

It is important to note that NBER did not conclude the economy has returned to operating at normal capacity. Rather, NBER determined only that the recession ended in June 2009 and a recovery began in that month. According to NBER:

(E)conomic activity is typically below normal in the early stages of an expansion, and it sometimes remains so well into the expansion.

Aggregate employment frequently reaches its trough after the NBER trough for overall "economic activity" and the 2007–2009 recession is no exception. That is why this jobs bill is critically important. The economy is still fragile; everyone knows that. So let's do something about it.

S. 3816 has incentives to create jobs here in America and disincentives to moving American jobs overseas.

Earlier this month, the U.S. Department of Labor certified a Trade Adjustment Assistance, TAA, petition brought on behalf of human resources personnel at Hewlett-Packard in 10 different States, including Maryland—Ellicott City—that have seen their jobs shipped to Panama. Now, if H-P employees have questions about their pay or their leave or their benefits, they have to call Panama. It is exactly that type of shipping jobs offshore that we need to prevent.

S. 3816 removes tax incentives that allow companies such as H-P to eliminate jobs here, outsourcing that work with the products or services consumed in the U.S. market.

Just since the beginning of 2007, the Department of Labor has certified 50 TAA petitions involving laid-off workers who live in Maryland.

In many cases, the firms involved in these certifications had U.S. tax incentives to ship jobs overseas. S. 3816 helps to eliminate those incentives.

To encourage businesses to create jobs here in the United States, the bill allows businesses to skip the employer share of the Social Security payroll tax for up to 2 years on wages paid to new U.S. employees performing services in the United States. To be eligible, businesses have to certify that the U.S. employee is replacing an employee who had been performing similar duties overseas.

This payroll tax holiday is available for workers hired during the 3-year period beginning September 22, 2010. The Social Security trust fund will be made whole from general revenues, a provision that costs \$1.09 billion over 10 years.

The bill eliminates subsidies that U.S. taxpayers provide to firms that move facilities offshore. It prohibits a firm from taking any deduction, loss, or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the U.S. and starting or expanding a similar trade or business overseas.

This provision raises \$277 million over 10 years.

The bill would not apply to any severance payments or costs associated

with outplacement services or employee retraining provided to any employees who lose their jobs as a result of the offshoring.

S. 3816 also ends the Federal tax subsidy that rewards U.S. firms for moving their production overseas. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign subsidiaries until that income is brought back to the United States. This is known as "deferral."

Deferral has the effect of putting these firms at a competitive advantage over U.S. firms that hire U.S. workers to make products here in America.

The bill repeals deferral for companies that reduce or close a business in the U.S. and start or expand a similar business overseas for the purpose of importing their products or services for sale in the United States. U.S. companies that locate facilities abroad in order to sell their products overseas are unaffected by this proposal.

Ending deferral raises \$92 million over 10 years.

I think there is a huge need and a great deal of merit in considering a bill to encourage American firms to keep their plants and factories here in America and to hire American workers.

Too many Americans are looking for work and can't find jobs. The recession hasn't ended for them. I hope the Senate will move forward on legislation that will keep jobs in America and put Americans back to work and begin to put this terrible recession behind us. It is time to ship American goods and services—not American jobs—overseas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BEGICH. Mr. President, the score is 10 to 0.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

INTELLIGENCE AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, the Congress is now close to passing and enacting an intelligence authorization bill for the first time since December 2004. Pending at the Senate desk is House bill H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, which the House passed on February 26, 2010.

On behalf of Senator BOND and myself, I have filed an amendment to this House bill, and have asked the majority leader to request unanimous consent that the amendment, in the nature of a substitute, be approved and that the bill be sent back to the House for its final passage.

For the benefit of my colleagues, I would like to describe the amendment and discuss why the passage of this legislation is of great importance to the Intelligence community and for oversight of intelligence.

In all but three respects, this amendment is identical to Senate bill S. 3611, which the Senate passed in August by unanimous consent. That bill had been negotiated with the House Permanent Select Committee on Intelligence and had the support of the administration. However, the House did not act on that bill. Instead, last week, the House sent its legislation to the Senate for consideration.

Per agreement with the House and the executive branch, I am therefore introducing this amendment, which replaces the text of the House bill with the previous Senate bill, with the three changes as follows:

The first change is necessary given that fiscal year 2010, the year for which this legislation was first written, ends later this week. The legislation I have offered today therefore does not include a classified annex that describes authorized funding levels for the intelligence community. The amendment text omits references to the classified annex, as well as other provisions that were specific to fiscal year 2010, that were present in S. 3611. This is reflected through the deletion of six provisions in S. 3611: sections 101, 102, 103, 104, 201, and 348. The amendment includes a new section 101, which is being included at the request of the Office of the Director of National Intelligence. This section makes clear that all funds appropriated, reprogrammed, or transferred for intelligence or intelligence-related activities in fiscal year 2010 may be obligated or expended. This provision is necessary to meet the terms of section 504(a) of the National Security Act of 1947, 50 U.S.C. § 414.

This legislation also amends section 331 from the version of the bill previously passed by the Senate concerning notification procedures. The amendment adds text to ensure that in the case of a limited notification of a covert action to the House and Senate leaders and chairmen and ranking members of the two intelligence committees—the so-called "Gang of

Eight”—in place of the full membership of those committees, the basis of the limited notification will be reviewed in the executive branch within 180 days and reasons for continuation of the limited notification will be submitted to the Gang of Eight.

The amendment also adds text to require that in the case of a limited notification, the President shall provide to all members of the intelligence committees a “general description” of the covert action. This implements the idea first described by the Senate Intelligence Committee in 1980 that the limited notification procedure is to protect in extraordinary cases certain sensitive aspects of an intelligence activity; the purpose of the authority is not to shield entire intelligence programs from the oversight of the full intelligence committees.

Recent legislation from the Select Committee on Intelligence has included similar provisions to the requirement to provide to all committee members a “general description.” The committee’s bill, S. 1494, which the Senate passed unanimously in September 2009, included a similar provision, but the version of the bill passed in August 2010, S. 3611, did not.

Of note, the legislative language in this amendment makes clear that the general description of the covert action is to be provided by the President to all members of the committees, consistent with the reasons for not yet fully informing all members of the intelligence committees. The administration agrees that this gives the President sufficient flexibility in extraordinary circumstances to protect sensitive national security information.

Finally, the amendment I am offering includes a new section, section 348, on access by the Comptroller General to the information of elements of the intelligence community. Both S. 1494 and H.R. 2701 included sections on audits of intelligence community elements by the Government Accountability Office, GAO. No GAO provision was included in S. 3611 because, at the time that S. 3611 was reported and then acted on by the Senate, no agreement had been reached on a provision that would be acceptable to both the administration and the Congress.

Section 348 represents a compromise that the Congress and the administration can support. It requires the Director of National Intelligence, DNI, to issue a directive on GAO access. While the directive shall be issued following consultation with the Comptroller General, the amendment is clear that this is to be the DNI’s directive. It is the DNI who has the responsibility to craft a directive that is consistent with existing law, both as regards the authority of the Comptroller General under title 31 of the United States Code and the provisions of the National Security Act. The directive shall be provided to the Congress before it goes

into effect and the appropriate committees of the Congress can then take whatever legislative or oversight actions they deem appropriate.

The Department of Defense has issued a directive governing GAO access to Defense special access programs. This directive is regarded as having resolved successfully the issues that the Department and GAO had previously encountered. As the DNI carries out the duties of this section, it will be important for him to be mindful of the manner in which individual departments with intelligence components have established procedures governing access by GAO. This is true for the Department of Defense as well as other Departments, such the Department of Homeland Security and its intelligence component, the Office of Intelligence and Analysis. We expect that the DNI will coordinate closely with the heads of such departments in order to ensure that the DNI’s directive resolves outstanding issues without disrupting GAO’s working relationships with such departments.

As written, this section requires the Director of National Intelligence to submit this directive to “the Congress.” The intent of this provision is to have this directive broadly available, in unclassified form or classified form as the case may be, to those committees with jurisdiction over the DNI, the 16 intelligence entities in the intelligence community, the departments in which those agencies reside, and the GAO.

There are additional technical, typographical and conforming changes included in this legislation from S. 3611, the intelligence bill passed by the Senate in August 2010. This includes a change in section 322, the business system transformation section, in several places where an action was to be taken by September 30, 2010. Those actions are now required to be taken within 60 days after enactment.

In all other respects, the Feinstein-Bond amendment consists of exactly what the Senate has already passed by unanimous consent. The legislative history of S. 3611 is fully applicable to the provisions of this amendment that are carried over from S. 3611. This legislative history includes the committee report, S. Rep. No. 111-223, and the floor statements and letters placed in the RECORD on Senate passage of S. 3611, see 156 Cong. Rec. S6795-6799—daily ed., August 5, 2010. S. Rep. No. 111-223 has a detailed section-by-section description of the provisions of S. 3611, including a description of the reconciliation of House and Senate provisions from H.R. 2701, as it passed the House, and S. 1494.

I received today a letter from the general counsel in the Office of the Director of National Intelligence, Mr. Robert Litt, indicating that “the President’s senior advisors would recommend that he sign this bill if it is

presented for his signature.” I will ask that this letter be printed in the RECORD.

As I noted at the outset, there has not been an intelligence authorization act enacted in nearly 6 years. Prior to December 2004, there had been such a bill every year since the creation of the intelligence committees in the late 1970s.

It is vitally important for the intelligence committees to pass an authorization bill this week. Failure to enact an authorization bill weakens congressional oversight and it denies the intelligence community appropriate updates in the law.

I would like to take a moment to recognize some individuals who have devoted enormous time and effort to reaching this point. First, Senator KIR BOND, the vice chairman of the committee, who has been fighting for this legislation with me in a completely bipartisan way since we began at the beginning of last year. Second, the members of the Intelligence Committee who have contributed important provisions in the bill, and have supported our efforts to keep the bill moving even in some cases where their provisions had to be dropped.

And finally, the staff, who have drafted this bill three separate times and conducted negotiations with the House Permanent Select Committee on Intelligence, other offices in the House, the Office of the Director of National Intelligence, and the White House for more than a year. I would like to commend and thank my counsels: Mike Davidson, Christine Healey, and Alissa Starzak for their work. I thank as well Senator BOND’s counsels, Jack Livingston and Kathleen Rice.

While there is no classified annex to authorize funding levels in this bill, I appreciate the work begun by Lorenzo Goco and continued by Peggy Evans in putting together the annex that accompanied the intelligence authorization bills that passed the Senate last September and this August.

Finally, I appreciate the work of Tommy Ross, national security adviser to Majority Leader HARRY REID, for his substantial efforts to make sure that the House and the executive branch remained engaged in the negotiations over this bill.

I urge my colleagues to support this Senate amendment to the House bill. If we are able to reach unanimous consent on this measure, it will go back to the House for final passage and presentation to the President. I am hopeful that we can accomplish this prior to recessing later this week for the November elections, and urge support.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Mr. Robert Litt to which I referred.

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

OFFICE OF THE DIRECTOR
OF NATIONAL INTELLIGENCE,
Washington, DC, September 27, 2010.

Hon. DIANNE FEINSTEIN,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Hon. CHRISTOPHER BOND,
Vice Chairman, Select Committee on Intel-
ligence, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN AND VICE CHAIR-
MAN BOND: On June 10, 2010, the Director of
OMB wrote to inform you that, on the as-
sumption that there would be no material
changes to the S. 3611, the Intelligence Au-
thorization Act for Fiscal Year 2010, the
President's senior advisors would recom-
mend he sign the bill. The Administration
has reviewed the proposed amendment to the
Intelligence Authorization Act for Fiscal
Year 2010, embodied in the draft amendment
in the nature of a substitute to H.R. 2701 pro-
vided to us on September 24, 2010. There are
two significant changes from S. 3611 passed
by the Senate on August 5, 2010 relating to
the Government Accountability Office (GAO)
and congressional notification. Earlier pro-
visions on these issues were subject to a veto
threat. However, based on our interpretation
of the changes, which I have outlined below,
the President's senior advisors would recom-
mend that he sign this bill if it is pre-
sented for his signature.

The proposed Senate amendment includes
a new provision that would require the Di-
rector of National Intelligence to issue a di-
rective, in consultation with the Comptroller
General, governing access of the Comptroller
General to information in the possession of
an Intelligence Community element. Nothing
in this provision changes the underlying
law with respect to GAO access to intel-
ligence information. We interpret this pro-
vision to provide the DNI with wide latitude
when developing the directive to ensure that
it conforms with (1) the statutory provisions
governing GAO's jurisdiction and access to
information; (2) the intelligence oversight
structure embodied in the National Security
Act; and (3) relevant opinions of the Office of
Legal Counsel of the Department of Justice.

The second significant change relates to
the provision that alters the current con-
gressional notification framework. It is im-
portant to note at the outset that the Ad-
ministration has already indicated that,
with respect to the requirement to provide
"the legal authority under which [an] intel-
ligence activity is being or was conducted,"
we construe that requirement only to re-
quire that the Executive Branch provide the
committee with an explanation of the legal
basis for the activity; it would not require
disclosure of any privileged information or
disclosure of information in any particular
form.

The proposed amendment would signifi-
cantly change the earlier version of this pro-
vision by requiring that the Executive
Branch provide all congressional intelligence
committee members who do not receive a
finding or notification a "general description
regarding the finding or notification, as ap-
plicable, consistent with the reasons for not
yet fully informing all members of such com-
mittee." The Administration has previously
threatened to veto the Intelligence Author-
ization Bill over a congressional notification
provision that contained similar language.
This provision, however, differs from the ear-
lier provision because the requirement to
provide a "general description" is limited to
a description that is "consistent with rea-
sons for not yet fully informing all members
of such committee." We interpret this new
language as providing sufficient flexibility
to craft a description that the President
deems appropriate, based on the extraor-
dinary circumstances affecting vital inter-

ests of the United States resulting in the
limited notification, and recognizing the
President's authority and responsibility to
protect sensitive national security informa-
tion in the context of the notice and general
description requirement.

We wish to confirm that you understand
and agree with these interpretations. We
would prefer to reduce this interpretation to
writing for inclusion in the amendment
itself, and will work with you to that end;
otherwise, we wish to ensure that you agree
with our interpretation of these provisions.
With these understandings, the President's
senior advisors would recommend that he
sign this bill if it is presented for his signa-
ture.

The Office of Management and Budget ad-
vises that, from the standpoint of the Ad-
ministration's Program, there is no objec-
tion to the submission of this letter.

Sincerely,

ROBERT S. LITT,
General Counsel.

NOTICES OF INTENT TO OBJECT

Mr. GRASSLEY. Mr. President, I in-
tend to object to proceeding to H.R.
4862, a bill that amends the Immigra-
tion and Nationality Act with regard
to naturalization authority. H.R. 4862
would permit Members of Congress to
administer the oath of allegiance to
applicants for naturalization. I object
to the bill because, according to ad-
ministration officials, it would require
Members of Congress to administer the
oath of allegiance only at times deter-
mined by the Secretary of Homeland
Security, notwithstanding the Senate
Calendar or the legislative work that is
required by Members of Congress. We
need to understand what exactly this
bill allows or requires and not just rush
it through in the waning hours and
minutes of this Congress.

Mr. President, I also intend to object
to proceeding to the nomination of
Norm Eisen to be Ambassador to the
Czech Republic at the Department of
State for the following reasons.

I object to the proceeding to the
nomination because of Mr. Eisen's role
in the firing of the inspector general of
the Corporation for National and Com-
munity Service, CNCS, and his lack of
candor about that matter when ques-
tioned by congressional investigators.
The details of Mr. Eisen's role in the
firing and his misrepresentations about
that matter are detailed in the Joint
Minority Staff Report of the House
Committee on Government Reform and
the Senate Finance Committee, dated
November 20, 2009.

HONORING OUR ARMED FORCES

CAPTAIN DALE A. GOETZ

Mr. BENNET. Mr. President, it is
with a heavy heart that I rise today to
honor the life and heroic service of
Captain Dale A. Goetz. Captain Goetz,
assigned to the 4th Infantry Division,
based at Fort Carson, CO, died on Au-
gust 30, 2010, of injuries sustained when
an improvised explosive device deto-
nated near his vehicle. Captain Goetz
was serving in support of Operation En-

during Freedom in the Arghandab
River Valley, Afghanistan. He was 43
years old.

A native of White, SD, Captain Goetz
graduated in 1995 from Marantha Bap-
tist Bible College in Watertown, WI,
with a bachelor's degree. After serving
in White for several years as a pastor,
Captain Goetz enlisted in the Army in
2004 and served tours in Japan, Iraq and
Afghanistan—all with decoration.

During his years of service, Captain
Goetz distinguished himself through
his courage, dedication to his soldiers,
and unremitting devotion to his faith.
His skillful ministry comforted troops
and made them more effective in the
field, and he never hesitated to engage
and counsel others who held beliefs dif-
ferent than his own.

Captain Goetz worked on the front
lines of battle, serving in the most dan-
gerous areas of Iraq and Afghanistan.
He is remembered by those who knew
him as a consummate professional with
an unending commitment to excel-
lence. His family remembers him as a
dedicated husband and as a loving fa-
ther to his three children.

Mark Twain once said, "The fear of
death follows from the fear of life. A
man who lives fully is prepared to die
at any time." Captain Goetz's service
was in keeping with this sentiment—by
selflessly putting country first, he
lived life to the fullest. He lived with a
sense of the highest honorable purpose.

At substantial personal risk, he
braved the chaos of combat zones
throughout Iraq and Afghanistan. And
though his fate was uncertain, he
pushed forward, counseling our soldiers
and promoting the ideals we hold dear.
For his service and the lives he
touched, Captain Goetz will forever be
remembered as one of our country's
bravest.

To his wife Christina, his sons
Landon, Caleb, and Joel, and his entire
family—I cannot imagine the sorrow
you must be feeling. I hope that, in
time, the pain of your loss will be eased
by your pride in Dale's service and by
your knowledge that his country will
never forget him. We are humbled by
his service and his sacrifice.

STAFF SERGEANT CASEY J. GROCHOWIAK

Mr. President, it is with a heavy
heart that I rise today to honor the life
and heroic service of SSG Casey J.
Grochowiak. Sergeant Grochowiak, as-
signed to the 4th Infantry Division,
based in Fort Carson, CO, died on Au-
gust 30, 2010, of injuries sustained when
an improvised explosive device deto-
nated near his patrol. Sergeant
Grochowiak was serving in support of
Operation Enduring Freedom in
Malajat, Afghanistan. He was 34 years
old.

A native of San Diego, CA, Sergeant
Grochowiak graduated from Horizon
Christian Fellowship Academy, where
he met Celestina, his future wife,
whom he married in 1995. After several
years working in the construction in-
dustry, Sergeant Grochowiak changed
direction to commit his life to defend-
ing his country. He enlisted in the