

THE AMERICA INVENTS ACT

PROMOTING AMERICAN INNOVATION, CREATING AMERICAN JOBS, GROWING AMERICA'S ECONOMY

The American Invents Act is bipartisan legislation that unleashes innovation and creates jobs – without adding a penny to the deficit.

Background on the Managers' Amendment to S. 23, The America Invents Act

The bipartisan Leahy-Grassley-Kyl [managers' amendment](#) to S. 23, the America Invents Act, makes the following changes to the Committee-reported bill:

- Change the short title of the legislation to **“The America Invents Act”** (currently pending as Leahy Am. SA 114)
- Correct the fee setting section to **avoid any potential “blue slip” issues** (currently pending as Leahy Am. SA 114)
 - **BACKGROUND:** Revenue raising legislation must begin in the House of Representatives. This provision will address any possible concerns that the bill as originally drafted could lead to so-called blue slip concerns regarding its origin.
- Provide a **50 percent reduction in application and search fees for small entities requesting accelerated patent examination** at the U.S. Patent and Trademark Office (USPTO) (currently pending as Bennet Am. SA 116)
 - **BACKGROUND:** The USPTO recently created a “fast track” process to allow applicants to pay an additional fee to cover the cost of having examiners work overtime on certain applications. This provision will ensure that small businesses and inventors receive a 50 percent reduction in the fee.
- End fee diversion at the U.S. Patent and Trademark Office; **establish a revolving fund to ensure that funds collected by the USPTO can be used at the USPTO**
 - **BACKGROUND:** This provision will benefit users of the patent system who expect the money they pay in fees to be used for patent services and operations, and will benefit the patent office, which is completely user-funded, by allowing the USPTO to budget for the future.
- Create a **pilot program to review the validity of business method patents**
 - **BACKGROUND:** Many business method patents are of dubious validity because they are not truly inventive. This provision will create a temporary, limited proceeding at the USPTO to challenge business method patents.
- Strike provisions related to **damages** and **venue** (currently pending as Bennet Am. SA 118)
 - **BACKGROUND:** These provisions as currently drafted do not make substantive changes to existing law. The current damages provisions establish a gatekeeper role for the court, but do not change the actual legal standard for awarding damages. The current venue provisions codify recent circuit court decisions, provide useful clarity, but make no meaningful change to applicable law. Striking these provisions will address recent concerns of the high tech community, and address concerns of certain Members of the House.
- Change the **definition of a “micro entity”**
 - **BACKGROUND:** This provision will provide more clarity and increase the income threshold.
- Technical changes
 - **BACKGROUND:** This provision makes minor modifications to effective dates, federal jurisdiction and residency requirements of Federal Circuit judges.

Background on The America Invents Act

The America Invents Act was introduced in the Senate on [January 25, 2011](#), by Senator Patrick Leahy (D-Vt.), Senator Orrin Hatch (R-Utah) and Senator Chuck Grassley (R-Iowa). The legislation is cosponsored by Senators Jon Kyl (R-Ariz.), Amy Klobuchar (D-Minn.), Jeff Sessions (R-Ala.), Al Franken (D-Minn.), Joe Lieberman (ID-Conn), Christopher Coons (D-Del.), Richard Blumenthal (D-Conn.), Kirsten Gillibrand (D-N.Y.), Herb Kohl (D-Wis.), Tom Harkin (D-Iowa), Sheldon Whitehouse (D-R.I.), and Chuck Schumer (D-N.Y.). **The Senate Judiciary Committee unanimously approved the legislation by a 15-0 vote on February 3, 2011.** Congressional efforts to reform the nation's patent system first began in 2005. The Senate Judiciary Committee has reported patent reform legislation to the full Senate in each of the last three Congresses.