BACKGROUND

The first comprehensive AMT was enacted in 1982. The purpose of the AMT, as stated in the legislative history, was to ensure that no taxpayer with substantial economic income should be able to avoid all tax liability by using exclusions, deductions, and credits. Now, the AMT affects middle income families who are working hard and raising children. The Joint Committee on Taxation estimates that 4.2 million paid AMT in 2006. Among those taxpayers, 25,000 had adjusted gross income of less than $20,000, hardly the category of taxpayer that should have to be subject to increased complexity and taxes due in computing and paying their federal income taxes.

In 2006, approximately 200,000 taxpayers subject to AMT had adjusted gross income between $75,000 and $100,000. Approximately 1.3 million AMT taxpayers had adjusted gross income between $100,000 and $200,000. Only about 80,000 taxpayers had adjusted gross income of $1 million and above. In summary, in 2006 more taxpayers earning less than $100,000 were subject to the AMT than taxpayers earning more than $1 million.

The AMT has strayed from its original purpose. At its inception, the AMT was enacted to insure that upper-income taxpayers would pay some amount of income tax. Now, it is subjecting middle-income taxpayers to an additional tax.

PRESENT LAW

Present law imposes an alternative minimum tax. The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income (''AMTI'') as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. Alternative minimum taxable income is the individual's regular taxable income increased by certain adjustments and preference items.

The exemption amounts are: (1) $62,550 for taxable years beginning in 2006, and $45,000 for taxable years beginning after 2006, for married individuals filing jointly and surviving spouses; (2) $42,500 for taxable years beginning in 2006, and $33,750 for taxable years beginning after 2006, for other unmarried individuals; (3) $31,275 for taxable years beginning in 2006, and $22,500 for taxable years beginning after 2006, for married individuals filing separately; and (4) $22,500 in the case of estates and trusts.

The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation. The AMT has statutory marginal tax rates of 26 and 28 percent. However, those with alternative minimum taxable income in the phaseout range of the exemption level ($150,000 to $400,200 for married taxpayers filing jointly and $112,500 to $282,500 for unmarried individuals, in 2006) will have an effective marginal tax rate of 32.5 and 35 percent, respectively.

PROPOSED 2007 AMT REFORM

It is our view that Congress should enact an AMT patch for 2007. The exemption amounts in effect for 2006 should be put into effect for 2007, adjusted for inflation. Taxpayers should be provided safe harbor from IRS penalties and interest for failure to include estimated tax payments in 2007 that take into account an extension of the increased AMT exemption provided in 2006. In computing tax for purposes of the penalties dealing with estimated tax, a taxpayer would be permitted to disregard the alternative minimum tax if the individual was not liable for the alternative minimum tax for the preceeding tax year.

The amendments proposed herein should apply to taxable years beginning after December 31, 2006.

A 2007 AMT short term reform with an increased AMT exemption would prevent expansion of the AMT, reduce taxpayers' compliance costs and make routine tax planning simpler. In addition, the short term reform proposed here will enable Congress to address issues related to substantial changes in our income tax system given the large number of important provisions that are currently scheduled to terminate in the next few years.

Respectfully submitted,

BABCOCK MACLEAN,
Chair.

Mr. GRASSLEY. Mr. President, I would like to believe this legislation is not necessary because we are going to prevent the AMT from swallowing 19 million taxpayers in 2000, but I am not optimistic considering the fact we have not acted yet.

In closing, I encourage—and it is meant to encourage—the Democratic leadership to keep our promise with the American taxpayers and at least modify the exemption amounts for 2007. Of course, the best option is to completely repeal the AMT, and I am going to raise this issue with the Finance Committee members, and I am going to raise the issue with Members outside the committee. We ought to just get rid of it. It is stupid to be saying we are going to collect revenue from people who were never intended to pay, but we are counting that revenue. It is a big shell game. So I will be talking with my colleagues about the sensibility of just getting rid of something.

I will tell my colleagues another reason for getting rid of the AMT. It is supposed to hit the super-rich. We are told by the IRS right now that there are about 2,500 of these super-rich who ought to be paying the alternative minimum tax—we would expect them to pay the alternative minimum tax—but they have found ways legally of even avoiding the alternative minimum tax. So we ought to just get rid of it. But for the time being, the only thing the taxpayers can rely on is the same goose egg we have been sitting on all year.

Mr. GRASSLEY. Mr. President, I also wish to use my time to address another issue. I would like to continue, Mr. President.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator is recognized.

SECRET HOLDS

Mr. GRASSLEY. Mr. President, the ethics bill has now been signed into law and, as my colleagues are aware, it contains new requirements about what we in the Senate call holds, meaning an individual Senator can hold up a bill all by himself from coming up.

Senators may be wondering what exactly is required under these new requirements about holds and how it is going to work. As a coauthor of the original measure, I have to tell my colleagues that I don't know how it is going to work. The provisions have been rewritten from what we had originally adopted on the floor of the Senate by a very wide margin. I am not even sure by whom this has been rewritten because it was a closed process and Republicans were not invited to participate in that process.

Now I am trying to understand how these provisions will work. Let me give a little background.

I have been working for some time, along with Senator WYDEN of Oregon, to end the practice of secret holds through a rules change or through what we call in the Senate a standing order. I do not believe there is any legitimate reason a single Senator should be able to anonymously—I emphasize anonymously—block a bill or nomination. I do not argue with an individual Senator blocking a bill. I do that myself. But I do not think it should be secret. We ought to know who is doing it because the public's business—and the Senate is all about the public's business; we are on television—the public's business ought to be public, and we ought to know who that person is. If a Senator has the guts to place a hold, they ought to have the guts to say who they are and why they think that bill ought to be held up. If there is a legitimate reason for a hold, then Senators should have no fear about it being public.

I am not talking hypothetically; I am speaking from my experience. I have voluntarily practiced public holds for a decade or more, and I have had absolutely no cause to regret telling all my colleagues and the whole country why I am holding up a bill and who CHUCK GRASSLEY is so they can come and talk with me if they want to talk with me about it, know what the rationale is, and maybe we will want to work something out.

Through the years, there have been several times when the leaders of the two parties have agreed to work with Senator WYDEN and me to address this issue, albeit in a way different than what maybe we would have proposed. I have approached these opportunities with optimism, only later on to be disappointed.

For instance, in 1999, at the start of the 106th Congress, Majority Leader Lott and Minority Leader Daschle sent a ''Dear Colleague'' letter to all Senators outlining a new policy that any Senators placing a hold must notify the sponsor of the legislation and the committee of jurisdiction. It went on to state that written notification of the holds should be provided to respective leaders, and staff holds—in other

words, staff for the Senator placing holds—would not be honored unless accompanied by a written notification. All that sounds good if it worked out that way. But I want to tell my colleagues, this policy announced in 1999 was quickly forgotten or ignored by Senators, and the people who could enforce it actually did not enforce it.

Then, recognizing that the previous ''Dear Colleague'' letter was not effective, Leaders Frist and Daschle sent another ''Dear Colleague'' letter in 2003 that purported to have some sort of enforcement mechanism. The new policy required notification of the legislation's sponsor if and only if a member was of their party, as well as notification of the senior party member on the committee of jurisdiction. In other words, this new policy required less disclosure than the previous policy since it only affected holds by members of the same party. Nonetheless, the leaders promised that if the disclosure was not made, they would disclose the hold. It also reiterated that staff holds would not be honored unless accompanied by written notification.

That policy had more holes in it than Swiss cheese. I am not sure anyone understood the policy, and it had no effect that I can tell on improving transparency in a public body, the Senate, where we are on television and the public's business—all of the public's business—ought to be public.

No longer willing to settle for half measures such as we had been dealt in 1999 and 2003 that do not end secret holds once and for all, in the last Congress, Senator WYDEN and I then took our own initiative, not waiting for leaders to act. We offered our standing order to require full public disclosure of all holds as an amendment to the lobbying reform bill. It was a well-thought-out measure that was drafted with the help of people who know about how this place operates—Senator LOTT and Senator BYRD. Remember, Senator BYRD has been around here for a half century. We used their insights and their knowledge of Senate procedures as former majority leaders to write our legislation.

Our standing order passed the Senate by a vote of 84 to 13. Now think of that, this Senate making a decision that holds should not be secret anymore by a vote of 84 to 13. But listen to what happened after that 84-to-13 vote. While that bill did not become law, it became a starting point for the ethics bill passed by the Senate last year.

I thought the leaders had finally accepted that we would have full disclosure of holds. In fact, our secret holds provisions remained intact in the version of the ethics bill that originally passed the Senate earlier this year. Then, even though the secret holds provisions related only to the Senate—nothing to do with the other body, the House of Representatives—and had already been passed by the Senate, on a voice vote this time but reflecting the reality of the 84-to-13 vote before, they were rewritten behind closed doors by Members of the majority party.

Once again, I feel like half measures have been substituted for real reform. In other words, the provisions that had passed one time by 84 to 13, only affecting us, went to conference—where they didn't have to go to conference because it only affected us, it didn't affect the other body—and we end up with no real reform.

Under the rewritten provisions, a Senator will only have to disclose a hold ''following the objections to a unanimous consent to proceeding to, and, or passage of, a measure or matter on their behalf.''

Now, that is going to puzzle you like it puzzles me. Obviously, in this case, the hold would already have existed well before any objection. In fact, most holds never even get to this stage because the mere threat of a hold prevents unanimous consent requests from being made in the first place. This is particularly true if the Senator placing the hold is a member of the majority party. In that case, the majority leader would simply not ask unanimous consent, knowing that a member of his party has a hold.

For instance, it is not clear to me what would happen if the minority leader asked unanimous consent to proceed to a bill and the majority leader objected on his own behalf to protect his prerogative to set the agenda but also having the effect of honoring the hold of another member of the majority leader's caucus. Or what if the majority leader asked unanimous consent to proceed to a bill and the minority leader objects but does not specify on whose behalf, even though a member of the minority party has a hold. Would the minority Senator with the hold then be required to disclose the hold? I don't know. It is not very clear.

I asked the Office of the Parliamentarian for an opinion about how the new provision would work in such instances, but with no legislative history—because this was written behind closed doors there is no report to come out—with no legislative history for the changes that were made to the Wyden-Grassley measure, the intent of the rewritten provisions was not evident is what the Parliamentarian said. Therefore, what did I do? I wrote to the Senate Rules Committee to provide insight into the content of the rewritten provisions.

The response referred me to a section-by-section analysis of the bill in the CONGRESSIONAL RECORD that essentially restates the provisions but once again sheds no light on the specific questions about how this works. Perhaps that is because the answer might be a little embarrassing.

Depending upon how the new provisions are interpreted in the first instance I mentioned, it is possible that holds by members of the majority party will never be made public. In the second instance, a literal interpretation of the provision might indicate that either leader could choose to keep a hold by a member of their party secret so long as they do not specify publicly that their objection is on behalf of another Senator.

The Rules Committee letter claims the changes were intended to make the provision ''workable.'' It seems to me it is quite obvious that, unless somebody can answer these questions—I have asked the Parliamentarian and the Rules Committee and no answers yet—I don't see how the new provisions are any more workable than the original. On the contrary, they are not only unworkable, they undermine transparency. They make it more difficult for this body that is on television every day, where everything we do is the public's business. We want the public to know about it or we wouldn't be on television. Don't you think if a Senator has a hold on a bill, we ought to know who that Senator is and why he has a hold?

Under the changes, not only is the disclosure of holds only required after formal objection has been made to a unanimous consent request, but Senators then have a full 6 session days to make their disclosure public. What is more, a new provision was added specifying that holds lasting up to 6 days may remain secret—remain secret—forever.

What is the justification for that? Six days is more than enough time to kill a bill at the end of the session. And we are saying it is okay for Senators to do that in secret?

There are other changes that are puzzling to me. For instance, our original measure required holds to be submitted in writing in order to be honored, to prevent staff from placing holds without the knowledge of the Senator. However, in the rewrite of what Senator WYDEN and I originally put in, Senators now must be given written notice to the respective leaders of their ''intent to object'' only after the leader has already objected on the Senator's behalf. This is not only unworkable, but I think you would agree it sounds very absurd.

I have stated repeatedly and emphatically that as a matter relating to Senate procedure, it would be completely illegitimate to alter in any way the original Senate-passed measure requiring full disclosure of holds. The U.S. Constitution makes clear, ''Each House may determine the rules of its proceedings.''

The hold is a unique feature of the Senate arising out of its own rules and practices, with no equivalent in the House of Representatives. As such, there is no legitimate reason why this provision, having already passed the Senate, should have been altered in the first place and in any way. Nevertheless, it was altered in a very substantial way. In fact, it was altered in a way that I fear will allow secrecy to continue in this institution.

Clearly, the so-called Honest Leadership and Open Government Act was

handled by the majority party in a way that is anything but what the title of the bill implies.

So as you can tell, I have been frustrated so far in my attempts to find answers about how the rewritten provisions will be applied, but we will find out soon enough. Because I can assure you I will not give up until I am satisfied the public's business in this Senate is being done in a public way.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I wrote to the Rules Committee and the response I got back.

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

AUGUST 24, 2007.

Hon. DIANNE FEINSTEIN,
Chairwoman, Senate Committee on Rules and Administration, Washington, DC.

DEAR CHAIRWOMAN FEINSTEIN: I am seeking clarification of the intent of several changes made to the original Senate-passed provisions on disclosure of Senate holds in S. 1, the Legislative Transparency and Accountability Act. As you know, Senator Wyden and I , along with Senators Lott and Byrd, drafted the original provisions that have previously passed the Senate overwhelmingly. I have contacted the office of the Senate Parliamentarian seeking clarification about how the altered provisions would be interpreted and the initial reaction was that, the legislative intent was not sufficiently clear without more information on the legislative history to determine how the provisions would be applied in many circumstances. This is not surprising given the process by which these provisions were altered behind closed doors and rushed through the Senate without debate or amendments. Ironically, the lack of transparency in the process of considering a bill that is supposed to be about legislative transparency has left no legislative history to assist in interpreting this new language. Therefore, I ask that you provide me with written answers to several questions about the intent of the provisions as rewritten in the final version of the Legislative Transparency and Accountability Act.

New language was added to the original Senate-passed provision stipulating that senators would only be required to disclose their holds, ''following the objection to a unanimous consent (request?) to proceeding to, and, or passage of, a measure or matter on their behalf . . .'' As such, would the disclosure requirements be triggered for a senator who had placed a hold with their leader only if their leader or the leader's designee objects and specifically states that the objection is on behalf of another senator? For instance, if a member of the minority party has previously contacted the minority leader to place a hold, then the majority leader asks unanimous consent to proceed to a matter and the minority leader objects without giving a reason or specifying that the objection was on behalf of someone else, would the minority senator who had placed the hold be required to disclose or remove the hold within six session days? Would the disclosure provisions be triggered if a member of the majority party has previously placed a hold with the majority leader, the minority leader asks unanimous consent to proceed to a matter, and the majority leader objects on his own behalf to protect his prerogative to set the agenda, but also having the effect of honoring the hold of another member of the majority leader's caucus?

Other changes were also made to the original Senate-passed provisions that are more evident in their effect, but where the rationale remains unclear and I would appreciate any insights into the rationale for these changes. For instance, many holds exist for some time without a unanimous consent request and subsequent objection, and they have the effect of dissuading the majority leader from attempting to move to a matter, particularly in the case of hold by members of his own party in which case a unanimous consent request to move to a matter is unlikely ever to be made. Therefore, it isn't clear why a provision was inserted making the disclosure requirements effective only after a unanimous consent request and objection, this allowing holds to remain secret until that time.

The original Senate-passed provision also required that any hold be submitted in writing to the appropriate leader to allow the leaders to distinguish between a formal hold and an offhand comment, as well as to prevent staff holds. However, as currently drafted, a senator is required to submit a hold in writing to his respective party leader only after that leader has already honored the hold by objecting to a unanimous consent request on that senator's behalf, making the requirement irrelevant and even absurd.

Also, while the original Senate-passed provisions included a short time window to give senators a chance to fill out and submit their disclosure forms for the Congressional Record, the intention was never to sanction secrecy for even a short period of time. However, the new language allows six session days before disclosure is required and includes a new provision clarifying that senators never have to disclose holds so long as they are withdrawn within the six day period. I fail to see the justification for sanctioning secret holds for up to six days, which at the end of a session is more than enough time to effectively kill a bill or nominee in complete secrecy.

As I have said repeatedly, the public's business ought to be done in public. Although I believe the altered disclosure requirements for holds are flawed and do not fully eliminate secret holds as I had intended, I hope they will result in some increased transparency. Still, it is not completely clear what is now expected of senators and how these provisions will be interpreted. Therefore, I would appreciate any insights you can provide into the intent of the new, altered language related to disclosure of holds that was inserted into the Legislative Transparency and Accountability Act.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC, September 12, 2007.

Hon. CHUCK GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR CHUCK: I appreciate your concern about the provision on Senate holds in S.1, the Honest Leadership and Open Government Act, and I remain deeply committed to ensuring adequate disclosure of Senators who seek to place holds on bills, nominations and other Senate proceedings.

In terms of building a legislative history, I refer you to the Section by Section Analysis and Legislative History, which I submitted to the Congressional Record along with Chairman Lieberman and Majority Leader Reid, Volume 153, Nos. 125–126, August 2, 2007.

''Section 512 relates to the concept of so-called 'secret holds.' Section 512 provides that the Majority Leader or Minority Leader or their designees shall recognize another Senator's notice of intent to object to proceeding to a measure or matter subsequent to the six-day period described below only if that other Senator complies with the provisions of this section. Under the procedure described in section 512, after an objection has been made to a unanimous consent request to proceeding to or passage of a measure on behalf of a Senator, that Senator must submit the notice of intent to object in writing to his or her respective leader, and within 6 session days after that submit a notice of intent to object, to be published in the Congressional Record and on a special calendar entitled 'Notice of Intent to Object to Proceeding.' The Senator may specify the reasons for the objection if the Senator wishes.

''If the Senator notifies the Majority Leader or Minority Leader (as the case may be) that he or she has withdrawn the notice of intent to object prior to the passage of 6 session days, then no notification need be submitted. A notice once filed may be removed after the objecting Senator submits to the Congressional Record a statement that he or she no longer objects to proceeding.''

It is important to note that the revisions in the final bill were based largely on concerns raised by the Senate Parliamentarian and the offices of the Majority and Minority Leader that the original language was not workable, especially since procedures on Senate holds are not written in the Standing Rules of the Senate and are not enforceable by the Parliamentarian.

The final language was developed in consultation with Senator Wyden,the lead sponsor of the provision, and we were not aware of any further objections.

If you have an alternative recommendation, which the Parliamentarian believes is workable and enforceable, I would be interested in reviewing it.

With warm personal regards,

DIANNE FEINSTEIN,
Chairman.

Mr. GRASSLEY. Mr. President, I yield the floor.

HONORING OUR ARMED FORCES

CAPTAIN SCOTT SHIMP

Mr. HAGEL. Mr. President, I wish to express my sympathy over the loss of United States Army CPT Scott Shimp of Nebraska. Captain Shimp was killed in a military helicopter crash during a training exercise in northeastern Alabama on September 11. He was 28 years old.

Captain Shimp grew up in the small town of Bayard, NE. A 1998 graduate and salutatorian of his class at Bayard High School, he also played football, ran track, sang in the choir, and was an Eagle Scout. It was his lifelong dream to serve his country in the U.S. military.

I had the privilege of nominating Captain Shimp to the U.S. Military Academy at West Point. In 2002 he graduated as part of the first post-September 11 class. Captain Shimp served two tours of duty in Iraq and was scheduled to be deployed to Afghanistan in 2009. He was company commander of Company C, 4th Battalion, 101st Aviation Regiment, 159th Combat Aviation Brigade, 101st Airborne Division.

We are proud of Captain Shimp's service to our country, as well as the thousands of brave Americans serving in the Armed Forces.