lie in honor in the rotunda of the Capitol from March 14, 2011 to March 15, 2011, so that the citizens of the United States may pay their last respects to those great Americans.

(b) IMPLEMENTATION.—The Architect of the Capitol, under the direction and supervision of the President pro tempore of the Senate and the Speaker of the House of Representatives shall take the necessary steps to implement subsection (a).

AMENDMENTS SUBMITTED AND PROPOSED

SA 141. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table.

SA 142. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 23, supra.

SA 143. Mr. REID of Nevada (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 144. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 23, supra; which was ordered to lie on the table.

SA 145. Mr. CARDIN submitted an amendment intended to be proposed by him to the

bill S. 23, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 141. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 94, between lines 22 and 23, insert the following:

(e) EXCLUSION.—This section shall not apply to that part of an invention that is a method, apparatus, computer program product or system used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers or organizes data related to such filing.

SA 142. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 50, between lines 2 and 3, insert the following:

“(c) DATA ON LENGTH OF REVIEW.—The Patent and Trademark Office shall make available to the public data describing the length of time between the commencement of each inter partes review and the conclusion of that review.”.

On page 65, between lines 9 and 10, insert the following:

“(c) DATA ON LENGTH OF REVIEW.—The Patent and Trademark Office shall make available to the public data describing the length of time between the commencement of each post-grant review and the conclusion of that review.”.

SA 143. Mr. REID of Nevada (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 93, before line 18, insert the following:

“(d) EPSCOR.—For purposes of this section, a micro entity shall include an applicant who certifies that—

“(1) the applicant’s employer, from which the applicant obtains the majority of the applicant’s income, is a State public institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR); or

“(2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to such State public institution, which is in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR).”.

SA 144. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ DAMAGES.

Section 284 of title 35, United States Code, is amended—

(1) by striking “Upon finding” and inserting the following: “(a) IN GENERAL.—Upon finding”;

(2) by striking “fixed by the court” and all that follows through “When the damages” and inserting the following: “fixed by the court. When the damages”;

(3) by striking “shall assess them.” and all that follows through “The court may receive” and inserting the following: “shall assess them. In either event the court may increase the damages up to 3 times the amount found or assessed. Increased damages under this subsection shall not apply to provisional rights under section 154(d) of this title. The court may receive”;

(4) by adding at the end the following: “(b) PROCEDURE FOR DETERMINING DAMAGES.—

“(1) IN GENERAL.—The court shall identify the methodologies and factors that are relevant to the determination of damages, and the court or jury shall consider only those methodologies and factors relevant to making such determination.

“(2) DISCLOSURE OF CLAIMS.—By no later than the entry of the final pretrial order, unless otherwise ordered by the court, the parties shall state, in writing and with particularity, the methodologies and factors the parties propose for instruction to the jury in determining damages under this section, specifying the relevant underlying legal and factual bases for their assertions.

“(3) SUFFICIENCY OF EVIDENCE.—Prior to the introduction of any evidence concerning the determination of damages, upon motion of either party or sua sponte, the court shall consider whether one or more of a party’s damages contentions lacks a legally sufficient evidentiary basis. After providing a nonmovant the opportunity to be heard, and after any further proffer of evidence, briefing, or argument that the court may deem appropriate, the court shall identify on the record those methodologies and factors as to which there is a legally sufficient evidentiary basis, and the court or jury shall consider only those methodologies and factors in making the determination of damages under this section. The court shall only permit the introduction of evidence relating to the determination of damages that is relevant to the methodologies and factors that the court determines may be considered in making the damages determination.

“(c) SEQUENCING.—Any party may request that a patent-infringement trial be sequenced so that the trier of fact decides questions of the patent’s infringement and validity before the issues of damages and willful infringement are tried to the court or the jury. The court shall grant such a request absent good cause to reject the request, such as the absence of issues of significant damages or infringement and validity. The sequencing of a trial pursuant to this subsection shall not affect other matters, such as the timing of discovery. This subsection does not authorize a party to request that the issues of damages and willful infringement be tried to a jury different than the one that will decide questions of the patent’s infringement and validity.”.

SA 145. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 83, between lines 6 and 7, insert the following:

(8) REPORT ON SMALL PUBLIC UNIVERSITIES AND ELIGIBLE INSTITUTIONS.—Not later than 12 months after the date of enactment of this Act, the Director shall report to Congress on—

(A) the number of patent applications received by the Patent and Trademark Office during the prior 5-year period from small public universities and eligible institutions, as defined in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q); and

(B) whether the patent fee structure set forth under this Act and title 35 of the United States Code hinders the ability of such universities and institutions to benefit from the provisions under chapter 18 of title 35, United States Code (commonly known as the “Bayh-Dole Act”).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on March 3, 2011, at 2:30 p.m. in SR 328A.

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

COMMITTEE ON ARMED SERVICES

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2011, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 3, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 3, 2011, at 2:30 p.m., to hold a hearing entitled, “Navigating a Turbulent Global Economy—Implications for the United States.”

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

COMMITTEE ON THE JUDICIARY

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 3, 2011, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. BENNET. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet dur-

ing the session of the Senate on March 3, 2011, at 10 a.m. to conduct a hearing entitled “Closing the Gap: Exploring Minority Access to Capital and Contracting Opportunities.”

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNET. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 3, 2011 at 2:30 p.m.

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

RELATIVE TO THE DEATH OF FRANK WOODRUFF BUCKLES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 89.

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

The legislative clerk read as follows:

A resolution (S. Res. 89) relating to the death of Frank Woodruff Buckles, the longest surviving veteran of the First World War.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROCKEFELLER. Mr. President, today I want to honor the passing of America’s last surviving veteran of the First World War, Mr. Frank Woodruff Buckles. It is important that we as a nation express our deep appreciation for the sacrifices that Mr. Buckles and his brothers-in-arms endured for our country nearly a century ago. Men like Frank have fought in numerous battles in the defense of this Nation and have made sure that we as Americans are able to enjoy the quality of life that we so cherish.

Mr. Buckles witnessed the world change dramatically throughout his lifetime and had experiences that most of us can only dream about. He saw the metamorphosis that defined the American social and cultural revolutions of the last century. As a young man, he served in the Army’s ambulance corps in France and Germany, where he evacuated wounded soldiers from the battlefield. As a civilian during the Second World War, he spent more than three years in a Japanese prison camp in the Philippines.

As a tribute to Mr. Buckles and for all the World War I veterans that he represents, we must remember all of his brothers and sisters who defended our country along with him. Nearly 4.5 million U.S. soldiers, sailors, airmen and Marines joined forces with over 37 million Allied soldiers to defeat the Central Powers. These service members witnessed atrocities such as gas warfare that were unprecedented at the time. Each and every one of them made their own significant contribution to the war effort that cannot be understated. This generation of dynamic and dedicated Americans was able to alter the course of history for the betterment of each and every one of us here today.

As a tribute to Mr. Buckles, I have introduced a bipartisan resolution so he can lie in honor in the Capitol Rotunda on March 14 to allow the American people to properly pay their respects. To further honor his generations’ sacrifices, Mr. Frank Buckles will be buried at Arlington National Cemetery with full military honors. President Obama has ordered all flags flown over government buildings be flown at half-mast on this day as we mourn the loss of a citizen and a generation who will forever hold a place in our nation’s history.

I want to conclude by offering my deepest sympathies to Mr. Buckles’ daughter, Susannah Buckles Flanagan. She has been the loving daughter at his side in recent years taking such good care of him which allowed him to live at home in dignity, surrounded by family and friends.

As America’s longest surviving veteran of World War I, Frank Buckles represented our final link to a generation that built a legacy as the defenders of the free world in the first large scale global conflict. I can promise you that his legacy and the legacy of all veterans will live on forever in the ideals and values that make America the strongest nation in the world.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 89) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 89

Whereas Frank Woodruff Buckles is the last known American World War I veteran, who passed away on February 27, 2011, at the age of 110, and represents his generation of veterans;

Whereas America’s support of Great Britain, France, Belgium, and its other allies in World War I marked the first time in the Nation’s history that American soldiers went abroad in defense of liberty against foreign aggression, and it marked the true beginning of the “American century”;

Whereas more than 4,000,000 men and women from the United States served in uniform during World War I, among them 2 future presidents, Harry S. Truman and Dwight D. Eisenhower;

Whereas 2,000,000 individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas;

Whereas the United States suffered 375,000 casualties during World War I, including 116,516 deaths;

Whereas the events of 1914 through 1918 shaped the world, the United States, and the lives of millions of people in countless ways; and

Whereas Frank Woodruff Buckles is the last veteran to represent the extraordinary legacy of the World War I veterans: Now, therefore, be it