

“(e) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall include in the National Intelligence Program budget a separate line item for the National Space Intelligence Office.”

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 119B the following new item:

“Sec. 119C. National Space Intelligence Office.”

(b) REPORT ON ORGANIZATION OF OFFICE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Space Intelligence Office shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the organizational structure of the National Space Intelligence Office established by section 119C of the National Security Act of 1947 (as added by subsection (a)).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The proposed organizational structure of the National Space Intelligence Office.

(B) An identification of key participants in the Office.

(C) A strategic plan for the Office during the five-year period beginning on the date of the report.

AMENDMENT NO. 86

(Purpose: To modify the requirements related to the Director and Deputy Director of the Central Intelligence Agency)

Strike section 421 and insert the following:

**SEC. 421. DIRECTOR AND DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.**

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—Subsection (a) of section 104A of the National Security Act of 1947 (50 U.S.C. 403-4a) is amended—

(1) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), (h), and (i) respectively; and

(2) by inserting after subsection (a) the following new subsections (b) and (c):

“(b) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—(1) There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) The Deputy Director of the Central Intelligence Agency shall assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director.

“(3) The Deputy Director of the Central Intelligence Agency shall act for, and exercise the powers of, the Director of the Central Intelligence Agency during the absence or disability of the Director of the Central Intelligence Agency or during a vacancy in the position of Director of the Central Intelligence Agency.

“(c) MILITARY STATUS OF DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—(1) Not more than one of the individuals serving in the positions specified in subsection (a) and (b) may be a commissioned officer of the Armed Forces in active status.

“(2) A commissioned officer of the Armed Forces who is serving as the Director or Deputy Director of the Central Intelligence Agency or is engaged in administrative performance of the duties of Director or Deputy Director of the Central Intelligence Agency shall not, while continuing in such service, or in the administrative performance of such duties—

“(A) be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense; or

“(B) exercise, by reason of the officer’s status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

“(3) Except as provided in subparagraph (A) or (B) of paragraph (2), the service, or the administrative performance of duties, described in that paragraph by an officer described in that paragraph shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

“(4) A commissioned officer described in paragraph (2), while serving, or continuing in the administrative performance of duties, as described in that paragraph and while remaining on active duty, shall continue to receive military pay and allowances. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of the Central Intelligence Agency.”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of subsection (e) of such section, as redesignated by subsection (a)(1) of this section, is further amended by striking “subsection (d)” and inserting “subsection (f)”.

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

“Deputy Director of the Central Intelligence Agency.”.

(d) ROLE OF DNI IN APPOINTMENT.—Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403-6(b)(2)) is amended by adding at the end the following new subparagraph:

“(J) The Deputy Director of the Central Intelligence Agency.”.

(e) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(1) the date of the nomination by the President of an individual to serve as Deputy Director of the Central Intelligence Agency, except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to the position of Deputy Director of the Central Intelligence Agency, by and with the advice and consent of the Senate, assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

AMENDMENT NO. 872, AS MODIFIED

On page 28, line 19, strike “legal opinions” and insert “legal justifications”.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, I also ask unanimous consent that it be in order for any of the cleared amendments to be modified to comport to the substitute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BOND. Mr. President, I thank the Chairman. We are moving forward now

on the bill. As indicated, we have some drafting problems we are working out, but we also have high hopes of being able to adopt a number of the amendments that have been filed on both sides. Some of them may require modification.

Mr. President, as we get ready to go to our policy lunches, I once again ask that Members with amendments come forward and let us know what the amendments are. We ask that they be germane, because nongermane amendments, even if they are passed, will not survive conference. We want to keep the proceedings moving forward, so we ask that amendments be germane. We ask Members to work with us so we can accept them or offer a compromise to make them acceptable. We want to do that. Otherwise, when votes are needed, and I am sure they will be, we ask that a reasonable time period be agreed on by both sides, the proponent of the amendment and the opponent, so we may get some orderly procedure so our colleagues will know how we are moving forward and we can show progress.

I thank the Chair and I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. CARPER).

**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2007—Continued**

The PRESIDING OFFICER. The pending business is the Cornyn amendment. Who seeks recognition?

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

Mr. KYL. Mr. President, I wonder if my colleague will first allow me to lay down an amendment but not speak to it.

Mr. ALEXANDER. Yes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. Yes, it is the Cornyn amendment.

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 866 TO AMENDMENT NO. 849

Mr. KYL. Mr. President, I simply ask unanimous consent to call up as a second-degree amendment to the pending amendment my amendment No. 866.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 866 to amendment No. 849.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To protect classified information)

At the end, add the following:

**SEC. \_\_\_\_\_. UNLAWFUL DISCLOSURE OF CLASSIFIED REPORTS BY ENTRUSTED PERSONS.**

(a) IN GENERAL.—It shall be unlawful for any person who is an employee or member of the Senate or House of Representatives, or who is entrusted with or has lawful possession of, access to, or control over any classified information contained in a report submitted to Congress under this Act, the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177; 120 Stat. 192), the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638), or an amendment made by any such Act to—

(1) knowingly and willfully communicate, furnish, transmit, or otherwise makes available such information to an unauthorized person;

(2) publish such information; or

(3) use such information in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

(c) INFORMATION TO CONGRESS.—Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives, or joint committee thereof.

(d) DEFINITIONS.—As used in this section—

(1) the term “classified information” means information which, at the time of a violation of this section, is determined to be Confidential, Secret, or Top Secret pursuant to Executive Order 12958, or any successor thereto; and

(2) the term “unauthorized person” means any person who does not have authority or permission to have access to the classified information under the provisions of a statute, Executive Order, regulation, or directive of the head of any department or agency who is empowered to classify information.

The PRESIDING OFFICER. The Senator from Tennessee is now recognized.

**USCIS NATURALIZATION TEST REDESIGN**

Mr. ALEXANDER. Mr. President, I thank my colleagues for giving me 5 minutes.

As my late friend Alex Haley, the author of “Roots,” said, “Find the good and praise it.” We talk an awful lot about illegal immigration here in the Senate. The majority and minority leaders have both said that before Memorial Day, we will bring up immigration reform in a comprehensive manner. I hope very much that we do that. That is our responsibility. It is too big a problem for one party to solve, and we should work on it in a bipartisan way.

Today, I want to talk about legal immigration as opposed to illegal immigration. About 650,000 individuals be-

come U.S. citizens every year. Each of us has attended ceremonies where this happens. This is at the very heart of our Nation. This is why we call the United States of America the Nation of immigrants. What is so important about them is that no one becomes an American based upon his or her race or where their grandparents came from. In fact, that is constitutionally impermissible. One becomes an American by a remarkable oath of allegiance to this country as opposed to some other country, and then demonstrating good character, being here for 5 years, and showing that you know our common language, English, and an understanding of the U.S. history.

The importance of that was brought home to me last week when I was visiting in Nashville. About 30 percent of all of the students in Tennessee who have limited English proficiency happen to be in the Nashville School District, and Pedro Garcia, the superintendent of schools, was telling me that many of those students who are not now American citizens want to make sure they learn enough U.S. history in middle school and high school so they can pass the citizenship test and become Americans when they graduate.

Today, the U.S. Citizenship and Immigration Services, USCIS, is formally releasing the Citizen’s Almanac. I call it to the attention of our colleagues. It is a collection of American symbols of freedom and liberty to be given to every newly sworn citizen, and that would be 650,000 this year. It is built upon action that was taken earlier this year by the USCIS to create a new and better citizenship test.

At the conclusion of my remarks, I ask unanimous consent that a fact sheet about the naturalization test redesign be printed in the RECORD.

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

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, the purpose of that test is to simply give new meaning to what it means to be an American. That oath of allegiance which these 650,000 new citizens will take is basically the same oath that George Washington and his officers took at Valley Forge in 1778. It has a great deal of meaning. Other countries in the world have not had the experience we have had helping people from around the world become Americans. The English, the French, the Japanese, and the Germans are struggling with that right now, as people move in who are not Japanese, German, English, or French. It is hard for them to become part of that national identity. We have not had that problem. We welcome everyone based upon their understanding of the symbols and documents represented in the Citizen’s Almanac. So if we don’t teach about these things in our schools or immigrants don’t learn it in the naturalization process, then we are not a united country.

As I have said many times on this floor, diversity is a great strength of

the United States of America, but it is not our greatest strength. Our greatest strength is that we have been able to take all of this diversity and mold it into one country, not because of race or ethnicity but because of a belief in a few principles and our common language. We are able to say we are proud of where we came from, but we are prouder to be Americans.

I salute the U.S. Citizenship and Immigration Services for this document, and the National Endowment for the Humanities for its hard work on it. The Citizen’s Almanac includes the patriotic anthems and symbols of the United States, Presidential and historical speeches from Presidents Lincoln, Washington, Roosevelt, Kennedy and Reagan, and Martin Luther King, Jr., and landmark decisions of the Supreme Court. It ought to be in every Senate office. It will be in every home of every new citizen. It will be a good document to be in every school in America.

I yield the floor.

**EXHIBIT 1**

[From the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, Jan. 22, 2007]

**USCIS NATURALIZATION TEST REDESIGN**

U.S. Citizenship and Immigration Services (USCIS) is revising the naturalization test to create a test and testing process that is standardized, fair and meaningful. A standardized and fair naturalization test will include uniform testing protocols and procedures nationwide to ensure that there is no variation between offices. A meaningful test will encourage civic learning and patriotism among prospective citizens. A revised test, with an emphasis on the fundamental concepts of American democracy and the rights and responsibilities of citizenship, will help to encourage citizenship applicants to learn and identify with the basic values that we all share as Americans.

**BACKGROUND**

During the past 10 years, the standardization and meaningfulness of the naturalization test have come under scrutiny. Various studies found that the exam lacked standardized content, instruments, protocols or scoring system. Inconsistencies were reported in the way the exams were administered nationwide, and there was no assessment of whether applicants had a meaningful understanding of U.S. history and government.

To address these concerns, Immigration and Naturalization Services (INS) launched a test redesign project in 2000 that has included technical assistance from several test development contractors, the National Academy of Sciences, a panel of history and U.S. government scholars, and a panel of English as a Second Language (ESL) experts. In addition, USCIS has sought input from a variety of stakeholders, including immigrant advocacy groups, citizenship instructors, ESL teachers, and USCIS District Adjudications Officers.

*Changes to the naturalization test*

The reading and writing portions of the pilot naturalization exam is similar to the current test except that the new exam contains more civics-based vocabulary. Applicants will still have up to three chances to read and write a sentence correctly in English. In the writing section of the test, the testing officer will dictate a sentence and ask the applicant to write everything the officer reads. During the reading portion

of the test, the test officer will ask the applicant to read each word out loud in that sentence.

The proposed format for the new civics exam will still require applicants to correctly answer six out of 10 questions chosen from a master list of 100 civics questions and answers. The difference is that the new sentences will now focus on civics and history topics, rather than the general range of topics on the current test. USCIS has placed these questions and answers, along with a study guide on the Internet and elsewhere in the public domain to help applicants prepare.

Q. What are the new civics questions and English vocabulary list items?

A. USCIS posted has made the English vocabulary lists available at: [www.uscis.gov/natzpilot](http://www.uscis.gov/natzpilot).

Q. How were the questions developed?

A. English Items. A panel of English as a Second Language (ESL) and other test development experts chosen by the association of Teachers of English to Speakers of Other Languages (TESOL) developed the English items. The TESOL panel established an English language level for the test consistent with Department of Education reporting levels for adult basic education.

Civics Items. The TESOL panel also assisted in drafting and reviewing civics questions using a content framework identified by the Office of Citizenship from a review of government authorized civics and citizenship texts, the U.S. Department of Education's National Standards for Civics and Government, the current naturalization test, and the study guide developed by a panel of experts assembled by USCIS in 2004.

Q. How are the new questions an improvement over the old questions?

A. By weighing the questions on the new civics and U.S. history test we will ensure that all test forms are at the same cognitive and language level. By creating test forms at the same level of difficulty, we are ensuring that an applicant who goes for an interview in one city of the country has the same chance of passing the test as in any other city. The English vocabulary on the new test is also fairer because it is targeted at a language level consistent with the Department of Education reporting standards for the level required by Section 312 of the Immigration and Nationality Act. District Adjudication Officers are being trained to administer and score the naturalization tests in the same way nationwide to ensure uniform administration of the test.

Applicants will receive a study guide on the new civics and U.S. history questions so they can deepen their knowledge and understanding of our Nation as they prepare for the exam. The new items will focus less on redundant and trivial questions based on rote memorization and will focus on concepts, such as the rights and responsibilities of citizenship. Some items on the current test fit those needs and required little content change, so several items from the current test will appear on the revised test. The range of acceptable answers to each question will also increase so that applicants can learn more about a topic and select from a wider range of acceptable answers. And finally, the reading and writing test will provide a tool for civic learning because the vocabulary list is civics-based.

Q. How will the interview process change for applicants?

A. The interview process will not change.

#### PILOT PROGRAM

As part of the test redesign, USCIS will conduct a pilot program in ten cities beginning in February 2007 to ensure the agency has all the information necessary before the

new test is fully implemented nationwide in 2008. During this pilot, USCIS will carefully analyze the new test questions to make certain that the questions are fair and work as they were intended. USCIS will also collect information about testing procedures, to include feedback from DAOs, to help refine the testing procedures and facilitate the smooth transition to the new naturalization exam.

Q. What will USCIS pilot?

A. USCIS plans to pilot 142 U.S. history and government questions and approximately 36 reading and 36 writing items. The topic areas include principals of American democracy, system of government, rule of law, rights and responsibilities, American History, and geography. About half of the questions include rephrased versions of questions on the current test. All citizenship applicants in the 10 pilot areas who are scheduled for their naturalization test during the pilot will receive advance copies of the civics questions and the two lists of vocabulary for self-study. USCIS has also posted these study materials on the web at: <http://www.uscis.gov/natzpilot>. The actual test will become available to the public.

Q. How were the questions selected?

A. The TESOL panel assisted USCIS in drafting and reviewing civics questions using best practices and conventional sample techniques, such as regression analysis, currently used in private industry.

Q. Where are the test sites?

A. The pilot program will run in 10 cities that were randomly selected based on citizenship application volume. The ten pilot sites are: Albany, NY; Boston, MA; Charleston, S.C.; Denver; El Paso, Texas; Kansas City, Mo.; Miami; San Antonio, Texas; Tucson, Ariz.; and Yakima, Wash.

Q. How were the 10 pilot cities selected?

A. To capture the diversity of USCIS offices and applicants, USCIS randomly selected a representative sample of 10 districts by geographic region and the volume of applications that were processed in each office to conduct the pilot. This method will help insure that the final results can be made with equal accuracy and statistical weight.

Q. What is the purpose of the pilot?

A. A pilot is a crucial component of any test design process. A pilot ensures that the draft test items, scoring rubrics, and administration processes are appropriate, not too difficult, and elicit the responses we expect.

Q. How will USCIS conduct the pilot?

A. USCIS must administer about 6,000 tests to achieve a representative and significant study.

Pilots will begin in February 2007 and will last between two to four months.

USCIS trained the test administrators on the new exam process.

USCIS will mail a notification to all applicants scheduled for an interview at the pilot sites during the pilot period informing them that they have the opportunity to participate in the national pilot program.

Applicants will also receive a letter explaining the pilot and study questions.

Applicants who take the pilot but do not pass one or more parts will have the opportunity to take the current test or part of the current test immediately during the interview, thus giving them an additional opportunity to pass the naturalization test.

Many of the questions on the pilot test and the current test cover the same subjects, so additional preparation is expected to be minimal.

Once pilot results have been analyzed, piloted items will be revised accordingly.

Q. Must applicants participate in the pilot?

A. No. Applicants will have the choice to decline participation in the pilot test. For those who decline, they will be given the current test.

USCIS will continue to meet with local immigrant service providers, advocates, and ESL teachers in pilot sites to gain their support so that they can encourage immigrants to participate in their government and make this a successful pilot.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Senator FEINGOLD and I be permitted to speak for up to 10 minutes as in morning business.

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

#### SENATE CAMPAIGN DISCLOSURE PARITY ACT

Mrs. FEINSTEIN. Mr. President, I rise in my capacity as chairman of the Rules Committee to speak about a bill that the Committee heard and passed out unanimously a short time ago. That bill is entitled the "Senate Campaign Disclosure Parity Act." It is sponsored by Senators FEINGOLD, COCHRAN, and 32 other Senators. It would require that Senate campaign finance reports be filed electronically rather than in paper format. That is all the bill does.

Currently, House candidates, Presidential candidates, political action committees, and party committees are all required to file electronically, and they do. But Senators, Senate candidates, authorized campaign committees, and the Democratic and Republican Senate campaign committees are exempt. As a result, we have a very cumbersome system in which paper copies of disclosure reports are filed with the Senate Office of Public Records, which then scans them, makes an electronic copy of them, and sends that copy to the FEC on a dedicated communications line. The FEC then prints the report and sends it to a vendor in Fredericksburg, VA, where the information is keyed in by hand and transferred back to the FEC database. All of this costs about \$250,000, and it is a waste of money, a waste of staff, and a waste of time.

At our hearing on February 14 on this bill—and this bill is just on this point—it was clear that there was no public opposition to this proposal, only public support. The bill has been hotlined. It has cleared on the Democratic side. It has not cleared on the Republican side.

Now, again, this bill says we will just allow us to electronically file our quarterly reports. I just electronically filed my quarterly reports. I then gave a paper copy to the Secretary of the Senate. This is exactly the type of good-government law the Senate can adopt as a stand-alone measure.

I hope we move this legislation today, without burdening it with other items. It is really long past time to bring the Senate into the modern era. So I hope my colleagues on both sides of the aisle will join me in ensuring timely access and disclosure of Senate finance campaign activities and bring that information before the public.

I will now yield to the author of the legislation, the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I thank the Senator from California. I am very pleased to be here with her today. I sincerely thank the Senator from California for moving the Senate Campaign Disclosure Parity Act through the Rules Committee so that we are now in a position to finally pass this legislation. As the Senator from California indicated, at last count, we now have 35 cosponsors for S. 223, 20 Democrats and 15 Republicans, and no known opposition.

The bill fixes the anomaly in the election laws that makes it nearly impossible for the public to get timely access to Senate campaign finance reports, even though most other reports are available on the Internet within 24 hours of their filing with the Federal Election Commission, FEC. This bill will finally bring Senate campaigns into the 21st century by amending the section of the election laws dealing with electronic filing to require reports filed with the Secretary of the Senate to be filed electronically and forwarded to the FEC within 24 hours.

This step is long overdue. There is no excuse for keeping our own campaign finance information inaccessible to the public when the information filed by House and Presidential candidates, PACs, parties, and even 527 organizations is readily available almost immediately. The Washington Post has called the outmoded Senate campaign reporting system “obviously unjustified,” and Roll Call has called it “indefensible.” I couldn’t agree more.

The current system means that the FEC’s detailed coding, which allows the press and the public to do more sophisticated searches and analysis, is completed over a week later for Senate reports than for House reports. It means that the final disclosure reports covering the first 2 weeks of October are often not available for detailed scrutiny until after the election. That is scandalous and there is no good reason for it.

Let me just say that I know that the election laws have a big impact on campaigns and all Senators have a strong personal stake in vetting changes to those laws. I am very familiar with controversial and contested campaign finance legislation. This isn’t that kind of bill. This bill is as close to a no-brainer as you can get in this area.

In addition to bipartisan support here in the Senate, major media outlets have endorsed it, as have bloggers on the left and the right. No one that I know of opposes it. And yet, it has now been nearly 3 and a half years since I first introduced it. That is nearly half as long as it took us to pass McCain-Feingold. I know McCain-Feingold. You might say McCain-Feingold is a friend of mine. This bill is no McCain-Feingold.

As I understand it, this bill has cleared the Democratic side. Given the

strong support for it from across the political spectrum, and cosponsorship from many Republican Senators, and I especially thank Senator COCHRAN for being the main author along with me. I sincerely hope there won’t be an objection on the Republican side. It would be wrong to hold this bill up as some kind of bargaining chip. It is time for the Senate to pass this bill, and I hope that can be done today.

Once again, I thank the Senator from California, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, if I may, I will ask a question of the Senator from Wisconsin. First, I thank him for his leadership on this issue.

If I can ask the Senator, is there any item in this bill other than electronic filing?

Mr. FEINGOLD. No, there is not.

Mrs. FEINSTEIN. Doesn’t this bill simply enable Members of the Senate, just as every other political office does, to file directly electronically their finance reports?

Mr. FEINGOLD. That is all it does.

Mrs. FEINSTEIN. I thank the Senator.

Mr. President, this is such a simple, direct bill with respect to transparency. It is an idea whose time has long come. It happens everywhere else except for the Senate, Senate committees, and the Senate campaign committees. The time is long overdue to pass this bill. It is such a simple, good-government issue. It is very hard for me to understand who could oppose this and what their reason for opposing it could be. I hope that if there is opposition in this Senate, the Member would be willing to come down to the floor and express why they would oppose this bill.

We have the solid support of the entire Rules Committee. This bill was easy to pass out of committee. It was easy to hotline on the Democratic side, and it should be easy to pass by unanimous consent.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 96, S. 223, a bill to require Senate candidates to file designations, statements, and reports in electronic forms; that the committee-reported amendment be considered and agreed to; that the bill, as amended, be read three times, passed; and that the motion to reconsider be laid upon the table, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Mr. President, on behalf of a Republican Senator, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. FEINSTEIN. I yield the floor.

Mr. ROCKEFELLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ACTION ON AMENDMENTS NOS. 856 AND 859  
VITIATED

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the previous action on amendments Nos. 856 and 859 be vitiated.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BROWN). The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I ask unanimous consent that at 5:45 p.m. today, the motion to proceed to the motion to reconsider be agreed to, the motion to reconsider be agreed to, and without further intervening action, the Senate proceed to vote on the motion to invoke cloture on S. 372, the Intelligence authorization bill; further, that Members have until 4:45 p.m. to file any second-degree amendments.

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

Mr. ROCKEFELLER. Mr. President, I should say this has been cleared on both sides.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I ask to speak as in morning business for half an hour, although I probably will not speak that long.

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

#### MEDICARE

Mr. GRASSLEY. Mr. President, earlier this year I gave a series of statements on this floor on the Medicare prescription drug benefit. Back then, I said I was informing my colleagues because in the near future Congress would consider some fundamental changes in how the benefit works.

Well, for the entire Senate, the future is now. Last week the Senate Finance Committee marked up legislation on the so-called prohibition on Government negotiations under the Medicare prescription drug benefit. When I gave these four statements during February, I said it was important for the public and also for Medicare

beneficiaries to understand the proposed changes, and that it was equally important to explore the effects these changes would have.

Those reasons still hold true this very day. They are even more important now as the Senate gears up for action on that ill-advised legislation. I will inform my colleagues on this topic today, tomorrow, and the rest of the week, if I need to, because I want to make sure everyone understands the consequences of this legislation that is going to change the Medicare Program and hurt the Medicare Program, a program that is working; that if it ain't broke, don't fix it. I am willing to talk about this issue until I am blue in the face.

First, everyone should recognize that political opponents of the drug benefit that we call Part D of Medicare have tried for 4 years to tear this benefit apart since day one. Day one dates back to December 2003, when the President signed the bill. These naysayers feel Government can always manage better. They want a Government-run benefit program of drugs in Medicare, and they want the Federal Government dictating drug prices, as if the Federal Government can dictate drug prices.

Thankfully, the naysayers lost when that legislation was being considered. But that has not stopped them from constantly whining and carping about the drug benefit that is now law. The naysayers said there would be no prescription drug plans. Then when there were plenty of prescription drug plans coming into the system, approved by the Secretary of HHS to administer to the seniors of America, they said there were too many plans.

The naysayers said it was too confusing, that the seniors would not be able to choose plans, even arguing that there would be a small number of seniors signing up.

But the seniors have enrolled. In fact, 92 percent of the seniors in America are covered by a prescription drug plan. And what about their satisfaction? Interviews show a great deal of satisfaction on the part of seniors with the plans.

Then the naysayers suggested plans could change their prices and the drugs they cover at the drop of a hat, which has not happened. So the naysayers were wrong again. They did all they could to taint beneficiaries' views of the benefits before it even got off the ground. But the naysayers' biggest criticism of the drug benefit is that, according to them, the Government does not negotiate with drugmakers for lower prices.

Now I will show you how silly that is and how wrong that is and, more importantly, how misleading that is. I say according to "them," meaning according to the naysayers, because they have gone to great lengths to make it sound as though nobody is negotiating with drug companies. If you believe the naysayers out there, you would think that drug companies name their price

and Medicare is forced to pay it. That is so wrong that it truly boggles the mind. It seems to me, as I see these arguments, there is no embarrassment on the part of the naysayers' part.

Now, it is correct, of course, that the Secretary of Health and Human Services himself does not negotiate with drug companies, but it is absolutely not correct to say there are no negotiations. That is complete and utter nonsense. It is embarrassingly wrong. Under the Medicare drug benefit, multiple drug plans compete against each other for the membership of seniors and disabled people covered by Medicare. These plans compete to get the lowest prices from manufacturers, for you as a member, because they want to keep you as a member.

In fact, these plans want to be the best negotiators and to offer beneficiaries the best possible drug plan with low premiums, low cost sharing, and even with additional benefits. They compete to be the plan that beneficiaries want to join.

Now, is this something new? No, it is nothing new. This is the same approach used for health care benefits for every Member of Congress, and 3 million Federal employees, under what we call the Federal Employee Health Benefit Program. If beneficiaries do not like the job their plan is doing, you can fire your plan. You can leave it, join another plan. You can choose a better plan. Yet, you see, it is actually very simple how this works; very simple. Harnessing the power of competition among plans gives the Medicare Program beneficiaries and the taxpayers access to better negotiation than anything the Government could do on its own.

In fact, there are five negotiators out there that are negotiating in a bigger way than even the Federal Government can. Can you imagine that, there are five negotiators that are bigger than the Federal Government that were negotiating this? Competition, then, is the mainstay of our free market economy. Businesses compete every day in almost every sector of our economy to produce the products consumers most want at a price that consumers pay, which is probably what consumers can afford.

But the naysayers of the drug benefit somehow do not like that. They are uncomfortable with the free market. They want the Government to run everything. They want the Government itself doing the negotiation. They find it hard to believe anyone could do a better job negotiating than big Government.

Of course, along the lines, they are ignoring the simple fact that competition is working. They are ignoring that competition has led to lower premiums, \$22 this year instead of \$23 last year, instead of \$37 when we wrote the legislation.

They are ignoring that competition is bringing choices to beneficiaries, those who said we would never have

choice, that you could not use plans because plans would not work. You know what. Those very Members of Congress are wrong, because in my State there are 43 plans. Will there always be 43 plans? No, I imagine there are some that are small, will weed themselves out, will be bought. These people are ignoring the fact that the Government is not actually very good at figuring out what it should pay for drugs. They are ignoring the fact to carry on with the political scam that they committed against beneficiaries and against the public.

I have a chart I used a month ago that I want to show again. On it is a quote from the Washington Post, recognizing as well, when it wrote the following in an editorial, that this is a political scam and that governments don't do a very good job of negotiating:

Governments are notoriously bad at setting prices, and the U.S. Government is notoriously bad at setting prices in the medical realm.

We knew this because of the Government's experience paying for drugs covered by Medicare Part B. There are not very many drugs covered by Medicare Part B, but there have been a few and over a long period of time. What did we learn from that experience of Part B Medicare? These happen to be the drugs that are given during a physician's office visit or other drugs such as oral cancer drugs. Medicare payments for these drugs were based on what is called the average wholesale price, AWP. It is similar to a sticker price for a car. No one actually pays that price on the sticker of a car. The joke was that average wholesale price or AWP actually stood for "ain't what's paid." Over the past decade, reports issued by the inspector general, by the Department of Justice, and by the Government Accountability Office found that by relying on average wholesale price, Medicare was vastly overpaying for these drugs. Recommendations were made to change payments so they reflected actual market cost. The Clinton administration tried to make some of these changes but after pushback from providers, it backed off.

Congress took another run at this issue in 2003 in the Medicare Modernization Act and was successful. Congress reformed how Medicare pays these drugs under Part B, not Part D. Medicare now bases its payment for many of these drugs on a market-based price, a real price, not the average wholesale price, not the "ain't what's paid" price because it wasn't paid. This change, believe it or not, is saving the taxpayers and beneficiaries, but it took years to get that fixed. In all that time, Medicare and taxpayers paid too many dollars for drugs, wasted money, billions and billions of dollars wasted. So using the Part B tradition, we don't want to make the same mistake. We don't want to repeat that experience under the new Part D of drugs for Medicare.

We also knew Medicare overpays for a lot of other services and equipment.

The bookshelves are full of other reports from the General Accounting Office, from the inspector general, from the Medicare Payment Advisory Commission, from the Congressional Budget Office, and others, about how Medicare is paying too much in too many areas. For example, Medicare overpaid for durable medical equipment for years until the Republican-led Congress made changes in the 2005 Deficit Reduction Act. In addition, each year the Office of Inspector General issues what is called the Red Book, which presents cost savings recommendations. The books are usually 50 or more pages long, and the recommendations span all aspects of Medicare—hospitals, physicians, home health care plans, and others. This is more evidence of the many areas where Medicare doesn't get the best deal.

Congress has even created the Medicare Payment Advisory Commission, called MedPAC, to provide advice to Congress on payments for services. Every year, Congress hears recommendations from MedPAC to address Medicare overpayments, but many times it takes years for the Secretary of Health and Human Services or for the entire Congress to act to save the taxpayers money. In making recommendations, MedPAC looks at profit margins, for example. One type of provider had been found to have margins of 17 percent off of Medicare payments. The Congress has been able to act on many MedPAC recommendations, but it can be very hard to accomplish these changes. I remember when I was chairman of the Senate Finance Committee over the last 4 years. I received letters from Members saying something like: Please don't cut payments for this provider group or that provider group.

In fact, on the Senate floor just before recess, I fought to prevent this very Senate from freezing a Center for Medicare Services' rule that would have prevented wasteful spending in the program we call Medicaid. Is the rule a good thing or a bad thing? We didn't bother to hold the first hearing on the subject. The only thing that mattered was that a group of providers complained. Like the Clinton administration found, letters and complaints such as that can make it difficult, in the very short order, to do anything about a problem, despite the compelling evidence of overpayments, despite the high profit margins, despite the fact that a proposed change could save taxpayers billions of dollars.

Those of us who wrote the Part D Medicare drug plan passed 4 years ago—and that was mostly Senator BAUCUS for the Democrats and me for the Republicans—were concerned that this same kind of dynamic might happen with this Part D program. Political pressures on Medicare drug benefits would tie the hands of the Secretary of Health and Human Services. If that happens, the programs would be unmanageable and costs would skyrocket.

Instead, Congress put competing private plans in charge of negotiating. These plans and their negotiators have years of experience in this arena. This is what they do for a living. Health and Human Services has had very little experience and a very dismal track record.

On this chart, these plans and their negotiators and managers have powerful bargaining clout in the market. They manage the drug coverage for tens of millions of people. There are plans that cover upwards of 50 million people—75 million, in one case—far more than the 41 million Medicare beneficiaries. Clearly, Medicare beneficiaries account for a large number of all prescriptions filled each year, so some might argue that 41 million beneficiaries have more clout than 75 million nonbeneficiaries, but numbers alone do not necessarily translate into lower costs.

As evidence of that, we had all sorts of experts come before the Finance Committee in January on this very topic. In response to questions I asked, particularly of Professor Scott Morton of Yale University, he said it doesn't matter whether you negotiate on behalf of 1 million or 43 million people; what matters is what leverage you have and how you use that leverage.

I think I ought to emphasize that. It is how you use the leverage. So it is what is done to leverage those numbers, then, that leads to lower costs. That leverage comes from the plan being able to say to a drug company something such as: I can get a better deal on drug A from a different manufacturer that has the same clinical effect as your drug B. If you can't match it or do better, then I am going to leave the table.

Some plans will get a better deal on drug A and put it in their formulary. Some plans will get a better deal on drug B. But many experts agree—and experience suggests—that it would be difficult for the Government itself, our Government, to walk away from the table. There would be enormous pressure to cover everything. If it did, the negotiating power lies not with the Government but with the manufacturers.

Here is what Professor Scott Morton said would happen if someone negotiating drug prices couldn't have a formulary:

Each manufacturer would know that, fundamentally, Medicare must purchase all products. The Medicare "negotiator" would have no bargaining leverage, and therefore, simply allowing bargaining on its own would not lead to substantially lower prices.

At the same hearing, we had another witness. That witness was Mr. Edward Haislmaier, of the Heritage Institute. I would like to quote him from his written testimony:

[that] volume purchasing encourages manufacturer discounting, it is not, in and of itself, sufficient to extract large discounts. Manufacturers will only offer substantial discounts if the buyer combines the "carrot" of volume with the "stick" of being able to

substitute one supplier's goods with those of another.

In drug negotiations, that stick is called a formulary. Plans participating in drug benefits can use that stick. Expert after expert agrees it would be difficult, if not impossible, for the Government, however, to use that stick under Medicare. In fact, in a November 2 Wall Street Journal opinion piece, Dr. Allen Enthoven, an economist at Stanford University, wrote:

When the government negotiates, its hands are tied because there are few drugs it can exclude without facing political backlash from doctors and the Medicare population, a very influential group of voters.

Let's be honest with each other. What do you think would happen in the Senate if the Center for Medicare Services, CMS, tried to cut a large drug company headquartered in New Jersey or North Carolina, for example, completely out of Part D because they wouldn't meet the Government's price demands? Would Senators from those States say something such as: Oh, well, that is just too bad? Would any of you say that if it was in your State that a manufacturer was being cut out? Again, let's be honest with each other.

What are we left with then? At the January Senate Finance Committee hearing, Professor Scott Morton said that without a formulary—the "stick," as I refer to it—the Secretary would have about as much negotiating power as you would get by calling a drug maker and saying something such as: I would like you to offer a lower price. Their answer might be: Why should I? You have to buy my drug, so why would I offer you a lower price? About all you have left after that is: Please, won't you give me a lower price? That is not going to get you very far.

If my friends on the other side of the aisle think this bill is going to achieve real savings for consumers or the Federal Government, they must have some ideas in mind. I can't believe my friends would come to the Senate floor with a bill that is truly as "do nothing" as CBO describes it.

Here is what the Congressional Budget Office said about S. 3. It would have "a negligible effect on federal spending." Another quote:

Without the authority to establish a formulary, we believe that the Secretary would not be able to encourage the use of particular drugs by Part D beneficiaries, and as a result would lack the leverage to obtain significant discounts in his negotiations with drug manufacturers.

So let me repeat that other quote: It would have "a negligible effect on federal spending."

The bill we are considering and voting on tomorrow cannot possibly be as innocuous or inconsequential as what the Congressional Budget Office said. Certainly, there must be creative ideas out there to find savings we have not considered.

Since the Finance Committee's markup of S. 3 the other night, I have been considering how a Secretary

might use his imagination to find savings. One of the first places we looked at was H.R. 4, the bill that passed the Senate.

H.R. 4 struck the language in the statute that prevents the Secretary from instituting a price structure for reimbursement of covered drugs. Did the House strike the ban because they want an imaginative Secretary to use price controls as part of negotiations? Because all we have heard is they do not want price controls.

Last Thursday night, we offered an amendment to S. 3 to prevent the Secretary from using a preferred drug list, or PDLs as they are called. A preferred drug list is just a formulary under a different name. It is essentially a Government-controlled list of drugs that you can or cannot have.

While I do not think there is a difference between formularies and preferred drug lists, we have seen the courts rule that a State can use one in Medicaid even though Medicaid bans the use of formularies.

So Thursday night, we had an amendment to prevent the Secretary from using preferred drug lists. After all, we do not want the Secretary coming up with a list of drugs you can or cannot take, do we?

To my surprise, the Democrats on the committee rejected my amendment. So what is going on? Perhaps they think that having the Government establish a preferred drug list is one of the imaginative ideas a Secretary will be able to use to save money.

I think this bill is a Trojan Horse. It is dressed up as a do-nothing message bill. But before the week is out, we are going to look inside that horse and see all the bad that could be waiting to hurt beneficiaries. We will see what is bad in this bill that will hurt access and choices beneficiaries currently have in this Medicare drug benefit program.

Maintaining access and choice—access and choice—is critical because beneficiaries have different drug needs. The way the benefit is structured now is that plans can have different formularies. Some might get a good price on one drug; another might get a better price on another drug. They can have different formularies, and beneficiaries can have choices that meet their needs.

When Congress finished work on the new drug benefit in 2003, we knew it was an experiment. Nothing like this had ever been tried. Here is what we learned: Private competition works. It has been successful at keeping costs down. The 25 most used drugs by seniors cost 35 percent less. Plan bids have come in lower than expected. This year, they were down 10 percent from last year's bids.

Premiums are lower than they were estimated to be. Before 2006, Medicare's chief actuary estimated the average monthly premium would be \$37, but it was actually \$23 in 2006. That is 38 per-

cent lower than expected. Because of the strong competition between plans, the average premiums for beneficiaries is expected to be about \$22 in 2007, not the \$39 that had been estimated.

Why? Private competition works.

The net cost to the Federal Government is also lower than expected. In January, the official Medicare actuary announced that the net 10-year cost of Part D has dropped by \$189 billion over the original budget window used when the Medicare Modernization Act was enacted. That is 2004 to 2013. That is a 30-percent drop in the actual cost compared to the projection.

Why? Because private competition works.

The savings are unheard of for a Government program of any kind. Where else have you ever heard of a cost underrun in a Federal program?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, could I please have 4 more minutes? I ask unanimous consent for that additional time.

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

Mr. GRASSLEY. I wish to emphasize: We have a cost underrun in a Federal program. When have you ever heard of that?

You could not get those lower prices and lower costs unless the prescription drug plans are being strong negotiators with the drug makers. States are also saving money in lower contributions, better known as "clawback" payments. State clawback payments are now projected to be \$37 billion less over a 10-year period. That is 27 percent lower. Just in 2006, States saved \$700 million.

Why? Because private competition is working.

The plans are negotiating lower prices for drugs. I have said so many times, for the top 25 drugs used by seniors, the Medicare prescription drug plans have been able to negotiate prices that on average are 35 percent lower than the average cash price at retail pharmacies—35 percent lower.

Why? Because private competition is working.

Here are some examples: Lipitor is 15 percent lower, Atenolol is 63 percent lower, while Fosamax is 30 percent lower. I could go on down the list.

Now, when the drug benefit was signed into law, we believed it would work and hold down costs. That is certainly happening today even more than we expected because private competition works.

We also said that if it did not work—if the negotiating model used for the drug benefit did not hold down costs—then Congress would need to reexamine things. If costs grew too fast, then the whole idea would have to be revisited.

Maybe we would have to restrict access to drugs. Maybe we would have to rely more on mail order pharmacies instead of liberal access to local retail pharmacies. Maybe more drastic cost-cutting measures would be needed.

But that is not the position we are in today. Why? Because private competition works.

I hate to sound like a broken record, but I think the naysayers out there need a little repetition therapy. Everyone has heard the old saying that "if it ain't broke, don't fix it." It certainly applies here, and the evidence shows it.

I would like to be the first one to say that the Medicare drug benefit is not perfect. There are improvements that can be made. Congress should look at ways to make it easier for low-income beneficiaries to get the additional assistance they need by reexamining the low-income subsidy asset test.

We need to look at payments to pharmacies and make some reforms in that area. We need to look at ways we can simplify the enrollment process. And there are other areas where we can make improvements.

But one area that is working very well is the negotiating power of Medicare drug plans. They have shown their ability to hold down costs. It is working.

The pleas from the naysayers to put the Government in charge of negotiating are about politics, not policy. These voices have not given up in their misguided quest to score political points with the drug benefit. It saddens me the Democratically controlled Congress has devoted so much time to this issue rather than looking at some of the improvements we can make in Part D that I mentioned.

Why they have put politics ahead of constructive changes is beyond me.

In January, I had hoped we could put politics aside and focus on some of the real improvements we could be making with the drug benefit. But, sadly, that is not the case, and that is why I am here today.

Under the drug benefit today, with the plans negotiating with drug makers and competing with each other, we have lower drug prices for beneficiaries, lower program costs for the Government—saving the taxpayers money—and prescription drug choices for beneficiaries.

Private competition works.

Mr. President, I urge my colleagues to oppose S. 3. It is a big government takeover of the private market that is working for the Medicare benefit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for such time as I may consume.

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

Mr. KERRY. I thank the Chair.

Mr. President, let me just comment. I did not come to the floor to speak about the bill specifically. I wish to speak about the alternative minimum tax in a moment. But I cannot help, since I am a member of the committee—listening to the ranking member talk about Medicare and what the

impact of allowing Medicare the possibility of being able to negotiate might or might not be—but speak to that for a moment, if I can.

I think most Americans understand, as a matter of common sense, that when an entity that represents their tax dollars has the ability to go out into the marketplace and negotiate for a price, the probability they are going to have saved tax dollars is pretty real, if there is a good and decent negotiation.

The resistance of the Senator from Iowa and others is interesting because it is a resistance that represents the power of big companies in the country—the drug companies—to sort of say: Hey, we kind of like the system the way it is—which we understand because the profits are enormous. But our job is to represent the taxpayers' dollars. Our job is also to use the marketplace thoughtfully.

I do not know what it is that suggests, on the one hand, it is legitimate for the Veterans' Administration to go out as a Government entity and negotiate a lower price for the drugs it purchases to distribute to veterans—which we do—but it is not OK for Medicare—which is another Government program that costs the taxpayers a lot of money—to be able to go out and negotiate a lower price for seniors. It is illogical.

What they do is come in and try to scare people and say: Well, we have given this special privilege to the Veterans' Administration, but if all of a sudden we allow somebody else to negotiate it, then the veterans are not going to get as good a deal.

Well, nobody knows that until you go out into the marketplace. The Veterans' Administration and Medicare together still do not represent the entire market. You are going to have an incredible number of private citizens still purchasing through private health care plans or their HMOs or other plans—private as they are—also.

The marketplace is still going to have its capacity to work. This is not such a large block that it represents a complete and total eradication of a marketplace. No. 1. No. 2, there are other countries where you have this kind of negotiated fee for the service being provided which has worked very effectively.

I think the bottom line is that people have to remember that this legislation we are talking about does not order the Secretary to do this. It is pretty obvious under this administration it is not going to happen because they do not believe in it. All we are doing is lifting the prohibition against the Secretary doing it. So if all the negative things the Senator talks about are true, a smart Secretary is not going to do them because they are negative.

But why would you put in place a prohibition? Why do you specifically say: No, the Secretary can't go out and negotiate the price. You are stuck with the status quo. You are stuck with the

current system. The reason is very simple: because it is a lot of money out of the pockets of taxpayers into the pockets of the big companies. That is it, and they are here protecting that.

This is a question of whether we are simply going to lift the prohibition, let the Secretary make the judgment. Can you go out into the market? Can you do this without hurting veterans? Can you do it without upsetting the marketplace? Can you do it and still have the kind of resources you want put into the research of new drugs and other things? I am confident a Secretary is going to make a smart decision.

It is interesting to see the people who usually spend the most time arguing in this country “don’t let the government interfere” are the ones who are standing up to let the Government—excuse me, not let the Government, force the Government, in effect, to interfere with the marketplace. Actually, what they really are doing is putting in place a prohibition against the Secretary actually letting the marketplace work or testing whether the marketplace could work more effectively. In effect, we leave it in a state where the companies are dictating effectively what the price is going to be and the citizen, as a result, winds up paying an unfair burden.

We are not doing the best job possible as Government trustees of taxpayer money in taking care of that money and in representing the interests of our taxpayers. That is what is at stake here. Are you prepared to trust the discretion of the Secretary to analyze this, to look at what is best for the country, best for the delivery system, and make that judgment? All we are doing is lifting an unfair special interest prohibition to allow a full analysis of what the better alternative might be.

#### ALTERNATIVE MINIMUM TAX

Mr. President, as Americans prepared their taxes this year, millions of families in Massachusetts and across the country found a very unpleasant surprise. Beyond their regular income taxes, families found another hidden income tax, which is the alternative minimum tax. It costs those families many thousands of dollars. Most taxpayers are accustomed to computing their income tax liability in the usual way: adding up their income, making whatever deductions they are entitled to, subtracting exemptions for their dependents, and then checking their tax bracket to find out how much they owe. But this year, many of those same taxpayers discovered another tax that ate up any exemptions and deductions they might have claimed. It is a hidden income tax, and it affects the wrong people. It affects people we never intended to affect, and each year that we don't address it, it grows worse.

This alternative minimum tax is a tax that made sense once upon a time. When it was first enacted in 1969, it had a rationale, but since then, it has become bloated and illogical. The tax was

first put in place when Treasury Secretary Joseph Barr, during his 1 month as the shortest tenured Treasury Secretary in history, told Congress about 155 wealthy Americans who had paid no income tax in 1966. Congress was overwhelmed with mail expressing outrage that these 155 rich Americans weren't pulling their weight. In response, Congress passed the first version of the AMT. So the AMT was put in place to address Americans' concerns with 155 of the richest Americans at a time when 155 represented a large block of those who were among the wealthiest Americans. Urging tax reform, Secretary Barr coined the phrase “taxpayers' revolt” and that is exactly what we are likely to see unless we get this right now.

In 1970, 20,000 taxpayers were affected by the alternative minimum tax. This year, about 4 million Americans will pay it, and next year that number could rise to 23 million Americans. What was originally a small fix at the edge of our Tax Code has now ballooned into a massive inconvenience and unfairness at the center of our Tax Code. Instead of serving its original purpose, the tax cuts we saw passed into law a few years ago, illogical and deceptive as they were, are winding up targeting the very people we are supposed to be helping. The very people we hear most of the rhetoric about—those who need help in America and the middle class being unfairly taxed—are the very people who are being unfairly taxed by this hidden tax people don't want to talk about. The fact is the middle class has seen an enormous shift in the burden away from the wealthiest Americans onto the middle class, the very people the AMT was designed to protect.

The AMT is now poised to make a dramatic shift from the wealthy to the middle class. In 2006, taxpayers earning more than half a million dollars will pay 47 percent of the tax. By 2010, that number will drop to 16 percent. We are going to go from 47 percent of the people who earn more than half a million dollars who are supposed to be the targets of the alternative minimum tax—that will drop to 16 percent—and the people who are going to pick up the difference are going to be Americans in the middle class who are struggling with increasing tuition costs, increasing energy costs, increasing health care costs, and wages that are either frozen or going down. Meanwhile, investment income will not be impacted by the alternative minimum tax, and the top alternative minimum tax rate is lower than the top marginal tax rate, which is what people pay on their income.

So a tax designed to cover or apply to the wealthiest Americans has become a solidly middle-class tax.

This tax also punishes certain States in our country more than other States, and particularly a State such as mine—Massachusetts—but other States in the Northeast and large industrial States.

In 2007, 24 percent of Massachusetts taxpayers, up from about 5 percent last year, will be hit by the alternative minimum tax, so that Massachusetts will be No. 4 in the rankings of all the States in the country. I don't think we ought to be putting an undue burden on the middle class, and we certainly shouldn't be putting one unfairly on certain States while other States are exempt.

Worse still, the tax penalizes families with children because it eliminates any dependent exemptions. So here we are talking about family values, but the family values are stripped away for those middle-class families because they lose their exemptions for their dependents.

In 2007, the alternative minimum tax will impact a family with four children and an income of \$57,000. Married couples will be more than 12 times as likely as singles to face the alternative minimum tax in 2010. So those of us who argued strongly about the marriage penalty need to note that the marriage penalty is, in fact, growing larger as a consequence of the alternative minimum tax. We wrote the exemptions that we had specifically to help families to get away from that problem, and my question is, do we now want to burden them with this additional tax.

President Bush has acknowledged, at least rhetorically, this is a failed policy. There is room for bipartisanship here. Congress and the President need to work together to address what has become a major structural problem in our Tax Code. I commend my colleague from Massachusetts, Congressman NEAL, who is working in the House on this issue and showing important leadership in order to try to address it, and I look forward to seeing his proposal.

In fixing this tax, there are two major pitfalls we have to avoid. The first is: Don't simply repeal the tax without paying for it. We can't afford to do that, and it is clearly not fiscally responsible. Finally, it doesn't solve the problem. Second, we need to find a permanent solution. The alternative minimum tax itself was originally a small fix for a different tax issue. It is the accumulation over time of stopgap measures that has brought us to the current problem. So I don't believe it serves us well at all to push this issue down the road, as has been the practice of the Congress in these last years.

We also need to make the tax policy of our country simpler and more straightforward and fill it with a little more common sense and a little less special interests. Our tax problem as a nation was, in fact, made significantly worse by the Bush tax cuts, and the alternative minimum tax has been used quietly, more and more, to ask middle-class families to pay the burden of the wealthiest Americans' tax cut.

We can all agree the main reason this tax has grown out of proportion is that it wasn't indexed to inflation. The same money we talk about today went

an awful lot farther in 1970. The movies back then cost \$1.65. The fact is we haven't adjusted the tax brackets to rise with inflation.

Another major problem has been the alternative minimum tax interaction with the Bush tax cuts. This administration and the Republican Congress purposefully allowed the tax system to become unbalanced. This was done in order to hide the true cost of the tax cuts. Normally, sound tax policy involves changing the alternative minimum tax to reflect changes in regular tax cuts. For example, in 1993, we raised rates for both taxes simultaneously. But under this President, in 2001 and in 2003 and in 2004, we cut the regular income tax rate without making corresponding significant changes in the AMT. Instead of paying upfront through the regular income tax, this administration used the AMT to finance tax cuts for the very people the AMT was designed to tax. The AMT quietly takes back a portion of the Bush tax cuts by 2010, about 29 percent, transferring the tax burden from the top tax brackets to largely middle-class tax families.

If we had a vote on the floor of the Senate which specifically said: Are you going to tax middle-class families in order to pay for a wealthy tax cut and shift the burden by about 29 percent, almost everybody here would vote no. So it is the hidden tax cut that has the impact. Before the Bush tax cuts, 17 million taxpayers would have been affected by the alternative minimum tax in 2010, but with the Bush tax cuts, that number almost doubles to 31 million. If we let the Bush tax cuts expire in 2011, at least the number of AMT taxpayers would drop dramatically. I am confident that will be an important debate down the road here. In 2007, a family with 2 children and an income of \$80,000 will see 59 percent of their tax cut taken back by the alternative minimum tax. Tom Waits, the 1970s singer and songwriter, once said the large print giveth and the small print taketh away. Well, the small print, my friends, is the alternative minimum tax, and it is taking away America's families' tax savings.

We need to be honest about the cost of our tax cuts. Back in 2001, I tried to offer an amendment that exempted all taxpayers with incomes under \$100,000 from the AMT. At that time I warned that the AMT is encroaching on middle-class taxpayers and that the tax cuts would only make things worse. The fix for the AMT problem at that time was estimated to cost \$110 billion over 10 years, money that instead is now being paid by middle-class families. The amendment at that time was revenue neutral. It offset the cost by delaying some of the Bush tax cuts. It cut the 39.6 rate down to 37 percent, instead of 35, but unfortunately, the amendment failed.

I don't believe we can continue to put this problem off. Unless we reform our tax system for the sake of middle-class

families—and we simply can't afford not to reform it—we are going to pay one way or the other, with the debt that is passed on to our children or with taxes passed on from the wealthiest to an ever-growing part of the middle class. We need a bipartisan, fiscally responsible, permanent approach, not one that masks the costs of irresponsible cuts or becomes a burden for the middle class, and not one that gives more and more families an unpleasant surprise on tax day.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I wish to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will inquire.

Mr. BYRD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator is considering S. 372.

Mr. BYRD. Mr. President, I have a parliamentary inquiry further.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD. Mr. President, what is the parliamentary situation—I may not have the floor. May I ask the Chair, please tell me what the parliamentary situation is.

The PRESIDING OFFICER. The Senator from West Virginia has been recognized by the Chair and now has the floor.

Mr. BYRD. Mr. President, if that were not the case, what would be the case?

The PRESIDING OFFICER. There is no current time agreement. The Senate is considering S. 372 under no time agreement.

Mr. BYRD. Very well. Mr. President, I am not going to speak just now. I want to respect the wishes of another Senator who is on the floor at the moment. In a few minutes, I will want to speak a bit. As of now, I am going to take my seat. I will ask the Senator, does he wish to speak at this time?

Mr. WYDEN. Mr. President, I thank the distinguished Senator from West Virginia for his courtesy. If it would not be too great an imposition, I will speak for a few minutes on the Intelligence bill. That would be very much appreciated.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I am going to sit down and listen. May I ask the Senator this question: How long will he likely speak?

Mr. WYDEN. Again, I thank the Senator from West Virginia for his courtesy. I will speak less than 10 minutes. I so appreciate the thoughtfulness of the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. After he yields the floor, I will seek recognition. I understand the rules of the Senate. I am just stating at this point what I intend to do.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Before he leaves, Senator BYRD has always been so kind to this Senator. I appreciate it.

I wish to take a few moments to talk about the critically important Intelligence authorization bill that is before the Senate now. I am disappointed that this legislation has not yet passed because it seems to me that Chairman ROCKEFELLER and Vice Chairman BOND have done an awful lot of very good work in terms of negotiating on this legislation and doing it in a bipartisan fashion. A number of us have felt that it was critically important that intelligence, in the days ahead, at a time of great threat to our country, be an area that is pursued in a bipartisan way. My view is that Chairman ROCKEFELLER and Vice Chairman BOND have really kept that kind of bipartisan lodestar in mind as we have conducted our work throughout this session. That is one of the reasons I have so wanted this legislation to move forward.

I wish to take a minute to highlight just one of the provisions that seems to be objectionable to the executive branch and try to show how, in my view, that should not be the case and how the Senate ought to come together around it and move forward on this bipartisan piece of legislation.

There is a provision in the bill the Senate is now considering—a provision that I offered—which would make public the total size of our national intelligence budget. This provision would not make public how much the country spends on any particular collection method; it would simply state the U.S. Government spends X amount of money on national intelligence programs.

This has long received bipartisan support. The bipartisan 9/11 Commission was for it. The former Director of the CIA, Stansfield Turner, is for it. I would like to note that our current Secretary of Defense, Secretary Gates, when he was before the U.S. Senate Intelligence Committee—and I will quote here—said:

From my personal perspective, I don't have any problem with releasing the top line of the intelligence community budget.

I am of the view that Secretary Gates was right when he said that a number of years ago, and he is right at this time as well. In my view, to suggest that disclosing the total size of our national intelligence budget would cause any harm whatsoever to national security is ridiculous. It is absolutely absurd to think that Osama bin Laden is off in a cave somewhere contemplating what the overall national intelligence budget is. It is absurd to suggest that Kim Jong Il is somehow sitting in his office wondering and worrying, for example, whether the Wyden amendment to the intelligence authorization is going to pass. It is absurd to believe that any terrorist or dictator or any other enemy of the United States will gain any sort of advantage whatever from the public disclosure of the top line of the national intelligence budget.

But there are people who will gain an advantage; that is, the American people. Making the total size of our intelligence public is going to increase public accountability and will allow for a more informed debate about national security. If the national intelligence budget's overall number is made public, there will be a more informed discussion about whether money should be spent on aircraft carriers or submarines or on intelligence gathering. This debate will only ensure that taxpayer dollars are used more wisely and that America will be safer.

Senator BYRD has been very gracious to give me this time this afternoon. There are other provisions that I feel strongly about in this legislation. The increased penalties, for example, for outing a covert agent is something I feel strongly about. After the Dubai Ports debate, it is clear that there should be additional resources devoted to looking at the intelligence ramifications of those particular issues.

But my bottom line is, at a time when Americans are questioning our intelligence agencies' ability to keep them safe, the Congress has a responsibility to provide support. At a time when the intelligence community is undergoing major reorganization, the Congress has a responsibility to provide guidance. At a time when our allies and our citizens are raising serious questions about detention issues, Congress has a responsibility to conduct oversight. At a time when Americans continue to open their morning papers and read about aggressive new forms of Government surveillance and, in particular, the now-disclosed abuse of the national security letters, Congress has a responsibility to demand accountability.

Chairman ROCKEFELLER and Vice Chairman BOND have done a lot of good work on this legislation. The distinguished occupant of the chair has been involved in those debates, and we are pleased that he is part of the committee. I hope the Senate will move expeditiously to move forward on this legislation. It is an important bill, at a critical time for the security of the American people.

Again, I express my appreciation to the distinguished Senator from West Virginia for giving me the opportunity to speak this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Oregon, Mr. WYDEN, for his courtesy, and I also want to say that he is one of the immortal 23 Senators who said, in kind words and respectful words and in senatorial terms, we won't go—meaning, we were going to be Senators. We know what the Constitution says about Members of the Senate and the House, we were going to be Senators, we were going to be respectful, but we were going to vote our way. We were respectful of the President, but we knew

we were Senators and that there were three branches of Government, and we know and knew then that this is the legislative branch—the first branch of Government that is mentioned under the Constitution, and it is sometimes called “the people's branch.” That is for good reason.

Now, what is the floor situation?

The PRESIDING OFFICER. S. 372 is the pending question, and the Senator from West Virginia has the floor with no present time restriction.

Mr. BYRD. Further parliamentary question: Is time controlled at this moment?

The PRESIDING OFFICER. It is not.

Mr. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that I may speak as in morning business—in other words, out of order—for not to exceed 20 minutes. I don't expect to take that much time.

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

Mr. BYRD. I thank the Chair.

#### VETO THREATS

Mr. President, the 110th Congress will consider legislation this session that raises passions and excites partisan fervor. It is likely that much of what the Congress considers this year and next will be subject to Presidential veto threats because the President's political party no longer controls the Congress.

I was quite surprised recently to hear some Senators take the position that this body is wasting its time in drafting and passing legislation which the President threatens to veto.

Let me respectfully remind all who listen that the Congress legislates for the people and has a constitutional obligation—in other words, duty—to act independently from—I say this again, I say it respectfully—from the White House. There are three branches, as everybody knows, of Government. This is a separate but equal branch. I want Senators to listen. This is a separate branch, but it is equal.

I will repeat myself. As Senators already know, there are three separate but equal branches of Government. The Constitution's Framers never considered a President to be the final arbiter of the public good. Whether the question relates to military, foreign, or domestic affairs, a Presidential veto threat is not the last word in what should become the law of our land. Those decisions are left to the representatives of the people, along with the power over the purse—along with the power over the purse—and other constitutionally enumerated congressional powers.

We hear almost daily a Presidential scolding of the Congress concerning the supplemental appropriations bill, which is shortly headed for a House-Senate conference. Continued Presidential veto threats on the funding for the Iraq war represent a stubborn unwillingness to concede that the American people have over time and with considerable debate come to see that the Iraq war was a mistake.

In the case of Iraq, it is likely that the people of the United States would have come to these opinions much earlier had they not had information withheld from them or, in some instances, presented to them falsely. Of course, I knew this.

Of course, also, it remains the constitutional prerogative of the President to exercise the veto. I respect that. But it also remains the prerogative of the Congress—the other body across the way and this body—it also remains the prerogative of the Congress to challenge that veto and to assert and defend the will of the people.

A President's power to veto is not and should not be absolute. Let me repeat that. A President's power to veto is not and should not be absolute. If the President vetoes a measure under our Constitution, the Congress can override that veto with a two-thirds vote of both Houses. All Senators know that. I am not telling Senators anything they don't know.

A Presidential veto does not necessarily end the legislative process. When the President vetoes legislation under article I, section 7 of the Constitution, the President's objections are submitted to the House of Congress—Congress being of two bodies—submitted to the House of Congress in which the measure originated so that the measure and the President's objections can be reconsidered. All Senators know that. Any schoolboy who has studied the Constitution knows that. But I am stating for the record, again, for all who run to read.

A new vote can be scheduled on the same piece of legislation and a veto can be overturned if the people's representatives—if the people's elected representatives—in Congress demand it.

There is nothing earthshaking about overturning a Presidential veto. Since 1969, the Congress has overridden almost 20 percent of the Presidential vetoes. President Franklin Roosevelt had nine vetoes overridden by Democratic Congresses. I repeat: President Franklin Roosevelt had nine vetoes overridden by Democratic Congresses. President Ronald Reagan had six vetoes overridden by a Democratic House and a Republican Senate.

The veto override provision in the Constitution is a protection for the people whom the Congress represents. Members of Congress are elected by the people to make laws based on sound public policy, not to capitulate or surrender to any—Republican or Democrat—to any Presidential threats. The Senate must never—hear me now, the Senate must never—become a rubberstamp for any President, Republican or Democrat or Independent or otherwise.

Certainly, the Congress should carefully consider the announced reasons for a Presidential veto, but the Congress has a duty, if the President's reasons are not credible or do not reflect the will of the people, to overturn Pres-

idential vetoes, if the Congress wishes to do so.

The veto on the override is a healthy public opportunity for Members of Congress—both Houses—to consider the reasons offered by the President for his veto. Just as the President is held accountable for his veto, we Senators are held accountable for our votes on bills that are sent to the President and, if applicable, a subsequent veto override vote.

Members of the Senate and the people understand that when the President submits a bill to Congress and then asks that it be passed without any amendments or conditions—the President has a right to do that, but we all know that the President is treating the Congress like a subordinate branch capable of only saying yes or no and never expected to alter a Presidential proposal in any way.

The President knows what the Constitution says, and he knows that the Congress has a right to listen, to study, and then to act as it seeks to act. So this is an argument that contradicts the most basic constitutional principles on which our Republic is founded.

The Congress was envisioned as a check on an overzealous or unwise President, and that is no reflection on either party—that the President can be a Democrat, a Republican, or otherwise—and we do our duty to the Constitution when we vigorously utilize our enumerated powers.

So let us hear no more about measures that the President has threatened to veto being not worthy of the Senate's consideration. Let the President issue his veto threats as he wishes, but also let the Congress dutifully represent the will of the people.

On the matter of Iraq—and I say this most respectfully—I have been chagrined of late to hear the falsehoods and scare tactics emanating from the Oval Office. President Bush has repeatedly intimated that there is a connection between the attacks of 9/11 and the Iraq war when no such link exists. President Bush has suggested—he is my President and yours, Senators—that the supplemental appropriations bill as now written would cause death and destruction in America, which is patently false. I speak now as the chairman—of course, everybody knows it—I speak as the chairman of the Appropriations Committee.

Mr. President, I make a parliamentary inquiry: Are we under limited time, I ask the Chair?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds remaining of the 20 minutes he requested.

Mr. BYRD. Mr. President, I am not going to belabor Senators. I have seven more pages to read. I know what is in here, and so I ask unanimous consent that I may use whatever time I consume, and I assure Senators I will not consume more than 10 minutes, if that much.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. BYRD. President Bush has said the bill does not fund the troops, which is false. The Senate bill provides \$2 billion more than the President requested for the troops and provides \$1.8 billion more for veterans health care. I regret this continual barrage of misinformation coming from the White House just as I regret the intransigence—the intransigence—of a President who will not cool off—and I say this respectfully—of a President who will not cool off and stop fomromongering long enough to negotiate a resolution to the differences in the bill's language. He—the President—has been invited to do so in good faith and yet still the almost daily castigation from the White House continues.

I wonder about the effect on the morale of our brave fighting men and women when the President—any President—repeats inaccuracies like the Congress has failed to fully fund the troops. It seems to me that it is not a prudent thing to say. Congress and the American people support our troops, and the supplemental bill that we shall shortly take to conference robustly funds their needs in the field and cares for their needs after they return home.

For the President to assert otherwise is a disservice—and I say this with the utmost respect. I will say it again. For the President to assert otherwise is a disservice. Honorable men and women may disagree, but Members of Congress and officials of the executive branch have a duty to try to find common ground, especially when the issue is a violent and controversial war, with our troops in harm's way every day. I shall hope for a more reasonable and more realistic tone from our President—and I say it with the utmost respect, but this is an equal branch with the executive branch and the judicial branch—in the coming days. May I say further that more light and less heat on this matter would truly be in the best interests of our troops and of our sorely divided country.

Now, Mr. President, I have been here a long time. I know how to speak, when to speak, and when not to speak, but I am a U.S. Senator, and I am asserting this Senate's constitutional duty. My Republican friends and my Democratic friends know this, and I know they have a right to do the same, but that is my speech for today, God willing.

Mr. President, I thank the Chair. I thank all Senators, and I yield the floor.

Ms. STABENOW. Mr. President, first, I thank my distinguished colleague from West Virginia for his insight, as always, and wisdom on so many issues. He epitomizes what it means to be a Senator, and we are honored and appreciative of his leadership.

#### PRESCRIPTION DRUGS

Mr. President, I do want to speak today as it relates to prescription drugs and the very important vote we will be having tomorrow, but I also first want to speak to what is happening as it relates to Blacksburg, VA,

and Virginia Tech University, just to indicate that we know there was a memorial service today; that all of us, even as we carry on the normal business of the Senate, are very mindful and aware of what has occurred in the massacre at Virginia Tech University. My thoughts and prayers go out to everyone who has been affected throughout the university, most particularly the families.

Certainly, I think I can speak for the people of my great State of Michigan when I say that we are deeply, deeply sorrowful, and our prayers go out to each and every one of the people who have been affected.

Mr. President, we have a very important vote tomorrow, which is whether to proceed to legislation that would begin the process of allowing the Secretary of Health and Human Services to be able to negotiate the very best price for our seniors under Medicare. I want to take this opportunity to commend our majority leader for getting us to this point, Senator REID, and the Finance Committee for getting us to this point, for bringing the issue of Medicare drug pricing to the Senate floor. I hope tomorrow we are going to see a strong bipartisan vote to proceed with the bill.

Frankly, it is very unfortunate we are having to vote on whether to proceed to this bill, but since that vote is occurring, I hope we will have a resounding yes tomorrow for something that is so clear to the American people. The direction we will hopefully take tomorrow is the direction that the voters asked us to take. Their message last November was crystal clear: that they want to make sure we are making health care decisions in the best interests of people—the best interests of seniors, of children, of families—and not the special interests that make money off the system. Tomorrow is going to be a vote on that.

Tomorrow will be the first step in the process. We are removing the provision that prohibits Medicare from using its negotiating clout. What we are going to be voting on tomorrow is whether we will proceed. And why are we doing that? Well, first of all, this Medicare bill that was put in place a few years ago actually prohibited the Secretary from negotiating to get the best price for seniors, amazingly. People to this day ask: How in the world did that happen? Well, it happened because, unfortunately, there were too many provisions in that bill that were put in on behalf of the special interests rather than our seniors.

The step we take tomorrow is good for our seniors, it is good for families, and it is good for taxpayers. It is good for taxpayers to get the best deal so that our dollars can go as far as possible under Medicare. So tomorrow is an important day.

I have been fighting for this provision ever since the Medicare prescription drug program was passed in late 2003. I wish I could have supported that

bill. I did not, in part because of the prohibition that was put into place. That bill was written and designed with a huge gap in coverage—it has often been called the doughnut hole—that, frankly, wouldn't be there if we were able to get the very best pricing and stretch those Medicare dollars as far as they should go.

In fact, I joined a group of Senators to introduce legislation on December 12, 2003, to repeal the prohibition on negotiation, which is what we are talking about now, because we knew then what we know today. If the Secretary of Health and Human Services negotiates Medicare prescription drug prices, seniors will pay the lowest possible price. That should be what we are all focused on as it relates to Medicare prescription drugs. More than 3 years later, we are taking the first step toward getting this done. It is about time. I think that is what the American people are saying to us.

The best way to get the lowest possible prices on prescription drugs is to use the negotiating clout of 43 million seniors and people with disability who are under Medicare. That negotiating clout needs to be used. We are considering this bill right now because the American people want it. According to a poll conducted by the AARP, 87 percent of all Americans said they want Medicare to negotiate prescription drug prices—87 percent. That is a pretty big number. Eighty-seven percent of the seniors, according to AARP, when asked, have said: Yes, of course, we want the Federal Government to negotiate to get the very best price.

Why do consumers want Medicare to negotiate for lower drug prices? Because they know what everybody knows: large purchasers are getting deep discounts for prescription drugs, and they want the same from Medicare.

This bill does not do the same thing as the VA, but the VA is a good example of what can be done when there is negotiation, when the Federal Government brings its clout as it does for our veterans. It gives us some idea of the kinds of discounts that can be achieved.

For example, we know that on average, the VA health system gets prescription drugs for approximately 58 percent less than their retail prices—58 percent—and on some medicines, it is up to a 1,000-percent difference. Now, I would say, if the VA can do this and get 58 percent, we can get a better deal if we negotiate, knowing again that this bill does not reflect what the VA does, but it gives you a sense of what can be done when we have that kind of clout.

Let's be clear about what we are doing right now with this bill. We are opening the door to lower drug prices so Medicare beneficiaries can afford the medicines they need and we can save taxpayers money. We all know how many times we have heard the stories—I hear them all the time—of folks trying to juggle between keeping the

lights on, buying food, and getting their medicine. Our top goal should be, as a Medicare Program, to make sure people can get the medicine they need at the very best price. This bill moves us in that direction.

Let's be clear also about what we are not doing. This legislation does not create a national drug formulary, nor does it establish price controls. Seniors will have access to all of the drugs they do today, and possibly more. The prescription drug industry will continue to thrive, and R&D will not be affected. The change we will see is a change we have been asking for for the last 3 years, that seniors and families have been asking for for the last 3 years.

It is also important to note because we will hear from our friends on the other side of the aisle that somehow, if Medicare is going to have the opportunity to negotiate or if the Secretary can negotiate at appropriate times for lower prices, we are going to see the prices of the VA go up. Well, I asked the Congressional Budget Office to submit to me in writing if that were, in fact, true under this bill. They, in fact, said: No, under this bill, that is not the case. We are not going to see veterans or any other group see their prescription drug prices go up under this legislation. So that is one good thing we need to make clear and debunk as we begin this debate.

Now, what we do know is we have a very interesting thing going on. We have two kinds of debate going on right now in opposition from those who are major beneficiaries of the current system, the special interest groups that have the benefit right now of seeing huge profit increases as a result of this prescription drug bill. On the one hand, we are seeing ads that say: This legislation will do nothing. Do not pass it; it will not do anything. Then, on the other hand, the very same people are saying: But it will cause seniors to not be able to get the choice of medicines they want, it will cause veterans to see their medicine costs go up, it will cost R&D and we won't be able to do research and development into new prescription drugs anymore. I find it so interesting that the same people are arguing both sides: It will not do anything, and it will have all of these devastating effects.

At the same time, we are seeing huge amounts of money, millions and millions of dollars—for months, I have seen ads on TV and radio, newspaper ads telling us these people do not want negotiation or that it will not do anything, all paid for by the same people who benefit by the current system. I might just say that just today, a full-page, single-color ad running in the Washington Post on page A5 today, costs about \$135,000—this is today, this is yesterday. We have ad after ad after ad being run and paid for by people who tell us this bill will not do anything. It will not do anything, but yet they have spent millions of dollars on TV, millions of dollars on the radio, in ads we

have seen, ads for our benefit, ads telling us people do not want negotiation.

I might add that in this ad which is running right now, where they say people really do not want Medicare to negotiate, what they say in the fine print is that, in fact, 89 percent oppose Government negotiation if it could limit access to new prescription medicine—if it could limit access to new prescription medicine. This bill does not limit access to new prescription medicine—or old prescription medicine, for that matter. That is not what we are talking about.

In fact, what I find interesting, and the subtle part of this is, if we negotiate for a better deal, they won't be able to do research anymore. We know that right now the drug industry spends 2½ times more on marketing and advertising than they do on research.

I would suggest we can negotiate to get a little better price. And I wonder how much \$135,000 would buy in medicine for somebody today instead of one ad? Let's cut down a little bit on the marketing and advertising, and we won't have to worry about whether Medicare can negotiate for the very best price.

So I hope that tomorrow we are going to have a vote to proceed to this very important public policy issue, this very important bill. I hope we are going to, in fact, do what 87 percent of voters are saying they want us to do—negotiate the very best price for prescription drugs.

I would ask my colleagues to vote to allow us to proceed to the bill. We can continue to work together on exactly what the language should look like, but the idea that you would stop it before we can even have the debate would be extremely disturbing. People in this country do not understand why it is that decisions are made too often for those who happen to have the lobbyists here or the ads on TV or in the newspaper and not enough for the folks who are working hard every day or are retired on a fixed income trying to make ends meet.

Tomorrow is a chance for us to show that those folks are not making the decisions, that we are going to move forward on a bill which is positive for seniors, which is going to give us an opportunity to open the door to negotiating good prices and make a real difference for people, a real difference for people whom the system is supposed to help, the Medicare prescription drug benefit for our seniors, for people on Medicare. They deserve the best price. Tomorrow, we will have a chance to vote to go to that debate and work together to get a bill that will do that. I hope we are going to vote to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

TAX DAY

Mr. SHELBY. Once again, today, tax time is upon us. It is April 17. We know April 15 is the magic day, but it has

been extended because of when it fell. Today is the day everybody in America knows that the Federal Government income taxes are due. If you are like me, you spent way too much time completing your taxes this year.

Our Tax Code and its accompanying regulations total tens of thousands of pages which are complicated, confusing, and costly to comply with. In fact, since we last had major reform in 1986 there have been more than 14,000 changes to the Tax Code. Average taxpayers should not have to pour over tax regulations for hours on end or pay a tax professional to complete their tax documents.

In the IRS' own estimation, the average time burden for all taxpayers filing a 1040 is 30 hours. Unfortunately, what this means is that for most people is that in addition to paying the Government every year, they need to pay someone or buy software to tell them exactly how much to pay their Government.

Americans need a simple, common-sense solution. This is why I have introduced S. 1040, the Tax Simplification Act.

The Tax Simplification Act establishes a flat income tax of 17 percent on all income and places real spending limits on the Federal Government. First, my proposal would replace our current incomprehensible Tax Code with a flat rate of 17 percent on all individuals' income beyond an exemption for the individual and any dependents. To prevent the double-taxation of income, earnings from savings would not be included as taxable income, resulting in a tax cut for virtually all taxpayers and providing a strong incentive for people to save. Increasing the savings rate in this country should be a priority of this Congress and this bill will do that.

As complicated as the individual tax system has proven, it pales in comparison to the hoops U.S. businesses are required to jump through. In preparation for 2005 taxes, businesses and nonprofits spent an estimated 6.4 billion hours complying with the Federal Income Tax Code, with an estimated compliance cost of over \$265 billion. Without action, that number is expected to grow to over \$482 billion by 2015.

What this means is that for every \$5 the Government collects right now, businesses are forced to spend another \$1 to comply with the countless rules and regulations that we, the Government, have created. These additional costs are then passed on to the consumers, investors, and employees. We need to overcome this notion that our corporate income tax simply applies to some faceless boardroom. Corporations do not pay taxes. People pay taxes. Corporations do not comply with our tax laws. People do.

Under my legislation, companies would pay the flat tax of 17 percent rate on their income, simplifying the complicated calculations businesses

currently go through to determine their taxable income. S. 1040 simply defines income as the positive difference between revenue and expenses. As the legislation is implemented, the rate of taxation would be 19 percent in the first 2 years and then lowered to the desired rate of 17 percent in the third year.

Finally, this legislation would require a three-fifths majority in Congress for any tax increase. This ensures that only in times of the most need would the Government be able to take any more money out of the hands of hard-working Americans. By enacting this legislation we would institute a strong backstop against those that would seek to continue the out-of-control growth of the Federal Government. And we would open a new chapter of responsibility and accountability in our revenue collection.

Yes, the flat tax would revolutionize the way our Government operates. Today, if a flat tax were in place, taxpayers would file a return the size of a postcard. Rather than spending hours deciphering convoluted IRS forms or resorting to professional tax assistance, the flat tax would allow taxpayers to complete their taxes quickly and easily.

The time for significant reform of our Tax Code is now. The flat tax would revolutionize the way our Government operates. The complexities and inequities of the current tax system would end. They would be replaced by a system that treats every taxpayer equally and represents a massive reduction in the tax burden carried by hard-working Americans.

Only by treating every taxpayer equally can our Tax Code ever achieve true fairness. Only when the shackles of our burdensome Tax Codes are removed will we truly see what our great economy is capable of doing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, Mr. ISAKSON has a very brief statement, perhaps 2 minutes. I wonder if he can be recognized for 2 minutes and then Senator NELSON for 2 minutes and then I be recognized for 5 minutes. I ask unanimous consent.

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

The Senator from Georgia is recognized.

HONORING RYAN CLARK

Mr. ISAKSON. Mr. President, I ask to address the Senate as if in morning business.

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

Mr. ISAKSON. Mr. President, I rise today to express my sympathy and I know the sympathy of all of the Members of the Senate and the people of the United States of America on the tragic losses yesterday at Virginia Tech.

I learned this morning that one of those first tragic losses was a young gentleman by the name of Ryan Clark,

and I, from the floor of the Senate, send to Martinez, GA, my sympathy, that of Senator CHAMBLISS, and that of all Members of the Senate on the tragic loss of Ryan.

None of us can understand what happened yesterday, but all of us must understand the profound tragedy and the loss of youth in its prime.

Ryan Clark, 22 years old, a double major in English and biology, was about to walk across the stage and graduate and then pursue a masters and a Ph.D. in psychology. Ryan is survived not only by his mother Lettie but by his brother Bryan. Bryan told us that his brother was known best by his nickname on the campus, "Stack." Stack, if you go to the Web site of the Virginia Tech band, can be seen volunteering his time in a food drive for the needy. In fact, just last December, in the Georgia Dome at the Peach Bowl of 2006, one of the last times that Ryan went back to Georgia, he performed with the Virginia Tech band at half-time of that bowl game.

This young man was a residential adviser, a member of the band, an outstanding student, a proud son, and a proud brother. I am very proud as a Georgian to have known of his accomplishments, and I send his mother Lettie my prayers and my hopes that she will accept our sympathy and endure the tragedy of the loss of her son Ryan.

To the families of all of those professors, employees, and students who were hurt yesterday in Blacksburg, VA, I extend my sympathy and my deepest prayers that we will find reconciliations out of tragedy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, our hearts go out to the citizens of Virginia, to the university community, and to the families and the loved ones of those in this tragedy. It goes without saying that we will get to the bottom of this and then find out what is going wrong in this country that our sense of morality has gone askew so that a senseless set of murders such as this would occur.

I am here to speak on behalf of this intelligence legislation on which we are about to have a vote, cutting off debate so we can proceed to finalize the bill. It is necessary that we do that. I had the privilege of serving on the Intelligence Committee along with my colleague, the Senator from Michigan, on his committee, the Armed Services Committee, as well as the Senate Foreign Relations Committee. There is so much going on that is at stake for this country that we cannot in any way delay this Intelligence bill; it needs to be considered; it needs to be amended, if that is the will of this body; it needs to be passed, and we need to then get reconciled with the House and get it to the President for his signature. There are too many things that are super important to this country for us to do

anything other than protect the interests of this country through our intelligence activities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the release of the 9/11 Commission Report in July of 2004 fueled a debate about how our intelligence community should be restructured to better respond to the post-9/11 threat.

In response to problems identified by the 9/11 Commission, Congress passed and the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004. Most notably, that bill created the Director of National Intelligence, empowering the DNI with budget power and control over personnel in the intelligence community.

The bill also created the National Counterterrorism Center, or NCTC, with the authority to conduct strategic counterterrorism planning and to assign roles and responsibilities for counterterrorism activities. Passage of intelligence reform was a watershed moment in the drive to better organize our Government to deal with the threat of terrorism.

On December 8, 2004, the same day the Senate passed the Intelligence reform bill, it passed the Intelligence Authorization Act for fiscal year 2005. It is troubling that that day, December 8, 2004, was the last day this body passed an Intelligence authorization bill, and it underscores the importance of the Senate passing the bill before us. Since passage of the Intelligence reform bill in 2004, we learned a good deal about what additional changes to law might be needed to improve our intelligence community functions. In addition, as we have learned about such activities as the NSA's warrantless wiretapping program, we have come to better appreciate the need for strong congressional oversight of the intelligence community.

As a matter of fact, the 9/11 Commission said the following in its very lengthy and thoughtful report, "Strengthen Congressional Oversight of Intelligence and Homeland Security." That is the heading of the section, and this is the one pungent sentence from that report which I hope will cause a lot of people to rethink their opposition to cloture on this bill:

Of all of our recommendations, strengthening congressional oversight may be among the most difficult and important.

Those words should have an impact on the vote that is coming up in about 40 minutes.

More than 30 years ago, the Senate passed S. Res. 400, establishing the Select Committee on Intelligence, and charging that committee with providing "vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States."

The legislation before us today takes significant steps toward reinvigorating our oversight responsibility. For example, effective oversight depends on Members of Congress having timely access to intelligence information. Unfortunately, too often that is not the case, as requests from Congress for intelligence information are stonewalled and slow walked. Section 108 of the bill before us requires the intelligence community to provide, upon request from the chairman or vice chairman of the Senate Intelligence Committee or chairman or ranking member of the House Intelligence Committee, timely access to existing intelligence assessments, reports, estimates, legal opinions, or other intelligence information.

The bill before us also advances Congress's oversight of particular matters. For example, section 313 requires the Director of National Intelligence to submit a classified report on any clandestine detention facilities operated by the U.S. Government. This public law requirement reflects the Intelligence Committee's determination to undertake serious oversight of any intelligence community detention and interrogation practices. The bill before us also establishes within the Office of the Director of National Intelligence an inspector general of the intelligence community. That is a major reform. It is highly important, and it is long overdue. The creation of an inspector general of the intelligence community will strengthen accountability by permitting independent examinations of problems, abuses, or deficiencies.

We should not let another year go by without an Intelligence authorization bill. We cannot defeat the threats this Nation faces without the strongest and most effective intelligence community which, in turn, requires strong oversight.

I yield the floor and suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### TRADE

Mr. DORGAN. Mr. President, later this week there will be a group of us in the Senate holding a meeting on trade issues and talking about what our response will be to the request by President Bush to extend what they call trade promotion authority. Trade promotion authority is a slogan that was used to replace fast track because fast track apparently became some sort of a pejorative term, at least in the minds of some. So they came up with the term "trade promotion authority." It is like labeling things healthy forests or clear skies, trade promotion authority. What it means is fast track. The Congress, by Constitution, has the

right to be engaged in foreign commerce. That is where it is described, in the Constitution. It is not described as part of executive branch responsibilities. It is described as part of the responsibilities of Congress to be involved in the issue of trade and foreign commerce.

What has happened over some years is the Congress has given the President authority to negotiate trade agreements in secret behind closed doors, bring the trade agreements to this Congress, and we agree we will put on a straitjacket and not be allowed to offer any amendments, and it will be considered as a trade agreement that we have negotiated with some other country under expedited procedures. The Congress itself has decided to put itself in a straitjacket with something called fast track or trade promotion authority. I did not support that. I didn't support it for President Clinton. I don't support it for President Bush. President Bush has had fast track trade promotion authority now for some while. It is about to expire on June 30. He is asking that it be extended. As for me, I will not support extending it. I hope to be involved with a group of Senators who similarly will describe the danger to this country's economic future that would be entailed by supporting the extension of fast track or trade promotion authority.

Let me describe what the danger is. Some wish to ignore all the evidence that exists with respect to trade. The fact is, in the past year our trade deficit in 1 year was \$830 billion. What does that number mean? It probably doesn't mean much to most people. It means every single day we purchase from foreign countries \$2 billion more than we are able to sell to foreign countries. Every single day we put \$2 billion worth of IOUs in the hands of another country. A substantial portion of those IOUs is now possessed by China, Japan, and others. About \$1 billion is owed from the citizens of this country to China and Japan.

In addition to the imbalance of \$2 billion a day importing more than we export or consume—saying it another way, about 6 percent more than we produce—we are seeing American jobs being shipped overseas. We have actually some cheerleaders for that proposition. We have some people in this country who say isn't that great. Isn't that a wonderful situation where we can actually move American jobs abroad. None of those people will ever lose their jobs. They will write books and make laws, but they will never lose their jobs. It is the folks who shower after work who lose their jobs; the people who go to the plant, the people on the assembly line; the people who find their job is going elsewhere because there is someone else in the world, a billion to a billion and a half people willing to work for 20 or 30 cents an hour. They will work with no health care benefits and no retirement benefits and in some cases for 20 cents an

hour. If they decide they are being cheated out of wages and try to organize workers, they will be sent to prison.

That is the new economy? That is the new circumstance of the global economy? That is free trade? That is good for our country? I don't think so.

I have spoken at length about this issue. I am for trade and plenty of it. Sign me up. I support trade. I like trade. I insist that it be fair to this country. I am flat out tired, through fast track, of having trade agreements being negotiated in secret overseas someplace behind closed doors by U.S. negotiators who forget who they are working for. They bring them to this Chamber under expedited authority called fast track and there is the prohibition of any amendment being offered to change what is obviously wrong with the agreement. Then it runs through here like a hot knife through butter. We have had NAFTA and CAFTA and U.S.-Canada. We have had all these trade agreements, at the end of which we have the largest trade deficit in the history of humankind. It is not even close. Every time we pass a new trade agreement, we have a larger deficit.

The people who come up with these concoctions called free trade say: Isn't this wonderful? No, it is not. Would they say it was wonderful if they were losing their jobs? They wouldn't. But they are not the ones losing their jobs.

Alan Blinder, a mainstream economist, former vice chairman of the Federal Reserve, said this about the outsourcing of American jobs: There are 40 million American jobs subject to outsourcing. Not all of them will leave this country, but even those that remain will have downward pressure on their income because there is someone else somewhere else in the world willing to work for pennies.

So is that the new global economy? Is that the flat world? Mr. Friedman wrote the book "The World is Flat." I know better than that; so does he. The world is not flat. In the chapter where he looks at Bangalore, India and says, isn't this wonderful, all these jobs in India, no, it is not wonderful.

Is this the kind of new economy we signed up for? Have we forgotten the lessons, have we forgotten what it took to get to this kind of standard of living?

James Fyler was shot 54 times. It was said once he died of lead poisoning. I guess when you are shot 54 times—he was actually killed in Ludlow, CO, nearly 90 years ago. He was killed because he thought people who went into the coal mines to mine for coal had a right to a fair wage and a right to work in a safe workplace.

Move forward a century from James Fyler, from people who gave their lives to lift the standards in this country, to expand the middle class, to provide for good jobs, demand a fair wage, demand decent benefits, and then ask yourself if, after a century, when we expanded

the middle class in this country—with good jobs that pay well—have we now decided there is a new strategy, a bankrupt strategy, which is so-called free trade, which is unfair to the American worker, because it is a race to the bottom, saying to companies: If you can find somebody who will work for 20 cents an hour, have them make the Huffy bicycles, have them make the Radio Flyer little red wagons, have them make the Fig Newtons, have them make the Hanes underwear, and have them make the Levi's. They are all gone because they went in search of cheap labor. All those American jobs are gone. Now, I ask you, is that a road to a better future for American workers?

We, actually, in this Chamber, mind you—not me but a majority—have supported one of the most pernicious provisions I have ever seen, a provision that says: Do you know what, if you want to close your manufacturing plant and fire your workers and move the jobs to China, we intend to give you a big fat tax break for doing it. That is unbelievable. I have tried four times to change that in the Senate and have come up short in the vote four straight times. But I guarantee you this: One day, there will be enough clear thinking in this Congress to decide we ought to stop subsidizing the export of American jobs.

So I started by saying we have an \$830 billion trade deficit. That relates to the export of jobs and the purchase every day of \$2 billion more than we are able to ship abroad. We are going to have to repay that someday. You can make a case on the budget deficit that is money which we owe to ourselves. You cannot make that case with the trade deficit. That will be repaid someday with a lower standard of living in this country.

That is why we ought to, as a country, begin worrying about and thinking about this new strategy. I am for a fair trade strategy. I am for trade, and plenty of it, but it must be fair to this country. I am sick and tired of seeing trade agreements that pull the rug out from under our workers and pull the rug out from under our standards. I want to lift people up, not press people down. I do not believe in a future in which 40 million to 50 million additional workers are subject to outsourcing. But if they are not outsourced, they, nonetheless, can come home and say: Honey, I didn't lose my job today, but they are going to pay me less.

One final point. I spoke here about a week ago about Circuit City. I do not know much about that company. I do know this: They announced they were going to fire 3,400 people. Because they were bad workers? Not a bit. No. They said: We are going to fire them because we want to rehire other workers to whom we can pay less money. They were making, I think, slightly above \$11 an hour. They wanted to fire 3,400 workers so they could hire cheaper workers, less expensive workers.

I do not know. If you go into a store and ask somebody where the camera counter is, are you going to find a worker who knows? Maybe you have a worker you could pay less money to, but do these companies forget that their company is their workers, the company is represented by their workforce, that is their brand?

We are headed in the wrong direction. There is no social program in this country as important as a good job that pays well. Yet the whole notion here of the companies that want to produce in China and ship here and run their income through the Cayman Islands to avoid paying taxes to this country—the whole notion is, this is a new day, it is a new economy. Don't you understand it? Free trade. That is not fair trade, where I come from.

My colleague, Senator BROWN, has worked on this issue for a long while in the U.S. House, and now in the U.S. Senate. I really appreciate seeing new voices come to the Senate demanding we move toward fair trade relationships. We can compete, but the competition has to be fair. That has not been the case with any of these trade agreements.

Mr. President, I am happy to yield the floor so my colleague, Senator BROWN, can be recognized.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for only 5 minutes or so.

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

Mr. BROWN. Mr. President, I wish to echo much of what Senator DORGAN has said and thank him for his leadership on trade issues. I came to the House of Representatives in 1993, elected in 1992. Our trade deficit was fairly large in those days, we thought: \$38 billion. Today, as the Senator said, depending on whether you count services in addition to manufactured products, it exceeds \$800 billion.

Interestingly, if you add the aggregate trade deficit from 1992 through 2006—that means the amount of imports we have brought into our country versus the amount of exports we have going out of our country—we have had a \$4 trillion trade deficit in the aggregate. That is \$4 trillion of wealth having gone out of our country.

To understand what \$4 trillion is, because nobody can really understand that, if you spent \$1,000 every second of every minute of every hour of every day—if you spent \$1,000 of every second of every minute of every hour of every day—to spend \$4 trillion, it would take you 135 years. That is the kind of wealth we have seen go out of our country. But to understand that in more human terms, let me just share a story, if I could, for a moment.

About 7 or 8 years ago, after the North American Free Trade Agreement, unfortunately, passed the House and Senate—Senator DORGAN voted

against it in the Senate; I voted against it in the House, a dozen or so years ago—I flew to McAllen, TX, at my own expense and rented a car and went across the border with a couple of friends and visited Reynosa, Mexico, to see what NAFTA had brought to the border areas and to the country of Mexico—at least that part of Mexico.

I went to the home of two General Electric workers—General Electric, Mexico. Both made about 90 cents an hour. Both worked pretty much 60 hours a week, 10 hours a day, 6 days a week. They lived in a home maybe 20 feet by 15 feet, with no running water, no electricity. They had dirt floors. When it rained hard, the floors turned to mud.

When you went outside their home—these are people who worked 60 hours a week each for an American company, a Mexican subsidiary of an American company, 3 miles from the United States of America in Reynosa, Mexico—if you went outside their home, there was a ditch behind their house, maybe 4 feet wide, with 2 by 4s across the ditch. Children would be playing in this ditch with human waste, industrial waste—who knows what was going through it. The American Medical Association said the Mexican-U.S. border is the most toxic place in the Western Hemisphere. And these children were playing in whatever this human and industrial effluent waste was in this neighborhood.

As you walked through this neighborhood, you could tell where the workers worked by the construction materials from which their homes were built—packing materials and cardboard boxes from the companies for which they worked or from the suppliers to the companies for which they worked. They used that as roofs and walls to build their shacks.

Again, these are people who hold full-time jobs for General Electric, Mexico, 3 miles from the United States of America.

Then, nearby, within a mile, I visited an auto plant—an auto plant that looked just like an auto plant in Lordstown, OH, Avon Lake, OH, with modern technology, even more modern than what we have often in auto plants in Ohio, unfortunately. They had clean floors and hard-working workers who were very productive.

There was one difference between the Mexican auto plant and the auto plant you would see in Cleveland. The difference was there was no parking lot in the Mexican auto plant because, simply put, the workers have not shared in the wealth they produce for their company.

You could go halfway around the world. You could go to a Motorola plant in Malaysia, and the workers are not paid enough to buy the phones they make. You could come back halfway around the world to Costa Rica to a Disney plant, and the workers do not make enough money to buy the toys they make for their children. You could go back halfway around the

world to China, and the workers at the Nike plant are not paid enough to buy the shoes they make. The difference in their economy and ours, and these trading partners where we have huge trade deficits, is the workers are not sharing in the wealth they create.

But that is starting to happen in the United States. In the last 30 years, the wealthiest 20 percent in our country, the wealthiest 5 percent, the wealthiest 1 percent are seeing their wealth go up while wages are stagnant for the rest of the country. That is why the middle class is shrinking, because people who are working hard and playing by the rules simply are not sharing in the wealth they create.

They are more productive than they have ever been. We are setting productivity records in this country. Yet wages are stagnant or worse. Companies are outsourcing, companies are going overseas. Senator DORGAN said those same companies are getting tax breaks and all kinds of advantages, as this body and, across the Capitol, the House of Representatives continue to pass these job-killing trade agreements that outsource our jobs, that betray our middle class, that mean layoffs of police and fire and teachers and people who make our communities healthier, as families are hurt by these layoffs or as families are hurt by stagnant wages.

That is why we need a very different trade policy—whether it is with Japan, whether it is with Mexico—a trade policy that lifts up the middle class and helps to strengthen the middle class, a trade policy that will help workers in the developing world instead of this trade policy that outsources our jobs, betrays our communities, and hurts our families.

Mr. DORGAN. Mr. President, will the Senator from Ohio yield for a question?

Mr. BROWN. Yes.

Mr. DORGAN. Mr. President, the Senator from Ohio has described automobiles as one part of his discussion. I wonder if the Senator from Ohio knows, for example, with respect to South Korea, we imported about 700,000 automobiles from South Korea in the last year. We were able to export about 4,000 American cars to South Korea.

Now, why the imbalance? Mr. President, 99 percent of the cars driven on the streets of South Korea are made in South Korea. That is the way they want it. Once in a great while, we have a little burst. The Dodge Dakota pickup—all of a sudden, it looked like they were going to sell some Dodge Dakota pickups in South Korea. Just like that, the Government shut that down. Oh, they do it very subtlety, but they know what they are doing—just like that.

China is a good example. We did a trade agreement with China. China is now creating an automobile export market. They want to be a big automobile exporter and intend to export to this country. Here is what we said to China, a country with which we have a giant trade deficit: When you ship your Chinese cars to the United States, we

will impose a 2.5-percent tariff on your cars. And we agree that for any U.S. automobiles we would sell in China, you may impose a 25-percent tariff. So to a country with which we have a giant trade deficit—we now have a \$230 billion trade deficit with China—we have said: It is OK for you to impose a tariff that is 10 times higher than we would impose on your cars.

That is unbelievably ignorant, in my judgment, ignorant of our own economic interests.

If I may make one additional point. In Ohio, they used to make Huffy bicycles. I have spoken about that at some length on this floor. They paid people \$11 an hour to make Huffy bicycles. Huffy bicycles are 20 percent of the American bicycle market. You can buy them at Wal-Mart, Kmart, Sears. The people at the plant in Ohio loved their jobs. They made the Huffy bicycles for over a century. They all got fired. They all lost their jobs. You can still buy a Huffy bicycle. They are all made in China.

But on the last day of work, after they were fired, these Huffy bicycle workers, as they drove out of the parking lot of the plant, all left a pair of empty shoes where their car used to sit in the parking lot. It was their way of saying to this company: You can ship our jobs overseas, but, by God, you are not going to fill our shoes. It was a poignant way for workers to say: This job mattered to me. We worked here for a century making bicycles as American workers. And now it is gone.

It is unbelievable, when you hear these stories and see what the consequences are of American companies that have decided: Do you know what, the new economy says, let's produce where we can pay people 30 cents an hour. Incidentally, that is how much workers get who are now producing Huffy bicycles. They are paid 30 cents an hour. They work 7 days a week, 12 to 14 hours a day. That is what the Ohio workers were told. You cannot compete against that, so you lose.

In my judgment, our country, this Senate—Senator BROWN and I and others—has to begin standing up for the economic interests of our country and our workers. If we do not, we will surely see a shrinking of the middle class and a dramatic impact on the economy and future growth of this country. That is why this is such an important issue.

Again, let me just say how impressed I am with not only Senator BROWN but especially Senator BROWN and some others who have joined us in the Senate, who will be very strong voices on behalf of a sane, thoughtful, sensible protrade policy that is pro-fair trade and stands up for this country's economic interests.

I thank the Senator from Ohio for yielding to me.

Mr. BROWN. Mr. President, I reemphasize what Senator DORGAN says so often; that is, we want trade—plenty of it—we just want it with different rules.

We want fair trade. Plenty of countries around the world practice trade, as South Korea does, for their own national interests. We practice trade according to some economics textbooks some days, and other days we practice trade according to what is in the interests of these large corporations that outsource. But these companies—again I use the word “betray”—they betray our families, they betray our communities when they do what Huffy Bicycles did because those jobs were good-paying union jobs in Shelby County OH, in western Ohio. As Senator DORGAN said, they have been there for hundreds of years.

In the far corner of northwest Ohio there is a company called the Ohio Art Company. The Ohio Art Company makes something that almost everyone who grew up in this country knows about: they make the Etch A Sketch. Some years ago, Wal-Mart went to the Ohio Art Company and said: We want to sell Etch A Sketch in our stores for under \$10, and the Ohio Art Company couldn't make them for that price, so they pretty much moved most or all of their production to China.

It is that kind of betrayal by these corporations, with the concurrence of our Government, because our Government writes the rules for these trade agreements—our Government has consistently practiced trade and allowed our largest companies to practice trade not according—unlike other countries that don't practice it according to our national interests, and it is time that we do.

Mr. DORGAN. Mr. President, I would like to ask the Senator to yield for one more point. The Governor of Pennsylvania, Governor Rendell, tried very hard to keep a company in Pennsylvania, Pennsylvania House Furniture. They make fine furniture with Pennsylvania wood, a very special kind of Pennsylvania wood. They make top-of-the-line furniture and did for a long time—I think for over a century as well. They were purchased by La-Z-Boy, and La-Z-Boy decided that Pennsylvania House Furniture would be outsourced to China. At that point, Governor Rendell and folks in Pennsylvania got involved to try to save Pennsylvania House Furniture, but they couldn't do it. The jobs all went to China. Incidentally, they now ship the wood from Pennsylvania to China, put the furniture together, and then ship it back to be sold as Pennsylvania House Furniture.

There is somebody in this country who has a piece of furniture that they don't understand the value of. The last day at work at this plant where they had made furniture, these craftsmen, who made top-end, top-of-the-line furniture, these craftsmen, the last day of work, on the last piece of furniture that came off the assembly line in Pennsylvania, turned it over and they all signed it. Someone has a piece of furniture with the signatures of all the craftsmen at that plant who, on their

last day at work, decided they wanted to sign as a note of pride in the work they had just completed.

Then the jobs were gone, all gone to China, because the Pennsylvania workers could not compete with those who would work for 25 cents, 30 cents, 35 cents an hour. But they shouldn't have to. That is the point of our discussion about fair trade.

Mr. BROWN. Mr. President, in the next decade our Nation needs to—our Government needs to come up with a manufacturing policy. If our trade laws and our tax laws continue to encourage outsourcing, continue to contribute to this erosion of the middle class, we will be a country with less and less manufacturing, fewer and fewer manufacturing jobs, less and less of an ability to protect our national interests. It is a question of national security, to be able to have a strong manufacturing component to our economy, and it is a question of economic security for families in places such as Dayton, in places such as Steubenville and Painesville and Cleveland, OH, places where people have built middle-class lifestyles, bought their homes, sent their children to college, worked for a decent retirement because they have worked hard and played by the rules and manufactured goods that people in our country use.

I think it is important as we move forward with Senator DORGAN and people like Senator WHITEHOUSE from Rhode Island, who is also very interested in this, that we move forward on developing this manufacturing policy on trade, on tax law, and on helping particularly our small manufacturers compete in this global economy.

I thank the President, and I yield the floor.

Mr. WHITEHOUSE. Mr. President, we have seen a considerable number of the members of the Intelligence Committee come up to this floor this afternoon, and that is because we have before us S. 372, legislation authorizing funding for our intelligence and national security services. But rather than work with Congress to ensure agencies such as the CIA, FBI, NSA, and many others receive the funding they need to meet their missions and keep Americans safe, the Bush administration and some in the Republican minority are stonewalling this legislation.

As the newest member of the Select Committee on Intelligence, I am deeply troubled to see this legislation stalled at the expense of the security of our Nation. My father was a Foreign Service officer, and through his eyes I have seen the power of American diplomatic and intelligence efforts to do both great good in the world and great harm.

In their misuse and in the politicization of America's intelligence apparatus, President Bush and his administration have done great harm to America's standing in the world and our security at home. Now we face the

bleak prospect that for the third year in a row the Senate may not pass an intelligence authorization bill. This should give every concerned American pause.

This measure will fund our intelligence community agencies, fight terrorism, strengthen our capabilities to collect, analyze, and act on intelligence, and, most importantly, expand transparency and oversight of our intelligence community. It is a reflection of diligent, thorough, and tenacious work by our committee chairman, JAY ROCKEFELLER, the distinguished Senator from West Virginia whom I see with me on the floor this afternoon, along with his Republican counterpart, Vice Chairman BOND. I was hopeful that at least we could end the partisan logjam that has crippled the Senate Intelligence Committee for the last several years. I have been pleased with the thoughtful and serious tone of the committee's work on both sides of the aisle. Yet now something has suddenly changed, and the Republican minority has maneuvered to block this legislation from becoming law. Now it appears the White House has intervened, has called in chits, and twisted arms to stop a bill on which Chairman ROCKEFELLER and Vice Chairman BOND have worked so long and hard.

We understand this administration does not want congressional oversight. They don't want oversight on their inept response to Hurricane Katrina. They don't want oversight on the unprecedented purge of U.S. attorneys. They don't want oversight on the debacle going on in Iraq. They don't want oversight on intelligence either. But no administration in recent memory has more badly needed congressional oversight, and in no area has that need been more plainly demonstrated than in the intelligence function of our Government.

This is the administration that failed to ensure adequate oversight of national security letters under the PATRIOT Act. This is the administration that conducted its own secret wiretap program to monitor conversations, including the conversations of U.S. citizens. This is the administration that established its own secret prison network offshore to hold terrorism suspects off the record of this country's legitimate judicial institutions. This is the administration that cherry-picked its intelligence to justify the claim of Iraqi weapons of mass destruction. That abuse of intelligence alone cost our country thousands of lives, billions of dollars, and damage to our relations with allies around the world that will linger for many years.

One can see why this administration would resist congressional oversight, but Congress is obligated to oversee our country's national security and intelligence-gathering services. That is our duty under the Constitution. This duty is particularly important with the covert intelligence agencies because their work is not subject to public in-

quiry. These are not organizations that work in the bright light of day but in the deep dark of the secrecy they require to be effective. So meaningful and appropriate congressional oversight is our only safeguard.

This administration welcomes oversight less than almost any I can think of, but no administration in recent memory has needed it more. Perhaps the Nixon administration, but like the Nixon administration, this administration's resistance to congressional oversight is a measure of how badly that oversight is needed. Unfortunately, for too many years this Congress has conducted oversight by the principle, "out of sight, out of mind" or maybe "see no evil, hear no evil, speak no evil." You don't have to look far to see how badly this strategy has failed.

But there is a new team in town and a new leadership of this Congress that takes these responsibilities seriously. It is an abdication of our responsibility under the Constitution, and it is irresponsible with respect to the security of our Nation to let this legislation languish.

I urge my colleagues in the minority to reconsider their actions, to return to this floor in good faith, to continue the good work that Chairman ROCKEFELLER and Vice Chairman BOND have so nobly accomplished, and to give our intelligence agencies the funding they need to keep us safe.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, first of all, I want to truly congratulate the Senator from Rhode Island for his statement which was delivered forcefully, intelligently, accurately, and with great conviction which comes from his extremely broad experience in life.

For this Senator's part, my view is this: Unless the Senate invokes cloture and moves to finish action on the fiscal year 2007 authorization bill, we have failed for the third time, or as Senator LEVIN put it, since 2004 when we last passed it, to pass important national security legislation. Everything that the American people are worried about, everything that comes out of events like yesterday in Blacksburg, VA—and by the way, I spent a good deal of time on the phone talking to students I know down there—everything points to a massive, tectonic change in the way we are carrying on.

I speak very proudly of a PBS series which is looking at this whole subject. Monday, Tuesday, Wednesday, Thursday, and Friday, 12 consecutive hours of looking at what Islam is, what it isn't; what jihad is, what it isn't; and how we came to this point. It is done from all points of view, usually without any journalists, just soldiers talking. It is brilliant, and I recommend it to my colleagues.

We tried last week to move the Intelligence authorization bill, and we were prevented from doing so due to objection from some of our Republican colleagues. When cloture on the motion to

proceed was passed last Thursday, the vote was 94 to 3. That is not just to drop off a number, that is a significant expression of public will in the Senate. The Senate was again prevented from moving to the bill for the purpose of debate and amendment by a continued Republican objection, forced 30 hours to run on the motion to proceed. As a result, we have wasted 2 days.

As my distinguished and good friend Senator BOND said, we wasted 2 days when we could have considered and disposed of many amendments, which we were prepared to do.

Vice Chairman BOND and I have been working together, the two of us, to clear and pass amendments even this day, and have done so, a goodly number of very important ones, because we are determined that this should work. However, many of those 42 amendments filed are extraneous, and they are nonrelevant. We have to pay attention to those things that are outside the jurisdiction of the Senate Intelligence Committee and the purpose of the authorization bill so they don't fall, but we won't be able to get to those.

So I would just conclude this way. Oversight of the activities of the U.S. intelligence community is a necessary and essential duty of this body. It is a duty which Vice Chairman BOND and I take extremely seriously. He is very aggressive about it and cares a great deal about it. I do, too. I think it defines the integrity of the process with which we protect our Nation and the people who protect our Nation, covertly, overtly, as the Senator from Rhode Island talked about.

So it is our constitutional duty. I don't like to be in dereliction of my constitutional duty at any particular time. I can't think of any time that is more important to me not to do so than right now.

In addition, I fear that it sends a disturbing message to the clandestine collectors and the intelligence analysts of the intelligence community who actually watch us and pay a lot more attention to us, particularly here in Washington, and read our tea leaves and take their signals about where they stand on our priority list. I want them to stand at the very top. I think the vice chairman wants them to stand at the very top. If we do not consider them a legislative priority, then I am saddened by that.

I call upon my colleagues to set aside politics and vote for cloture and final passage of this intelligence authorization bill that has languished in legislative limbo for more years than I am happily willing to admit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I regret we have come to an impasse. The chairman and I and the members of the committee have worked very hard to get a bill that is getting much better. I am very sorry that we were not allowed to

vote on amendments this afternoon and to continue with our efforts to move this bill forward. The leaders are responsible on both sides for running this body, and we are in a position now where it appears to the minority that amendments will not—could be precluded under that circumstance. I am afraid there will not be the support for cloture. I regret that we have worked so long and hard and apparently will not be able to continue with this bill. I hope to do so at a later time.

I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion to reconsider is agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 20, S. 372, the Intelligence Authorization bill of 2007.

Harry Reid, Chuck Schumer, Russell D. Feingold, Jay Rockefeller, Evan Bayh, Patty Murray, Dick Durbin, Jeff Bingaman, Robert Menendez, B.A. Mikulski, Dianne Feinstein, Bill Nelson, E. Benjamin Nelson, S. Whitehouse, Byron L. Dorgan, Blanche L. Lincoln, Ron Wyden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 372, a bill to authorize appropriations through fiscal year 2007 for the intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—50

Akaka	Bingaman	Byrd
Baucus	Boxer	Cantwell
Bayh	Brown	Cardin

Carper	Klobuchar	Pryor
Casey	Kohl	Reed
Clinton	Landrieu	Reid
Conrad	Lautenberg	Rockefeller
Dodd	Leahy	Salazar
Dorgan	Levin	Sanders
Durbin	Lieberman	Schumer
Feingold	Lincoln	Snowe
Feinstein	McCaskill	Stabenow
Hagel	Menendez	Tester
Harkin	Mikulski	Webb
Inouye	Murray	Whitehouse
Kennedy	Nelson (FL)	Wyden
Kerry	Nelson (NE)	

NAYS—45

Alexander	DeMint	Martinez
Allard	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Graham	Shelby
Chambliss	Grassley	Smith
Coburn	Gregg	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Thomas
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—5

Biden	Johnson	Obama
Brownback	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FEINGOLD. Mr. President, I am deeply disappointed and concerned about the continuing Republican filibuster of the fiscal year 2007 Intelligence authorization bill. This bill is critical for our national security. It supports the intelligence community while ensuring that Congress can conduct necessary oversight of our intelligence activities. Failure to pass this legislation would undermine the men and women of our intelligence community who look to Congress not only for funding but for policy guidance and legal clarity. It also sends a terrible signal to the American people, that despite repeated abuses by this administration from warrantless wiretapping to National Security Letters, Senate Republicans have chosen to shield the administration from congressional scrutiny and oversight. Unchecked executive authority is contrary to our constitutional system. And the American people understand well what the 9/11 Commission stressed—that strong congressional oversight is an essential part of defending and protecting America.

There are a number of provisions of the bill that I view as particularly important. Besides authorizing the intelligence programs that help keep us safe, the bill improves congressional oversight of the intelligence community and advances the critical work of intelligence reform. The National Security Act requires that the congressional intelligence committees be kept fully and currently informed of all intelligence activities. The administration failed to comply with this law with regard to its illegal warrantless wiretapping program. I am pleased, therefore, that this bill limits the abil-

ity of the executive branch to deny information to the full membership of the Intelligence Committee. I am also pleased that the classified annex to the bill includes my amendment calling on the administration to work with the committee to ensure adequate oversight of the program, which has not yet occurred.

With regard to intelligence reform, the bill establishes, within the Office of the Director of National Intelligence, an inspector general of the intelligence community, which will strengthen accountability across the community. The bill also requires the declassification of the aggregate budget for all intelligence activities. This longstanding intelligence reform goal, which was recommended by the 9/11 Commission, will allow for basic budget transparency and a level of accountability without damaging our national security.

The bill includes an amendment I offered to the classified annex with Senator ROCKEFELLER calling for more intelligence resources to be directed toward Africa. The continent presents a wide range of threats, such as terrorist havens and the transnational movements of terrorist organizations, while corruption, authoritarianism and poverty allow these conditions to fester. In order to bolster our national security, we need greater information and understanding of these threats. Of particular concern is Somalia, where the committee encouraged the intelligence community to work with other agencies of the U.S. Government on a comprehensive strategic plan for stability. Unfortunately, since the amendment was originally accepted by the committee in May 2006, the situation in the Horn of Africa has only deteriorated and the overall U.S. Government strategy for addressing the crisis remains sorely inadequate.

Finally, I am pleased that, in response to the concerns of Senator WYDEN and myself, a provision creating a new exemption to the Privacy Act has been removed. Widespread abuses involving National Security Letters recently uncovered by the Department of Justice inspector general only underscore why Congress must conduct vigorous oversight of how current authorities are being used before providing new ones.

I again express my disappointment that the bill is being filibustered and hope that the bill will soon be passed into law.

Mr. KYL. Mr. President, I rise to talk to my colleagues about my amendment No. 866 to protect the classified information handled by Congress.

Having served on the Intelligence Committee for 8 years, no one needs to tell me how important it is for Congress to have the information it needs to perform oversight of the intelligence community.

However, we must be mindful that much of this information could do great damage to our national security.

This bill includes what I believe are misguided provisions related to clandestine prisons, the Detainee Treatment Act, and the enormous expansion of access to highly sensitive national security information.

The bill would declassify information about the intelligence budget, dramatically expand the number of members and staff with access to the most sensitive national security information our government holds, and provide details of the interrogation techniques used by our military and intelligence community.

Can anyone imagine what would happen if al-Qaida became privy to the interrogation techniques our military and intelligence community use? Does anyone think al-Qaida wouldn't adapt and train its terrorists accordingly?

I believe disseminating this information is a mistake. But, if we are going to disseminate it, we must put in place a mechanism to ensure this sensitive information does not get into the hands of our enemies. And we must give pause to those who would use this information to conduct their own personal foreign policies, as has been seen in the systematic use of leaks of classified information in recent years.

My amendment will ensure this information is treated as it should be by imposing a 10-year criminal penalty on those Members and staff who leak our national security secrets.

I urge adoption of the amendment.

#### MEDICARE

Mr. CORNYN. Mr. President, I rise today to discuss the Medicare prescription drug program that Congress passed a little over 3 years ago with a bipartisan majority. We have all heard the very impressive statistics associated with the Medicare Part D program. More than 90 percent of seniors eligible for the benefit have drug coverage, and they will save on average \$1,200 per year.

More importantly, more than 80 percent of enrolled seniors have expressed their satisfaction with the program. Competition in the prescription drug benefit has forced down costs far below what was anticipated. In 2007, the average premium for the benefit was \$22 a month, 40 percent less than projected at the outset.

The Congressional Budget Office's new budget estimate for the next 10 years shows that net Medicare costs for the prescription drug benefit will be more than 30 percent, or \$256 billion, lower than originally forecast. Not only are the costs for this prescription drug benefit lower than expected, but for 2007 more drugs are also being covered by participating plans than last year. The average plan now covers 4,300 drugs in its formulary versus 3,800 last year, a 13-percent increase.

The basic point is this: We passed a prescription drug benefit that uses market competition to provide critical medications to seniors at a cost much lower than originally projected. The results so far demonstrate a familiar

principle: competition and choice bring lower prices and, I might add, better service.

There are some who want to change that successful model, so we have to ask ourselves: How does their plan improve on this very successful Government program?

Since I believe being a zealous guardian of the taxpayers' dollars is one of the reasons my constituents sent me here, one of the first questions I ask is: Will the alternative plan of interfering with this market-based competition actually save taxpayers money while continuing to provide choice and access to prescription drugs for seniors?

The simple answer to this question is, no, and you don't have to take my word for it. The nonpartisan Congressional Budget Office determined that the proposal that is before us would have a "negligible effect" on reducing Government spending.

The advocates of this particular proposal that is pending before us cannot point to any Government source that will support their claim that the Federal Government can negotiate more effectively than the private market. Specifically, CBO writes that "CBO estimates that H.R. 4 would have a negligible effect on Federal spending because we anticipate that the Secretary would be unable to negotiate prices across the broad range of covered part D drugs that are more favorable than those obtained by PDPs under current law." Secretary Leavitt describes in practice how having the Government negotiate drug prices will not lead to lower costs for beneficiaries or taxpayers. He has written:

We are seeing large-scale negotiations with drug manufacturers, but they are being conducted by private plans, not the government. A robust market with a lot of competitors has driven down prices. It's the magic of the market. To assume that the government, in our genius, could improve on this belies the reality of a complex task.

In fact, public opinion polls back up Secretary Leavitt's comments. A study by the Tarrance Group found that only 28 percent of seniors believe that the Government would do a better job in setting drug prices than a competitive marketplace.

The Washington Post agrees. It has written, on January 14:

Governments are notoriously bad at setting prices, and the U.S. Government is notoriously bad at setting prices in the medical realm.

As policymakers, it is also our job to ask: What are the potential consequences of this new legislation that is pending before us? Quite simply, the consequences are dire. Since Government will decide which drugs seniors have access to, seniors will be left with fewer choices.

In terms of analyzing the consequences of this alternative plan, it is helpful to look at examples in other countries that have tried what Democrats are now advocating in this model. We don't have to guess about what the

consequences would be because other countries have tried it. I recently read a piece published in the Washington Post and written by Alberto Mingardi, president of a think tank in Italy, and I want to quote from this article because I believe it demonstrates my point. He writes about the Democrats' plan to require the Government to set prices, or at least giving the Secretary the authority to do that. He said:

It would create a Medicare drug program that looks a lot like the system we have in my country, Italy, where drug prices are among the lowest in Europe. At first glance, this might seem like an enviable model for America to follow. But before Pelosi rushes down the road to Italian-style health care, let me offer a word of caution. Italy is hardly a health care paradise. In fact, it's more like a quagmire of red tape.

For the most part, Italy's lower drug prices are the product of government price controls. In Italy, these price controls have created a number of problems. The government's attempt to force down drug prices has not produced overall health-care spending. Rather, it has resulted in a spike in demand—which is one reason why Italy's health-care spending has skyrocketed, growing nearly 68 percent between 1995 and 2003.

As for the quality of Italy's care, that, too, has suffered. With demand for drugs rising, the Italian government has attempted to save money by adopting reimbursement policies that favor certain drugs over others. Unfortunately, the most innovative products often aren't considered reimbursable by the government precisely because they are the most expensive.

It's a great system if you just need an antibiotic. But if you're hoping to avoid open heart surgery through access to a miracle drug, it can be a nightmare.

He concludes.

The economy is also harmed. Because it's simply not profitable for companies to invent cures in Italy, price controls have decimated Italy's pharmaceutical industry. So by attempting to hold down drug prices, the Italian government has deprived its citizens of the best care without reducing health-care spending. And it has deprived the country of what could be a vibrant sector of the economy. In their rush to revamp Medicare, U.S. policy leaders should be careful not to make the same mistake.

Mr. President, I ask unanimous consent that the article be printed in its entirety in the RECORD at the conclusion of my comments.

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

(See exhibit 1.)

Mr. CORNYN. Mr. President, I also want to stress the last sentence that I read one more time, where he says: It is a great system, if you need an antibiotic. But if you are hoping to avoid open heart surgery through access to a miracle drug, it can be a nightmare.

We don't need to go down this path. We don't have to change course. Right now, under Medicare Part D, market forces and competition have created a wildly popular benefit that uses market competition to provide critical medications to seniors at costs much lower than projected a few short years ago.

I have spent a few moments describing my concern with the Democrats'

plan to “so-called” negotiate prices. I would say to ration drugs is a more accurate description. But by far my biggest concern about this bill is, of course, another example of their preference for Government control in health care rather than market-driven, patient-centered approaches favored by those of us on this side of the aisle.

I would urge my colleagues to call this debate what it is: It is not so much about noninterference clauses in Medicare prescription drug laws. There is a much more importantly and potentially consequential debate about whom Americans want to be making decisions in our health care system. Do they want it to be the Government or do they want it to be patients themselves and their doctors?

I recently read a quote from a physician in Switzerland that I found particularly poignant. He reminds us that:

We all have a single-payer health care system. Citizens always wind up paying for health care, either through taxes, insurance premiums, or out-of-pocket costs. The real question is whether they will have a single-decider system. In many European countries, there are single-decider systems in which governments and their agents control what medical services its citizens will or will not receive.

Of course, we know all too well how close we are in this country to having a single-payer health care system. Roughly, 50 cents of every health care dollar we spend in the United States is spent directly by the U.S. Government. The health care economy is approximately \$2 trillion annually, or one-sixth of the entire U.S. economy. I believe we have to reform our health care system, emphasizing individual choice and trusting patients and their families and their doctors to make the right choices—not lawyers or, yes, even bureaucrats in Washington, DC,—to make the important health care and treatment decisions.

So make no mistake about it, this bill is about a much larger issue than the title of the legislation itself would suggest. We are not debating some sterile provision called a noninterference clause. We are debating something far more significant.

The Washington Post believes this debate is about something much larger than the noninterference clause as well, and they have written:

The Democrats’ stance is troubling because it suggests an excessively governmental-led view of health care reform. The better approach is to let each insurer offer its own version of the right balance, see whether it attracts customers, and then adapt flexibly.

In my State, the Dallas Morning News has written:

When congressional Democrats press for this change next year, remember they’re pushing for much more than lower prices. They’re seeking to move the line where government should stop and the marketplace should start.

I do agree with the Democrats that this debate is about negotiation, but the real question is not should we have

negotiation but who should negotiate. The proponents of this legislation believe it should be the Government, and I couldn’t disagree more. The proponents of this legislation believe the Government is more skilled in making pricing decisions than the free market, and I have to say, I think that is wrong.

We have been presented in this legislation with a remarkably clear choice: If you believe the way to improve our broken health care system is to embrace a market-driven approach that lowers costs and does not reduce choices for seniors, then you will vote to continue the prescription drug program that we passed a few short years ago. If you believe, as the advocates of this legislation do, that Government bureaucrats are better suited than the free market to make pricing decisions for thousands of prescription drugs, then you will want to vote for this legislation.

I will vote for the current market-driven approach that provides choices for seniors and puts patients and doctors in control rather than the Government, and I urge my colleagues to join me.

#### EXHIBIT 1

[From the Washington Post, Nov. 12, 2006]

#### DRUG PRICE PATH TO AVOID (By Alberto Mingardi)

The next speaker of the House, Rep. Nancy Pelosi (D-Calif.), has let it be known that within her first 100 hours on the job, she will move to allow the government to negotiate directly with pharmaceutical companies to obtain lower drug prices for Medicare patients.

Her plan would create a Medicare drug program that looks a lot like the system we have in my country, Italy, where drug prices are among the lowest in Europe. And that’s pretty low, considering that drugs in Europe average about 60 percent less than in the United States. Even as U.S. prices rose, Italian drug prices decreased by 5 percent last year.

At first glance, this might seem an enviable model for America to follow. But before Pelosi rushes down the road to Italian-style health care, allow me to offer a word of caution. Italy is hardly a health-care paradise. In fact, it’s more like a quagmire of red tape.

For the most part, Italy’s lower drug prices are the product of government price controls. The state purchases nearly 60 percent of the nation’s prescription drugs. And it supposedly negotiates prices directly with pharmaceutical companies. But since the Italian government controls such a disproportionate share of the market, it in effect dictates drug prices. In Italy, these price controls have created a number of problems.

First, they distort the laws of supply and demand. Because of the country’s artificially low drug prices, demand for pharmaceuticals is artificially high—higher than it would be under free-market conditions. The point is that the Government’s attempt to force down drug prices has not reduced overall health-care spending. Rather, it has resulted in a spike in demand—which is one reason why Italy’s health-care spending has skyrocketed, growing nearly 68 percent between 1995 and 2003.

As for the quality of Italy’s care, that, too, is suffering. With demand for drugs rising, the Italian government has attempted to save money by adopting reimbursement poli-

cies that favor certain drugs over others. Unfortunately, the most innovative products often aren’t considered reimbursable by the government precisely because they are the most expensive.

It’s a great system if you just need an antibiotic. But if you’re hoping to avoid open-heart surgery through access to a miracle drug, it can be a nightmare. And Italians are lacking more than just choice in cutting-edge drugs. They also lack information. According to a recent survey, more than 50 percent of Italy’s patients believe that the national health service cannot even supply adequate information about treatments and drugs.

The economy is also harmed. Because it’s simply not profitable for companies to invent cures in Italy, price controls have decimated Italy’s pharmaceutical industry. Today not one of the world’s 50 largest drug manufacturers has its headquarters in Italy, even though the country is the world’s seventh-largest economy. Because most drug and biotechnology companies are outside Italy’s borders, there are only 84,000 pharmaceutical workers in Italy’s entire drug industry. The industry has become a perfect target for Italy’s politicians, because they can rail against it with little political downside. The more we follow this path, the less likely it is for Italian companies to develop valuable innovations—at great risk for both our economy and our health.

So by attempting to hold down drug prices, the Italian government has deprived its citizens of the best care without reducing health-care spending. And it has deprived the country of what could be a vibrant sector of the economy. In their rush to revamp medicare, U.S. Policy leaders should be careful not to make the same mistake.

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

Mr. HATCH. Mr. President, I rise to express my deep concerns about S. 3, the Medicare Fair Prescription Drug Price Act of 2007.

Back in 2003, I helped draft the Medicare Modernization Act. I was one of the Senate’s chief negotiators for the House-Senate conference on this legislation. We wrote legislation that was approved by both Chambers of Congress and signed into law by the President in December 2005. And by enacting this legislation, Medicare beneficiaries are now offered a quality prescription drug benefit at an affordable price. It is a successful program by any measure.

I want to take a few minutes to talk about the Medicare Modernization Act of 2003 and what a difference it has made in the lives of Medicare beneficiaries.

Today, there are 38 million Medicare beneficiaries and over 90 percent participate in the Medicare Part D program. Eighty percent of Medicare Part D beneficiaries are happy with their Medicare prescription drug plan. And they are happy with their plans, because they have a choice in coverage—beneficiaries are able to get a plan that meets their needs. We don’t have a one-size-fits-all program attempting to stretch over 38 million people. The cost savings have been profound for both beneficiaries and for taxpayers.

When the Medicare Part D plan first began in January 2006, we thought that the average premium would be around

\$37 per month. Because of plan competition, the average premium is \$22 a month. That has reflected for taxpayers over \$113 billion of savings over what Congress had originally estimated. And the other good news is that if a beneficiary hits the doughnut hole—the point where the beneficiary has to pay out of pocket for his or her prescriptions—there are now plans in every State that will provide coverage through the doughnut hole period.

As we all know, back in January, the House of Representatives passed legislation that would require the prices of prescription drugs received under the Medicare Part D program to be negotiated by the Secretary of Health and Human Services. Late last week, the Senate Finance Committee also approved S. 3, the Medicare Fair Prescription Drug Price Act of 2007. While this legislation does not mandate that the Secretary negotiate drug prices for the Medicare Part D benefit, it gives the Secretary the discretion to do so.

Any way you look at it, Congress requiring the Secretary to negotiate prescription drug prices would lead to a one-size-fits-all drug plan which would result in fewer choices. Beneficiaries would have less satisfaction with a one-size-fits-all plan. And, in my opinion, drug prices will not be lower.

In addition, beneficiaries would have fewer choices. When you negotiate drug prices, there is really only one way to do it. You limit the choices available. You say I am going to take your medication off your drug plan or I am only going to pay X amount for a drug, a price so low that perhaps the manufacturer cannot participate. If the Government starts doing that, suddenly you have the Government making choices about who can get what drug as opposed to beneficiaries and their doctors making those decisions.

Currently there are over 4,400 drugs available on Medicare Part D plans. Beneficiaries may choose a plan that meets their needs. That is exactly why 80 percent of Medicare Part D beneficiaries are happy. And for those who aren't, the good news is we can help find a plan that serves them better. If we had one plan, one formulary, then we would have a lot more unhappy people.

And how does the Secretary of Health and Human Services feel about this new responsibility? I would like to take a minute to read an editorial that appeared in the Washington Post on January 11, 2007. This editorial was written by Secretary Mike Leavitt, not only a good friend of mine but a very thoughtful, knowledgeable, and open-minded Secretary of HHS as far as health care policy is concerned. "Medicare And the Market Government Shouldn't Be Negotiating Prescription Prices," by Mike Leavitt, Thursday, January 11, 2007; Page A25:

We all want people with Medicare to get the prescription drugs they need at the lowest possible prices. The issue before Congress this week is how best to do that. Should con-

sumer choice and private-sector competition determine prices—or should government?

The success of the Medicare prescription drug benefit provides strong evidence that competition among private drug plans has contributed significantly to lowering costs. The average monthly premium has dropped by 42 percent, from an estimated \$38 to \$22—and there is a plan available for less than \$20 a month in every state. The net Medicare cost of the drug program has fallen by close to \$200 billion since its passage in 2003.

Seniors and people with disabilities like the benefit. Studies consistently show that three-quarters of Medicare beneficiaries are satisfied with their coverage. Individuals like being able to choose the plan that best fits their needs. A single, one-size-fits-all drug plan would have made the choice easier, and Congress did create a standard plan. But fewer than 15 percent of enrollees have selected that standard plan—opting instead for plans with lower premiums, no deductibles and enhanced coverage.

Despite the success of the benefit, some people believe government can do a better job of lowering prices than a competitive marketplace. Legislation under consideration would require the secretary of health and human services to negotiate and set the prices of drugs. In effect, one government official would set more than 4,400 prices for different drugs, making decisions that would be better made by millions of individual consumers.

There is also the danger that government price setting would limit drug choices. Medicare provides access to the broadest array of prescription drugs, including the newest drugs. But price negotiation inevitably results in the withholding of access to some drugs to get manufacturers to lower prices.

The Department of Veterans Affairs, often cited as an example of how government can negotiate prices, operates an excellent program for veterans, but the VA formulary excludes a number of new drugs covered by the Medicare prescription benefit. Even Lipitor, the world's best-selling drug, isn't on the VA formulary. That may be one reason more than a million veterans are also getting drug coverage through Medicare.

Some observers point to the massive buying power of the federal government as the means to exert clout over drug companies, but the federal government has nowhere near the market power of the private sector. Private-sector insurance plans and pharmacy benefit managers, who negotiate prices between drug companies and pharmacies, cover about 241 million people, or 80 percent of the population. Medicare could cover at most 43 million.

The independent Congressional Budget Office has said that government price negotiation would have a "negligible effect on federal spending." And previous experience with Congress and Medicare regulating drug prices has not been reassuring. Medicare Part B, which covers physician services, outpatient hospital care and other services, sets the prices for some medicines—notably a number of cancer drugs. It has a history of reimbursing at rates substantially greater than prevailing prices. In 2005, Part B drug spending increased by almost 20 percent.

If the Federal Government begins picking drugs and setting prices for all Medicare beneficiaries, administrative costs would add a new burden to taxpayers. The Department of Health and Human Services would have to hire

hundreds of new employees. Legions of lobbyists would follow, each seeking higher Medicare payments for the drug companies they represent. As a Post editorial noted in November, "having the government set drug prices is a sure way of flooding the political system with yet more pharmaceutical lobbyists and campaign spending."

There is a proper role for government in setting standards and monitoring those who provide the benefit. We should ensure that beneficiaries have access to medically necessary treatments. But government should not be in the business of setting drug prices or controlling access to drugs. That is a first step toward the type of government-run health care that the American people have always rejected.

There are many ways the administration and Congress can work together to make health care more affordable and accessible. But undermining the Medicare prescription drug benefit, which has improved the lives and health of millions of seniors and people with disabilities, is not one of them.

Secretary Leavitt is correct—providing flexible prescription drug plans to beneficiaries should be one of our top goals. Getting Medicare beneficiaries the best price possible for their prescription drugs should be one of our top goals. And offering Medicare beneficiaries high quality prescription drug plans should be one of our top goals. In my reading of this legislation, passage will result in none of these goals being achieved and, in fact could result in the Medicare prescription drug benefit becoming a national formulary which could result in higher prices for drugs and limited choices for Medicare beneficiaries.

When we were drafting this bill, we took great care to provide protections to Medicare beneficiaries who decided to participate in the Medicare Prescription Drug Plan. We wanted to provide beneficiaries with a drug benefit that would not cost them an arm and a leg, and that would allow access to a wide range of prescription drug choices.

In order to preserve those choices, the Medicare Modernization Act prohibits the Secretary from establishing a formulary. If the Secretary cannot lower prices without a formulary and if it is prohibited by law for the Secretary to establish a formulary then I ask you—what is the purpose of this bill?

I believe that, should this bill become law, it will be no time before its supporters decide that now they want the Secretary to establish a formulary. I think this bill is a Trojan horse with a Medicare formulary hidden inside.

Mr. President, I urge my colleagues to think carefully about this issue. I urge them to talk to their Medicare beneficiaries in their states and ask them whether or not they are happy with their prescription drug plans. I believe that they will find that almost everyone is happy with their current

benefit and changing this benefit is a terrible mistake on our part.

FEDERAL INCOME TAX FILING DEADLINE

Mr. HATCH. Mr. President, today the tax man cometh.

Americans have April 17 circled on their calendars, and not with a smiley face.

This year, roughly 135 million Americans sat down to complete their tax returns. Many have made the unfortunate discovery that they owe additional money to the IRS.

Others are shocked to learn that they owe something called the alternative minimum tax.

I would like to emphasize one point today, a point that many of my constituents have learned the hard way: their tax burden is already too high.

For middle-class Americans, tax day has become an aggravation at best, and an outrage at worst.

Many Utahns, as well as distraught taxpayers throughout the Nation, know the look of tax overload. They see it when they look in the mirror, and they see it when they look at their spouse.

There is the kitchen table. A late night. Some scattered papers and receipts. An elbow on the table. And a hand on the forehead in disbelief. This is the look of overtaxed Americans. It is the look of misery and confusion. It does not need to be this way.

There are economic burdens as well, and that burden is only going to grow if the Democrats get their way.

Many of us pay too much in taxes already. But the policies of the congressional majority are a blueprint for even higher taxes. Neither our citizens nor our economy can bear much more.

Middle-class Americans are overtaxed.

According to the Tax Foundation, this year Americans will work 120 days to pay their total tax burden.

Let's put this in perspective. They will work 62 days to pay for their house and home. They will work 52 days for health and medical care. They will work 30 days for food. But they will work 120 days to pay their taxes.

If you told my parents' generation that their tax burden would be that high, they would have thought we lost a war to France.

But the Democrats are not satisfied. They want the so-called rich to pay more of their so-called fair share.

Let me translate. By "rich" they mean anyone with a job.

And by "fair share," they mean empty your wallet.

According to recent data from the IRS, persons making more than \$30,122, or the top 50 percent of all income earners, paid 97 percent of all income taxes in 2004, the latest year there were data available.

Those who made more than \$60,041 in 2004, the top 25 percent, paid 85 percent of all income taxes.

These people are not rich.

As one of my Democratic colleagues noted earlier this year, a mother and a

father making \$90,000 a year in a place like Virginia or New York or California or New Jersey are not rich. They are doing the best they can to provide for their families. And once you factor in taxes, housing, clothing, medical care, and college savings, those paychecks do not go that far.

The middle class is already paying out much more in taxes than is spent by the Government on its behalf.

According to the Tax Foundation, an individual making over \$65,000 a year pays \$7,217 more in taxes every year than is spent for him or her.

But for some Members of this body, our system is still not progressive enough.

I know that there are some policy wonks and political strategists who think the days of tax revolt are over.

Apparently we are at some postpartisan, end of history, where Americans just accept big government and big bites out of their paychecks.

I for one am not buying it.

It seems some things never change in this country.

One of those things is the commitment of Americans to their rights of life, liberty, and property.

Americans remain very jealous of their liberties, and rightly so. Chief among our liberties is the freedom to use the money you earn through your hard work and initiative, to build your business, buy a home, and take care of your family.

Working hard to fund some new Government bureaucracy is not at the top of the list. If taxes go up significantly, the party responsible is going to be in for a rude awakening. They are going to be reminded, with grave electoral consequences, that the Government can take only so much.

Along with many of my colleagues on this side of the aisle, I think our tax burden is still too high. Many Americans still pay too much. The estate tax still destroys family businesses. Too many startup businesses are killed off by taxes before they have begun. We need to be providing tax incentives so people can responsibly save for their retirement and health care. We need to be coming up with innovative tax policies and entitlement reforms.

Instead, the Democrats are keeping mum as Medicare and Social Security take on water, keeping to themselves their foolproof plan to bail us out: Raise taxes.

The combined unfunded liability for Social Security and Medicare is \$84 trillion. That is "trillion" dollars. Where is that money coming from? They are having a hard time coming up with money today for a \$50 billion 1-year fix for the AMT, the alternative minimum tax. Where are they going to get \$84 trillion?

Do not worry, they tell us; they are going to fix Social Security and Medicare. But fixing it their way will break the backs of middle-class taxpayers. Mark my words, they will raise taxes on the middle class, taking away or

limiting savings vehicles for health and retirement. They will raise taxes on individuals, hiking rates and hurting families. And they will raise taxes on businesses, killing industry and choking initiative.

Conservatives are fond of saying that ideas have consequences. They certainly do. There are important differences between the parties. In their guts, Democrats distrust markets, believe that more Government intervention and Government programs are the answer, and are willing to hike taxes to achieve their goals.

Those of us on this side of the aisle believe in personal responsibility, low taxes, and encouraging the freedom, entrepreneurialism, and dynamism of the American people.

Ideas have consequences. One leads to economic prosperity; the other leads to national stagnation. I want my constituents to know that on these debates to come, I stand with the taxpayers. We need to be encouraging industry. We need to be growing our economy. We need to be lowering and simplifying our tax burden.

Today's Democratic majority promised real change. Instead, we are getting the same tired song. They are not taking our Nation's fiscal woes seriously. They are hoping Americans will not object when their taxes are hiked to pay for our coming entitlement train wreck.

They should think twice before going down this road. Middle-class Americans, such as my constituents in Utah, are trying to get their taxes done by midnight tonight. They want their tax burden lowered, and so do I. There are lots of promises made by our friends on the other side to get rid of the AMT. They have had at least three chances to vote to get rid of the AMT for the vast majority in the middle class and they have refused do so.

If left unchecked, the AMT is going to, within the next 10 years, be assessed on over 35 million Americans. Remember, it started out because there were about 159 people who did not pay their taxes, people who were immensely rich. Now we are talking up to 25 million Americans as we stand here today, and up to 35 million Americans within the next ten years. I am calling on my colleagues on the other side to live up to their campaign promises and let us get rid of AMT. It is very unfair to the middle class, and frankly, for most Americans.

I promise to do all I can to see we do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. CHAMBLISS. Mr. President, I rise today to oppose S. 372, the fiscal year 2007 Intelligence authorization bill, in its current form. I believe, without amendment, this legislation will

deteriorate the existing working relationship and trust the intelligence community has with Congress.

I voted against this legislation in both the Intelligence Committee and the Armed Services Committee because I believed significant alterations needed to be made before I could offer my support. As a member of the Intelligence Committee, I am fully cognizant of the importance of passing an authorization bill to guide our intelligence community as well as to advise the Senate appropriations process. Passing an authorization bill reassures much needed Congressional oversight of the intelligence community, and it ensures that the Senate is relevant on national security issues that are critically important.

At this time, I question whether the Senate is serious about the need to examine all possible improvements to the bill or is willing to devote the time necessary to discuss and debate all amendments. Given the natural and conflicting interests involved, it is prudent that Congress act carefully and work with the executive branch to ensure that its needs are met, rather than hastily making demands through legislation that many provisions of this bill attempt to do. This will only create further friction between the two branches. I believe there are other ways to ensure effective oversight.

Some sections of this bill, particularly sections 304 and 107, are problematic to me, and I believe they will not further meaningful Congressional oversight. Therefore, I have offered amendments to strike these sections and urge my colleagues to support my amendments.

Let me detail my concerns with these two sections. First, section 304 requires the intelligence community to notify all of the members of the Senate and House Intelligence Committees whenever the House and Senate leadership and committee leaders are briefed on highly sensitive intelligence or covert actions. It requires that the notification include a statement of the reasons why only the leadership was informed, as well as a description of the main features of the matter.

There is a history of compromise and cooperation between the executive and legislative branches regarding the sharing of sensitive intelligence with Congress. The President has the duty to protect intelligence sources and methods. One such way is to limit the number of people who are privy to the information. Congress recognized this duty in the National Security Act, which states that information be shared:

with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources or methods or other exceptionally sensitive matters.

The reporting requirement in section 304 may disclose the very sensitive information the President has determined only the leadership has a need to

know. As a member of the Intelligence Committee, I recognize there are some highly sensitive matters I do not have a need to know, and I support having limited notification when absolutely necessary to protect the information.

Frequently the Congressional leadership will be informed of tightly controlled classified operations in which limiting knowledge of them is appropriate. Many of us do not have a need to know about various sensitive operations which, if leaked, could result in lives being lost as well as the termination of Congressional access to information.

Additionally, I have confidence in the chairman and vice chairman of the Intelligence Committee. I count on the leaders of the committee to be responsible for determining when additional access to information is warranted and for requesting that additional members be briefed as necessary. Section 304 seeks to abandon these practices which have been refined over three decades of aggressive Congressional oversight.

Next, section 107 requires the public disclosure of the National Intelligence Program budget requests and Congressional authorizations and appropriations for the intelligence community. Disclosing these figures to the public also discloses them to our enemies who will be watching for fluctuations in these figures, which may damage intelligence sources and methods over time.

Additionally, declassifying the overall budget for the intelligence community may lead others to demand that each agency declassify their budget. No doubt this would have grave effects on the capabilities of our intelligence agencies. For those reasons I oppose S. 372 in its current form and the managers' amendment to it. I urge my colleagues to support my amendments to strengthen this bill.

#### FAIR TAX ACT

Mr. President, today is the deadline for all taxes to be filed. As many millions of Americans rush to file their taxes, I rise to bring attention to our horribly broken, overly complex, and unfair American tax system. I have and will continue to support significant reform of the Tax Code in this country, as I have consistently done during my service in Congress.

Accordingly, I have recently introduced the Fair Tax Act of 2007 on behalf of myself, my colleague from Georgia, Senator ISAKSON, Senator COBURN, and Senator CORNYN, because we are in desperate need of tax reform.

Imagine the economic freedom and purchasing power provided by a tax system that would allow us to retain 100 percent of our earnings while maintaining the benefits of Government-sponsored programs, and allowing them to flourish. Such would be the case under the system proposed in the Fair Tax Act.

The Fair Tax Act would create a national sales tax as the primary source of Federal revenue, would eliminate our current archaic and inefficient Tax

Code, and would replace it with a simpler, fairer means of collecting revenue. Specifically, the Fair Tax Act would repeal the individual income tax, the corporate income tax, capital gains tax, all payroll taxes, self-employment tax, and the estate and gift taxes in lieu of a 23-percent tax on the final sale of all goods and services.

Elimination of these inefficient taxing mechanisms would bring about equality and simplicity to our overly complex tax system. Moreover, the Fair Tax Act would abrogate any double taxation that occurs under our current tax system because it would provide tax relief for business-to-business transactions. These transactions, including used-product transactions that have already been taxed, are not subject to the sales tax.

More importantly, under the Fair Tax Act, the Federal Government's revenue would go unchanged. Social Security and Medicare benefits would remain untouched under the Fair Tax bill, and there would be no financial reductions to either one of these vital programs. Instead, the source of the trust fund revenue for these two programs would be replaced simply by consumption tax revenue instead of payroll tax revenue.

Finally, under the Fair Tax Act, every American would receive a monthly rebate check equal to spending, up to the Federal poverty level according to the Department of Health and Human Services guidelines. This rebate would ensure that no American pays taxes on the purchase of necessities. This is a critical component.

#### INVEST IN AMERICA ACT

Mr. President, I also rise today as an original cosponsor of the Invest in America Act. While I firmly believe significant overhaul of the Tax Code is the best way to achieve absolute fairness and transparency in our tax system, until we actually get to that point, we simply cannot allow the current rate reductions and other provisions of the 2001-2003 tax relief packages to expire, which is what the Democrats have proposed in their budget for the 2008 fiscal year. This would be a drastic blow to the economy and a misguided step in the wrong direction. The Invest in America Act would make the individual tax rates permanent. The lower rates have been essential to our continued economic growth over the past several years, and have encouraged Americans to work harder, be more productive, and retain more of their hard-earned money.

Additionally, this bill corrects current wrongs in our tax codes, such as the death tax and the AMT. It would make the repeal of the death tax permanent, and would save more than 130,000 families each year from confronting a loss of the family farms, ranches, or family-owned businesses. It would permanently repeal the AMT which, while designed to ensure every American pays some minimum tax, is

in fact now hitting more and more middle-income families, and this it was not designed to do.

Most significant to the growth of our economy, this bill would also make the current reduced capital gains and dividend rates permanent. Since the reduction of these investment rates in 2003, it has become easier for new businesses, and existing ones, to attract the capital they need to start, succeed, and expand.

Moreover, with greater than half of all Americans owning stock, middle-class families, seniors, and other Americans are greatly benefitting from these lower rates, including the 5-percent rate, which drops to zero percent in 2008.

The proposals in this bill would also help American families by making permanent the increased child tax credit, the marriage penalty relief, the adoption tax credit, the tuition deduction, and the teacher deduction. These provisions, along with other proposals in the Invest in America Act, make permanent the R&D tax credit and the increased small business expensing rates, enabling both the taxpayer and the American economy to grow.

Most importantly, the Invest in America Act sets forth a tax system that would give back to those who invest in the strengthening of the American economy. We need to overhaul our tax system, impose fairness, and implement policies that encourage economic growth rather than stifle it. That is what Georgians want and deserve, and that is what Americans want and deserve.

#### VIRGINIA TECH TRAGEDY

I rise today with a very heavy heart to extend my condolences to the families who lost loved ones as a result of yesterday's tragic shootings on the Virginia Tech campus. One of those victims includes a young man, 22-year-old Ryan Clark of Martinez, GA, who served as a resident adviser at West Ambler Johnston dormitory where the first shooting occurred. Ryan was set to graduate this spring with a degree in biology and English, and he hoped to pursue a Ph.D., a pretty amazing young man from an academic standpoint. In his spare time, he also helped out the disadvantaged children in the area, as well as disabled children. On this particular day, he came to the rescue of the first victim and, as a result, became a victim himself.

I wish to convey my extreme sorrow to his family as they try to grasp the reality and gain a better understanding of what has happened. While he was still in his very young years, it is clear that he had already impacted so many lives and in so many different ways. While I know that words may be of little comfort at this time, the Clark family and all of the families involved and the Virginia Tech community will remain in my prayers as we try to find peace in the coming days.

It is difficult to fathom how something like this could happen. Words

can't fully describe the grief we all feel as the weight of this tragedy settles over our Nation. My prayer is that through faith and resolve, our country will emerge from this disaster in unity and strength as together we find healing. While I know that we are still learning the facts surrounding these despicable acts, it is my hope that we can all work together and renew our commitment to ensure that our communities and schools are safe from similar future events.

I join my colleagues in the Senate who have spoken so eloquently on this matter and our entire Nation in mourning the 32 lives lost yesterday, and I pray for the strength of our country during this time of grief and sorrow.

Mr. CRAIG. Mr. President, news of yesterday's tragic killings at Virginia Tech reached me piecemeal as I was traveling back to Washington.

We are still far from final answers and explanations. Even today, facts are still being confirmed, evidence is still being collected, and the impact of the tragedy is still reverberating.

Last night, the Senate formally reacted to these terrible events through a resolution of sympathy.

I rise today to personally express my sorrow and condolences to the family and friends of the victims, to the survivors, and to the Virginia Tech community at large. The magnitude of this tragedy is unimaginable. You are in my thoughts and prayers, and I hope you know that the hearts of millions of Americans go out to you in your time of grief.

As we come to understand more about the events that unfolded so tragically yesterday, there will be plenty of time for us to argue about policy and politics and how to distribute blame. Today we should be mourning the loss of these lives, and doing what we can to help the wounded and comfort the bereaved.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I don't need to remind my colleagues that our country is at war. We face tremendous challenges in keeping America safe. On the other side of the aisle, in the last couple of days we have heard some talk about the Intelligence authorization bill which the Republican majority failed to pass in 2 separate years, the first time in 27 years this bill has not been passed, but it wasn't passed the last 2 years.

This year I thought it would be good if we passed an Intelligence authorization bill. We have 16 agencies that deal with the espionage, the security, the intelligence of our Nation. A bipartisan bill came out of the Intelligence Committee, the committee agreeing that something should be done. But it gets over here and word comes from the White House: Don't let that bill go. Like lemmings off a cliff, the Republicans do not allow this bill to go for-

ward. The excuses, a fourth grade student could see through, maybe a second grade student.

They say: Democrats wouldn't allow us to offer amendments. That is absolutely false, untrue. From the very beginning, when they refused to let us proceed to the bill initially and we had to file cloture, cloture was invoked because it gave them 30 hours to stall doing nothing. I said that during that 30-hour period amendments could be offered. Not a single amendment was proffered.

So then we come to cloture on the bill itself. Even the vice chairman of the committee did not vote to go forward with this legislation. Again, I said: OK, cloture wasn't invoked. Let's go ahead and offer some amendments. They did. Guess what the first amendment was to show how serious they are about the intelligence operations of this country. An amendment was offered by a Republican 34 pages long dealing with immigration which shows how they want to solve the immigration problems of this country and the intelligence problems. This is no place for immigration. We are going to debate immigration the last 2 weeks of this work period.

It is beyond my ability to comprehend how Senators on this side of the aisle, looking over there, could vote this way, people whom I have always believed to be patriots. Why would they not vote on this? I will tell you why they didn't. Vice President CHENEY wants to be the czar of intelligence of this country, as he has been for 6 years. He can rest well tonight because he is going to be able to continue, without this bill setting certain standards for interrogation with our intelligence agencies and other things that on a bipartisan basis were said to be important to improve the intelligence apparatus of our country.

The amendments offered this afternoon were not in good faith. A 34-page immigration amendment on an Intelligence authorization bill? They were nothing more than an effort to make the White House happy. It is no secret. Senators have told Senators on this side that is why they voted against cloture: they were told to do so by the White House.

Maybe my friends on the other side of the aisle think it is not important, that they can pull this one off and get away with it. We have a war on terror going on, and we have intelligence agencies—16 in number—that are working every day trying to keep ahead of the bad guys. The bipartisan bill that has been before the Senate for the last several days was drafted based upon what the intelligence agencies thought they needed to improve their ability to collect information. I don't think it is going to work. The credibility of the Vice President is not very high in this country. For reasons like this, it is apparent why that is.

The White House talks about the war on terror; let's work together to do

something about it. Step back a minute. Is it political posturing to think that the intelligence agencies of this country that should have legislation that should be passed every year not be passed for 3 years?

I am very disappointed. I say this not in a mean or argumentative way. I am terribly disappointed. If the Presiding Officer, other Senators on this floor, if I ever as the leader came to one of you and said: We are not going to let the intelligence bill go forward this year, I think my caucus would tell me what to do with my suggestion. But apparently the White House has more sway than the American people to this group across the aisle. That is really too bad.

The PRESIDING OFFICER. The Senator from Ohio.

#### MORNING BUSINESS

Mr. BROWN. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

#### MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. BROWN. Mr. President, Americans as much as any people on Earth have a sense of fair play. That is why I believe 3 or 4 years ago, when the Medicare law was passed literally in the middle of the night in the House of Representatives, where the Presiding Officer and I served at that time, by one vote—the rollcall vote was kept open for 3 hours, arms were twisted, calls from the President and pleas and all kinds of begging on the House floor, and who knows what else—that is why people were angry with the way the Medicare law passed. They were also angry especially because of the sense of betrayal they felt with the Medicare law that clearly was written by the drug companies and for the drug companies and by the insurance companies and for the insurance companies.

In fact, that Medicare law meant as much as \$200 billion in extra profits for the drug industry and meant as much as \$70 or \$80 billion in directed subsidies for insurance companies to entice—the word our friends used—entice those insurance companies to write standalone Medicare prescription drug coverage.

Americans know the score. Americans understand much about this whole Medicare law. We all understand the major employee groups typically in our system negotiate bulk discounts on prescription drugs. Americans also understand that the VA negotiates bulk discounts on prescription drugs. The VA, which ensures millions of our Nation's veterans, will go to the drug industry, company by company, and negotiate on a drug formulary, negotiate a price that gives the Government paying for these prescription drugs for our

Nation's veterans a discount of about 50 percent on average, the same kind of thing that large insurance companies will do. But under this Medicare law—again, written by the drug companies, written by the insurance companies, pushed through because of the lobbying force and the advertisements and all that the drug industry did and the insurance industry did—Medicare is prohibited under law from negotiating bulk discounts on prescription drugs. That is a prohibition only the drug industry and their friends in Congress—and they number many—could love.

When Medicare has to pay higher prices for medicines, dollars are taken from taxpayers' pockets and placed directly into the pockets of the multinational drug industry. For many years, I have taken bus trips with senior citizens to Canada, when I was in the House of Representatives, from my northern Ohio congressional district. We drove up through Detroit to Windsor to allow senior citizens to buy prescription drugs at a discount of 50, 60, 70 percent because the Canadians have a system where they negotiate drug prices directly with the manufacturer. It is the same drugs, the same manufacturer, the same packaging. The only difference between the medicine sold here and the medicine sold in Canada is the price.

That is the same in country after country after country. We pay two and three and four times more for prescription drugs than people in any other country given the same drug, the same dosage, the same manufacturer. It is a great deal for the drug industry and a bum deal for consumers, especially for senior citizens and for taxpayers in our country.

Medicare is the single largest prescription drug consumer in the country, and jacked-up prices jeopardize Medicare's future.

The legislation we will consider tomorrow ends the prohibition on price negotiations. It takes the handcuffs off Medicare and enables Medicare to negotiate price discounts—the kind of discounts Medicare should receive, given the huge volume of medicines it purchases.

Medicare is a system with more than 40 million Americans in that system. That kind of bulk discount buying will save billions—tens of billions—of dollars for American taxpayers and for senior citizens.

The drug industry, however, has taken to the airwaves, as it always does, and gone to Nation's newspapers to fight this legislation. In the Washington Post today is an example of an outrageous kind of ad the drug industry has written: "89% of Voters Oppose Government Negotiation of Medicare Drug Prices." That is what it says: "89 percent of Voters Oppose Government Negotiation of Medicare Drug Prices." That does not even pass the straight-face test. I hardly know anyone in Ohio—a Democrat, a Republican, an independent—I hardly know anyone

who does not think the Government should use the bulk discount process of negotiating directly with the drug industry on behalf of 40 million Medicare beneficiaries. Yet, they claim, in bold print, in a full-page ad that costs tens of thousands of dollars—not much for the drug industry, to be sure—that "89% of Voters Oppose Government Negotiation of Medicare Drug Prices."

If you read the small print, it says:

Majorities of Democratic, Republican and Independent voters do not want the government negotiating prescription drug prices under Medicare. In fact, 89 percent oppose government negotiation if it could limit access to new prescription medications.

Well, no kidding, if it limits access, then they say they do not like it. But, of course, they do not. And, of course, because of high drug company prices, we are seeing limited access to prescription drugs.

How many times, I say to the Presiding Officer, in New Jersey or in Ohio or in Nevada or in Iowa do we hear stories from our constituents who have decided, because they cannot quite afford the drugs, they are going to cut a pill in half so their prescription will last twice as long, or they are only going to take a tablet every other day, even though they are prescribed to take it every day, so their prescription lasts longer? How often do we have to hear that?

That is the issue of access, that too many seniors, too many middle-class Americans, too many low-income Americans simply cannot afford to pay for their prescription drugs because the price is so high because of the drug companies, with their billions of dollars in advertising, with their hundreds of millions of dollars they spend on 600 lobbyists in this institution. There are, at last count, over 600 people paid by the drug industry to lobby this Congress. There are only 535 of us here in Congress; 100 in the Senate, 435 in the House. They have more than 600 lobbyists to talk to us. These most recent ads are particularly offensive.

Allowing Medicare to negotiate lower priced medicines will not reduce access to medicines, it will increase access. If we get lower priced drugs, more people who have these prescriptions will be able to fully fill their prescriptions so, in fact, they will get access to drugs. That is why lower prices for Medicare mean lower copayments for seniors, and that means increased access to medicines.

That is why AARP supports allowing price negotiations. That is why the Alliance for Retired Americans supports allowing price negotiations. That is why the Committee to Preserve Social Security and Medicare supports allowing price negotiations.

The drug industry, again, stooped pretty low with this misleading poll, and then with this very expensive—tens of thousands of dollars for this one ad in one newspaper in the country. I wonder if there is any line the drug industry would not cross when it comes