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

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

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

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

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

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

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

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

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

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

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

This provision raises $277 million over 10 years.

The bill would not apply to any severance payments or costs associated with outplacement services or employee retraining provided to any employees who lose their jobs as a result of the offshoring.

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

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

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

Ending deferral raises $92 million over 10 years.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

INTELLIGENCE AUTHORIZATION ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I received today a letter from the general counsel in the Office of the Director of National Intelligence, Mr. Robert Litt, indicating that ''the President's senior advisors would recommend that he sign this bill if it is presented for his signature.'' I will ask that this letter be printed in the RECORD.

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

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

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

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

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

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

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

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

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

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

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

Hon. CHRISTOPHER BOND,
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

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

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

The second significant change relates to the provision that alters the current congressional notification framework. It is important to note at the outset that the Administration has already indicated that, with respect to the requirement to provide ''the legal authority under which [an] intelligence activity is being or was conducted,'' we construe that requirement only to require that the Executive Branch provide the committee with an explanation of the legal basis for the activity; it would not require disclosure of any privileged information or disclosure of information in any particular form.

The proposed amendment would significantly change the earlier version of this provision by requiring that the Executive Branch provide all congressional intelligence committee members who do not receive a finding or notification a ''general description regarding the finding or notification, as applicable, consistent with the reasons for not yet fully informing all members of such committee.'' The Administration has previously threatened to veto the Intelligence Authorization Bill over a congressional notification provision that contained similar language. This provision, however, differs from the earlier provision because the requirement to provide a ''general description'' is limited to a description that is ''consistent with reasons for not yet fully informing all members of such committee.'' We interpret this new language as providing sufficient flexibility to craft a description that the President deems appropriate, based on the extraordinary circumstances affecting vital interests of the United States resulting in the limited notification, and recognizing the President's authority and responsibility to protect sensitive national security information in the context of the notice and general description requirement.

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

The Office of Management and Budget advises that, from the standpoint of the Administration's Program, there is no objection to the submission of this letter.

Sincerely,

ROBERT S. LITT,
General Counsel.

NOTICES OF INTENT TO OBJECT

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

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

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

HONORING OUR ARMED FORCES

CAPTAIN DALE A. GOETZ

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of Captain Dale A. Goetz. Captain Goetz, assigned to the 4th Infantry Division, based at Fort Carson, CO, died on August 30, 2010, of injuries sustained when an improvised explosive device detonated near his vehicle. Captain Goetz was serving in support of Operation Enduring Freedom in the Arghandab River Valley, Afghanistan. He was 43 years old.

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

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

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

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

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

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

STAFF SERGEANT CASEY J. GROCHOWIAK

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

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