

"Tim was liked by everyone," Shawn Berner adds.

After graduating high school in 2006, Tim chose to follow in his father's footsteps and enlist in the Army.

He was assigned to the 2nd Battalion, 503rd Infantry Regiment, 173rd Airborne Brigade Combat Team, based in Camp Ederle, Italy. In fact, he was at the same posting as his father at that time, and as Isaia Vimoto was the brigade's most senior enlisted soldier, Tim actually fell under his command.

Fellow soldiers remembered the influence Tim's father had on him and how it shaped him into the model soldier he became.

"He saw the transformation from being a son to being a soldier," says SGT Andy Short. And "no matter what Vimoto was doing, he had a smile on his face."

"Throughout his childhood, [Tim] watched his father train, deploy, re-deploy and develop into one of the strongest leaders in the Army," says another fellow soldier, CPT Matthew Heimerle.

Command Sergeant Major Vimoto himself, currently stationed in Italy, says his son was "a very talented young man with lots of potential."

Tim's family and fellow soldiers held a memorial service for him in Italy, and hundreds of friends who wanted to say goodbye packed the chapel. We are thinking today of all those who mourn his loss.

Our thoughts are with his parents, Isaia and Misimua Vimoto; his brothers, Isaia Jr. and Nephi; his sisters, Sabrina and Ariel; and many other loved ones.

Mr. President, the Vimoto family's loss of their beloved son and brother—while serving alongside the father who raised and inspired him, no less—cannot be measured. But neither can this U.S. Senate's immense pride and reverence for his service and his sacrifice.

Our Nation honors him as a soldier and a patriot. And we thank the Vimoto family for giving their country such a hero.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. DURBIN). Under the previous order, the leadership time is reserved.

#### FREE FLOW OF INFORMATION ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2035, which the clerk will report by title.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (S. 2035) to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

The PRESIDING OFFICER. Under the previous order, the hour prior to the cloture vote will be equally divided and controlled by the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the final 20 minutes under the control of the two leaders, with the majority leader controlling the final 10 minutes prior to the vote, and with 10 minutes of the majority time under the control of Senator LEAHY of Vermont.

The Senator from New York.

Mr. SCHUMER. Mr. President, I rise to speak in support of S. 2035, the Free Flow of Information Act.

This legislation is truly a product of bipartisan effort during this Congress. Senator SPECTER and I have worked closely together to craft a careful bill that protects both the freedom of the press and the safety of our citizens.

In a free and democratic country, we should be able to do both, and this bill does.

Other Senators—including Senators LUGAR, DODD, and GRAHAM—have been instrumental in moving the bill to this point, and I wanted to thank our chair, Senator LEAHY, for being not only a sponsor of the bill but somebody who helped bring it to the floor.

S. 2035—a product of lengthy compromise and negotiation—is ripe for passage. In fact, it is long overdue.

There is now overwhelming support for a Federal law that gives a qualified—I repeat, qualified—privilege to allow journalists to honor promises of confidentiality to their sources unless a judge finds that compelling disclosure better serves the public interest.

How widespread is support for this legislation?

The presumptive Democratic Presidential nominee, BARACK OBAMA, supports this bill. The presumptive Republican nominee, JOHN MCCAIN, supports this bill. Forty-two State attorneys general—both Democratic and Republican—support this bill. The Senate Judiciary Committee, as evidenced by a vote of 15 to 4, supports this bill. The House of Representatives, as evidenced by a vote of 398 to 21, supports a similar bill. And, of course, over 100 newspaper editorials support this bill.

Conservative voices, such as former Solicitor General Ted Olson and the editorial page of the Washington Times, support this bill, as well as the Washington Post. So it does have broad support.

Given some of the ill-founded handwringing by the current administration over this bill, it is worth listening to what former Justice officials such as Mr. Olson say. Here is what Ted Olson recently wrote:

A free society depends on access to information and on a free and robust press willing to dig out the truth. This requires some ability to deal from time to time with sources who require the capacity to speak freely but anonymously. . . . [The Free Flow of Information Act] is well balanced and long overdue, and it should be enacted.

That is Ted Olson, so it is surprising the administration is opposed to the

bill. There is similar support from both liberal and conservative sides.

Here is how the conservative Washington Times put it:

A sound shield law guards not "the media" but something much more vital—the public's right to know . . . A measured law would not shield sources who perpetrate demonstrable and articulable harm to the country's national security interests. But it would rightly shield most others. Such a bill awaits Senate action now. It should be passed.

That is from an editorial of July 25, 2008.

Unfortunately, given the broad and bipartisan support of this legislation, a minority of critics have taken to attacks that are overwrought and overstated.

Every criticism is either wrong or is effectively addressed in the substitute bill, which I spoke about last night on the floor and is in the RECORD as of last night, so my colleagues can see it. Senator SPECTER and Senator LUGAR and I have worked to meet every one of these objections.

Fundamentally, critics have suggested the bill would represent a radical change in the law. Nothing is further from the truth. It even tracks this Justice Department's own guidelines. All we are saying is that given recent events and Government actions, a judge should be the final arbiter when it comes to subpoenas to journalists for sensitive information. It is not an absolute law. It doesn't say "never." It doesn't say "always." Some on the press side wanted "always." Some on the administration side wanted "never." It is a careful, balancing test. Moreover, a majority of Federal circuits now recognize some privileges for journalists in, of course, 49 States, plus the District of Columbia recognizes those protections.

However, because of some of the recent comments about the bill, Senator SPECTER and I have undertaken to address a series of other concerns, and should we move to proceed, the substitute measure will be on the floor. I outlined last night on the floor the changes that I think meet the concerns of the critics in two places in particular: one, making sure classified information does not get out and is protected, and, two, the definition of who is a journalist so we make sure that those who just casually criticize or whatever do not get the protection, as would professional journalists.

So the text of the substitute is here, and I hope my colleagues—I hope we will move to this. I know we have disputes on other issues, but this is the Senate working: broad, bipartisan, carefully thought out legislation that can move forward with an overwhelming vote. I hope we will move forward today.

On the other bill coming before us, the extenders bill, just one point before I yield the floor.

If you care about reducing gasoline prices, the bill on the floor today, with tax incentives for alternative energy,

will do far more than any amount of drilling to free our dependence on foreign oil and to reduce prices. I hope my colleagues will support that bill as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I appreciate the comments of the Senator from New York on the so-called media shield bill. Let me address those briefly before I talk for a moment about the extenders, and then what I wish to spend most of my time on is the subject we have been talking about but, frankly, not doing enough about during the last 2 weeks; that is, bringing down the price of gasoline at the pump for the American people.

The problem that I continue to have, as the distinguished Presiding Officer knows as a member of the Judiciary Committee, we discussed in the Judiciary Committee whether it is appropriate for the Congress to designate members of the media who would be the beneficiaries of a media shield while saying that there are other people who are engaged in the free flow of public information, such as bloggers, who would not.

I remember when William Safire, the distinguished journalist, testified before the Judiciary Committee and someone asked him about bloggers. He said he considers them the new pamphleteers, modern-day pamphleteers. In other words, they could be writing things just as importantly as Thomas Payne might have written at the time of the country's founding, and yet the legislation the Senator from New York talked about would do nothing to provide them the benefits of a media shield, and there would be—in effect, Congress would be deciding who is a legitimate journalist and who is not. I, for one, am not comfortable with the Federal Government in essence licensing journalists and ignoring the new media, which is the source of a lot of information, and treating them in a discriminatory manner.

#### TAX EXTENDERS

With regard to the extenders package, there are many, if not most, of us here in this Senate who would love to see the extenders package, or some form of it, passed. Renewable sources of energy such as solar and wind are very important in my State. We are No. 1 in the production of wind energy in Texas. Of course, T. Boone Pickens, one of my constituents, has been up here talking rather visibly about his advocacy of generating more electricity from wind and using natural gas to power vehicles and thus reducing our dependency on imported oil from the Middle East.

However, the fact is that I believe we will probably vote against moving off of the energy issue generally because, frankly, we shouldn't be changing the subject at a time when we are very close to being able to have a vote on producing more American energy and

relying less on imported energy and oil from the Middle East and abroad. Why it is that our colleagues in the majority are trying so hard—putting up cloture vote after cloture vote—to try to change the subject rather than allowing us to stay focused on and actually do something on bringing down the price of gasoline is, frankly, beyond me.

Mr. KYL. Mr. President, would my colleague from Texas be willing to answer a couple of questions I would like to pose to him?

Mr. CORNYN. I would, Mr. President.

Mr. KYL. Mr. President, the first question I have for my colleague is this: The Senator from Texas and I both serve on the Judiciary Committee, which considered this so-called media shield legislation some months back.

Does my colleague recall that when the bill was brought to the committee, it was brought with the suggestion that it was pretty perfect as written and that we shouldn't change a comma of it or we would be roundly criticized by editorial boards around the country? In point of fact, I was.

Does my colleague recall—and maybe you can refresh my recollection. My recollection is that we adopted 10 or 12 pretty serious amendments to that legislation in an effort to try to improve it and that most of the amendments that were adopted were overwhelmingly in their support. Is my recollection correct on that?

Mr. CORNYN. Mr. President, I believe the Senator from Arizona is correct. There was a lot of activity at the Judiciary Committee level to try to improve this bill on a bipartisan basis. I believe his recollection is correct.

Mr. KYL. Mr. President, the second question: When we passed that bill out of the committee, there were explicit assurances that we would continue to work on it because of the recognition that it was not, in my words, ready for prime time, but it was clearly in need of additional work. It is complicated. We would continue to work on it, A; and B, is it also correct that the Senator from Texas, as well as others, including my staff and myself, have been engaged in a lot of discussions since then, including, as the Senator from Texas noted, trying to figure out how to define who is a journalist and who would be protected?

Mr. CORNYN. Mr. President, the Senator is correct again. This has been a challenging issue because, frankly, the very nature of communications has changed dramatically. I mentioned the bloggers, which are sort of a new innovation. There is nothing in this bill that would prevent someone—let's say a jihadist or someone let's say from al-Jazeera or those who pretend to promote some of the activities that are directed against our own citizens or against our allies—from posing as a journalist and thus gaining the protection against testifying or cooperating with a grand jury that any average cit-

izen in the country would have to do. So there remain problems we have not been able to work through.

Mr. KYL. Mr. President, if I could just pose two other quick questions.

So would my colleague from Texas agree that at such point in time as this legislation is brought to the Senate floor, we are going to need to continue to make improvements on it that will, first, necessitate debate and amendments? Also, would my colleague agree that it would be a huge mistake to try to bring this bill to the floor under a scenario in which we are pushed up against the recess, we are trying to do an energy bill, we are trying to do a tax extender bill, and that it would take far too much time in terms of amendments; that presumably, if cloture were invoked and this bill were to be brought up, the parliamentary procedure would be such that we wouldn't be able to offer any amendments, and that would be a mistake in the way this bill would be considered? Would my colleague agree with that?

Mr. CORNYN. Mr. President, I agree with the Senator from Arizona. My understanding is that because of the delays, because the majority leader has basically refused to allow us to go to the energy package we proposed which we believe will actually bring down the price of gasoline at the pump, we find ourselves up against an adjournment on Friday, which I believe the majority leader has addressed, with two very important issues we need to address: lowering gas prices at the pump and then the tax extenders bill. The tax extenders would provide tax credits and support for things such as renewable energy and the like, which I support and which I hope we will pass as well. So I don't know how we can do justice to the media shield bill and give it the kind of debate and the amendment process it deserves in this compressed timetable.

Mr. KYL. Mr. President, just one final quick question. Is my colleague from Texas also aware of an editorial in the USA Today magazine on Monday, July 28, by the DNI—the Director of National Intelligence, Mike McConnell—who joined with the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, the Secretary of the Treasury, and, as he put it, every senior intelligence community leader in expressing his strong belief that this bill will greatly damage our ability to protect national security information?

Mr. CORNYN. Mr. President, I did read that op-ed piece with great interest myself when it was published in USA Today, and I hope we can make that part of the RECORD following my remarks.

Mr. KYL. Mr. President, if my colleague will indulge me for another 10 seconds, I hope that on the basis of this information, our colleagues would agree that whatever the view on the energy legislation, we should not be turning to the media shield legislation,

and, in point of fact, if we are going to do something about gas prices, we need to keep our eye on that ball and get that work done before we leave here on Friday.

Mr. President, I ask unanimous consent to have the op-ed piece I referred to printed in the RECORD at this point.

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

[From USA Today, July 28, 2008]

BILL WRONGLY SHIELDS PRESS; THOSE WHO LEAK CLASSIFIED DATA SHOULD BE PUNISHED

(By Mike McConnell)

The Senate is considering a proposal that would bestow a "privilege" on reporters, shielding them from revealing confidential sources of important national security information, even when their sources have broken the law by disclosing classified information. The intelligence community recognizes the critical role that the news media plays in our democratic society. However, this bill would upset the balance established by current law, crippling the government's ability to investigate and prosecute those who harm national security.

I have joined the attorney general, the secretaries of Defense, Energy, Homeland Security and Treasury, and every senior intelligence community leader in expressing the belief, based on decades of experience, that this bill will gravely damage our ability to protect national security information. Unauthorized disclosure of classified information disrupts our efforts to track terrorists, jeopardizes the lives of intelligence and military personnel and inhibits international cooperation critical to detecting and preventing threats. Those who illegally disclose information recklessly risk our national security and breach a sacred public trust.

It is a delicate balance to protect national security information from improper disclosure, while respecting the rights of the press to publish information it deems of public interest. This legislation upsets that balance by shielding those who illegally leak national security information and increasing the likelihood of destructive revelations in the future. The bill forces the government to meet ill-defined standards that require the disclosure of additional sensitive information. It also cedes critical judgments about harm to national security from national security professionals, charged with protecting the country, to the subjective determination of individual judges.

We do not see the problem that this bill is meant to address. All evidence indicates that the free flow of information has continued unabated in the absence of a federal reporter's privilege. Indeed, prosecutions in this area are exceedingly rare, and the long-standing policy of the Department of Justice strictly limits circumstances in which prosecutors may seek information from journalists. We must retain the ability to bring to justice those who break the law and cause irreparable harm to the United States and its citizens.

Mr. CORNYN. Mr. President, may I inquire how much more time I have remaining?

The ACTING PRESIDENT pro tempore. There is 11 minutes 11 seconds remaining.

Mr. CORNYN. I thank the Chair.

Mr. BAUCUS. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. Does the Senator yield for a parliamentary inquiry?

Mr. BAUCUS. Mr. President, parliamentary inquiry: I wish to clarify the remaining time.

The ACTING PRESIDENT pro tempore. The final 20 minutes of the debate has been reserved for the two leaders. The time preceding that, the minority now has 10 minutes 50 seconds. Of the majority time, 10 minutes is reserved for the Senator from Vermont. The remaining 4 minutes 44 seconds is available.

Mr. BAUCUS. I ask unanimous consent that during the remaining time, the Senator from Montana be allocated the remainder of that 5 minutes on the majority side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. I thank the Senator from Texas, and I thank the Chair.

Mr. CORNYN. Mr. President, there is a lot about the tax extenders package that I support. The State and local sales tax deduction—Texas doesn't have an income tax, thank goodness. I don't believe we ever will. We do have a sales tax, and we would hope to be treated in a nondiscriminatory way by the Federal Government in providing a deduction for sales tax. We have had the ability to do that, which has expired, but it saves over \$1 billion for Texans in tax relief each year. Of course, I support the research and development tax incentives, the temporary AMT, or alternative minimum tax, relief, as well as the other renewable energy tax incentives, including those for solar and wind.

However, I do not understand the insistence of the majority leader of filing repetitive motions to proceed to something other than an energy bill that would actually generate more American production of oil and gas here at home and cause us to rely less on imported sources. Why there is this repeated insistence time and time again with these repetitive votes to take us off of the only bill that has been offered—the only legislation that has been offered that would actually increase American energy resources and require us to rely less on imported oil is beyond me.

As I said, I support the renewable energy provisions that would continue to encourage the production of solar and wind power. I believe that conservation is a very important part of what we need to do as well.

My colleagues have seen this chart before. We have said that what we need to do is find more and use less. Yet the majority leader has consistently, so far, refused to allow us the opportunity to introduce amendments and to have debate and votes on something that would actually have an impact on the price of gasoline at the pump.

We think we need a balanced and comprehensive approach to deal with this problem. Since the majority leader became the majority leader—on January 4, 2007, the price of gas was \$2.33 a gallon. It has been as high as \$4.11 a

gallon. Now, thank goodness, the average price is \$3.93 a gallon.

The fact is, we have a supply problem and we have a demand problem. The supply problem is that for some reason, for the last 30 years or so, Congress has placed 85 percent of our domestic oil and gas reserves out of bounds. We passed annual bans in the form of a moratorium on appropriations riders that prevent the production of oil and gas that we know is there in the Outer Continental Shelf or the submerged lands along the coastlines of the United States, as well as up in Alaska where we know there are huge volumes of gas and oil. And there is a pipeline conveniently close by that could actually deliver that for use in the lower 48 States.

We know there are as much as 2 million additional barrels of oil a day out in Idaho, Wyoming, and Colorado in the form of oil shale, which now the technology exists to be able to produce that. Can you imagine how much different things would be if, instead of importing those 3 million barrels of oil a day from countries such as Saudi Arabia and organizations like OPEC, the Organization of Petroleum Exporting Countries, and people such as Hugo Chavez in Venezuela—can you imagine what it would be like if we actually produced 3 million more barrels of oil in the United States so we didn't have to import that from abroad?

I don't know anybody who has done a better job of capturing the public's imagination on that than my constituent, T. Boone Pickens. He has been an oilman all his life, but now he is perhaps the most visible and forceful advocate for wind energy and for natural gas to use to power cars. His main focus is because he wants to reduce the \$700 billion of American money we send each year abroad to pay for oil and import that into this country. He has a plan that he thinks can bring that down by about 38 percent.

We all know that, at best, additional supply is a partial answer. That is why we say we need to find more and use less. Conservation is an important part of this, as are things such as biofuels. We know we have challenges dealing with corn ethanol because, frankly, using food for fuel has backfired on us somewhat, causing food prices to go up, and feed for livestock, which has caused grave hardship in my State, which is a huge cattle producer, as well as a poultry producer. It has caused the price of food to go up, so we need to continue to research the use of cellulosic ethanol, which doesn't compete with the food supply for our energy sources.

So far, we have been met with a brick wall from the majority leader when it comes to our attempt to try to find more American oil, as we transition to a clean energy future. What I mean by that is one where we are going to be less and less reliant on oil for our transportation needs, our aviation needs.

Let me mention a couple of examples on the horizon that are very exciting. In 2010, most of the major car manufacturers are going to be producing plug-in hybrid cars, which actually will be running on batteries. You can plug it into the wall socket at night and charge the battery, and it will go 40 or more miles a day before plugging it back in at night. Obviously, that will displace the internal combustion engine and avoid the need to provide oil and gasoline for transportation needs. It is going to take some time to transition as we research things such as hydrogen fuel cells and other alternatives for our basic transportation needs.

I think that holds great promise in the future, as does additional research in things such as coal-to-liquids technology. We have in this country about a 300-year supply of coal. We know that coal has a problem because of pollution. But we have the ingenuity and expertise to be able to use coal—to find a way to use it in a way that will not only provide things such as aviation fuel and transportation fuel, but I believe we can come up with a way to sequester the carbon dioxide byproduct of coal-to-liquids technology in a way that will allow us to displace oil, gas, diesel, and regular aviation fuel from our demand side.

As a matter of fact, the coal-to-liquids technology has existed a long time. Adolf Hitler, back in World War II, when he was worried about getting cut off his supply of oil and gas that was necessary to fuel the Third Reich, developed a coal-to-liquids technology. Today, the Air Force is using coal to liquids to power B-1 bombers and B-52 bombers for aviation fuel. So we know we can rely on good, old-fashioned American research and technology and ingenuity to come up with a way to deal with this problem.

We are not going to get it done until the majority leader allows us the opportunity to debate and vote on this important imperative to develop more American energy here at home. It is not enough to rely on solar and wind. Those are important, but it is not a complete answer. We need—I believe we should insist, and we are—a right to vote on some production in the Outer Continental Shelf, in the oil shale out West, and up in the Arctic.

Frankly, I don't understand the reluctance on the part of the majority leader to allow that vote to go forward. I am encouraged by some indications that there are some negotiations. I hope they are successful. I don't think we should leave here this week for a month-long recess until we have dealt with the single most important problem facing the American people today and our economy, which is high gasoline and high diesel prices. We can have an immediate impact on the futures markets where those contracts for the future delivery of oil and gas are sold if we will act and say that Congress will be part of the solution and not continue to be part of the problem.

Mr. President, may I inquire how much time remains on this side?

The ACTING PRESIDENT pro tempore. There is 1 minute 15 seconds.

Mr. CORNYN. Mr. President, I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I remind my good friend from Texas that there are a lot of things he favors and I think we all favor. He mentioned plug-in hybrid automobiles and clean coal technologies, and they are in this bill. Frankly, I believe most Senators want to pass this bill. I urge Senators on both sides to vote for it. We can, frankly, pass it and send it back over to the House and be done with it. The American people want us to pass this legislation.

Mr. President, the great writer William Faulkner said of the artist:

Only what he creates is important, since there is nothing new to be said.

Writers could say much the same about us. What is important is not what we say, but what we create. What is important here is not the speeches, but the laws that we pass.

Today, we have a chance to do something important. Today, we can choose to legislate.

We can proceed to a bill that addresses what's important. It is a bill about jobs. It is a bill about energy. It is a bill about families.

I am speaking of S. 3335, the Jobs, Energy, Families, and Disaster Relief Act of 2008—what some call the tax extenders bill. Today, we can choose to do something important. We can move to this bill.

This bill would do something to create jobs.

This bill would extend the research and development credit. This credit encourages businesses to invest in research. It helps to keep America competitive in the global economy.

America accounts for one-third of the world's spending on scientific research and development, ranking first among all countries. Relative to the size of our economy, however, America stands in sixth place.

Our R&D tax credit expired on December 31 of last year. American corporations are at a competitive disadvantage. They are unsure if they will be able to obtain the benefit of the credit this year. They need to plan for the future.

About 70 percent of R&D spending goes to salaries. That helps to create jobs. These are jobs that help America stay in the forefront of several global industries.

We can do something today to create high-paying R&D jobs, with this bill.

This bill would also create jobs in infrastructure, by repairing a shortfall in the highway trust fund. The highway trust fund relies on fuel taxes for 90 percent of its revenues. And as fuel prices have risen to record highs, Americans are driving less and buying fewer gallons of gas.

As a result, fuel tax receipts are down sharply. The Department of Transportation reported that Americans drove 9½ billion fewer miles in May than they did a year before. And OMB projects a highway trust fund deficit for 2009 of more than \$3 billion.

We have a problem with highway trust fund finances. And that financing problem is a jobs problem.

Failing to fix the highway trust fund's shortfall will cause Federal transportation funding cuts of more than a third. Industry experts have calculated that funding cuts of this magnitude would result in the loss of about 380,000 jobs.

We can do something today to create well-paid infrastructure jobs, with this bill.

This bill would do something about energy.

This bill would take real action to break America's dependence on oil. Gasoline is more than \$4 a gallon across the country. Americans want Congress to steer away from foreign oil. They want us to turn toward alternative and renewable energies.

This bill has the right energy incentives to help America to turn the corner. It would support renewable electricity from wind, water, biomass, and other sources. It would boost biodiesel and solar energy. It would reward energy-efficiency, and push for cleaner coal plants.

It would even provide a brand new tax credit for plug-in electric cars, so that Americans could choose vehicles that use less fossil fuel or none at all.

Mr. President, do you know what. If every time a car went up to the gas pump and filled up and the vehicle also had electric power, with a battery in the car, and it would go 50 miles on that electric power, guess what. Crude oil imports in this country would fall by 50 percent—it would be cut in half if every time a car would drive up to the pump and, when it fills up, 50 miles that that car drives is on electric energy—a battery. It would cut oil imports by 50 percent—something as simple as that.

I ask that I be notified 30 seconds before my time expires.

The ACTING PRESIDENT pro tempore. The Senator has 30 seconds remaining now.

Mr. BAUCUS. With gas at \$4 a gallon, why would we wait another minute to get these energy technologies moving?

We can do something today to create alternative sources of energy, with this bill.

This bill would do something for American families.

This bill would keep the alternative minimum tax from ensnaring new taxpayers. Without this legislation, 21 million additional taxpayers would have to pay the AMT.

We can do something today to protect families from the AMT, with this bill.

This bill would help teachers who have taken it upon themselves to spend

money from their own pockets on classroom supplies. The average teacher's salary is about \$38,000 a year. But in 2005 alone, 3½ million families took the teacher expense deduction.

We can do something today to help teachers' families, with this bill.

This bill would help families with tuition expenses. The average tuition and fees at a 4-year private college in New England is now more than \$30,000 a year. Four and a half million families took the qualified tuition deduction in 2005. But the provision expired at the end of 2007.

We can do something today to help families paying for college, with this bill.

This bill would help families with the State and local sales tax deduction. This deduction gives a tax benefit to taxpayers who live in States without an income tax, including Florida, New Hampshire, Nevada, South Dakota, Tennessee, Texas, and Wyoming. In 2005, this deduction benefitted more than 11 million families.

This bill would expand the child tax credit. Current law bars about 6 million working families from receiving any relief under the child tax credit. Families with 10 million children receive a partial credit. With this bill, the families of nearly 3 million more children would be eligible for this tax relief.

We can do something today to help working families with kids, with this bill.

This bill would also help improve health care for countless families dealing with mental illness. It includes the mental-health-parity legislation advanced by Senators TED KENNEDY, PETE DOMENICI, and the late Paul Wellstone.

This bill would require private insurance plans that offer mental health benefits as part of their coverage to offer the same level of benefits as they offer for medical-surgical benefits.

Mental illness is a disease like any other. We should treat it that way. We can do something about it, today.

This bill would provide much-needed relief to families who have suffered from natural disasters. This bill contains a package of disaster relief provisions developed to address all Federally-declared disaster areas with immediate, reliable, and robust tax relief.

We can do something today to help families struck by disasters, with this bill.

I say to my Colleagues: If you want to do something about creating jobs before you go back home, then vote for this bill.

If you want to do something about energy before you go back home, then vote for this bill.

If you want to do something to provide tax relief for American families before you go back home, then vote for this bill.

What's important is not what we say. What is important is the laws that we pass.

Let us pass a law that creates jobs. Let us pass a law that fosters new forms of energy. Let us pass a law that helps the American family.

Today, let us do something important. Today, let us choose to legislate. And today, let us move to this bill.

Mr. President, I ask unanimous consent that a list of supporters of the bill be printed in the RECORD.

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

The following organizations and companies have expressed their support for passage of Baucus-authored tax extenders legislation for jobs, energy, and families.

Agilent Technologies, Inc.; Air Products and Chemicals, Inc.; Alliance for Children & Families WI; American Association of Homes & Services for the Aging DC; American Association of Museums DC; American Bible Society MO; American Farm Bureau Federation; American Foundation for the Blind NY; American Friends Service Committee PA; American Heart Association TX; American Kidney Foundation MD; Americans for the Arts DC; America's Second Harvest IL; American Trucking Associations; Appalachian College; Applied Materials, Inc.; Association for the Blind and Visually Impaired NY; and Avance, Inc TX.

BAE Systems, Inc.; BASF Corporation; Benchmark Asset Managers, LLC; Benedictine Mission House NE; Big Brothers and Big Sisters of America HI; Big Brothers and Big Sisters of America PA; Blue Summit Financial Group; Boston Common Asset Management, LLC; Boy Scouts of America VA; California Public Employees' Retirement System; California State Teachers' Retirement System; California State Controller; California State Treasurer; Camp Fire USA Wathana Council MI; Capricorn Investment Group; Caterpillar Inc; Carbon County Museum Foundation WY; Carroll College MT; Rosalynn Carter; Catholic Youth Organization MI; Cedarhurst Center CA; and Center for Effective Philanthropy MA.

Central Louisiana Community Foundation LA; Christopher Reynolds Foundation; Cisco Systems, Inc.; Cleveland Foundation OH; Colorado Nonprofit Association CO; Community Foundation of St Joseph County IN; Compass Point Nonprofit Services CA; Compton Foundation; Corning-Elmira Musical Arts, Inc NY; Council for Advancement and Support of Education DC; Cumberland Trails United Way KY; Cystic Fibrosis Foundation MD; Deere & Company; Discovery Communications, LLC; DuPont Company; Easter Seals of Arkansas AR; EMC Corporation; F&C Management Ltd.; Falk Foundation PA; Family Means MN; Family Service Inc. Foundation MT; First Baptist Church of Indiana Rocks FL; and First United Methodist Church NM.

Food Bank of Central Louisiana LA; Betty Ford; Fred Hutchinson Cancer Research Center WA; Fulbright Association DC; Generation Investment Management; Grace University NE; Green Century Funds; Habitat for Humanity International GA; Harry Singer Foundation CA; Health Focus of SW Virginia VA; Hewlett-Packard Company; Honeywell International, Inc.; Honored to Serve Inc. AR; Independent Sector DC; Information Technology Industry Council; International Business Machines Corporation; Investment Network on Climate Risk; Johnson & Johnson; KaBOOM! DC; KLD Research and Analytics Inc.; Land Trust Alliance DC; Large Public Power Council; and League of American Orchestras NY.

Lockheed Martin Corporation; Looking for My Sister, Inc MI; LSU Foundation LA; Lu-

theran Senior Services MO; Lutheran Social Services of North Dakota ND; MMA; Maine Association of Nonprofits ME; Marin Community Foundation CA; Massachusetts State Treasurer; Memorial Home, Inc KS; Michigan Historical Center Foundation MI; Miller/Howard Investments; Minnesota Orchestral Association MN; Missionpoint Capital Partners; Monsanto Company; National Association of Counties; National Committee on Planned Giving IN; National Council of Private Agencies for the Blind & Visually Impaired MO; National Education Association; National Governors Association; National Motorsports Coalition and International Speedway Corporation; Needmor Fund; and New Jersey State Investment Council.

New Jersey Division of Investment; New York City Comptroller; New York State Comptroller; Nonprofit Coordinating Committee of New York, Inc NY; Nonprofit Resource Center LA; North Carolina State Treasurer; Northeastern University MA; Northrop Grumman Corporation; Oregon State Treasurer; Palm, Inc.; Pax World Funds; Pennsylvania Association of Nonprofit Organizations PA; Pennsylvania State Treasurer; Pfizer Inc; Philips Electronics North America; Portfolio Twenty-one Investments; Prairie Public Broadcasting, Inc. ND; Presbyterian Church USA; Progressive Asset Management; Rainbow Kitchen Community Services PA; Raytheon Company; Rhode Island General Treasurer; and Ronald McDonald House—Missoula MT.

Rose Community Foundation CO; S.C. Association of Nonprofit Organizations SC; Santa Clara University CA; SAS; Sentinel Financial Services Company; SME Education Foundation MI; SPCA Tampa Bay FL; Special K Ranch MT; St. Xavier High School KY; Stetson University FL; SUNY College at Oneonta Foundation NY; Texas Children's Hospital TX; The Arts Council of the Southern Finger Lakes NY; The Center for Effective Philanthropy MA; The Fowler Center Inc. MI; The Henry Ford MI; The Hospice Foundation of the Florida Suncoast FL; The Jewish Community Foundation NY; The Leukemia and Lymphoma Society NY; The Mentoring Partnership of SW PA; The Seed Company TX; The Sierra Club Foundation CA; and The Stonewall Community Foundation NY.

Thomas Jefferson University & Hospitals PA; The Timken Company; The Winslow Foundation; Trillium Asset Management Corporation; UJA Federation of NY; Underdog Ventures; United Jewish Communities NY; United Nations Foundation; United Technologies Corp.; United Way of Kentucky KY; United Way of Paducah-McCracken County KY; University of Minnesota Foundation MN; Vermont Community Foundation; Vermont State Treasurer; Volunteers for America—Colorado CO; Waldon Asset Management; Washington State Investment Board; Williamson County Historical Society TX; Winslow Management Company; YMCA of NW Dupage County IL; YMCA of USA IL; Youth Service Bureau of St. Tammany LA; and Building Owners and Managers Association International.

MidAmerican Energy Holdings Company; National Education Association; Puget Sound Energy; New Markets Tax Credit Coalition; The American Federation of Teachers; National Association of Industrial and Office Properties; Xcel Energy, Inc.; National Association of Realtors; USA Biomass Power Alliance; Sierra Club; Solar Energy Industries Association; National Grid; Film and Television Production Alliance; Directors Guild of America; Mesa Power Group, LLC; Portland General Electric; North-Western Energy; Avista Corp; Hawaiian Electric Company, Inc; PSEG Corp.; Otter Tail Corporation; Constellation Energy; and Iberdrola Renewables.

PG&E Corporation; International Council of Shopping Centers; International Speedway Corporation; National Motorsports Council; Discovery Communications, LLC; Solar Technologies; Heliotronics, Inc.; Energy Innovations, Inc.; Suntech America; Regrid Power; DuPont; Sunlight Direct; The Stella Group, Ltd; American Solar Electric, Inc.; groSolar; Third Sun Solar and Wind Power, Ltd.; GeoGenix, LLC; Solar Millennium; AIL Research, Inc.; SOLEC; SCHOTT Solar; SunTech Power; and ATAS International Inc.

The Solar Center; Sharp USA; Dow Corning Corporation; Spire; California Solar Energy Industries Association; American Solar Energy Society; The Vote Solar Initiative; MMA; Sanyo Energy Corporation; Sharp Electronics Corp.; Akeena Solar, Inc.; Western Renewables Group; Solar Rating and Certification Corporation; MMA Renewable Ventures; Ausra, Inc.; iEnergies; MegaWatt Solar; Stellaris; Solar Integrated Technologies, Inc.; Evergreen Solar, Inc.; United Solar Ovonic, LLC; Energy Conversion Devices, Inc.; and Blue Sky Energy, Inc.

Solar Alliance; Sunpower Corporation; Trina Solar; Safeway; Minnesota Power; Sierra Pacific Resources; Nevada Power; Sempra Energy; Environment America; Earthjustice; National Tribal Environmental Council; PennFuture; KyotoUSA; Western Organization of Resource Councils; The Wilderness Society; Audubon; Union of Concerned Scientists; Sierra Club; Southern Alliance for Clean Energy; Public Citizen; Greenpeace; Chesapeake Climate Action Network; and Natural Resources Defense Council.

National Wildlife Federation; American Express Company; Citigroup Inc.; The Coca Cola Company; The Dow Chemical Company; Genworth Financial; Hewlett-Packard Company; Intel Corporation; International Business Machines Corporation; International Paper; Johnson & Johnson; Monsanto; Oracle; PepsiCo Inc.; Pfizer Inc.; Proctor & Gamble; Texas Instruments, Inc.; Tupperware Brands Corporation; and United Technologies Corporation.

Mr. DURBIN. Mr. President, the Free Flow of Information Act is a bipartisan bill that goes a long way towards protecting the freedom of the press and the public's right to information without compromising national security or the work of law enforcement. It strikes the right balance between these competing priorities, and it deserves this body's support. I want to commend Senator SPECTER and Senator SCHUMER, the authors of this legislation, which I am proud to cosponsor.

During the last 30 years, many of our most important news stories were revealed to us by reporters who obtained their information from confidential sources. Often, these stories exposed government and corporate waste, fraud and abuse. Let me give you a few examples of what these confidential sources enabled journalists to report to the public: the President's warrantless surveillance program; the unsafe and deteriorating conditions at Walter Reed Army Medical Center; the treatment of Iraqi prisoners at Abu Ghraib; the Enron accounting fraud scandal; the rampant abuse of steroids in major league baseball; and the government's misleading statements to the American people about the Vietnam war, as documented in the Pentagon Papers.

These and other major stories led to important reforms in the government

and in industry. If confidential sources had not trusted reporters and come forward with this information, these stories would not have come to light when they did. We are a better and stronger country because of these stories.

Unfortunately, the relationship of trust between reporters and confidential sources has come under attack since September 11.

Increasingly, Federal prosecutors, special prosecutors and civil litigants are issuing subpoenas to reporters for their confidential sources.

In the last 4 years alone, journalists have received at least 35 Federal subpoenas for confidential information. During this period, Federal courts have held 13 journalists in contempt for refusing to disclose their confidential sources.

Since 2000, four journalists—Judith Miller, Jim Taricani, Josh Wolf and Vanessa Leggett—have been imprisoned for 19 months in total for refusing to disclose their confidential sources.

Earlier this year, a Federal judge ordered a reporter to disclose a confidential source and threatened her with fines of \$5,000 per day if she did not.

This has created a chilling effect on the flow of information between confidential sources and reporters.

The media shield bill would address this problem by creating a Federal qualified privilege for communications between confidential sources and reporters.

It allows the government and private litigants to compel the disclosure of confidential information only if they persuade a Federal judge that: they have exhausted the alternative sources of that information; the information is essential to their case; and nondisclosure would on balance be contrary to the public interest.

The bill makes it easier for the government to overcome the privilege in criminal cases.

It also creates sensible exceptions that ensure that this qualified privilege does not compromise national security or the work of law enforcement agencies. In particular, the privilege does not apply to: confidential information that relates to criminal conduct by a journalist; confidential information that is necessary to stop or prevent an act of terrorism, death or substantial bodily harm, a kidnapping, or an act that involves child pornography or the sexual exploitation of a child; or confidential information that would harm national security.

The qualified privilege and the exceptions for national security and law enforcement concerns reflect the serious and careful effort by Senators SPECTER and SCHUMER to take into account the perspectives of journalists on the one hand and law enforcement on the other. The product is a bill that strikes the right balance.

I am pleased that the managers' amendment includes language that I authored on who should be protected by the privilege. In the fast-changing media world, the notion of who quali-

fies as a journalist is evolving quickly. Journalists are no longer just the reporters who work for newspapers, magazines or television or radio stations. It is increasingly common for Internet bloggers and citizen-journalists to report breaking news stories that shape our Nation's most important debates. However, not everyone with a laptop and an internet connection should be protected by the important privilege created by this bill.

The privilege will now apply to reporters who are regularly engaged in investigative journalism. It will protect reporters who are in a position to develop and rely on confidential sources for their stories, whether they report in the television, radio, print or online world.

Specifically, it will cover journalists who regularly: report on local, national or international events of public importance; do the things that constitute good investigative journalism, meaning conducting interviews, collecting information and making observations on the scene of an event, or collecting original documents and statements; and collect this information for the purpose of bringing it to the public's attention.

This definition, like the rest of the bill, protects the relationship between reporters and confidential sources, but ensures that Federal agencies are able to get the information they need to prevent harm to national security and advance urgent law enforcement investigations. In short, it strikes the right balance between journalistic integrity and the public's right to seek justice.

Forty-nine States and the District of Columbia give journalists at least a partial shield against compulsory disclosures. This bill fills the gap at the federal level and gives investigative journalists a qualified shield in federal court. I am proud to be a cosponsor of this legislation and urge my colleagues to support it.

Mr. DODD. Mr. President, I rise in support of the Free Flow of Information Act. This bill would protect journalists from being forced to reveal their confidential sources not as an end in itself but as a means to a well-informed public.

I applaud the tireless efforts of those who have made this possible, including our colleagues in the other body who have shown their strong commitment to this issue. As far back as 2004, I introduced similar legislation which was called the Free Speech Protection Act. Since that time, I have worked closely with the senior Senator from Indiana, Mr. LUGAR, and earlier this Congress we introduced legislation that would have provided more protection to journalists. Companion legislation passed the House 398 to 21.

I was also pleased to cosponsor Senators SPECTER and SCHUMER's legislation, which passed the Judiciary Committee earlier this Congress. Over the last several months, we have worked to

bring this important issue to the attention of Congress and the Nation.

And while this bill does not include everything I had hoped for, I recognize that in this body, we do not get to write or pass these bills by ourselves. We have to reach out and work together that is how we advance or in this case protect our more cherished principles. I thank both of my colleagues for their diligence and commitment to the first amendment.

Indeed, though I recognize this fight will not likely be over today, in the 4 years we have been working together on this legislation, we are closer than ever to acting on this bill.

I hardly have to recite the litany of abuses that have been exposed because journalists called the powerful to account nor must I remind my colleagues how many of those exposures relied on confidential sources.

Without confidential sources, would we still know about the abuse of power in the Watergate era?

Without confidential sources, would Enron still be profiting from defrauding its investors?

How long would torture at Abu Ghraib have persisted, if proof of these abhorrent crimes had not been provided to the press?

The most meaningful check on abuses such as these is the free flow of information. Thomas Jefferson said it best: If I had to make a choice, to choose the government without the press or to have the press but without the government, I will select the latter without hesitation. Jefferson clearly understood that a free government cannot possibly last in the absence of a free press.

But today, we find this cornerstone of self-governance facing a new threat—one that comes not from the dictates of a dangerous government, but for the best of intentions.

As we have heard time and again in recent years, in a spate of cases, prosecutors have used subpoenas, fines, and jail time to compel journalists to reveal their anonymous sources.

Judith Miller of the New York Times was famously jailed for 85 days for refusing to reveal a source.

Two San Francisco Chronicle reporters were found in contempt of court for refusing to identify sources and hand over material related to the BALCO steroids investigation.

A Rhode Island journalist was sentenced to home arrest on similar charges.

In 2005, some two dozen reporters were subpoenaed or questioned about confidential sources.

Their offense, Mr. President? Journalism.

As one prominent magazine editor told Congress because of what has happened: "Valuable sources have insisted that they no longer trusted the magazine and that they would no longer cooperate on stories. The chilling effect is obvious."

Experience has shown us that the most effective constraint on free

speech need not be blatant censorship. It only takes a few cases like Ms. Miller's and the San Francisco Chronicle's before the news begins censoring itself. We can only speculate as to how many editors and publishers put the brakes on a story out of fear that one of their reporters could be caught in a spider web of subpoenas, charges of contempt, and prison.

When we minimize the impact of confidential sources, serious journalism is crippled. We will find our papers full of stories more and more palatable to the powerful and secretive. No one argues that that is the intention of those prosecuting these cases I think prosecutors simply want to do their jobs. But few deny that it could, in time, be the effect.

When journalists are hauled into court and threatened with imprisonment if they don't divulge their sources, we enter dangerous territory for a democracy. The information we need to remain sovereign will be tarnished and the public's right to know will be threatened. And I would submit to you that the liberties we hold dear will be threatened as well.

That is exactly why we need a Federal reporter shield. Forty-nine States as well as the District of Columbia have already adopted shield laws or other legal protections for reporters trying to safeguard their sources. The Free Flow of Information Act simply extends that widely recognized protection to the federal courts.

This bill will allow journalists the opportunity to argue before a court that they should not have to reveal sources and this can include bloggers. This is an important step the Federal Government can take to ensure that the free flow of information is protected.

That is why I have such a difficult time understanding our Director of National Intelligence's recent comments regarding this bill. In an opinion piece in USA Today earlier this week, Admiral McConnell writes:

The intelligence community recognizes the critical role that the news media plays in our democratic society. However, this bill would upset the balance established by current law, crippling the government's ability to investigate and prosecute those who harm national security.

I find that very hard to believe. Every time the Congress seeks to balance the need for security with our rights as Americans, this administration says "we can't have both—it's one or the other. You either can be safe or give up rights."

As I have said before—it is a false choice.

And it is a mischaracterization of what this bill does. The reporter shield is not absolute—nor should it be. The public's need to know must and will be weighed against other goods, which is precisely why the bill establishes a balancing test that will weigh the Government's interest in disclosure and the public interest in gathering news and

maintaining the free flow of information.

In other words, we are balancing our right to know with our need for security, whether physical or economic.

This bill makes clear that secrecy is as necessary in extreme circumstances as it is dangerous on the whole.

Ultimately, it comes down to what makes us most secure in the long run. As men and women on both sides of the aisle understand, a prosecution, whatever its individual merits, sacrifices something higher when it turns on reporters—and so those merits must be balanced against the broader harms such a prosecution can work.

If a free press inexorably creates a free government, as Jefferson suggested, then the agents of that free government—prosecutors included—owe a high debt to journalism. When prosecutors threaten journalism, they have begun to renege on that debt.

So, Mr. President, I am proud to support this valuable legislation—it is a critical first step toward rebalancing the pursuit of justice and the diffusion of truth. I thank my colleagues again for their leadership.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. There is 1 minute 10 seconds.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have 2 minutes 10 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. The American people rightly wonder why these popular expiring tax relief provisions can't be passed by the Senate on their merits alone. Why can't we get there and "get 'er done"? Part of the problem is that the committee and floor process have been disregarded by the Senate Democratic leadership. The debate and exchange of ideas, which is the essence of the Senate, has been bottled up. The Senate process is being truncated.

For the first time in this decade, since 2001, the Finance Committee members have not been allowed to exercise their right in committee markup with respect to these issues. With one exception—the 2002 stimulus bill—for the first time in this decade, Senate Members have not had the opportunity to debate and amend the extenders in a real Senate floor process. For the first time in this decade, Senators in the minority are being presented with a top-down deal, crafted in the dark corners of Democratic leaders' offices of the House and Senate.

The irony of all of this is compelling. Almost 2 years ago today, we faced an attempt to end run the natural order of the committee and floor process by the bicameral Republican leadership of the House and Senate. I referred to it at that time as a wrongheaded effort that was doomed to fail—even when it came

from my own party. It envisioned a unicameral tax writing committee that ignored the rights and privileges of Members of both parties. I used sharp words and directed them at my side's leadership in the House and Senate. I am sure some on my side thought I had gone a bit overboard in criticizing the Republican leadership at that time.

Then the Health, Education, Labor and Pensions chairman, Senator ENZI, stood with me. Some of my friends on the Democratic side spoke up about the harm the leadership was doing to the rights of the Members of the Senate.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. GRASSLEY. May I have 1 more minute?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Ironically, today we find the Democratic leadership attempting to do much the same thing. Like the failed trifecta jam to which I referred, today's jam will not work.

It is part of a larger problem with the Senate because we are not going through the regular order at the committee and the floor level. Issues are building up, tempers are flaring, and, most importantly, nothing is getting done. The Senate is constipated. This legislative body needs a function, a laxative. Legislation needs to circulate through this body in the usual form like food through your body. We need real debate, real amendments, and we need an informal bipartisan process that leads to an agreement that can pass the House and the Senate.

I have my pencil sharpened, my notepad out. I am ready to engage in our usual bipartisan process with my Democratic friend, Chairman BAUCUS. I am hopeful that the Democratic leadership will relieve the constipation on the tax extenders legislation. The Finance Committee and the Senate need to function just like our intestinal system functions.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, voting for cloture on this bill will take us off the single most important issue in America. The American people are clamoring for legislation that will bring down the price of gas at the pump. They expect their representatives in Washington to do something about this crisis and to do something about this crisis right now.

Unfortunately, the Democratic leadership has already tried to take us off the subject, to take us away from this issue a full four times in the last 5 days. About 8 in 10 Americans disagree with them. Eight out of ten Americans disagree with the decision to try to move us off legislation dealing with the No. 1 issue in America. The American people think \$4-a-gallon gasoline is a crisis that ought to be dealt with now; not in September, now. Dealing with this issue should not have to wait until

even next year, as some have suggested. The high price of gas at the pump is the most important domestic issue in America. I am not even sure at this point what is in second place, but we all know what is in first place.

I will vote that we stay on the Energy bill, and we ought to stay on it until we get a solution for the American people. I urge my colleagues to vote against moving off the subject of lowering the price of gas at the pump. Let's finish the job. This is only July. We have plenty of time left this year to do other things that are confronting our country. But let's focus on the No. 1 issue confronting the American people: the price of gas at the pump. The way to do that is to stay on the subject and vote to stay on the subject, vote to avoid going to some other issue. While it may be important, it is not as important as this one.

Mr. President, I reserve the remainder of our time, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Parliamentary inquiry, Mr. President: How much time is reserved for the Senator from Vermont?

The ACTING PRESIDENT pro tempore. Ten minutes has been reserved.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Mr. President, I said on the Senate floor yesterday that I support the Free Flow of Information Act, S. 2035. Senator SPECTER, the distinguished ranking member of the Judiciary Committee, was exactly right when he said in his remarks last night that "this bill is long past due." After months and months of needless delay by the Senate minority, I hope we will finally be permitted to consider this important legislative effort this morning. This is legislation that passed overwhelmingly in the other body. If the Republicans would allow it, it would pass overwhelmingly in this body.

The Senate minority's delay tactics are nothing new. Since the beginning of this Congress, we have witnessed all manner of obstructionism by a minority of Republican Senators using filibuster after filibuster, the most ever in the history of this country for that period of time. They use these filibusters to thwart the will of the majority of the Senate to conduct the business of the American people.

Republican filibusters prevented Senate majorities from passing the climate change bill. Republicans blocked us from passing the Employee Free Choice Act. Republicans blocked the Lilly Ledbetter Fair Pay Act. Republicans blocked the DC Voting Rights Act. Republicans blocked the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007. Republicans blocked the Renewable Energy and Job Creation Act of 2008. Republicans blocked the Medicare Improvements for Patients and Providers Act of 2008. Republicans blocked the Consumer-First Energy Act. Most recently, Republicans blocked the Warm

in Winter and Cool in Summer Act. That was designed to bring much needed relief to poor families who struggle to heat and cool their homes in times of soaring gas prices, matters that have become literally life or death for some of these people.

Republican filibusters blocked the Advancing American's Priorities Act which includes 35 stalled legislative matters including—and these were blocked by the Republicans—the Emmett Till Unsolved Civil Rights Crime Act, the Runaway and Homeless Youth Act, and Republicans blocked several bills to help law enforcement cope with mentally ill offenders and to protect our children from the scourge of drugs, child pornography, and child exploitation. Republicans blocked all those bills. It would be a lot more if we also list all those bills President Bush has vetoed since the beginning of this Congress.

Here are the measures blocked by the Republicans and the President: legislation to fund stem cell research and fight deadly and debilitating diseases. Republicans blocked to extend and expand the successful State Children's Health Insurance Program. Republicans blocked a program that would have provided health insurance to more of the millions of American children without it. They blocked setting a timetable for bringing American troops home from Iraq. They blocked an attempt to ban waterboarding and help restore America as a beacon for the rule of law.

The Free Flow of Information Act should not be added to the long list of legislative victims of Republican obstructionism. It is time for Senate Republicans to climb down from the barricades and work with us to improve the lives of the American people.

Time is running short in this Congress. It is past time to end the partisan gamesmanship and to make progress. That is what I have been trying to do throughout this Congress. I hope, after 18 months of unnecessary obstruction, all Senators are finally ready to join us in getting our work done. We have a historic window of opportunity to enact a Federal statutory shield law to protect Americans' right to know.

I thank Majority Leader REID for his willingness to bring the matter before the Senate. I worked with him to find an opportunity for Senate action since the Judiciary Committee reported this bill last October, and I appreciate his support.

Senator SPECTER and I wrote to him and the Republican leader in March urging consideration of this bipartisan measure. Before that, I had written and spoken with the majority leader about this legislation.

Our bill has 20 Senate cosponsors. The claim made yesterday by a Republican Senator that this bill is not ready for the Senate's consideration is simply unfounded. The Judiciary Committee has been working on a bipartisan basis for the past year to reach

consensus on Federal shield legislation. In addition, the Judiciary Committee held three separate hearings on this bill during the 109th Congress. I hope that the Republican cosponsors of this bill will join us in moving to the bill and that they will bring along the seven or eight Republicans needed to defeat another Republican filibuster and allow us to make progress.

A free and vibrant press is essential to a free society in our country or any country. That has been demonstrated over and over again during the past 8 years. That is why I cosponsored the Senate version of this bill and worked hard for a meaningful reporters' shield law this year. That is why I made sure that for the first time ever, for the first time in history, the Senate Judiciary Committee reported a media shield law to protect the public's right to know. I was glad to see that this bill was favorably reported by a strong bipartisan 15-to-4 vote.

I thank the leaders in the Senate who worked hard on the Federal reporters' shield law—Senators SCHUMER, SPECTER, DODD, and LUGAR as well as the dozens of media groups that support this measure.

All of us, whether Republican, Democratic, or Independent, have an interest in enacting a balanced and meaningful shield bill to ensure the free flow of information to the American people. Forty-nine States and the District of Columbia currently have codified or common law procedures to protect confidential information sources. But even with these State law protections, the press remains the first stop, rather than the stop of last resort, for our government and private litigants when it comes to seeking information.

Our time to act is now. Our opportunity to act is now. The Washington Times editorialized on July 25, "[a] sound shield law guards not 'the media' but something much more vital—the public's right to know."

I urge that all Senators do the right thing and end this unnecessary and counterproductive filibuster.

I ask unanimous consent to have printed in the RECORD the Washington Times editorial in support of this bill.

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

[From the Washington Times, July 25, 2008]

#### THE RIGHT TO KNOW

The great swinging pendulum of press liberty and government secrecy has lurched too far in one direction. It is time for a correction. Congress should pass and President Bush should sign a reasonable, measured shield law to push the pendulum back in the direction of the First Amendment and the legitimate powers of the Fourth Estate.

A sound shield law guards not "the media" but something much more vital—the public's right to know. Guarding that right often requires confidential sources deep inside government. A measured law would not shield sources who perpetrate demonstrable and articulable harm to the country's national security interests. But it would rightly shield most others. Such a bill awaits Senate action now. It should be passed.

We endorse the Free Flow of Information Act in full knowledge of the genuine conflicts between national security and press freedoms in the toughest cases. We are also among the first to note it when media outlets abuse their privileges. We regarded the New York Times revelation of federal terrorist surveillance, for instance, as a wanton act of damage to a vital and completely legal national security program. But no realist and no proponent of limited government can watch the epidemic of American journalists subpoenaed, questioned, held in contempt or jailed—more than 40 in recent years—without wondering when the slow march of the Fourth Estate into an investigative arm of government reaches its ugly apotheosis. It is possible to have both liberty and security—indeed, that is the American way. Part of the answer lies in assuring sources who risk all to convey information vital to the public interest that the newsman who offers confidentiality will not be forced to divulge—unless a high crime with real national security import has been committed.

The simple, constitutional reading of the First Amendment—"Congress shall make no law . . . abridging the freedom of speech, or of the press"—does not countenance the stripping of the core functions of the free press. It must end.

Yesterday, reporter Bill Gertz of The Washington Times appeared before a federal judge in California expecting to face questions he should not have to answer. U.S. District Judge Cormac Carney, a Bush appointee, declined to force Mr. Gertz to divulge his sources in a 2-year-old Chinese espionage story. "Today's ruling is an important victory for our entire industry, the first in a long time to recognize a reporter's rights to keep confidential sources," said Executive Editor John Solomon. Press reports had indicated an intent to probe Mr. Gertz on the notoriously amorphous subject of newsworthiness. The subtext: What details of the story did Mr. Gertz consider newsworthy, and when did he consider them? On sources' identities: What promises of confidentiality did he make, and why did he make them? This would have been extremely chilling.

The truth is that not all classified information is created equally. We live in an era of gross overclassification of government data—much of which belongs rightfully to the public but is kept secret for reasons of bureaucracy, territoriality, undue risk aversion or sheer inertia. Responsible media outlets can—and do—exercise discretion. More than three-quarters of the nation's attorneys general have called for the passage of a federal shield law. Attorney General Michael Mukasey opposes it on national security grounds. Mr. Bush has previously threatened a veto. It is time to let this pendulum swing back.

Mr. LEAHY. Mr. President, we have found, especially in this administration, time and again that when crimes have been committed, when scandals have erupted, it is not because the Congress found them out, it is because the press found them out.

Abu Ghraib, one of the worst scandals in the history of this country, something that hurt us throughout the world—we didn't find out about it because questions were asked in this body or the other body; we found out because the press found it out. We found out through the press and subsequently through our own investigations the scandals of politicizing law enforcement by this administration through the prosecutors' offices.

If we do not have the ability for our press to seek out these things, then we are all hurt. Any administration, Republican or Democratic, is going to be perfectly willing to give us all the press releases in the world saying all the wonderful things they have done. What I have found—and I have been through six administrations—is that they rarely want to talk about when they make a mistake. That is what we need a free press for.

My parents had a small newspaper in Waterbury, VT. I grew up in a family who revered the first amendment, revered it for the right to know, for the public's right to know. What has set this Nation apart from virtually any other nation on Earth is that our press is free, our press is open, our press can ask questions, and our press can point out mistakes—whether it is mistakes of Members of Congress or mistakes of the administration.

We need this shield law. Let's not use any more excuses for one more filibuster. If you really believe in having the shield law, vote for it. If you are against it, vote against it. But don't hide behind some parliamentary maneuver of a filibuster.

Mr. President, I reserve the remainder of my time.

Mr. SPECTER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SPECTER. How much time remains on this side of the aisle?

The ACTING PRESIDENT pro tempore. There is 7 minutes 47 seconds remaining.

Mr. SPECTER. Mr. President, I ask for 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am using this time even though my position differs from what I believe will be the Republican caucus position, and I have asked for only 3 minutes. I will support cloture on this issue because I am a prime sponsor of the bill. I do not like displacing the pending legislation on the oil speculators bill, but I believe if we are to move forward on that measure, we will do so in any event regardless of what happens here.

I have supported the Republican caucus position in opposing advancing legislation where we have been denied the opportunity to offer amendments, but that is not an issue on a motion to proceed.

I believe this bill is of enormous importance, and if we do not act on it now, it will not be acted on for the balance of the Congress, and who knows what will happen next year.

I spoke at length on the merits of this subject yesterday, and the essence of my position is that reporters have been intimidated—a chilling effect—by the subpoenas which have been issued. The record shows a tremendous number of subpoenas have been issued, and

there have been incarcerations of reporters. I will put in the record the details of one of those involved, Judith Miller of the New York Times, who spent 85 days in jail and whom I personally visited.

There is no doubt about the extremely high value in our society of a free press and an investigative press for the disclosure of corruption, malfeasance, and wrongdoing at all levels in public life and in private life. I think Jefferson expressed it best when he said if he had to choose between government without newspapers or newspapers without government, he would choose newspapers without government. So I believe this is a very important matter to go forward.

I didn't want to use time on Senator MCCONNELL's watch, if anybody objected to it, but there is no other Republican on the floor, and I have used only 3 minutes, leaving the remaining 4 minutes and some seconds to anybody else who chooses to speak.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand there are no further Republican speakers, so I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader.

Mr. REID. Mr. President, have the Republicans yielded back their time?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. REID. Mr. President, not long ago I had a meeting with representatives from the San Francisco Chronicle. Among those at the meeting was a sportswriter named Lance Williams. Lance Williams covered football games and baseball games and basketball games. Some of them were high school level. He was not an investigative reporter. But one day this young reporter was contacted by a man who said: I can give you one of the biggest stories this country has seen in a long time, but you have to give me your word that you are not going to give them my name. I can give you a lot of places to go. I can even give you some grand jury testimony, but you have to protect me because I could be in danger, my physical well-being.

So Lance Williams talked to his people at the paper, his bosses, because that was his obligation, and overnight Lance Williams became an investigative reporter, not a sports reporter. In his investigation he found that these leads took him down a very disturbing road, a road that ended with evidence and a book that was published, "The Game of Shadows," which exposed the rampant use of steroids in sports that we now know so much about, including such sports names as Barry Bonds.

After he released this information, he was subpoenaed by the Government to release the identity of his informant who had leaked to him a lot of things,

including, as I mentioned, grand jury testimony. Well, this was an interesting day for him because Lance had never been in a predicament like this before. Again, as I said, he had covered ball games. Nothing like this before. He suddenly was faced with the knowledge that he may have to go to jail for stories he had written and information he had released. But he decided not to release the name. He thought it was the right thing to do. He had given his word. He said he would sooner go to prison than release the name of that confidential informant.

On the same day I met him, I met with his lawyer, the lawyer for the San Francisco Chronicle. The lawyer told me that although the Lance Williams controversy had been the most famous in recent cases she had dealt with, in the last 3 years that newspaper had been served with 207 subpoenas by Federal, State, and local prosecutors requiring confidential information about sources. That uncertainty—207 subpoenas to the Hearst Communications Company—puts the media in a very difficult position and places a burden on them and reduces the likelihood that whistleblowers will come forward with information.

Forty-nine States and the District of Columbia already have laws to protect the relationship between journalists and their sources, so it is long past the age when the Federal Government should follow suit.

The first amendment we have in our constitution, the right to a free press, a press able to pursue charges of wrongdoing in our government and society and basically to write whatever they want to write, is a critical pillar of our democracy. The first amendment separates us from other nations and governments. The State attorneys general of 41 States called upon Congress to pass a national media shield law, and today we have the opportunity to proceed to act in that regard by voting to proceed to the Free Flow of Information Act.

Mr. President, the National Association of Attorneys General sent a letter, which says, among other things, in the last paragraph:

By exposing confidences protected under State law to discovery in Federal courts, the lack of a corresponding Federal reporter's privilege law frustrates the purposes of the State recognized privileges and undercuts the benefit to the public that the States have sought to bestow through their shield laws. As the States' chief legal officers, attorneys general have had significant experience with the operation of these State law privileges; that experience demonstrates that recognition of such a privilege does not unduly impair the task of law enforcement or unnecessarily interfere with the truth-seeking function of the courts. The sponsors of S. 2035 have sensibly sought to strike a reasonable balance between these important interests, as the States have done, and we are confident that the legitimate concerns for national security and law enforcement can be addressed in the court procedures for evaluating a claim of privilege. We urge you to support the Free Flow of Information Act.

Mr. President, I ask unanimous consent to have printed in the RECORD the full content of the letter from which I have just quoted.

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

NATIONAL ASSOCIATION OF  
ATTORNEYS GENERAL,  
Washington, DC, June 23, 2008.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: We, the undersigned Attorneys General, write to express our support for the Free Flow of Information Act (S. 2035). The proposed legislation would recognize a qualified reporter's privilege, bringing federal law in line with the laws of 49 states and the District of Columbia, which already recognize such a privilege. The Senate Judiciary Committee reported S. 2035 favorably on October 4, 2007, by a vote of 15-4. The House passed a similar reporter's privilege bill, H.R. 2102, by a vote of 398-21.

Justice Brandeis famously referred to the important function the states perform in our federal system as laboratories for democracy, testing policy innovations. See *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting). Reporter shield laws, which have been adopted—through either legislation or judicial decision—by every state but one, must now be viewed as a policy experiment that has been thoroughly validated through successful implementation at the state level.

The reporter's privilege that is recognized by the laws of 50 United States jurisdictions rests on a determination that an informed citizenry and the preservation of news information sources are vitally important to a free society. By affording some degree of protection against the compelled disclosure of a reporter's confidential sources, these state laws advance a public policy favoring the free flow of information to the public. An overwhelming consensus has developed among the states in support of this public policy, and United States Justice Department guidelines, on which the current legislation is largely modeled, likewise recognize the interest in protecting the news media from civil or criminal compulsory process that might impair the news gathering function. Nevertheless, the federal courts are divided on the existence and scope of a reporter's privilege, producing inconsistency and uncertainty for reporters and the confidential sources upon whom they rely.

By exposing confidences protected under state law to discovery in federal courts, the lack of a corresponding federal reporter's privilege law frustrates the purposes of the state-recognized privileges and undercuts the benefit to the public that the states have sought to bestow through their shield laws. As the states' chief legal officers, Attorneys General have had significant experience with the operation of these state-law privileges; that experience demonstrates that recognition of such a privilege does not unduly impair the task of law enforcement or unnecessarily interfere with the truth-seeking function of the courts. The sponsors of S. 2035 have sensibly sought to strike a reasonable balance between these important interests, as the states have done, and we are confident that the legitimate concerns for national security and law enforcement can be addressed in the court procedures for evaluating a claim of privilege.

We urge you to support the Free Flow of Information Act and to enact legislation

harmonizing federal law with state law on this important subject.

Thank you for your consideration of our views.

Sincerely,

Douglas Gansler, Attorney General of Maryland; Rob McKenna, Attorney General of Washington; Terry Goddard, Attorney General of Arizona; Dustin McDaniel, Attorney General of Arkansas; Edmund G. Brown Jr., Attorney General of California; John Suthers, Attorney General of Colorado; Richard Blumenthal, Attorney General of Connecticut; Joseph R. Biden III, Attorney General of Delaware; Bill McCollum, Attorney General of Florida; Thurbert E. Baker, Attorney General of Georgia; Alicia G. Limtiaco, Attorney General of Guam; Mark J. Bennett, Attorney General of Hawaii; Lawrence Wasden, Attorney General of Idaho; Lisa Madigan, Attorney General of Illinois; Tom Miller, Attorney General of Iowa; Stephen N. Six, Attorney General of Kansas; Jack Conway, Attorney General of Kentucky; James D. "Buddy" Caldwell, Attorney General of Louisiana; G. Steven Rowe, Attorney General of Maine; Michael Cox, Attorney General of Michigan.

Lori Swanson, Attorney General of Minnesota; Jim Hood, Attorney General of Mississippi; Jeremiah Nixon, Attorney General of Missouri; Mike McGrath, Attorney General of Montana; Jon Bruning, Attorney General of Nebraska; Catherine Cortez Masto, Attorney General of Nevada; Kelly A. Ayotte, Attorney General of New Hampshire; Gary King, Attorney General of New Mexico; Andrew Cuomo, Attorney General of New York; Roy Cooper, Attorney General of North Carolina.

Wayne Stenehjem, Attorney General of North Dakota; Nancy Hardin Rogers, Attorney General of Ohio; W. A. Drew Edmondson, Attorney General of Oklahoma; Hardy Myers, Attorney General of Oregon; Tom Corbett, Attorney General of Pennsylvania; Henry McMaster, Attorney General of South Carolina; Lawrence E. Long, Attorney General of South Dakota; Robert E. Cooper, Jr., Attorney General of Tennessee; Mark Shurtleff, Attorney General of Utah; William H. Sorrell, Attorney General of Vermont; Darrell V. McGraw Jr., Attorney General of West Virginia.

Mr. REID. Mr. President, for all of those who are, as I am, concerned with providing law enforcement with the tools they need to keep us safe, it is important to note that this legislation strikes the appropriate balance between the public's right to know and law enforcement's need for information. It is based largely upon existing internal Department of Justice guidelines and provides for a qualified privilege for journalists who are subpoenaed to testify about their confidential sources, unless the government can show there is no reasonable alternative source of the information and the information is critical to the case.

This legislation includes exceptions for harm to national security, acts of terrorism, death, kidnapping, or other bodily harm. This is a balanced piece of legislation, and it carefully considers the needs of the media and law enforcement. It is bipartisan and provides

what both sides want most of all: clear guidelines and certainty.

In doing so, it offers us the opportunity to strengthen our public safety and national security while firmly defending the right to a free and open press.

#### TAX EXTENDERS

Mr. President, we have heard Republicans expend a tremendous amount of words and energy talking about energy. Today, Democrats offer them yet another chance to stop the talking and actually do something to solve the problem. We have already offered Senate Republicans three opportunities to pass the so-called tax extenders. Today, they have a fourth opportunity.

This tax extender legislation provides tax incentives to private sector innovators who are discovering new ways to harness the power of the wind, the sun, geothermal, and other sources of clean renewable energy all over America—from the State of Nebraska, the State of Nevada, and other places around the country.

I see the Senator from the State of Texas, where T. Boone Pickens is a resident. He is moving forward big time on alternative energy. But the people who are doing the big projects in Nebraska and in Nevada need tax credits. It is important. It is part of the process.

Mr. President, this is something we need to do. This tax extender legislation provides tax incentives that are so very important. If they succeed, these innovators—and with our help they will—immediately we will find the creation of hundreds of thousands of jobs—not tens of thousands but hundreds of thousands of jobs, real jobs, high-paying jobs, construction jobs. It will be good for the economy and it will be good for the environment. These are American jobs. These are jobs you can't take overseas.

Chairman BAUCUS has done a tremendous job with this legislation. If anyone in this Senate knows how to bring all sides to the table and bring common ground, MAX BAUCUS does, and this bill is no exception. Having heard Republican criticism of the previous version of the tax extender legislation, Chairman BAUCUS set out to make this bill be one that would satisfy a significant number of Senators. Not only did Chairman BAUCUS address previous Republican concerns about the tax extender package, this new legislation also does other things that are very important.

For example, there are provisions which will provide for much needed assistance not only to flood victims in the Midwest but also victims of natural disasters in Nevada, Kentucky, Georgia, Tennessee, Colorado, Mississippi, and a significant number of other States.

This bill also transfers funds to the highway trust fund, which, in street parlance, is upside down. It is out of money. There is a projected shortfall of \$3 billion next year. This proposal is

overwhelmingly supported on a bipartisan basis and passed the House by a vote of 387 to 37.

Also in this legislation is something that is long overdue. Paul Wellstone was a great Senator, and his No. 1 issue was mental health parity. He believed people who are sick emotionally or mentally deserve the same attention as people who are sick physically. He worked with Senators DOMENICI, KENNEDY, and others to get this passed.

Unfortunately, Paul was killed in a plane crash, but now is the time to move forward on this legislation. This simply says that mental health is considered just as serious and legitimate a medical concern as physical health, and those who suffer should receive equal access to the health care they need to get well.

We have made some compromises in the current version of the legislation that we would rather not have made, but we made them in an effort to pick up help from the other side of the aisle. We did so because we understand that compromise is essential to legislate, and we acted in good faith in responding to Republican concerns. I hope our Republican colleagues will see this—as we do—as an opportunity for a bipartisan solution to the energy crisis.

This is just one piece of the puzzle, but it is an important piece, the most important piece, and one that can make a difference in energy prices now—immediately. So we hope Republicans will decide to take yes for an answer.

Legislating requires the participation and cooperation of both sides of the aisle. We can't do this by ourselves. Surely the American people are tired of Republicans delaying and rejecting every effort Democrats make to solve our Nation's problems. We don't need every Republican to agree. Perhaps today is the day that we will get enough Republicans to reject the politics of delay and inaction and embrace the path of progress.

Mr. President, if Republicans don't vote to move forward on this legislation, we will continue to be on the motion to proceed to this legislation—the tax extenders. We are not going to be in a position to legislate anymore, it appears, on the speculation bill. That is too bad. I spoke with the president, as I have said on the Senate floor on a number of occasions, of United Airlines, and he is convinced the price of oil has gone down because we are talking about speculation.

So it appears that the Republicans have rejected our offers to do something on the tax extenders package that we have just talked about. The Republican leader said: Have Senator BAUCUS deal with Senator GRASSLEY and compromise. Well, that was a total waste of time because, again, all the Republicans want to do is not pay for anything, and we know the House will not accept that—and rightfully so. This is really unfortunate. So we are going to be on this matter to proceed to the tax extenders.

We are willing to complete the most important legislation. The Consumer Product Safety conference report has been completed. The higher education conference report has been completed. We will be happy to work with that. It should take a short period of time. We hope we would not have to have cloture on those but around here it appears, with 90 filibusters, they may even filibuster something that has overwhelming bipartisan support again.

We are also, before we leave here, going to have a vote on a motion to proceed to the Defense Authorization bill that Senators WARNER and LEVIN have worked so hard on.

If the Republicans decide they want to negotiate in good faith on this matter that is before the Senate and this does not pass, that is the extenders, Senator BAUCUS is standing by ready to do that—but it has to be in good faith. It has to be in an effort to get something accomplished, not to say we want to pay for nothing, more red ink, more red ink. We know the deficit now is approaching half a trillion dollars this year because of the programs we have seen President Bush initiate and not initiate.

We are willing to move forward on these tax extenders. We think the matter should be paid for, as does the House. We have a letter signed by 220-odd House Members saying don't bother to send anything back that is not paid for. We will not pass it.

We have tried to be as reasonable as we can be. We hope the Republicans will join with us and move forward on energy legislation, that is the tax extenders, that will actually help the country.

UNANIMOUS-CONSENT REQUEST—S. 3268

Mr. REID. Mr. President, I ask unanimous consent that S. 3268, energy speculation, not be displaced and that it remain the pending business notwithstanding the Senate adopting the motion to proceed to a calendar item.

The PRESIDING OFFICER (Mr. CASEY). Is there objection?

Mr. CORNYN. Mr. President, reserving right to object, this side of the aisle believes we need to dispose of the pending Energy bill to help bring down the price of gas at the pump first, before turning to other matters, so for that reason I object.

The PRESIDING OFFICER. Objection is heard.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative 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 the motion to proceed to Calendar No. 434, S. 2035, the Free Flow of Information Act.

Harry Reid, Charles E. Schumer, Debbie Stabenow, Christopher J. Dodd, Maria

Cantwell, Richard Durbin, Barbara A. Mikulski, Frank R. Lautenberg, Bernard Sanders, Robert Menendez, Patty Murray, Barbara Boxer, Ron Wyden, Ken Salazar, Bill Nelson, Daniel K. Inouye, Amy Klobuchar.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2035, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Mississippi (Mr. WICKER).

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

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 191 Leg.]

#### YEAS—51

Akaka	Durbin	Menendez
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Hagel	Nelson (FL)
Bingaman	Harkin	Nelson (NE)
Boxer	Inouye	Pryor
Brown	Johnson	Reed
Byrd	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Smith
Casey	Lautenberg	Specter
Clinton	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Dorgan	Lugar	Wyden

#### NAYS—43

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Dole	Reid
Bennett	Domenici	Roberts
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Graham	Snowe
Burr	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Hatch	Thune
Cochran	Hutchison	Vitter
Coleman	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	
Craig	Martinez	

#### NOT VOTING—6

Kennedy	McCaskill	Rockefeller
McCain	Obama	Wicker

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which

cloture was not invoked on the media shield bill.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. For the knowledge of all Members here now, we are now still on the motion to proceed to the media shield bill; the one that cloture was not invoked on. So that is what we are going to be on for the foreseeable future.

We have a couple matters that are possible that we can move forward on. That will be up to the minority as to when and where we will do that. We have the consumer product safety bill, we have also the work that has been done on the higher education bill.

I am going to file cloture before we leave on the motion to proceed to the Defense authorization bill. As I told the distinguished Republican leader today, if there is some serious negotiations on the extenders, Senator BAUCUS is ready to do this.

But as a notice to everyone, as I said in my statement before the vote, there is a new sheriff in town by the name of PELOSI. The House will not allow matters to be passed without being paid for. I agree with her. We have far too long not paid for things.

We have a situation now where we have had 8 years of buying red ink by the trainload. We have now a situation where the deficit this year will be about half a trillion dollars. The only thing we have heard, and Senator BAUCUS heard yesterday on the tax extenders, is what the Republicans want to do: We want to have some more things, but we do not want to pay for any of it.

The Speaker has sent a letter to me signed by 220 Members of the House of Representatives, saying these matters have to be paid for. What we did in this work done by Senator BAUCUS, there were matters that rightfully should not be paid for, such as disaster assistance.

As we have indicated in the past, even though the House does not like it, and we do not particularly like it, the AMT in this bill is not paid for. So other than that, things are paid for and paid for in a very responsible way.

The tax extender package includes some things that would change energy in this country as we have known it for 100 years.

It would change from a situation now where everything is done with fossil fuel to a situation that T. Boone Pickens and others envision, where we would be depending on the Sun, the wind, geothermal, biomass. This is real. There are people during the last 4 months who have been laid off, working on these alternative energy projects, renewable energy projects. There are people who could go to work tomorrow on these projects. Remember, these are all American jobs, jobs that can't be exported anywhere else.

As I said to the Republican leader today, the August schedule is in his hands. I have told those assembled here

today what we have to do. I told Senators what we have to do. I am tremendously disappointed that the tax extenders were not passed. I was just given a note by the chairman of the Environment and Public Works Committee about something that also is in this bill that would create lots of jobs, at least 150,000 high-paying jobs, and that is to replenish the money from the highway trust funds. Those moneys are not going to be there, which will cause people not only to not have jobs, but it will stop projects from going forward that are already in progress.

The schedule in August is up to the Republican leader. As I have said before on a number of occasions, we basically have finished what we have to do this work period. We have tried mightily during the last 18, 19 months to get things done. We have had to deal with about 90 filibusters. Whatever the number is, we increased it by one today. We will see what happens on the legislation dealing with higher education and see what is going to happen with the Republicans as it relates to the consumer product safety legislation. That may add two more filibusters. Of course, we have the Defense authorization bill to which we wish to proceed. We will have a vote on that on Friday. It is up to the minority to determine what we will do on that.

As I have indicated on a number of occasions, we have the conventions coming up in August, which is important to every Senator. We have other important items we have been working on that need to be done at home. We can't do them in Washington. But we await word from Republicans, if they are going to negotiate seriously on the tax extenders. Other than that, I have stated, I believe pretty clearly, where we are.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I wish to note that the energy tax extenders would have been law as of 7 a.m. this morning if they had not been taken out of the housing bill by the Democratic majority. We should be aware of the fact that one of the reasons why this issue remains is the strategy from the majority on the housing bill.

Mr. REID. Understand, though, that is the whole problem. They don't want to pay for anything. The bill that is before the Senate is paid for. What he is talking about is the flimflam where you pass all these things and don't pay for them. That is why we have a staggering deficit that during this administration has gone up more than \$3 trillion. When George Bush took office, over 10 years there was a surplus of about \$10 trillion. That is long since gone. I appreciate very much the statement of my friend from Arizona, but the fact is, that is what we are talking about here. They don't want to pay for anything. The tax extenders in our package are paid for, as they should be. The American people should not be burdened and leave a legacy looking

forward of their children, grandchildren, and great-grandchildren buried by Bush deficits.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I note that 88 Senators voted in favor of that approach dealing with this subject.

Mr. REID. I appreciate the statement of my friend from Arizona. I believe in these extenders so strongly that even though I would much rather have them paid for, we all know the debt has to stop someplace. As I indicated, the House of Representatives, to their credit, will not accept these not being paid for. That is the way it should be. We should not be running up massive deficits that the Bush administration—first year, second year, third year, fourth year, fifth year, seventh year, and now in the eighth year—is willing to accept. The war in Iraq, \$5,000 a second; it doesn't matter.

We are where we are, but I am very disappointed that we are where we are. As I said, my Senators are waiting to hear from the Republican leader what he wants to do the rest of this week and into the future.

#### JOBS, ENERGY, FAMILIES, AND DISASTER RELIEF ACT OF 2008— MOTION TO PROCEED

##### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative 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 the motion to proceed to Calendar No. 898, S. 3335, the Jobs, Energy, Families, and Disaster Relief Act of 2008.

Harry Reid, Max Baucus, Bernard Sanders, Christopher J. Dodd, Maria Cantwell, Benjamin L. Cardin, Daniel K. Inouye, Hillary Rodham Clinton, Patty Murray, Ron Wyden, Debbie Stabenow, Patrick J. Leahy, Dianne Feinstein, Richard Durbin, Robert Menendez, Sherrod Brown, Carl Levin.

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 the motion to proceed to S. 3335, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, 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 Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

Arizona (Mr. MCCAIN) and the Senator from Mississippi (Mr. WICKER).

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

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 192 Leg.]

##### YEAS—51

Akaka	Dole	Menendez
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Pryor
Brown	Inouye	Reed
Byrd	Johnson	Salazar
Cantwell	Kerry	Sanders
Cardin	Klobuchar	Schumer
Carper	Kohl	Smith
Casey	Landrieu	Snowe
Clinton	Lautenberg	Stabenow
Coleman	Leahy	Tester
Collins	Levin	Webb
Conrad	Lieberman	Whitehouse
Dodd	Lincoln	Wyden

##### NAYS—43

Alexander	DeMint	McConnell
Allard	Domenici	Murkowski
Barrasso	Ensign	Reid
Bennett	Enzi	Roberts
Bond	Graham	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Specter
Burr	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Corker	Isakson	Voinovich
Cornyn	Kyl	Warner
Craig	Lugar	
Crapo	Martinez	

##### NOT VOTING—6

Kennedy	McCaskill	Rockefeller
McCain	Obama	Wicker

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to the energy renewables package.

The PRESIDING OFFICER. The motion is entered.

#### FREE FLOW OF INFORMATION ACT OF 2007—MOTION TO PROCEED— Continued

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, it is my understanding until 12:30 the Democrats control the time; is that correct?

The PRESIDING OFFICER. There is no agreement in order.

Mr. DURBIN. Mr. President, I ask unanimous consent that I be recognized for 5 minutes and Senator STABENOW be recognized for 20 minutes following me.

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

##### ENERGY

Mr. DURBIN. Mr. President, this vote that was cast is something America should not miss. This was about an energy program for America, and it was defeated. It was defeated because only four Republicans—maybe five—managed to cross the aisle and help us.