

We kicked the EPA into gear and got Libby listed as a national Superfund site.

We secured millions for cleanup, health care, and economic development in Libby.

But sadly, there is still much more to do. Much more. Libby residents deserve compensation for their injuries. They deserve health care. They deserve to see those responsible go to prison for what they did. They deserve to know that their town is clean of asbestos.

What I knew about Les makes this news very sad to me, personally. I am sad for his family. I am sad for his friends. I am sad for Libby.

I am also angry at W.R. Grace, which knowingly poisoned its workers. I am angry that justice still has not been done in Libby. I am angry that we haven't been able to do more.

But we won't give up. We will keep fighting for Les and Libby. Les' passing only furthers my resolve to try harder. To do more. We won't let up. We will not stop.

When I get tired, I think of Les. And I can't shake what he asked me to do.

In all of my years as an elected official, helping Libby is among the most personally compelling things I have ever been called on to do.

I will keep the promise I made to Les that night at Gayla's house.

Les was a fighter to the end. He recently minced no words about his feelings towards Grace.

He told the Missoulian newspaper, quote: "There's not a doubt in my mind that [they] are guilty of murder."

"I started in 1959 and I was as healthy as a horse," he said. "I knew all the guys that worked there, 135 employees when I was there. And there's five of us left alive. Five. The rest of them are gone."

Now, sadly, so is Les.

The Book of Proverbs says: "righteousness delivers from death." And if that is true, then Les will certainly be delivered.

My prayers are with Les' wife Norita, his family and friends, and the people of Libby.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### FAIR MINIMUM WAGE ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed

to the consideration of H.R. 2, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

The PRESIDING OFFICER. The majority leader is recognized.

#### AMENDMENT NO. 100

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I send a substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 100.

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

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Mr. President, that amendment is on behalf of Senator BAUCUS. I failed to mention that.

The PRESIDING OFFICER. The Republican leader is recognized.

#### AMENDMENT NO. 101 TO AMENDMENT NO. 100

(Purpose: To provide Congress a second look at wasteful spending by establishing enhanced rescission authority under fast-track procedures)

Mr. McCONNELL. Mr. President, I believe there is an amendment of Senator GREGG's at the desk. I call it up for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for Mr. GREGG, for himself, Mr. DEMINT, Mr. McCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. McCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE, proposes an amendment numbered 101 to amendment No. 100.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The majority leader.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send to the desk a motion to invoke cloture.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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, do hereby move to bring to a close debate on the pending Gregg amendment No. 101 to the substitute amendment to H.R. 2, a bill to amend the Fair Labor Standards Act of 1938 to pro-

vide for an increase in the Federal minimum wage.

Harry Reid, Mitch McConnell, Judd Gregg, Craig Thomas, John E. Sununu, James Inhofe, Jon Kyl, Johnny Isakson, Tom Coburn, Mike Crapo, Wayne Allard, Lamar Alexander, John Coryn, Jim Bunning, John Ensign, David Vitter, Bob Corker.

Mr. REID. Mr. President, let me say briefly, we are now at the point where we said we would be last week. Again, I have said on a number of occasions that I appreciate the courtesy of the Senator from New Hampshire. This is an issue which he believes in very strongly. I just finished a conversation with Senator BYRD in his office a short time ago, and he does not believe in it. This is what legislation is all about, and we look forward to voting on this amendment. We will vote on it Wednesday, or we will, as I said, meet with the distinguished Republican leader later today and we will decide if we need to vote on it more quickly or we need to take all that time—whatever the rules call for, unless we are able to work with Senator GREGG and Senator McCONNELL to move that more quickly.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. Yes. Let me indicate my admiration for Senator GREGG in persisting in offering this very important amendment.

I thank the majority leader for working with us to get consideration of this extremely important measure, and we look forward to beginning the debate.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, if the leaders have completed their statements, I would ask for recognition.

Mr. President, first, let me begin by thanking the majority leader and the Republican leader for their efforts here in allowing me to bring forward this amendment at this time. As we know, 2 weeks ago I offered this amendment. At the time, I offered it because I felt it was appropriate to the lobbying reform vehicle, as the lobbying reform vehicle had been greatly involved in the issue of what is known as earmarks. Earmarks are where certain Senators put specific language into a bill which allows spending to occur for a specific item.

I am not inherently opposed to earmarks. Many are very genuinely of good purpose. And I have used it in cases to benefit programs which I thought were appropriate. In fact, I think the legislative branch has a right to direct spending. If you do not direct spending as a legislative branch, then the executive branch has the authority to direct spending, and the practical effect of that is the legislative branch is giving up one of its key powers, which is the power over spending.

However, there have, over the years, been abuses of the earmark process. We all know that. We have seen it. And there have actually been abuses which have been unethical. We have seen that

in recent times. So the key, I believe, to earmark reform is transparency and allowing the Congress and the people we represent to see what is being earmarked, and allow the Congress to actually have to vote on it.

The idea of the enhanced rescission proposal, which I have here—and I call it a second-look-at-waste proposal—is to allow the President to send back to the Congress items which he or she feels were inappropriately put in some other bill and which did not receive an up-or-down vote.

Now, how could that happen, people might ask? It happens very simply. A lot of vehicles we pass here, a lot of laws we pass here, a lot of spending proposals we pass here involve literally tens of billions, sometimes hundreds of billions of dollars in spending. What will happen is these bills, which have these huge conglomerates of spending activity in them—which are known as omnibus bills—sometimes we find embedded in them little items, smaller items of spending which were put in there for the purposes of accomplishing specific activity by Members of the Congress, sometimes at the specific request of people who have been asking for those programs.

The President, of course, does not have the choice of going in and saying: Well, that is a bad program or that is an inappropriate program. He or she must sign the entire bill, the whole bill—a \$10 billion bill, \$100 billion bill, \$300 billion bill. That bill must be signed in its entirety. Pieces of it cannot be separated out.

So what this second-look-at-waste amendment does is allow the President, on four different occasions, to send back to the Congress a group of what would be earmarks in most instances for the Congress to vote on again, and essentially say to the Congress: Well, those items which were buried in this great big bill—those specific little items—should be reviewed and Congress should have to vote them up or down.

Congress then, by a majority vote, must vote on whether it approves those specific spending items. That is called enhanced rescission. It is not a line-item veto. A line-item veto is where the President can go in and line-item out a specific item and then send it back to the Congress, and the Congress by a two-thirds vote must vote to override the President's proposal to eliminate the spending. In this instance, the Congress retains the right to spend this money if a majority of the Congress decides to spend the money in either House—in either House.

So as a practical matter, it is a much weaker—dramatically weaker—proposal than what is known as the line-item veto, which passed here in the early 1990s and was ruled unconstitutional. In fact, this amendment has been drafted so it will be constitutional. And, in fact, it has been drafted in a way that basically tracks rather precisely and very closely the language

that was offered by Senator Daschle and Senator BYRD back in 1995 and was then called enhanced rescission.

We made one major change in the initiative which we proposed last week to make it even closer to the language of Senator Daschle and Senator BYRD in that we have included in this proposal, which has been filed here today, enhanced rescission which includes the right to strike. What does that mean? That means the Senate will have the right to look at the package of rescissions sent up by the President, which might be two, it might be three, it might be 10, and the Senate does not have to vote up or down the entire package; the Senate can actually go in and vote up or down specific items within that. So it even gives the Senate, and the House for that matter, significantly more authority over this process.

The proposal we are putting forward is what we call second look at waste, what was called, back in 1995 when it was offered by Senator Daschle and Senator BYRD, fast-track rescission. It is not a line-item veto.

I want to reinforce this point because what is shown on this chart references the Daschle language of 1995 and the amendment which we have offered today. You can see that the two agree on almost all the key elements.

The Daschle language established a fast-track process for consideration of Presidential rescissions. We do the same thing. The Daschle language required congressional affirmation of the rescissions. We do the same thing. The Daschle language allowed the President to suspend funds for a maximum of 45 days. We do the same thing.

On the left side of the chart are Senator Daschle's proposals, supported by Senator BYRD and 20 other Members on that side of the aisle. It did not permit the President to resubmit a submitted rescission request. We do the same thing.

It allowed for the rescission of discretionary funding and targeted tax benefits. We do the same thing—only allowed motions to strike, no amendments. So you can move to strike, the same thing as the Daschle amendment. It required rescinded savings to go to the deficit so it could not be respent. That also we do.

Now, the two big changes we have from Senator Daschle's proposal: We allow rescissions of new mandatory programs, not existing mandatory programs. You cannot go in and rescind a farm program that already exists or a VA program that exists. No. A new mandatory program. And we do not allow the rescissions to occur as often, or the President to send up as many rescissions as he could have under Senator Daschle's and Senator BYRD's amendment. We only allow the President to send up four rescission requests. Under Senator Daschle's and Senator BYRD's amendment, you could arguably send up 13 rescission requests. So we have significantly limited the

ability of the President to sort of game the system and also tie up the Congress.

It is important to understand this change we have made actually significantly increases congressional authority over the rescission process, as does this one. This other change gives the President additional authority on congressional mandatory spending. Why did we put that in there? Well, because today 60 percent of Federal spending is mandatory spending. The simple fact is that if you do not address mandatory spending in new mandatory programs, then you are taking out the ability to address the budget in a significant way.

Now, I noticed Senator CONRAD, in one of his very well-stated statements in regard to this enhanced rescission, second-look-at-waste program, said: Well, this puts a gaping hole in any agreement that would be reached between the Senate and the President on how to handle even entitlements. I do not believe that. I do not believe that. I think if the Senate and the President reach an agreement on how to handle entitlements, part of that agreement is going to be that the enhanced rescission program that is proposed here is not going to apply. That is logical, reasonable, and the way it is going to work.

Obviously, the Congress is not going to give up that much authority if we are going to reach that type of agreement, and I do hope we reach such agreement. That would be good for us as a Nation.

Again, I emphasize we have put in this new amendment, as it has been set up, the motion to strike. This was an issue of considerable disagreement on the floor. A lot of Members believed that by not giving us a motion to strike, we were giving too much power to the executive on the issue of enhanced rescission. Senator Daschle and Senator BYRD, in their amendment in 1995, had that language. The administration is not happy with that language. I can argue it both ways. But I think in order to have consistency between both and because it is a significant right to retain with the legislative branch, we have put it back in.

I also think it is important to note that any savings go to deficit reduction. Deficit reduction should be our goal. If the President sends up something he thinks is wasteful and we agree, let's rescind it and send it to reduce the deficit rather than rescinding it and sending it on to be spent. That makes a lot of sense.

To show you how different this is than the line-item veto, back in 1995, when we had the line-item veto—and remember, when we passed it, 11 members of the other party who are presently serving in the Senate voted for the line-item veto: Senators BAUCUS, BIDEN, DORGAN, FEINGOLD, FEINSTEIN, HARKIN, KENNEDY, KERRY, KOHL, LIEBERMAN, and WYDEN; I voted for the line-item veto—that was ruled unconstitutional. That was dramatically

more power given to the executive. This basically gives no power to the executive other than to ask the Congress to take another look and vote again. So one would presume that the folks who voted for the line-item veto back in 1995, unless they have changed their view, would be supportive of a much more weaker fast-track rescission approach in 2007.

In addition, the Daschle amendment, which was supported by Senator BYRD and others, had 20 Democratic cosponsors—and it was essentially the same amendment we are offering today—Senators AKAKA, BAUCUS, BIDEN, BINGAMAN, BOXER, BYRD, CONRAD, DODD, DORGAN, FEINGOLD, HARKIN, INOUYE, KOHL, LAUTENBERG, LEAHY, LEVIN, MIKULSKI, MURRAY, REID, and ROCKEFELLER. All supported the Daschle rescission language, which is essentially the language we have offered today, especially now that we put in language relative to a motion to strike.

To read a couple quotes that I believe are informative and accurate, back in 1995, Senator FEINSTEIN said about the proposal:

Really, what a line-item veto is all about is deterrence, and that deterrence is aimed at pork barrel [spending]. I sincerely believe that a line-item veto will work.

Senator FEINGOLD said:

The line-item veto is about getting rid of those items after the President has them on his desk. I think this will prove to be a useful tool in eliminating some of the things that have happened in the Congress that have been held up really to public ridicule.

That is the line-item veto they were talking about, a much stronger language than this enhanced rescission language.

Senator BYRD on the Daschle language said:

The Daschle substitute does not result in any shift of power from the legislative branch to the executive. It is clear cut. It gives the President the opportunity to get a vote . . . So I am 100 percent behind the substitute by Mr. Daschle.

Senator DODD said:

I support the substitute offered by Senator Daschle. I believe it is a reasonable line-item veto alternative. It requires both houses of Congress to vote on the President's rescission list and sets up a fast-track procedure to ensure that a vote occurs in a prompt and timely manner.

That is an accurate statement as to what it does.

Then, Senator LEVIN, in March 1996—all these quotes are from 1995–96—

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

Senator LEVIN is one of our true constitutional scholars in this institution.

And Senator BIDEN, in 1996, said:

Mr. President, I have long supported an experiment with a line-item veto power for the President.

So he supported the line-item veto. Again, I note that this is nowhere near the line-item veto language.

In fact, this language has been vetted, vetted aggressively, not only by Senator Daschle when he offered it back in 1995 but since then with a variety of individuals who are constitutional scholars, to make sure it settles the issue and does not, in any way, take from the Congress the power of the purse, which is the issue that, of course, was raised against the line-item veto in *Clinton v. The City of New York*, which struck down the line-item veto on the grounds that it did go too far in violating the presentment clause. This language does not do that because it retains to the Senate and to the House absolute authority over spending. It simply asks them, through the Executive, to take a second look at an item that might otherwise—and, in fact, for all practical purposes—never get a clear vote. It was something that was buried in some larger bill. Because we have retained the right to strike, we have even gone further by saying that the entire package which the President sends up, assuming he sent up more than one item to rescind, would be subject to a right to strike.

So the Congress has the ability to pick and choose in its second-look process as to what it thinks makes sense and what it doesn't think makes sense. There is probably going to be a lot of stuff sent up that the Congress agrees with, because some things happen in these major bills where items get in that people don't notice, and certainly a majority of the Congress feels, if they took another look at it, they would not be inclined to support.

Equally important is the restriction on the President, which is different from the Daschle-Byrd amendment, which is that we only allow him to do this four times. That is important. I am willing to go back from four and maybe take it back further. Senator LOTT came to the floor and said he didn't like the idea of four. If we get this thing moving along, I am willing to take a look at less rescission packages. But the President, under the original Daschle amendment in 1995, had 13 shots at the apple because he could do it on each appropriations bill. At that time, we had 13 appropriations bills; now we have 12. But today, under this amendment, he will only have four chances to package ideas, initiatives he thinks were inappropriately buried in some bill, send them back up and say: Take another look at this. I have to get 51 votes to support taking out this item.

What is the purpose of all this? That is the technical purpose in describing it, but what is the real purpose of all this? The real purpose is to get to the issue of managing the Federal purse. Congress has the right to the Federal purse. That is the most important power Congress has. I have listened to the explanation of the Senator from West Virginia on this for many years,

and he says it more eloquently than anyone else. Everyone has to agree with his position. The power of the purse is the power of the legislative branch. But this is about managing that power. This is about when a bill comes roaring through that has \$300 or \$400, \$500 billion of initiative in it, called an omnibus bill usually, and you have to pass it because the Government closes if you don't. This is about saying: All right, there is going to be a process where we can take another look at some specific items in that bill without giving up to the Executive power which the Executive should not have, which is the capacity to line item something and force us into a supermajority.

That is what this is about. That is why I presume Senator Daschle offered it back in 1995, and that is why I offer it today. In the end, it is going to give us better discipline over our own fiscal house. It is going to make us better stewards of the taxpayers' dollars. We will be able to say to the taxpayer: Yes, that bill may have been a \$500 billion bill. Maybe there were some things in there that we shouldn't have done. We are going to take a second look at it to make sure those things were not wasteful. We are going to pass the bill because we need to pass the bill to keep the Government going, but we will have a chance to take a second look. It is just good management, without giving up the authority of the legislative branch, in my humble opinion.

I hope that Members who take a look at this will consider it carefully. I know it has been caught up in the dialog of politics. I regret that. I regret that last week it got caught up and was represented by some as being an attempt to poison the lobbying bill.

That was never my intention. I didn't even think of that, quite honestly, when I offered this amendment. I didn't know it was going to be so controversial. I thought I would just get a vote. That was not my intention, and I don't think it was anybody's intention on our side. It got caught up in the broader fight of what we do sometimes around here. We let process overwhelm substance. It got characterized by the talking head community out there as both a legislative attempt to kill the lobbying bill and a legislative attempt to show the power of the minority. It wasn't any of that. It was simply an attempt by me to bring forward what I thought was good legislation which would be constructive to our process of fiscal discipline, which happens to be one of my high priorities.

Now it is on the minimum wage bill. I greatly appreciate the Senator from Nevada and especially the Senator from Massachusetts and the Senator from Wyoming, who have to manage this bill, being courteous enough to allow their bill to already have an amendment on it that maybe isn't immediately related to their bill. This, however, was not my choice. I would have preferred to have it on the lobbying bill, which it was immediately

related to. That was an earmark bill. That had a lot to do with earmarks. This has a lot to do with earmarks. But nobody can argue that this is the wrong vehicle because I didn't choose this vehicle. This vehicle was chosen for me. That is why we are doing it here.

When we get to the motion on closure, I hope people will vote for it on its merits and will not vote for it on some procedural argument, such as this is the wrong vehicle. Because I think people are sort of estopped, to use one of our legal phrases—I remember that phrase from law school—from claiming that this is the wrong vehicle. Because as a practical matter, I was told to put it on this vehicle. I didn't choose it. I was told. I am trying to be helpful. So that is why it is here.

That is the presentation in brief. There will be more discussion as we move down the road. I look forward to hearing from everyone. I hope people will take a hard look at the actual substance of the amendment. Substantively, it is not a line-item veto. It is essentially the "daughter of Daschle," for lack of a better term. I would hope that we would consider it on its merits as such. It will give us a chance to govern better and to handle the purse, which we are charged with by our constituents, more frugally and efficiently.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, may I ask the Chair, there is no time limitation on speeches at this point, is there?

**THE PRESIDING OFFICER.** There is no time limit in effect.

Mr. BYRD. Mr. President, the very able and distinguished Senator from Kansas wants to speak for 5 minutes or more. I ask unanimous consent that I may yield to the distinguished Senator for 5 minutes or 6 or 7 minutes or whatever he wants at this time, without losing my right to the floor.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. Mr. President, how much time does the Senator want?

Mr. ROBERTS. Mr. President, I believe I can get my remarks done in 5 or 6 minutes.

Mr. BYRD. The Senator doesn't have to be in a great hurry. I know the Senator is reasonable and he will take such time as he may desire and it is not going to be too much. I yield to the Senator for that purpose without losing my right to the floor.

**THE PRESIDING OFFICER.** The Senator from Kansas is recognized.

#### WESTERN KANSAS SNOWSTORMS

Mr. ROBERTS. Mr. President, I am going to address a decision that has just been announced by FEMA regarding emergency assistance to the citizens of my State of Kansas.

I rise today to thank all those who have aided thousands and thousands of Kansans stranded by snow and ice over

the course of the past few weeks. I want to give them some much needed good news.

First, let us remember the situation. Late last month, a large winter storm spread over 30 inches of very heavy snow and up to 3 inches of ice on top of that over much of my State. Fifteen-foot drifts were very common in western Kansas. At the time, 65,000 Kansans were without power. Snow blocked all major roadways, and many impacted Kansans, many people in small communities, were able to survive only because their friends and neighbors pitched in to help each other.

I came to the Chamber in the aftermath of the storm with charts showing the damage—11,000 utility poles down, transmission lines down—and some very pertinent charts in regard to stranded livestock. I was worried about the state of assistance in our country out on the High Plains. Many financial and economic livelihoods were in danger. In Kansas, farmers remained unable to reach their herds of cattle and keep them fed and watered.

Quite frankly, I was a little worried about the Federal response. I know when we have disasters, FEMA responds as best they possibly can. We have heard a lot about Katrina and forest fires and floods and other situations, but here we had a record disaster in regard to a blizzard and ice in communities that were isolated. I was a little concerned about it. In the midst of this record destruction, let me say that the National Guard, the Department of Transportation, local emergency responders, nonprofit organizations, and regional FEMA representatives really stepped to the plate. Frankly, the swift and selfless response of so many has been almost overwhelming.

Almost immediately, in the wake of this storm, our Governor, Kathleen Sebelius, declared a state of emergency, and we all got to work. The National Guard, at the direction of GEN Tod Bunting, sprung to action, and they delivered bales of hay and generators to those with stranded cattle and also aided in emergency services with helicopters and any other equipment that would work under the circumstances.

The Red Cross, the Salvation Army, and the Association of General Contractors from the private sector also proved vital in providing Kansans simply a place to stay warm. I must particularly thank the State's emergency management officials, working with the regional FEMA office, for the countless hours they worked to expedite the requests for public assistance.

FEMA workers get a lot of brickbat when things get very tough and complicated and difficult. This time, they certainly deserve a great deal of credit. Over the course of the past few weeks, local governments and certain nonprofits serving Kansans needed their Federal Government desperately, and the cry for help was answered. But the best news came a few moments ago

when I received a call from the FEMA office here in Washington. I received notice that all remaining categories of public assistance have been approved for the State of Kansas. This is the news we have been waiting for. This gives the State reimbursement for a large portion of the \$360 million in damage that has been documented to date. It includes such vital assistance for public buildings and utility and road repair.

Mr. President, we believe in self-help in Kansas, and most of the time we can handle our own problems. But in working through this disaster, we desperately needed Federal help. Federal help came, and Federal help came in record time, and it came because of the cooperation of local and State and national organizations—primarily FEMA—and it was a situation where everybody worked together and got the job done.

On this particular occasion, let me say thank you to all of those people who worked so hard and all of the people in Kansas whom I am so proud to represent. I look forward to the receipt of this assistance and the continued support that our communities in Kansas have seen from all levels of government.

I yield the floor, and I yield my time back to the Senator from West Virginia. I thank him for allowing me to make this statement.

**THE PRESIDING OFFICER.** The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from West Virginia, the Senator from North Dakota, Mr. CONRAD, be recognized for 15 minutes, and then after Senator CONRAD, I be recognized, and after I am recognized, the Senator from Wyoming be recognized.

**THE PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I very much admire the able Senator from New Hampshire. I like him. As Shakespeare said, "He's a man after my own kidney." That about says it all, I guess. That is the way I feel about the Senator from New Hampshire. He and I served together in the last Congress as chairman and ranking member, respectively, of the Senate Appropriations Homeland Security Subcommittee. I also have the pleasure of serving with him on the Senate Budget Committee, where he has been chairman—and I mean chairman—and is now the ranking member.

The Senator from New Hampshire is one of the finest, one of the brightest, one of the most illustrious Senators serving today. I want Senators to know—and, of course, the CONGRESSIONAL RECORD will reflect—that as much as I oppose the line-item veto—and that is saying a mouthful—I very

much respect the Senator from New Hampshire who has attached his name to it.

In his remarks last week on his line-item veto amendment, the very able Senator from New Hampshire, Mr. GREGG, noted that this is not a new issue before the Senate. He correctly noted that the Senate passed a line-item veto measure in 1996, which was later nullified by the U.S. Supreme Court—the highest court of the land—in 1998.

It is appropriate, very appropriate, that Senators know something about the history of this issue, particularly those Senators who were not here when the Senate last considered this piece of garbage called the line-item veto. I can say plenty about this line-item veto. I call it garbage. I can call it worst things than that, but I won't right now.

Senators will recall, I believe, that the House of Representatives in the early 1990s passed a series of legislative line-item vetoes, or expedited rescissions, like the one now before this body. Because of constitutional concerns and a lack of support, none of those bills ever passed the Senate.

Senators will recall that in the summer of 1993, I delivered 14 speeches—I mean, they were cracker jacks, and, man, that is not the end of the line, either—later published as “The Senate of the Roman Republic.” They were addresses on the history of Roman constitutionalism on this very topic. Senators will recall that when the 104th Congress passed the Line-Item Veto Act of 1996, I was one of the most outspoken opponents.

I argued against giving any President—any President, any President, even a Democratic President; that makes no difference, even a Democratic President—a line-item veto or a so-called enhanced rescission authority.

Senators will recall that after President Clinton signed into law the Line-Item Veto Act of 1996 I, ROBERT C. BYRD, a Senator from the State of West Virginia, joined with Senator CARL LEVIN and the late, God bless his name, Daniel Patrick Moynihan—oh, were he here today—in bringing suit—get that—in bringing suit in Federal court against the Director of the Office of Management and Budget, then Franklin Raines, arguing that the act unconstitutionally authorized the President to cancel certain spending and revenue measures without observing the procedures outlined in the presentment clause of article I, section 7.

That suit, Raines v. Byrd, was dismissed by the U.S. Supreme Court for lack of standing, but the arguments, I say, but the arguments were later validated in 1998, when the Court nullified the Line-Item Veto Act in Clinton v. City of New York.

Now, I am no stranger to this issue. I am no stranger to this issue. I have served with the eight Democratic and Republican Presidents since Harry Tru-

man who have asked for line-item veto authority. And I have watched, as the Senate has said “no,” n-o, no—the hardest word in the English language to say—I watched as the Senate has said “no” to all but one. And where the Senate erred in yielding to a President's request for such power, I was there when the Supreme Court nullified the Senate's actions. I was there.

The first question ever asked was asked of Adam. The first question ever asked—I hope the Chair is listening closely, my friend in the chair—in all of the centuries of the human race, the first question ever asked was: Adam, where art thou? I won't go into the time and place where that was asked. Everybody ought to know it. Adam, where art thou?

Well, where was ROBERT C. BYRD when the Supreme Court nullified the Senate's actions? I was there when the Supreme Court nullified the Senate's actions.

I do not speak lightly about this subject—hear me now, if you want to take me on, on this question—and to refer Shakespeare:

And damned be him that first cries, “Hold, enough!”

I do not say it is a proposal that stands in stark defiance of the Constitution without many decades of congressional experience and a deep, deep reverence for the Constitution of the United States, and when I speak about line-item veto today, and in the coming days, if necessary, I speak to all Senators of both parties about the oaths we swear and particularly the one we take upon entry into this office.

We take an oath before God and man to support and defend the Constitution of the United States of America.

I speak today on a subject that broaches the most serious of constitutional questions. Now pending before the Senate is a legislative line-item veto proposal offered as an amendment by Senator GREGG and others to the minimum wage bill. The amendment would alter by statute the constitutional role of the President of the United States in the legislative process. The President does have a role in the legislative process. The amendment would alter by statute the constitutional role of the President in the legislative process. It would allow the President to sign a spending bill into law and then to strip from that bill any spending items he dislikes. Let me say that again.

I have already said that the amendment would alter by statute the constitutional role of the President in the legislative process. It would allow the President, one man, to sign a spending bill into law and then—get this—strip from that bill any spending items he dislikes.

Through a process known as expedited rescission, the President could force an additional vote by the Congress on spending items that do not mimic his budget request and impound the funding that he, the President of

the United States, does not like until the Congress votes again.

Such a proposal is a lethal, aggrandizement of the Chief Executive's role in the legislative process. Lethal, deadly. Such a proposal is a lethal aggrandizement of the Chief Executive's role in the legislative process. It is a gross, colossal distortion of the congressional power of the purse. It is a dangerous, dangerous proposition, a wolf in sheep's clothing of fiscal responsibility. Wolf, wolf, wolf, that's what it is.

The Constitution, I say to Senators—hear me out there, my friends in West Virginia and throughout the land—the Constitution is explicit and precise about the role of the President in the legislative process. The President has a role in the legislative process. Read the Constitution, article I, section 7. Here is what it says:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections. . . .

The President must act within 10 days, Sundays excepted. And once he, the President, has decided to forgo a veto, it is his constitutional responsibility under article II to “take care that the laws be faithfully executed.”

President George Washington interpreted his responsibility this way, and I quote the immortal first President of this land, the Father of our Country, the Commander in Chief at Valley Forge, George Washington. President George Washington interpreted his responsibility this way: “I”—meaning George Washington, the President of the United States—“must approve all the parts of a bill or reject it in toto”—totally. No other way. Take it or leave it.

I must approve all the parts of a bill, or reject it in toto.

The Father of our Country was right. It isn't ROBERT BYRD talking. That was George Washington. Now come to ROBERT BYRD. I continue:

A legislative line-item veto effectively creates a third option for the President of the United States—a third option, talking about the line-item veto. It adds a new dimension to executive power, one that is not found in the Constitution. Instead of vetoing and returning a whole bill to the Congress before it becomes law, under the Gregg amendment, under the amendment by my distinguished friend Senator GREGG, the President can resubmit only those provisions he opposes, and he can do so after a bill becomes law. Did you get that? Instead of vetoing and returning a whole bill to the Congress before it becomes law, under the Gregg amendment—and I speak with great respect—the President can submit only those provisions he opposes and do so after a bill becomes law.

What are we doing here? The President can sign a bill into law and then strip it of the provisions that he

doesn't like. Let me say that again. Are you hearing me? What am I doing? What am I saying here? I can't believe it. The President can sign a bill into law and then, after he has signed the bill into law, he can strip it of the provisions he does not like.

Have you ever heard of anything so radical? Instead of the President weighing in before a bill becomes law, he can ignore the pros and cons of debate and wait until well after it has become law. Am I in my senses when I read this? Can you believe it? He can literally ignore both public opinion and congressional debate and deliberation. He can pull out anything he does not like from legislation passed by both Houses of Congress—get that, now. This is one man downtown. He may be a Republican, he may be a Democrat, he may be a Socialist or whatever—whatever the people elect down there at the White House in the future. He can pull out anything he doesn't like from legislation that has been passed by both Houses of Congress and insist on a second run through the legislative process.

The Gregg amendment allows the President to decide what is in a bill considered by the Senate or not in a bill after it has become law. It would allow the President to decide when the Senate considers a spending or revenue item and under what political conditions the Senate considers these measures. Such a proposal is a dangerous departure from the separation of powers doctrine, which aims to prevent any one branch of the Government from seizing both the power to make and to execute a law. The separation of powers dividing inherently legislative and executive functions between two separate and equal branches is a fundamental defense against overzealous and unwise acts by either the President of the United States or the Congress of the United States.

In Federalist No. 51 James Madison writes—this is not ROBERT C. BYRD who wrote it. In Federalist No. 51, James Madison writes:

But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others . . . Ambition must be made to counteract ambition. . . .

So by empowering the President to craft legislation, the Congress would be ceding the constitutional means of the people to resist executive encroachments.

Let me say that again. By empowering the President of the United States to craft legislation, the Congress would be ceding the constitutional means of the people to resist executive encroachments. For up to 1 year after every bill is passed and signed into law—get this—the President could use this power to manipulate Senators—how about that—or advance his political agenda. Any President. I am not just referring to Mr. Bush. I am starting with him, but I am talking about any President, Repub-

lican or Democrat. The President could use this power that Mr. GREGG's amendment would give to the President—remember, this isn't the last President, Mr. Bush. There will be others. The President could use this power to manipulate Senators or advance his political agenda. Under the Gregg amendment, a President could punish or reward recalcitrant Members of Congress by targeting or sparing their interests under the expedited rescission process.

Every debate between the Congress and the White House could be swayed, influenced, by this new power of the President of the United States to influence Senators: You, Mr. CONRAD; you, Mr. BYRD; you, Mr. and Mrs. or Miss Senator—he can use this power over Senators to influence them. What kind of power are we talking about? It would subject every Member and the interests of their constituents and States to the political capricious and unchecked whims of a Chief Executive.

You better think about this. You better think about it. The Gregg amendment provides the President, any President—Democratic, Republican or otherwise—with a mechanism to rewrite legislation after it has passed the Congress. Where are we going? Instead of 10 days to act on a bill, the Gregg amendment would provide the President with up to 365 days. Hear me, friends, Romans, countrymen. Friends, Americans, countrymen, lend me your ears. Instead of 10 days to act on a bill, the Gregg amendment would provide the President with up to 365 days to act on a bill. This is a provision that is unconstitutional on its face. I don't believe that Senator over there sitting in the chair, in the chair to my left, would go along with that. That is Senator CONRAD, for the record.

Within 10 days of the Congress submitting a bill to the President, we know if it has become the law of the land. Under the Gregg measure, nobody—except the President—for up to 1 year after an act is signed into law, will know if all of the provisions of a bill will be carried into effect. One can imagine the confusion of not knowing, for up to 1 year, whether all of the provisions of a single bill will become law. Imagine what happens if the Congress passes a major legislative package such as a Social Security and Medicare reform package, which affects the retirement and health care benefits of many millions of people and the payroll taxes of many millions more. Imagine the President dismantling that package, listen now. Imagine the President dismantling that package months after it has been passed by the Congress. Are you listening? Hear me. How wise and practical will this line-item veto seem then? This line-item veto is an anathema to the Framers' careful balancing of powers within the legislative process because it allows the President, any President, to aggressively—listen to me, my friends on the other side of the aisle; I am not just talking about Mr. Bush or Mr. Republican President—allows a President to aggressively im-

pose his will on the legislative branch in regard to budgetary matters. I will say that once again. This line-item veto is an anathema to the Framers' careful balancing of powers within the legislative process because it allows a President, any President, to aggressively—and I mean aggressively—impose his, the President's, will, be he Republican or Democratic, on the legislative branch in regard to budgetary matters.

This line-item veto amendment goes far—and I mean far—beyond the President simply making recommendations to the Congress. It makes the President, any President, a lawmaker. It is a complete reversal of the legislative process. We do not need to rewrite the Constitution in order to legislate. We do not need to defer extraordinary and unconstitutional powers to the President, any President, in order to ensure that Congress uses its power of the purse in an ethical and rational and wise manner.

We should remember that the President has not exercised his existing constitutional authorities. The President—this President—has only vetoed one authorization bill, and he has never, never vetoed a spending or revenue bill. The President has not submitted a single rescission proposal as currently allowed under the Budget Act. Rather than dealing with the President's failed budget choices, the suggestion here today is that enlarging the President's power in the budget process will somehow magically—somehow magically—reduce these foreboding and menacing deficits. It will not. The suggestion here today is that handing the power to make laws to the President will somehow improve the quality of congressional budget decisions. This suggestion is without foundation. This nefarious line-item veto will only further politicize and degrade a process which is already too much of a political football.

Senators—Senator BYRD being one—take an oath—yes, an oath before God. The ancient Romans felt that an oath was sacred. They would give their lives—I won't go into Roman history at this point—they would give their lives to preserve an oath. Senators take an oath to preserve and protect the Constitution. A lack of understanding about the reasons for entrusting the purse strings to the hands of the Congress, and the unwise tax and spending decisions of this administration, must never, never be allowed to propel such an unconstitutional and dangerous as the legislative line-item veto.

I tell you, ladies and gentlemen, I will stand here until my bones crumble under me, until I have no further breath, if necessary, to let such a proposal become law. Why would we ever want to hand more power to a President who has already grabbed far too much power—any President? Why would we ever want to bargain away our most important tool for protecting the liberties of the people or for derailing a disastrous war? Why would we

ever want to fall for this legislative pig-in-a-poke that could cripple this body, the Congress of the United States?

So I urge Senators to listen. This isn't the last word by any means that I could have, let alone many other Senators here. Resist this assault on the Constitution and the Congress. I urge Senators—yes, I urge Senators—Senators—there is no greater name under the Constitution. Who was that great Roman Emperor who said, when he was about to become the Emperor “I still revere the name of Senator.” That is 476, I believe, A.D. It was Majorian, I believe, who said, “I still revere the name of Senator.” Senator. Did you hear that?

I urge Senators to resist this assault. I am talking about a line-item veto now. You ain't heard nothing yet. I urge Senators to resist this assault on the Congress and on the Constitution of the United States and on the people, the people of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I hope colleagues have been listening to the Senator from West Virginia, Mr. BYRD. He is a wise man. He is an experienced man. And what he has been warning this body about this amendment is the truth. This is a dangerous amendment. It is offered by somebody with whom I work closely. Senator GREGG is the former chairman of the Budget Committee. As the incoming chairman of the Budget Committee, we work together virtually every day. I respect him. I like him. But I believe this amendment is profoundly dangerous.

It is suggested that this amendment will help deal with our budget shortfall. It will not. Virtually everyone who has examined it will say it makes virtually no difference with respect to our deficits and debt. What it will do, without question, is transfer power to the President of the United States. Senator BYRD has made it clear that it is not a question of this President; it is a question of any President. Make no mistake, I believe this measure and any measure like it is unconstitutional.

The Founding Fathers had great wisdom. They did not want to repeat the abuses of the King, so they wanted the spending to be in the hands of the bodies closest to the people—the House of Representatives and the U.S. Senate. They did not want any individual, any President, to have the power of the purse because they recognized the inherent dangers in concentrating power in the hands of one person.

Anybody who has any doubt about how this would be used—perhaps by this President but certainly by some President—only needs to reflect on what has happened in the past when people had this kind of unchecked power. I was told by a colleague of ours who served in a State legislature about a situation where the Governor had

this kind of power. She got legislation passed that was very important to her. She was called to the Governor's office, and the Governor had her legislation on one side of his desk and a bill he wanted on the other side of his desk. He told her: You know, I am probably going to have to line-item veto your legislation. But I have this bill which is important to me, and if you could see your way clear on that, I might be able to help you on your legislation.

Anyone who doubts this President or a future President would use that power on Members of this body ought to think again.

The problems with this line-item veto proposal—and we know line-item veto proposals in the past have been declared unconstitutional by the Supreme Court. I believe this measure would be declared unconstitutional, but we shouldn't abdicate our responsibility. We shouldn't wait for the Supreme Court to make a judgment. We should make this judgment. This line-item veto proposal represents an abdication of congressional responsibility. It shifts too much power to the executive branch, and with very little impact on the deficit. It provides a President up to 1 year to submit rescission requests. It requires Congress to vote within 10 days. It provides no opportunity to filibuster proposed rescissions. And it allows a President to cancel new mandatory spending proposals passed by Congress, such as those dealing with Social Security, Medicare, veterans, and agriculture. Colleagues, that is an extraordinary grant of power to any President. Just with this final piece on mandatory spending, we know we have big problems in the future with Medicare and Social Security. We might labor for months to come to an agreement with the President on the future of those programs, and then under this amendment, after the difficult compromises had been reached, this President or a future President could go back and cherry-pick the provisions he or she did not like. I hope colleagues are listening. That is truly an extraordinary grant of power to this President or any President.

Here is what USA Today said last year in reference to line-item veto. They called it a convenient distraction.

The vast bulk of the deficit is not the result of self-aggrandizing line items, infuriating as they are. The deficit is primarily caused by unwillingness to make hard choices on benefit programs or to levy the taxes to pay for the true cost of government.

A convenient distraction.

This is what the Roanoke Times said last year with respect to this or a similar proposal:

The President already has the only tool he needs: the veto. That Bush has declined to challenge Congress in five-plus years is his choice. The White House no doubt sees reviving this debate as a means of distracting people from the missteps, miscalculations, mistruths, and mistakes that have dogged Bush and sent his approval rating south.

The current problems are not systemic; they are ideological. A [line-item] veto will

not magically grant lawmakers and the President fiscal discipline and economic sense.

Here is what the former Acting CBO Director, Mr. Marron, said in testimony before the House last year about line-item veto:

Such tools, however, cannot establish fiscal discipline unless there is a political consensus to do so . . . In the absence of that consensus, the proposed changes to the rescission process . . . are unlikely to greatly affect the budget's bottom line.

The proponent of this amendment said this last year:

Passage of the [line-item veto] legislation would be a “political victory” that would not address long-term problems posed by growing entitlement programs.

This is the statement of the author of this amendment last year.

He went on to say further:

It would have “very little impact” on the budget deficit.

He was telling the truth.

Here is what a conservative columnist said about the line-item veto proposal, George Will.

It would aggravate an imbalance in our constitutional system that has been growing for seven decades: The expansion of executive power at the expense of the legislature.

I hope colleagues are listening. I truly believe this is a dangerous amendment.

A scholar at the American Enterprise Institute went even further and called the proposal “shameful.” This is what he said:

The larger reality is that this [line-item] veto proposal gives the President a great additional mischief-making capability, to pluck out items to punish lawmakers he doesn't like, or to threaten individual lawmakers to get votes on other things, without having any noticeable impact on budget growth or restraint.

I hope colleagues are listening. We are going to have a change in President in 2 years. This amendment might live forever and fundamentally erode the basic concept of a House and a Senate and the division of powers between the legislative branch and the executive branch.

Mr. Ornstein, from the American Enterprise Institute, went on to say:

More broadly, it simply shows the lack of institutional integrity and patriotism by the majority in Congress. They have lots of ways to put the responsibility of budget restraint where it belongs—on themselves. Instead, they willingly, even eagerly, try to turn their most basic power over to the President. Shameful, just shameful.

That was last year.

Senator GREGG has indicated his proposal closely tracks the proposal of our colleague, Senator Daschle, from 1995. It does not. There are significant differences.

Can the President propose to rescind a few mandatory items, such as Social Security and Medicare reforms? The Gregg proposal, yes; Senator Daschle, no. That is a profound difference. Mandatory proposals would be subject to the President's line-item veto under the Gregg amendment, not under the

Daschle amendment. That proposal alone is enough to lead anyone who supported the Daschle proposal to oppose this one.

Second, can the President propose rescissions from multiple bills in one rescissions package? Under the Gregg measure, yes; under the Daschle proposal, no.

What difference does that make? Let me give an example. Remember the bridge to nowhere? That was something that people responded to, depending on its merits. A lot of people thought it was a waste of money. The President could couple that measure, which many would have supported in terms of elimination, with something that was less well-known that really had merit. Under the Gregg proposal, you could jackpot unpopular things with popular things and get them eliminated, giving the President an extraordinary power to leverage individual Members of Congress to get votes from them on completely unrelated matters.

For example, maybe the President puts up a controversial judge and then uses this power to leverage a Senator to vote for a judge that he might not otherwise support in exchange for allowing that Senator's spending proposal to go forward. That is a dangerous power.

Finally, how long does the President have to propose rescissions? Under the Daschle proposal, 20 days, or in the next budget; under the Gregg proposal, 1 year.

I truly believe this is an extraordinarily dangerous amendment. It is dangerous to the balance of powers between the executive branch and the legislative branch of Government. It is an extraordinary granting of power to a President. Remember, the next President might be of a different party. I would make this same speech if a Democrat were advancing it. I would make this same speech if a Democrat were the President of the United States.

This is a dangerous amendment. It will do virtually nothing about our deficit, but it will transfer power to a President who already has too much power.

I hope my colleagues pay very close attention to this debate. I hope they reject the Gregg amendment.

I thank the chairman and ranking member for their extraordinary courtesy today to allow this discussion to go forward before they have even given their opening remarks. That is truly extraordinary in terms of their graciousness. And we appreciate Senator KENNEDY and Senator ENZI.

Mr. BYRD. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. BYRD. Let me thank him for this magnificent speech. Let me thank Senator KENNEDY and Senator ENZI for their remarkable patience and their consideration always. I thank the distinguished Senator for this magnificent speech.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. Amendment No. 101, the McConnell for Gregg amendment to the Reid substitute to H.R. 2.

Mr. KENNEDY. The Reid substitute effectively is the increase in the minimum wage; am I correct?

The PRESIDING OFFICER (Mr. DURBIN). That is correct.

Mr. KENNEDY. Mr. President, I say to the Senator from West Virginia and to the Senator from North Dakota as well as the Senator from New Hampshire, this has been an enormously important 2 hours in terms of the discussion and debate about the proposal of the Senator from New Hampshire. Over this period of time I am very hopeful our colleagues paid close attention to this debate because it is an extremely important issue that stretches the whole question of constitutional powers, the relationship between the Executive and the Congress.

We have had these individuals speak to this issue. They are knowledgeable, thoughtful colleagues who have spent a good deal of time on this matter.

It is of enormous consequence, the outcome of this proposal. I am enormously appreciative particularly of Senator BYRD and Senator CONRAD for the excellence of their presentation and for the extremely convincing arguments they have made. The power of their arguments I find enormously compelling, and I hope our colleagues will consider it favorably as they make up their minds when we vote on this issue on Wednesday, the day after tomorrow.

This has been an extremely important debate. I am grateful to those who have participated in it. I thank, in particular, again, the Senator from West Virginia who is constant in his commitment and protection of the Constitution and the protection of the Senate as our Founding Fathers saw it and believed in it and chartered it in the Constitution. We are extremely grateful for this debate and discussion. I personally thank the Senator from West Virginia for bringing such clarity and recall of historical importance to this debate and discussion over the period of the last 2 hours. We are very grateful to him as we always are when he talks about the role of the Senate and also about the division of powers under the Constitution. We thank the Senator.

Mr. BYRD. Will the Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. BYRD. Mr. President, I thank the very able and highly respected Senator from Massachusetts, my favorite Senator of this age, for what he has said.

I thank the distinguished Senator from North Dakota for his remarkable statement. It will be in the RECORD for 1,000 years. There is nothing I could say to embellish it, to add to it, to subtract

from it, or to comment on except to say it is one of the great speeches I have heard in this Senate. And I have heard a lot. I have been here a long time. Next year will be my 50th year. The Senator from North Dakota is a leader among men, a leader among Senators. I commend him. I thank him.

I thank all Senators, and I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we now bring the focus and attention of the Senate on an issue of enormous importance and consequence to working families in this country. Americans understand the issues of fairness. They understand the importance of work. Americans have believed, for a long period of time, if you work hard and play by the rules, you should not have to live in poverty in the United States of America. They have supported, Republicans and Democrats alike, a fair minimum wage over the period of the last 70 years. Republicans and Democrats alike have supported that concept, which is basic and fundamental in terms of a free society and a free economy. That is the issue we are going to address today because over the period of these last 10 years, we have had intense opposition from Republican leadership over an increase in the minimum wage.

Now, with the change of leadership in the House of Representatives and the Senate of the United States, our Democratic colleagues, with Speaker PELOSI, and now with Senator REID, have put this issue of fairness before the Senate as a priority issue.

We welcome the opportunity to address it. It is one that is easily comprehensible, and it should not take a long time to debate. There are still those in this body who oppose it, and we expect to have amendments to try to undermine this very simple and fundamental concept of saying to those individuals who are at the bottom rung of the economic ladder: If you work hard and play by the rules 40 hours a week in the United States of America, you ought to at least be able to have a wage so you are not going to continue to live in poverty. We are also trying to say, if you have a minimum wage job, that should not condemn you to a life in poverty.

Now, let me go back over what this minimum wage is all about and give some sense about who is affected by the minimum wage and what has happened to it in recent times.

This chart reflects where the minimum wage has been in terms of its purchasing power from 1960 to 2005. If you look at where we are, as of 2005, you see a steady decrease in the purchasing power of the minimum wage worker, who today earns \$5.15 an hour. If you look back, again, in terms of the purchasing power of the minimum wage worker in the 1960s, it was about \$7 an hour. It was close to \$9 in 1967,

1968. And then it went along, and still the purchasing power was about \$7 an hour. Then we saw the gradual decline through the 1980s. In spite of our efforts to get President Reagan to increase the minimum wage, we were unable to do so.

Then, we had two times where we got a very modest increase in the minimum wage, in 1991 and then again in 1997. But we have not seen an increase in the minimum wage in the last 10 years, and we have seen the purchasing power of the minimum wage worker reach perhaps its all-time low at the present time.

This red line on the chart indicates, with the passage of the increase in the minimum wage over a 2-year period, bringing it to \$7.25, it would still be below the purchasing power of the 20 years between 1960 and 1980, but at least it would give increasing hope to millions of Americans who are working at the minimum wage.

This issue of the minimum wage is a women's issue because so many of those who receive the minimum wage are women. So it is a women's issue. So many of those women have children, so it is a children's issue and a women's issue. It is a family issue because how that family is going to live, depending upon where the minimum wage is, how that child is going to be brought up, is going to depend on what that parent is able to provide for that child.

So it is a women's issue. It is a children's issue. It is a civil rights issue because so many of those who enter the job market, who enter it at the minimum wage, are men and women of color. So it is a civil rights issue, a children's issue, a women's issue, and, most of all, a fairness issue. That is something the American people can understand.

This chart shows what has happened to productivity in the United States. Generally speaking, if you look back over the years of 1960, 1965, 1970, 1975, we see that the minimum wage related to the increase in productivity. As workers became more productive, an important part of that increased productivity was passed on to the workers themselves, as it should be in a fair society.

But what we see at the present time is that the productivity has increased 165 percent over the period of the last 45 years, and the minimum wage, in terms of the total purchasing power over that period of time, has actually gone down. The minimum wage has not only not kept up with productivity, it has even fallen further behind. Productivity was always the issue to be judged when we had debates on the minimum wage years ago that asked: What has happened to the increase in productivity? We can justify an increase in the minimum wage in terms of wages if they produce more. We have seen a dramatic increase in productivity but virtually no increase and a decline in the purchasing power of minimum wage workers.

Here we see the real minimum wage decline: Twenty percent in the 10 years of Republican opposition. The value of it in 1997, \$13,448; in 2007, \$10,700—\$6,000 below the poverty level for a family of three.

And this chart shows the Federal poverty level in this country in 1960, 1965, 1970, 1975, all the way through 1980. For 20 years, this country said: OK, we will have a minimum wage, and we will keep it at least at the poverty level so individuals will not fall behind. If they work hard and play by the rules, they at least will not have to live in poverty. As this chart shows, we see now it is \$6,000 below the poverty level for a family of three who is earning the minimum wage.

Since 1980, we have only had two increases in the minimum wage. Now, in the last 10 years, we have had none. That is the issue. Having to take the time to try to go through this and explain why we need an increase in the minimum wage, and why we are going to hear from the other side, those who are in opposition to it, is extraordinary to me with these figures.

Look what has happened. If we try to measure poverty in the Bush economy between 2000 and 2005, there are 5.4 million more people living in poverty today than in the year 2000, largely because of the failure of the Congress to increase the minimum wage. These are the figures. These are the statistics. They do not talk about real lives, how these people struggle. They do not tell about the lost dreams of these families. They do not talk about the shattered conditions of the children who are in these kinds of conditions.

There are 5½ million new people who have gone into poverty in the United States of America, the strongest economy in the world, basically as a result of the failure to increase the minimum wage.

Look what has happened to children. There are 1.3 million more children in poverty today than we had 5 years ago—1.3 million more children in poverty today—primarily because of the failure to increase the minimum wage.

Well, we have to ask ourselves: Where are we as a country and a nation in terms of child poverty? Look at this chart. Of all the industrialized nations of the world, the United States has the highest child poverty rate—the highest poverty rate for children in the industrialized world. There are the figures. There are the statistics. It is not even close, and it is going up.

While we are having the extraordinary profits on Wall Street, what is happening on Main Street? What is happening in the small communities, small farms, small towns, and in the major urban areas of this country? What is happening to the children of this Nation? There is not a person in this Chamber who, in the last 5 days, has not made a speech about how our future is about our children. Everyone goes out and talks about the importance of our children in our democracy

and our country. Look what is happening. They talk about it and refuse to do something that can make a big difference. That is child poverty.

When you look at child poverty and look over the figures and statistics, there is nothing terribly surprising about this, with a national average of 17.6 percent. We see who takes the major burdens, the Latinos and African Americans, those women and children of color. We are trying to talk about one country and one society, one history, and, nonetheless, we see the growing disparity in the increased number of families in poverty, the disparity with the increased number of children in poverty, and the disparity between the various communities in our Nation.

Is this what this country wants? We are not saying that the total answer is the increase in the minimum wage, but it makes a major difference. And we can show you, and will show you, why that is so.

We see the figures now in terms of what has happened in terms of statistics. But what does this mean on some of the issues that relate to the conditions of our fellow citizens? Let's take the issue of hunger. Not many people are talking about the challenges and the problems of hunger in our society. This is from the USDA, household food security in the United States, pointing out the increasing number of families who are on the verge of hunger in our economy has increased by 2 million. In the industrialized world, we are No. 1 in child poverty, and we see an increasing number of our fellow citizens in terms of hunger.

How does that impact in terms of children? Mr. President, 12.4 million children are hungry now every single day in the United States of America, and that number is growing. We can look at the number of children who go to bed hungry at night. This quote is from Lisa Hamler-Fugitt, who is the executive director of the Ohio Association of Second Harvest Foodbanks:

Thirty-five percent of the people that we serve are children.

Thirty-five percent are children.

I see these children, and I think what are we teaching them? That in America, you can work 40 hours a week and still not earn enough to buy food?

That is what is happening. That is what is happening in the United States of America now, today. And we have to spend hours in this body, after we have had the adequate pay increases of \$30,000 for Members of Congress in the last 10 years, and try to convince people to go to a \$7.25 minimum wage? And we are going to hear opposition to this? This is what is happening out across this country.

So we know what is out there in terms of hunger, how this reflects itself, the fact that they are not getting the adequate income, how it impacts particular children in our society.

This reflects, at no surprise to anyone—this is the National Low Income

Housing Coalition—about how many hours you have to work at the minimum wage to be able to afford a two-bedroom apartment. This is for an average family of three. These are the hours you have to work in 1 week. You would have to work 229 hours a week in my State of Massachusetts at the minimum wage to be able to afford it; 140 hours a week down in Louisiana. Across the country, out in the Southwest, we are looking at New Mexico; Arizona, 149 hours a week; Missouri, 119 hours a week; even Wyoming, 112 hours a week.

This illustrates pressures on these families, their difficulty to be able to provide food for their children, let alone providing for their housing.

The increase, this is how it reflects itself. We propose an increase in the minimum wage to \$7.25. This is what it means. It means 2 years of childcare for a minimum wage family. It means full tuition at a community college. This is what it could mean to a family. It means a year and a half of heat and electricity. We have seen the reductions in the fuel assistance programs in the recent times, which has been devastating in my part of the country. It means more than a year of groceries. It means more than 8 months of rent.

This might not make a big deal of difference to a lot of people, but it makes an enormous amount of difference to these families who are earning the minimum wage. This is how it reflects itself: a year of groceries, 8 months of rent, a year and a half of heat and electricity, tuition at a community college—an opportunity for hope for some of these individuals—and also 2 years of childcare, to help with the problems in terms of childcare, the difficulty that these families have in trying to work for the minimum wage and have someone who is going to care and look out for their children. There are heartrending stories to that effect.

This chart reiterates the fact that the great majority, 60, 61 percent, of those working are women, so it is primarily a women's issue. Great numbers of those women have children, so this is a special issue for women.

Here we show that about 1.4 million single parents, most of whom are women, would benefit from an increase in the minimum wage. Some will say, on the one hand, it doesn't affect all that many people. Then why not have an increase in the minimum wage? It doesn't, in terms of the percentage increase in the total payroll of this country, it is infinitesimal, an increase in the minimum wage. I will come to that in a minute. But don't tell me it doesn't make a great deal of difference to the over 1 million single parents, most of whom are women, who would benefit from an increase in the minimum wage.

This tells the story of Diana, a single mother of three from Buffalo, who works for a childcare center, making the minimum wage. She has to rely on food stamps and Medicaid to provide

for her family. Increasing the minimum wage will allow her to "decrease her reliance on government subsidies and . . . pursue her dream of self-sufficiency and a better life for herself and her family."

It is interesting, the fact that if we do not increase the minimum wage, we are effectively subsidizing many businesses. Because these families are eligible for food stamps or maybe some could get some fuel assistance, other kinds of support services, who do you think is paying for those programs? Working families. So you get a decent minimum wage out there, and it reduces the pressure on those programs. That means less pressure on our working families who are going to have to pay in.

The increase in the minimum wage will benefit more than 6 million children whose parents will receive a raise. Six million children in this country will benefit because of the increase in the minimum wage. It is a children's issue, a women's issue. This is what this is about.

What happens when children are living a better quality life? Look at this chart: Better attendance, concentration and performance at school, higher test scores and graduation rates. We are going to be debating No Child Left Behind. We are going to be wondering how we can make a difference in terms of children in our schools. There are a number of things that can make a difference to the children: a qualified teacher, classrooms where children can learn, supplementary services, parental involvement. A number of things can make a difference to the children. But one thing we know for sure: If the children can't see the blackboard, if they need glasses, or they can't hear a teacher because they need some kind of help, we tried to do this with the CHIP program to help them. In the CHIP program, it is not required, but a lot of States do provide those. But if the child is going to be hungry, the child is not going to pay attention. We have all kinds of examples for that. We will mention that at another time.

But 6.4 million children will benefit from an increase in the minimum wage: better concentration, performance at school, higher test scores, higher graduation rates, stronger immune systems, better health, fewer expensive hospital visits, fewer run-ins in the juvenile justice system—investing in the children. Again, 6.4 million will benefit from an increase in the minimum wage, and this will be part of the benefits that will come from those increases.

We have seen a higher minimum wage improves children's futures. For families living in poverty, a \$400 increase in family income will dramatically increase children's test scores. This is from the Institute of Research on Poverty, on reading and math. This shows the difference in terms of the test scores. Children who are going to be fed, children who are going to have

the kind of support do better in schools.

We mentioned earlier the problems of poverty falling disproportionately on those individuals of color. This chart shows that individuals of color benefit from the higher minimum wage. People of color make up 36 percent of all minimum wage workers. If we are able to get an increase in that, it will obviously benefit them.

We talked about children for a time and the impact it has on children. I will spend a few minutes talking about the number of elderly struggling with the problems of poverty. The number of elderly struggling will increase dramatically over the next several years. The best estimate—and this is by the Nation's poor, near-poor older population; it is a very important and significant study—shows the number of elderly who are going to live in poverty, increasing some 41 percent over the period of the next years. And we can understand that because we see the decline in wages according to age. This chart shows declining wages for men as well as women, all set in motion, again, by the issue about where they are going to start off on the minimum wage. So we are going to have significant increases.

This is the RAND study in terms of our seniors who are going to be living in poverty. They will certainly benefit from this.

Here is an elderly worker, Peggy Fraley, a 60-year-old grandmother from Wichita, KS, who works as a receptionist for \$5.15 an hour. She lives with her daughter, who also earns the minimum wage, and her five grandchildren. She says: We can barely make it, but we have each other. That is richer sometimes.

This has a real impact. We have been talking a lot about statistics, but it affects people in the most basic and fundamental ways.

Over the period of these recent years where the Senate has failed to act, a number of States have moved ahead. You will see on this chart the red States are the States where they have a minimum wage which is higher than the Federal. These are red States as well as the blue States, with the minimum wage at or below the Federal level. This is what has happened in the country over the period of the last 10 years.

Now let's see, we have pointed out what has been happening in terms of children, people living in poverty, children in poverty. High minimum wage States, meaning those we have just mentioned here that have had some increase in the minimum wage, have lower poverty rates. That should not be surprising. It is all true. You can take it right across the line. The States that have increased their minimum wage are all below the national average in terms of the poverty rate, 12.7 percent. So this has a real impact. And look at what it has with regard to child poverty rates. Remember, I mentioned we

are the No. 1 industrial society with the number of children living in poverty. Look what happens in the States where we have actually increased the minimum wage. Just about every one of those is below the national average on child poverty. Increasing the minimum wage has a real impact in terms of child poverty in this country.

I will show what has happened in some other countries. I will show what has happened in other States. Let's see what happened in other countries. We always hear, well, if we do this, it is going to be a disaster to the economy and, therefore, we can't afford to have that because we are going to lose jobs or we will slow down the economy. We are going to throw those people out of work we are trying to help. We are going to hurt their community and we will hurt their families. Right? Wrong.

Let's look at the two countries which have raised their minimum wage the most over the last 5 years. That is Great Britain and Ireland. What are the two countries in Europe that have the best economies? Britain and Ireland. What are their minimum wages? Great Britain is now \$10.57 an hour. Ireland is \$10.80 an hour. And what has been the result? They have the strongest economies and the second strongest economy, and Britain has brought 2 million children out of poverty. Ireland has reduced its number of children who are in poverty by 40 percent. Look at this: Child poverty, dramatic increase in the minimum wage. They have a strong economy and a dramatic reduction in child poverty. And here we have an increase in child poverty, keeping the minimum wage.

Look at what has happened in terms of Great Britain. They have taken 2 million children out of poverty, and we have seen 1.4 million children go into poverty. Five years ago, Great Britain had the highest number of children in poverty of any of the European countries. And Tony Blair, to his credit, said: We are going to do something about it, and we are going to effectively eliminate child poverty in this decade. They are well on the way to doing so, demonstrating what we have said. That is, you can make a difference with regard to children. You can make a difference in terms of the issues of poverty by increasing the minimum wage.

Now let me take the States. What has happened to the States? You can say that is interesting, what has happened in those countries. But let's take a look at the States that have had an increase in the minimum wage. States with higher minimum wages create more jobs. This is from the Fiscal Policy Institute, March 30, 2006, overall employment growth from January 1998 to January 2006. In the 11 States with a minimum wage higher than \$5.15, it has been 9.7 percent. In States with the minimum wage at \$5.15, it is 7.5 percent. I thought if you raised the minimum wage, it was supposed to go down. You weren't supposed to grow as

fast. And you weren't supposed to have increasing employment. But quite clearly, this isn't the fact.

Let's take the States where they are creating businesses. People say, if you raise the minimum wage, we are going to put a lot of businesses out of work. Is that right? No, that is wrong, too. Here are the 10 States with a minimum wage higher than \$5.15. States with higher minimum wages create more small businesses. Overall growth in the number of small businesses, 1998 to 2003, 5.4 percent where you get a minimum wage higher than \$5.15, and 4.2 percent where they have had \$5.15—more employment, more growth of businesses. This is the result, if you look in other areas as well.

This is States with higher minimum wages on retail jobs. In States with a minimum wage higher than \$5.15 an hour, the employment growth is 10 percent in retail jobs; 3.7 percent where the minimum wage is \$5.15.

We don't expect the NFIB to support this proposal. But what we do find is that many employers and small businesses do. Malcolm Davis supports raising the minimum wage. This was in the News Observer, a newspaper. He is a small business owner, is proud to say:

My lowest paid employee makes \$8 per hour. With only 11 employees, things are tight, to say the least. If I can find a way to be fair with my employees in rural eastern North Carolina, why can't our government? Try driving to work and raising a family on the minimum wage.

This is more typical than not, Mr. President. Look at this. This is a Gallup Poll of May 9, 2006. Eighty-six percent of small business owners say the minimum wage doesn't affect their businesses. Question: How does the minimum wage affect your business? Eighty-six percent say no effect. Gallup Poll, 2006. Positive effect, 5; negative effect, 8 percent.

Let's look at what has been happening in our country over the period of the recent years in terms of the tax incentives. I think we ought to have an increase. I am going to vote to increase the minimum wage without providing additional kinds of tax incentives. All this proposal does basically is recover the purchasing power we had 10 years ago. There is no reason—we have seen countries that have raised the minimum wage doing very well—why we should add more tax breaks and increase the deficit. Businesses receive billions of dollars while minimum wage workers receive nothing.

This chart is from Citizens for Tax Justice. That is over the last 10 years. There has been \$276 billion in tax incentives for corporations—small businesses, \$36 billion—and we have had no raise for the minimum wage workers. We are still being asked now to do more when we have seen these kinds of tax breaks for corporations and businesses. I don't think it is necessary that we provide the additional tax breaks. Here we have seen productivity and profits skyrocket while the minimum wage plummets.

This comes from the Bureau of Labor Statistics. Profits are up over 45 percent; productivity, total 29 percent; and the minimum wage and output per hours are down 20 percent. So it gives you an idea about what has been happening out in the economy just generally.

Mr. President, I think this is, above all, a moral issue. The members of our great faiths have all spoken clearly about this issue. Here is the quote from Justice Roll, January 2007:

More than 1,000 Christian, Jewish, and Muslim faith leaders say minimum wage workers deserve a prompt, clean minimum wage increase with no strings attached.

They make an excellent statement, and it is a convincing one.

Mr. President, these give you at least some idea of what is at issue. We have tried over the few minutes that we have had to point out where the trend lines are, to show the statistics that show that an increase in the minimum wage is morally correct. It will strengthen our economy, and it will make a difference to children and to women and make a difference to men and women of color. It is basically a fairness issue. It will strengthen our economy. It is the right thing to do. It is long overdue.

I thank our Democratic leaders, Speaker PELOSI and Senator REID, for giving it the high priority it deserves. We ought to get about the business of getting this legislation enacted, and enacted speedily, for those individuals who are out there day in and day out, men and women of dignity and men and women of pride, who take a sense of pride in the job they do, even though the jobs are very menial. Maybe it is a teacher's aide or someone looking out after the elderly in elderly homes or someone cleaning out the buildings of American commerce. They are men and women of dignity, and they take pride in the jobs that they do.

America has said it values work, and America says it values individuals who want to work hard and play by the rules. We are calling upon this Senate now to say these working families have waited long enough. Those individuals who work 40 hours a week, 52 weeks of the year in this Nation of ours should not have to be condemned to living a life in poverty.

That is the issue. Does work pay? Do we recognize our fellow citizens and say that we are going to respect them and we want to be one country with one history and one destiny, one Nation? Let's pass the increase in the minimum wage.

Mr. President, I thank my friend and colleague, Senator ENZI, for all of his good work. There are a great many issues on which we agree; there are some on which we differ. I always value his insight on any of these issues and, needless to say, we enjoy working together. I thank him for all of his cooperation on this issue, as on many other issues. We give assurance to our friends in the Senate that we are going

to get a lot of good work done for the people of this country in this session.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Chairman for his kind words. I admire him for the passion he puts into every issue he works on, and people will notice that he works on a lot of issues. He and I have had this debate three times over the last 2 years. We have varied a little bit on the amount of the increase, and I have always tried to get something in there for small businesses to take care of the increase, or to offset the increase a little so that these small businesses can continue to function and provide employment opportunities.

I come from a small business background. But not from small business as defined by the Federal government. The Federal definition is a business with less than 500 employees. Any business that we had in our State that was that large—and I am not sure we have any headquartered in our State—would be considered big business. I am talking about the mom-and-pop shops where the person who does the accounting also sweeps the sidewalks and cleans the toilets and waits on customers—definitely not in that order. This is a significant segment of small business across this country. They generate 60 to 80 percent of the net new jobs annually over the last decade. Raising the minimum wage will affect them more substantially than businesses with as many as 500 or more employees.

In the context of a minimum wage increase, I have always asked that actions be taken to offset the impact of an increase for small businesses. I want to thank Senator BAUCUS and Senator GRASSLEY for their work in the Finance Committee to come up with such a package. That package is now contained in the Reid amendment that has been submitted. I think this package makes a substantial difference and makes a raise in the minimum wage possible. I think had we worked toward this kind of a situation earlier, the minimum wage might have happened earlier. Unfortunately, the times that the minimum wage issue arose in the past 2 years were situations where it was unamendable. It had to be a take-it-or-leave-it—my proposal or Senator KENNEDY's proposal, and we left them both.

Any proposal on which the two of us have been able to reach agreement has been very successful in making it through the Senate and the House and getting signed by the President. It is not an easy task to pass a bill. I don't have to tell the Senator from Massachusetts that. He has been around here practicing the art of legislating a long time. I am one of the newcomers; I have only been here 10 years. I have noticed, however, that legislating means either finding a compromise, or finding a third way.

On this particular bill, we may find that third way. There will no doubt be additional amendments to this bill. I like situations where bills can be amended. I have been in situations where they could not. I have been on the side with the majority of votes in those situations and have not always felt comfortable. So I thank Majority Leader REID for having a situation where there can be amendments.

I ask my side of the aisle not to make amendments that are onerous or wide-ranging but that stick to the subject and see what the best possible package is that we can come up with.

I will speak first to the underlying substitute that has been laid down on this bill. There hasn't been any comment on that yet, even though we have had 2 hours 40 minutes worth of debate. Of course, we started first with Senator GREGG's amendment. I want to mention that this first amendment was an agreement to keep the ethics bill from having a different approach. I appreciate the effort of both parties to allow that to come up. While that will be voted on as a part of the minimum wage, it is not a part of the minimum wage. It allows a vote on that as an up-or-down vote. I am pleased there was some compromise on that and some ability to do that.

I listened to the hour and a half of debate on that amendment and the concern over whether trading votes would happen. Something this body ought to consider, perhaps, is a law that we have in Wyoming that prohibits the trading of votes on any issue and makes it a felony that has to be reported by both sides if an offer is made. It makes each issue stand on its own.

So I will speak first to the underlying substitute that was laid down on this bill because it provides the tax relief we have been talking about for a long time, and this is tax relief that has been agreed upon in a very bipartisan way. Senator GRASSLEY and Senator BAUCUS often work together, and that is why the Finance Committee is so successful in moving things along. They have come up with tax relief for very small businesses that will aid them in meeting their burden of a minimum wage increase. I have long advocated that we must provide a measure of tax and regulatory relief to businesses that will face these higher mandated costs.

The substitute amendment consists of the following provisions: First, it would increase current section 179 expensing by extending the increased expensing of qualified business property allowed for small businesses until 2011. Without an extension, the amount which may be expensed will drop by more than 75 percent. If we pass this extension, we will allow small business owners who are making investments in the future of their business to retain more of their earnings, and these additional funds can be used to retain and hire new employees, thereby balancing out the effect of the minimum wage increase.

Now, we have talked about families and children, and I want to tell you the small businesses that we are talking about are the small businesses that are run by families that, in most instances, have children. Quite often, the small businesses are run by young people. In my own case, I got married, and a week later we started a shoe store. We had kids, and the kids got to learn a little about the retail trade by having to work and help us out. So I have some personal background and experience in running a small business.

Second, the amendment would provide a 15-year recovery period for leasehold improvements and certain restaurant buildings and related improvements. This provision improves current law by including new restaurants, retail space, and improvements by extending the broadened provision. Restaurants and retail employ a very large percentage of minimum wage workers and are most impacted by mandated increases in the Federal wage. This portion of the amendment extends relief to these businesses and seeks to avoid dislocation and decreased employment opportunities for restaurant and other workers.

Third, the amendment would allow noncorporate taxpayers with annual gross receipts of less than \$10 million to use the cash method of accounting for purchases and sales of merchandise.

Under current law, those small business taxpayers are generally required to use the accrual method for such purchases and sales, even though they may use the cash accounting method for overall accounting. This simplification and clarification of accounting methods would assist small businesses by reducing their administrative costs, which would free up more resources to maintain employment levels.

I realize most people in America may not know the difference between cash accounting and accrual accounting. I can tell them, accrual accounting is a lot more complicated because one has to guess on the percentages of expenditures and then later make corrections for actual amount, whereas under cash accounting, one takes the actual money coming in and the actual money that goes out. It is a much simpler accounting system. We want to make sure those small businesses have that opportunity.

Fourth, the amendment expands work opportunity tax incentives. This allows employers credit against wages for targeted individuals, including those on welfare, qualified veterans, and high-risk youth. These populations, again, are most likely to lose jobs in an environment where employers are forced to bear increased salary costs. This program would be extended for 5 years.

Fifth, the substitute also creates a voluntary certification program for professional employer organizations that meet the standards of solvency and responsibility and that maintain ongoing certification by the IRS.

Lastly, the amendment provides for a series of clarifications and modifications to the tax and accounting provisions that govern subchapter S corporations. Many small businesses are organized under the provisions of subchapter S of the Internal Revenue Code. Incidentally, the ones that are organized under subchapter S pay taxes on the earnings each and every year as opposed to a corporation that only pays some corporate taxes and then on distribution has to pay the rest of the taxes.

I can't leave this topic of small businesses without commenting briefly on a matter of great concern to these businesses, the employees, and the families that depend on them. I am speaking, of course, about the rise in cost of small business health insurance.

Although cost growth has begun to slow a bit, premiums for small businesses have been rising unsustainably at near double-digit rates for more than half a decade, which is more than double the rate of inflation of wage growth. For much of the last Congress, my colleagues and I engaged in an aggressive and bipartisan effort to tackle this problem. Indeed, the small business health plan legislation I authored with Senator BEN NELSON came within just a few votes of overcoming a filibuster last May. Our legislation would enable small businesses to pool their negotiating across State borders to have a big enough pool to effectively negotiate against the big insurance companies and thus hold down costs and widen access to coverage while preserving the strong role for State oversight and consumer protection.

Progress on this critical issue is moving forward. I have had interesting discussions with people from both sides of the aisle. I think the discussions have been promising. There is a long way to go, but I think we have built a solid foundation, and that foundation continues to grow as we move into a new year and a new Congress.

Small business health insurance reform is vitally important, and I realize there may be some sentiment that the issue should be resolved in the context of the minimum wage debate. However, I firmly believe that offering a version of last year's small business health plan as an amendment to the pending minimum wage legislation would be premature and would not help us move forward toward securing meaningful small group health insurance relief in this Congress or minimum wage or help for small businesses. Rather, the best way to achieve real small business health care reform is to proceed forcefully to build on the significant progress we made last year.

Development of small business health legislation is a process that is well along, and I believe success is in sight. We are on a promising track, and we should stick with it. That promising track, of course, is having bipartisan discussions about what needs to be

done in health to keep the insurance rates down, to provide better access to people.

Senator KENNEDY and I have been having some discussions on principles. That is the way we have been attacking the pieces of legislation we do around here. We set down principles and then meet with stakeholders and talk about what difficulties those principles provide for them. Then we come up with a bill that will hopefully find a way through the maze. It is extremely difficult, but the increase in interest in health insurance has risen so greatly that I think this will be a prime topic for people in the next year and hopefully a solution within the next year.

I would also be remiss if I didn't mention, as I have many times in the past, that while an increase in the minimum wage will be a kick-start for some workers, it doesn't address the fundamental issue of chronic low wage earners. Regardless of how we increase the minimum wage today, those who earn it will still be the lowest paid tomorrow. The minimum wage needs to be for all workers what it is for most—a starting point. Our policy should be directed at giving all workers the opportunity to move up the wage ladder, not merely moving the ladder's lowest rung up.

As a former small business owner, I know these entry-level jobs are a gateway into the workforce for people without skills and without experience. Minimum wage usually goes to those with minimum skills. These skills-based wage jobs can open the door to better jobs and better lives for low-skilled workers if we give them the tools they need to succeed. My colleagues know that I strongly believe we must do more in this department. For the past two Congresses, one of my major priorities has been reauthorizing and improving the Nation's job-training system that was created by the Workforce Investment Act. This law will help to provide American workers with the skills they need to compete in the global economy. Education and the acquisition of job skills represent the surest path to economic opportunity and security in the global job market. Increasing skills increases jobs, increases wages, and lifts the lowest boat into a bigger boat.

Over the past few years, this bill has received unanimous support in both the HELP Committee, which has reported it out twice, and the full Senate, which has passed it twice. But I have to say that election-year politics and political positioning have prevented this important bill from becoming law.

We tried to preconference a lot of the bills that came out of the HELP Committee last Congress. We were successful on many. That means the House agreed with the Senate position with some changes prior even to the time the Senate passed a bill, and then the House would pass the same bill, and as a result, the Health, Education, Labor,

and Pensions Committee got 27 bills through the legislative process and signed by the President. That is quite a contrast to what happens with most committees.

The Workforce Investment Act was not able to be preconference. I hope it can be now. I believe there is a little better understanding of some of the objections and also some of the benefits. I believe this bill will make it through the process and will start an estimated 900,000 people a year on a better career path. It can only happen if it is not a casualty of Congress's inability to overcome its worst partisan instincts. That would be inexcusable.

Outside the glare of election-year politics, I hope we can quickly pass this job-training bill that will truly improve the wages and lives of workers in this country. The Senate has passed it twice. We have spent 4 years working on it.

The potential skills gap facing American workers only deepens when we are compared to our competitors around the world. As chairman of the committee, I was able to travel to some of the foreign countries which are among some of our toughest competitors in the world market. I came home believing strongly that we must focus more seriously on the acquisition and improvement of job and job-related skills. While many of us feel good about what we are doing today when we raise the minimum wage, I intend to make sure we do not neglect to address the far more pressing concerns for American workers: the increasing skills gap and the availability of health insurance. I anticipate we will get to work on these issues at a separate time.

AMENDMENT NO. 103 TO AMENDMENT NO. 100

Mr. ENZI. Mr. President, at this point, I have permission to lay down an amendment on behalf of Senator SNOWE. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for Ms. SNOWE, for herself, Mr. ENZI, and Ms. LANDRIEU, proposes an amendment numbered 103 to amendment No. 100.

The amendment is as follows:

(Purpose: To enhance compliance assistance for small businesses)

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.**

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

**“(a) COMPLIANCE GUIDE.—**

“(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such

publications ‘small entity compliance guides’.

“(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

“(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4) COMPLIANCE ACTIONS.—

“(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) EXPLANATION.—The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements relating to the rule.

“(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency’s compliance with paragraphs (1) through (5).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting “and entitled” after “designated”.

Mr. ENZI. Mr. President, I rise today in support of the amendment offered by Senator SNOWE. This amendment would provide some measure of relief to those small businesses which bear the economic burden of nearly 41 percent of the increase in the Federal minimum wage. Small businesses not only employ the bulk of the minimum wage workers, they have also been the engine for economic growth.

Small business has been responsible for the majority of new job creation, generating between 60 and 80 percent of

the net new jobs annually over the last decade, and it is small businesses which have traditionally provided the only entry port for new workers into the job market.

I congratulate Senator SNOWE for her persistence on this amendment. She has worked on it a number of times and revised it to the present situation. I suspect if there are any objections, we would be willing to work on it additionally.

But we must recognize that raising the Federal minimum wage, whatever else effects there may be, significantly increases the costs for many of these businesses. I mentioned that an increase of 41 percent in labor costs has to be accounted for somehow. Curtailing services, reducing employee complements, and forgoing expansions are some of the many options considered by these businesses in the face of increased costs. The inescapable fact is that increased labor costs heighten the risk of both employment dislocation and decreased job opportunity for the very individuals an increase in the minimum wage is designed to benefit. Unless we are prudent and balance such mandated cost increases for some measure of relief for affected small businesses, we risk serious unintended consequences. Simply put, an increase in the minimum wage is of no value at all to a worker who does not have a job or a job seeker who has no prospects of employment.

As a Senator from a rural, low-population State, I would like to point out another reality. In many cases, heavily populated areas with high costs of living have already, in fact, adjusted their minimum wage levels either by law or by market forces, which actually work.

The town I am from is a boomtown, it is an energy center. If one drives by the Arby’s restaurant, the lit-up moving marque sign says: Now hiring, \$9.50 an hour plus benefits; you name the hours. If you go in and apply, they will tell you that if they can pick the hours, it is \$10.50 an hour.

In many areas, market forces are working. There are construction companies that go from one site to another hiring people away from other construction companies. We have a shortage of people to work in Wyoming. Of course, that requires relocating to the frontier, which is what a lot of people consider Wyoming. Horace Greeley said: Go west, young man. I would say: Go west, young man and young woman. There are coal operations out there, primarily surface mines. They need people to drive coal, or haul trucks. These trucks are 28 feet long, 28 feet wide, and 28 feet tall. They haul a lot of coal. We move 1 million tons of coal a day out of our county. How can we do that? We have a coal seam that is 50- to 90-feet thick, and it is only under 60 to 90 feet of dirt.

When I was mayor and Senator ROCKEFELLER was Governor, he came out to see our mines. Taking him back out to the airport, I always remember

what he said: You folks don’t mine coal here.

I said: What do you mean?

He said: You just back up trains and you load them.

We have coal which is low in sulfur and other chemicals, which makes it useful across the United States. Some of the States also known as coal States take our coal and mix it with their coal, and they can help meet the clean air standards that way. We are low in Btu, so they increase the Btu by using their coal. If someone has a clean drug record and no experience and can drive anything, they can be trained to drive one of these coal haul trucks and make \$60,000 to \$80,000 a year, and even more with overtime. It is a very flexible market. So there are job opportunities out there. But they may be nontraditional jobs, and they may require moving to another part of the country.

One will find Wyoming can use a little bit more population. We are trying to reach a population of half a million people. We are 350 miles a side on our State, so we are bigger than most of the States.

At any rate, there are areas which would be most dramatically affected by the minimum wage increase and those are lower cost of living areas. They are often rural and sparsely populated. In those areas, employers will feel the most pressure on their bottom lines. In those areas, employees will have the fewest opportunities to find other employment if they are let go. So a reasonable approach to the minimum wage issue must take those realities into account. If we are going to dramatically increase the costs for some businesses by a wage mandate, we should provide some measure of relief to those same businesses. If we do not, we harm not only those small businesses, we ultimately harm the individuals they employ.

The sound and well-reasoned amendment that is offered by Senator SNOWE accomplishes these ends through reasonable and targeted regulatory relief for those small businesses that are most negatively impacted by a wage increase mandate. I am pleased to be a cosponsor of the amendment along with Senator LANDRIEU. The Snowe amendment provides some regulatory relief by requiring that the Federal agencies which issue new rules and regulations which impact small businesses also provide those employers with plainly written and readily available guidance that explains what employers must do to be in compliance with these rules and regulations.

All employers incur costs keeping up with the obligations Government imposes on them and determining how to meet those obligations. Small businesses regularly incur administrative costs in monitoring Federal regulatory changes and developing compliance programs. There is no question that the burden of Federal regulations falls more heavily on small business. This chart shows the cost of complying with

Federal regulations. The per-employee compliance cost for firms with 20 or fewer employees is \$7,647. The per-employee compliance cost for firms with 500 or more employees is only \$5,282.

So the per-employee compliance costs are 45 percent more for our smallest employers than they are for our largest. Congress has previously recognized the necessity of providing small businesses relief from those compliance and monitoring costs, yet a GAO study has shown the goal of providing small businesses relief from high compliance monitoring costs is far from fully met. The regulatory provision in this amendment seeks to ensure that goal is finally realized. The need for this type of compliance assistance was recognized by my colleague from Maine, Senator SNOWE, the author of this amendment and proponent of this proposal in this Congress as well as the last two Congresses. I am pleased to again cosponsor the bill authored by Senator SNOWE. The bill continues to enjoy broad bipartisan support from our colleagues, including Senators KERRY and LANDRIEU. This regulatory amendment will not only have the benefit of decreasing administrative costs for small employers, it also has the further benefit of increasing compliance levels by ensuring that all employers know the rules of the road and the means to comply with them.

Through the Banking Committee, on which I also serve, we have been able to suggest and get several advisory committees started. Those advisory committees have small businesspeople on them who advise how different statutes as well as rules and regulations affect them, and their input has had considerable impact. This amendment is one of the type things those groups would suggest.

When we write Federal regulation, we often make it very complicated and it is in a very legalistic form. I helped Senator Sarbanes on the Sarbanes-Oxley bill. I brought an accounting perspective to that. I was pleased he listened to it. But one of the factors we missed in that legislation, or you cannot cover in that broad of a bill, is the impact of small business versus big business.

Again, the advisory committees have said what is needed is a better explanation for small business that they can understand. They do not have the specialists big business has. They can't afford them. Consequently, they do not have easy accessible advice on how these legalistic terms actually work. It is the significant difference in cost that we are concerned about here.

It is a relatively simple amendment, but one that could make a significant difference. The substitute amendment to the underlying bill, as I mentioned, went through the Finance Committee. It did not go through the Health, Education, Labor and Pensions Committee, and it did not go through the Banking Committee, so there was no opportunity to suggest this kind of amend-

ment at either of those points. But it is something the Small Business Committee has worked on a number of times. Senator SNOWE has been the chairman and is now the ranking member of the Small Business Committee. I hope we will recognize her effort as well as the bipartisan effort coming out of that committee to provide this kind of a change.

I think when the week is done, or maybe even less time than that, we will be at a point where there will be both a minimum wage increase and some help for small businesses that will offset the impact and keep the economy moving.

I yield the floor.

Mr. SESSIONS. Madam President, is there an order of business?

The PRESIDING OFFICER (Ms. STABENOW). There is no order at this time.

Mr. SESSIONS. I yield to the Senator from Maryland to discuss this order of business. I wish to discuss that a little bit.

Mr. CARDIN. If the Senator will yield, I am prepared to make a unanimous consent request that after I complete my comments, Senator BINGAMAN will be recognized for 10 minutes, and then the Senator will be recognized for up to 15 minutes, and then Senator MENENDEZ for up to 15 minutes.

Mr. SESSIONS. How long does the Senator expect to be?

Mr. CARDIN. No more than 5 to 7 minutes.

Mr. SESSIONS. That is fine from my perspective.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. CARDIN. Madam President, I take this time in support of the increase of the minimum wage to \$7.25. I compliment Senator KENNEDY for his leadership on this issue. I agree with Senator ENZI that this needs to be done in a bipartisan manner, and I am pleased by the way we are proceeding in the consideration of the increase in the minimum wage.

I would first make the point that increasing the minimum wage will have a positive impact on small business. I agree with the comments that have been made that small business is the economic engine of our Nation and we need to do everything we can to make it healthier for small businesses in this country, but increasing the minimum wage will have a positive effect. I say that because when you look at the total impact on payrolls in this country, by increasing the minimum wage to \$7.25 per hour, it represents about one-fifth of 1 percent of the entire payroll of our Nation. It is not going to have a dramatic impact on the cost of labor. What it does is try to help wage earners in this country who are suffering.

I believe in a liveable wage. I believe we need to do much better than a minimum wage, but you need to increase

the minimum wage if we are going to be able to get to a liveable wage in this country. We need to do something about the disparities among the incomes of wage earners of America.

We had a hearing in the Budget Committee not long ago. The Chairman of the Federal Reserve System talked about the fact that this Nation among the industrial nations in the world has the largest disparity among wealth in wage earners. We need to do something about that. Increasing the minimum wage will have a positive impact on those issues.

The fiscal policy group looked at the effect of minimum wage increases of States that have gone above the Federal minimum wage. I represent one of those States. Maryland has increased its minimum wage to \$6.15 per hour. The growth rates in the States that have increased the minimum wage are actually higher than those that have the Federal minimum wage, a growth rate of 9.4 percent versus a growth rate of 6.6 percent.

Every time Congress has increased the minimum wage in prior Congresses, it has had a positive impact on the overall growth of our economy. When you look at the minimum wage increases, if wage earners at the minimum wage had received the same increase in the minimum wage that the CEOs have received over the last 15 years, the minimum wage earners in fast food restaurants today would be making over \$23 an hour.

This is an issue that needs to be addressed. Who is affected by it? There are 6.6 million Americans who make the minimum wage. It disproportionately affects women. Although women represent 48 percent of the workforce of America, they represent 61 percent of those who are at the minimum wage. Over 70 percent of the people receiving minimum wage are over 20 years of age, and over one-third are parents—760,000 are single moms.

I mention that because today, if you work 52 weeks a year, 40 hours a week, and you are a family of 2, you live below the poverty rate. You are doing everything right, working 40 hours a week, don't take a day off for the entire year, yet you are still below the Federal poverty rate.

That should not be in America. We can do better than that. Since the last time we increased the minimum wage, the per capita cost of health care has risen by 60 percent, college costs have increased by 51 percent for public schools, debts for students graduated from college have more than doubled, credit debt has increased by 46 percent, and we have the lowest effective minimum wage in 50 years. The last time we increased the minimum wage was 10 years ago. I was proud to have voted for that when I was in the other body. It is now time that we follow or pass what the other body has done and increase the minimum wage to \$7.25 an hour over a three-stage process. It is the right thing to do.

It is not only right for our economy, it is not only the right thing to do as far as how it affects the individual wage earner in trying to bring about some fairness, but it is the right thing to do in regard to what is correct for our country on civil rights.

Let me quote a famous American who said:

We know of no more critical civil rights issue facing Congress today than the need to increase the Federal minimum wage and extend its coverage.

That was stated by Dr. Martin Luther King, Jr., March 18, 1966, when the minimum wage was comparable in purchasing power to what it is today when Congress finally increased the minimum wage. We should have increased the minimum wage before now. We have the opportunity to do this in this Congress. Now is the time for us to act. Now is the time for us to work in a bipartisan manner as we have on previous increases in the minimum wage. I hope my colleagues will work on this bill and get it done this week. It is the right thing to do. It will help our economy, and it is long overdue.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak as in morning business for 10 minutes.

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

#### GLOBAL WARMING

Mr. BINGAMAN. Madam President, the issue of global warming is more and more on the minds of Americans. There is good reason why it is. I think we are familiar now with the litany of adverse consequences that is associated with unlimited release of greenhouse gases into the atmosphere. The scientific reports are warning us about rising sea levels, about dangerous heat waves, about increasingly devastating hurricanes and other weather events. There are always uncertainties about understanding the Earth's climate, but one thing is clear: Uncontrolled release of greenhouse gases into the atmosphere with no real strategy to reduce those gases is irresponsible and dangerous at this point in our history. It is a great challenge that we face to reduce these emissions in this country and countries around the world. Even individual States within the United States, and regions of this country, are leading the way in dealing with this issue.

The truth is, unless the United States as a whole and the developing countries that have rapidly growing economies find a way to reduce emissions, we are likely to see this entire planet covered with a blanket of gases that will take centuries to dissipate.

In 2005 the Senate passed a resolution setting forth an approach to tackling the challenges of climate change. That resolution called for adoption of a mandatory, economy-wide program that will slow, stop, and then reverse

greenhouse gas emissions without harming the economy and that will encourage action by developing nations. Meeting those various tests set out in that resolution will require a bipartisan commitment to understand the impact of any legislative approach.

Today I am joining with my colleague, Senator SPECTER from Pennsylvania, in circulating a bipartisan discussion draft on global warming legislation. The choice to release this discussion draft reflects our desire to modify or approve that legislation in the coming months before it is introduced. This is our commitment to create a bipartisan process that will focus discussion in a constructive direction.

I see three main challenges that we face in this process. First, we need to persuade our colleagues on the program that we have chosen; that is, a cap and trade proposal that incorporates market-based mechanisms and funding for technology development. In 2005 over 53 Members of the Senate went on record in support of such a proposal by defending that sense-of-the-Senate resolution and voting for it. We need to continue to expand that number. We need to engage the administration, which has refused to support such measures for reducing greenhouse gases.

To begin to meet this first challenge, I would like to call the attention of my colleagues to two documents. The first is an analysis by the Department of Energy's Energy Information Administration, or EIA. This was in September of last year. I joined with five other Senators in submitting a request, a discussion draft to the Energy Information Administration asking them to analyze it. Earlier this month, they returned with very favorable results, showing that it is possible to implement a cap-and-trade proposal that begins to reduce the growth of greenhouse gas emissions without harming the economy. The Energy Information Administration of this administration showed that the program has only minor impacts on gross domestic product—a quarter of 1 percent by 2030. That is equal to slowing the rate of economic growth by roughly 1 month over the next 20-plus years.

I ask unanimous consent to have printed in the RECORD the executive summary of this EIA analysis following the completion of my remarks.

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

(See Exhibit 1.)

Mr. BINGAMAN. The second document to which I wish to call attention is a study by the nonpartisan Congressional Budget Office. In October of 2005, Senator JEFFORDS and I asked CBO to address a debate that has been occurring in the Senate. Most experts agree that significant cuts in fossil fuel use is required if we are to reduce greenhouse gas emissions. But there has been a debate about whether the appropriate strategy was to exclusively fund technology development through tax

incentives and through Federal programs or, on the contrary, to put a price on carbon by implementing a cap-and-trade proposal. CBO's analysis demonstrated that the most effective policy was a combination of these two.

I ask unanimous consent to have printed in the RECORD the summary of that CBO report following the completion of my remarks as well.

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

(See Exhibit 2.)

Mr. BINGAMAN. Madam President, the second challenge we face in this debate is to figure out the appropriate way to structure a cap-and-trade program. Putting targets and timetables aside for a moment and determining the appropriate structure of a cap-and-trade system in order that it functions properly will require an enormous amount of focus and attention. For over a year, I have worked in a bipartisan manner with my colleague from New Mexico, Senator DOMENICI, to explore many of these issues. In February of last year we released a white paper from the Energy Committee entitled, "Design Elements of a Mandatory Market-Based Greenhouse Gas Regulatory System." That white paper laid out four basic questions about the design of the cap-and-trade proposal. I was very encouraged that we received detailed and constructive comments from over 150 major companies, NGOs, and individuals.

On April 4, 2006, we hosted a day-long workshop with 29 of these respondents talking about their reaction to the white paper. This was the first such discussion in Congress to have taken place. My colleagues can find a transcript of this conference on the U.S. Government Printing Office Web site. I also ask unanimous consent to have printed in the RECORD a joint statement from my colleague, Senator DOMENICI, and myself that summarized the conference.

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

(See Exhibit 3.)

Mr. BINGAMAN. Madam President, the third challenge we face in making progress on this issue is getting political consensus on the right levels of control. Here I am talking about the level of stringency and the aggressiveness of the program. There have already been a number of bills introduced this year. I commend all my colleagues who dedicated their time and effort to addressing this issue. First and foremost, of course, Senators LIEBERMAN and MCCAIN have reintroduced their legislation. These two Senators have been leaders on the issue from the beginning. Also, Senators SANDERS and BOXER have reintroduced legislation that Senator JEFFORDS drafted last year, and I commend them for their leadership and their bold vision. As chairs of the two committees engage in the debate on global warming issues, I plan to work very closely with Senator BOXER to ensure that everything we do

will keep momentum on global warming legislation moving forward.

I also commend Senators FEINSTEIN and CARPER for working together to introduce legislation last week. Senator FEINSTEIN was on our Energy Committee. She is not on that committee in this Congress, and she will be missed. But her leadership in this area is very important.

I also would like to acknowledge and congratulate the efforts of the U.S. Climate Action Partnership. This is a unique and diverse group of industry and NGOs that have come together to offer principles on global warming legislation and recommendations for that legislation.

With all these bills and strategies for reducing greenhouse gases on the table, it is vital that we work together to craft sensible policy that can be enacted sooner rather than later. The science tells us that action is needed immediately and that the longer we delay the more difficult the problem will be. I believe the modest impacts that are identified from our proposal, the one Senator SPECTER and I are circulating, as shown by the Energy Information Administration analysis, will provide a basis to explore somewhat more aggressive reduction targets. It is for this reason that we do not want to introduce our bill without first giving great deliberation to different targets and approaches that could gain political consensus in passing legislation.

One thing is clear: We cannot delay. For this reason, I hope to promote a legislative approach that will reflect a constructive center in this often polarized debate.

In circulating this discussion draft, Senator SPECTER and I are setting forth a process. The first step of the process is to invite Senate offices to a series of workshops with experts on the issue to educate and understand the impacts of the legislation. These sessions will be open to Senate staff. We also, of course, want to invite participation or observation by representatives from the administration. The first of the workshops will be February 2 in the afternoon.

We also need to hear from the public and interested stakeholders. In the coming weeks, Senator SPECTER and I will be outlining a process to meet with stakeholders from industry, labor, environmental groups, and others. We plan to solicit their comments on the legislative text. A copy of the discussion draft and supporting documents will be posted on the Energy Committee Web site—energy.senate.gov. I encourage interested parties to look at that draft and to monitor the Web site for further developments.

Madam President, following all of the other items that I have mentioned to be printed in the RECORD, I ask unanimous consent that the discussion draft that Senator SPECTER and I are circulating also be printed in the RECORD following the other documents.

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

(See Exhibit 4.)

#### EXHIBIT 1

##### ENERGY MARKET AND ECONOMIC IMPACTS OF A PROPOSAL TO REDUCE GREENHOUSE GAS INTENSITY WITH A CAP AND TRADE SYSTEM, JANUARY 2007

(Energy Information Administration, Office of Integrated Analysis and Forecasting, U.S. Department of Energy, Washington, DC)

#### EXECUTIVE SUMMARY

#### BACKGROUND

This report responds to a request from Senators Bingaman, Landrieu, Murkowski, Specter, Salazar, and Lugar for an analysis of a proposal that would regulate emissions of greenhouse gases (GHGs) through a national allowance cap-and-trade system. Under this proposal, suppliers of fossil fuel and other covered sources of GHGs would be required to submit government-issued allowances based on the emissions of their respective products. The gases covered in this analysis of the proposal include energy-related carbon dioxide, methane from coal mining, nitrous oxide from nitric acid and adipic acid production, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

The program would establish annual emissions caps based on targeted reductions in greenhouse gas intensity, defined as emissions per dollar of Gross Domestic Product (GDP). The targeted reduction in GHG intensity would be 2.6 percent annually between 2012 and 2021, then increase to 3.0 percent per year beginning in 2022. To limit its potential cost, the program includes a “safety-valve” provision that allows regulated entities to pay a pre-established emissions fee in lieu of submitting an allowance. The safety-valve price is initially set at \$7 (in nominal dollars) per metric ton of carbon dioxide equivalent (MMT<sub>CO<sub>2</sub></sub>e) in 2012 and increases each year by 5 percent over the projected rate of inflation, as measured by the projected increase in the implicit GDP price deflator. In 2004 dollars, the safety valve rises from \$5.89 in 2012 to \$14.18 in 2030.

The proposal calls for initially allocating 90 percent of the allowances for free to various affected groups, but the proportion of allowances to be auctioned grows from 10 percent in 2012 to 38 percent in 2030. The revenue from the auctions and any safety-valve payments are accumulated into a “Climate Change Trust Fund,” capped at \$50 billion, to provide incentives and pay for research, development, and deployment of technologies to reduce greenhouse gas emissions. The U.S. Treasury would retain any revenue collected in excess of the \$50-billion limit.

As specified in the request for the analysis, EIA considered both a Phased Auction case, which allocates allowances as specified in the proposal, and a Full Auction case, in which all allowances are assumed to be auctioned beginning in 2012. Because they share the same emissions targets and safety valve prices, the energy sector impacts in the Phased and Full Auction cases are very similar. The only areas where the impacts in the two cases differ are for electricity prices and the economic impacts associated with collection and use of revenue from the sale of allowances. Several additional sensitivity cases examine the impacts of higher and lower safety valves and limiting the use of emission reduction credits, or offsets, from noncovered entities. The proposal and its variants were modeled using the National Energy Modeling System and compared to the reference case projections from the Annual Energy Outlook 2006 (AEO2006).

The analysis presented in this report builds on previous EIA analyses addressing GHG limitation, including earlier EIA re-

ports requested by Senator Bingaman, Senator Salazar, and Senators Inhofe, McCain, and Lieberman. All of the analysis cases incorporate the economic and technology assumptions used in the AEO2006 reference case. While increased expenditures for research and development (R&D) resulting from the creation of the Climate Change Trust Fund are expected to lead to some technology improvements, a statistically reliable relationship between the level of R&D spending for specific technologies and the impacts of those expenditures has not been developed. Furthermore, the impact of Federal R&D is also difficult to assess, because the levels of private sector R&D expenditures usually are unknown and often far exceed R&D spending by the Federal Government.

However, the recent reports for Senators Bingaman and Salazar include additional sensitivity analyses on the assumptions made regarding the availability of GHG emissions reductions outside the energy sector and the pace of advances in technology used to produce and consume energy. The report for Senators Inhofe, McCain, and Lieberman also examines the economic implications of possible alternative approaches to recycling revenues collected by government under a cap-and-trade program in which significant amounts of government revenue is collected from allowance auctions. Alternative assumptions in these areas can have a major impact on the results obtained, and the insights from those prior sensitivity cases would also be applicable to the proposal analyzed this report. Readers interested in how the results reported below might be affected by different assumptions in these areas are encouraged to review the earlier reports.

The modeled impacts of the proposal are summarized below. Reported results apply for the \$7 Phased Auction case, unless otherwise stated. Energy and allowance prices are reported in 2004 dollars for compatibility with AEO2006. Macroeconomic time series such as GDP and consumption expenditures are reported in 2000 chain-weighted dollars to maintain consistency with standard reports of U.S. economic statistics. Projections of the aggregate value of allowances and auction revenues and fiscal impacts on the budget surplus are reported in nominal dollars, as are deposits relating to the Climate Change Trust Fund.

#### RESULTS

##### Emissions and Allowance Prices

The proposal leads to lower GHG emissions than in the reference case, but the intensity reduction targets are not fully achieved after 2025. Some regulated entities would opt to make safety-valve payments beginning in 2026, the year in which the market value of allowances is projected to reach the safety-valve level (Table ESI). With the higher safety-valve prices in the \$9 Phased Auction sensitivity case, the intensity targets are attained through 2029.

Relative to the reference case, covered GHG emissions less offsets are 562 MMT<sub>CO<sub>2</sub></sub>e (7.4 percent) lower in 2020 and 1,259 MMT<sub>CO<sub>2</sub></sub>e (14.4 percent) lower in 2030 in the Phased Auction case. Covered GHG emissions grow by 24 percent between 2004 and 2030, about half the increase in the reference case.

In the early years of the program, when allowance prices are relatively low, reductions in GHG emissions outside the energy sector are the predominant source of emissions reductions. In 2020, reductions of GHGs other than energy-related CO<sub>2</sub>, estimated based on information provided by the Environmental Protection Agency, account for nearly 66 percent of the total reductions. By 2030, however, the higher allowance prices lead to a

significant shift in energy decisions, particularly in the electricity sector, and the reduction in energy-related CO<sub>2</sub> emissions account for almost 58 percent of total GHG emissions reductions.

An allowance allocation incentive for carbon sequestration, available only in the Phased Auction case, is projected to result in an additional emissions impact of 296 MMTCO<sub>2</sub>e in 2020 and 311 MMTCO<sub>2</sub>e in 2030, or about 4 percent of covered emissions.

In 2004 dollars, the allowance prices rise from just over \$3.70 per metric tons CO<sub>2</sub> equivalent in 2012 to the safety valve price of \$14.18 metric tons CO<sub>2</sub> equivalent in 2030.

#### Energy Markets

The cost of GHG allowances is passed through to consumers, raising the price of fossil fuels charged and providing an incentive to lower energy use and shift away from fossil fuels, particularly in the electric power sector.

When allowance costs are included, the average delivered price of coal to power plants in 2020 increases from \$1.39 per million Btu in the reference case to \$2.06, an increase of 48 percent. By 2030 the change grows from \$1.51 per million Btu in the reference case to \$2.73 per million Btu, an increase of 81 percent.

Electricity prices are somewhat lower in the Phased Auction case than in the Full Auction case because the Phased Auction provides a portion of the allowances to the electric power sector for free, a benefit that is passed on to ratepayers where the recipients are subject to cost-of-service regulation. Electricity prices in 2020 are 3.6 and 5.6 percent higher than in the reference case in the Phased and Full Auction cases, respectively. In 2030, electricity prices are 11 and 13 percent above the reference case level. Electricity price impacts are likely to vary across states and regions due to differences in State regulatory regimes and in the fuel mix used for generation in each area.

Relative to the reference case, annual per household energy expenditures in 2020 are 2.6

percent (\$41) higher in the Phased Auction case and 3.6 percent (\$58) higher in the Full Auction case. By 2030, projected annual per household energy expenditures range from 7.0 percent to 8.1 percent (\$118 to \$136) higher in the two cases. The difference primarily reflects the lower electricity prices in the Phased Auction case.

Coal use is projected to continue to grow, but at a much slower rate than in the reference case. Total energy from coal increases by 23 percent between 2004 and 2030, less than half the 53-percent increase projected in the reference case over the same time period.

The proposal significantly boosts nuclear capacity additions and generation. The projected 47-gigawatt increase in nuclear capacity between 2004 and 2030 allows nuclear to continue to provide about 20 percent of the Nation's electricity in 2030. In the reference case, nuclear capacity increases by only 9 gigawatts between 2005 and 2030.

The proposal also adds significantly to renewable generation. In the reference case, renewable generation is projected to increase from 358 billion kilowatt hours in 2004 to 559 billion kilowatt hours in 2030. In the Phased Auction case, renewable generation increases to 572 billion kilowatt hours by 2020 and 823 billion kilowatt hours by 2030. Most of the increase in renewable generation is expected to be from non-hydroelectric renewable generators, mainly biomass and wind.

Retail gasoline prices in 2030 are \$0.11 per gallon higher in 2030 compared to the AE02006 reference case, leading to modest changes in vehicle purchase and travel decisions. The transportation sector provides only a small amount of emissions reduction.

#### Economy

While the Phased Auction and Full Auction cases have similar energy market impacts, the macroeconomic impacts of the two cases differ because of differences in the revenue flows associated with emission allowances.

In the Phased Auction case, the \$50-billion cap (nominal dollars) on the maximum cumulative deposits to the Climate Change Trust Fund is reached in 2017, and all subsequent revenues from allowance sales or safety valve payments go to the U.S. Treasury. This leads to a \$59-billion reduction in the Federal deficit by 2030. However, in the Full Auction case, the revenues flowing to the government are much larger, resulting in a \$200-billion reduction in the Federal deficit in 2030.

In the Phased Auction case, wholesale energy prices rise steadily and, by 2030, are approximately 12 percent above the reference case levels (after inflation). This translates into 8-percent higher energy prices at the consumer level by 2030 and a 1-percent increase in the All-Urban Consumer Price Index (CPI) above the reference case level.

In the Phased Auction case, discounted total GDP (in 2000 dollars) over the 2009–2030 time period is \$232 billion (0.10 percent) lower than in the reference case, while discounted real consumer spending is \$236 billion (0.14 percent) lower. In 2030, in the Phased Auction case, real GDP is projected to be \$59 billion (0.26 percent) lower than in the reference case, while aggregate consumption expenditures, which relate more directly to impacts on consumers, are \$55 billion (0.36 percent) lower. The reductions in GDP and consumption reflect the rise in energy prices and the resulting decline in personal disposable income.

While higher energy costs and lower consumption expenditures tend to discourage investment, many provisions of the bill help to support investment activity. The value of allowances allocated to States is substantial, and some portion of the allowance revenue would likely result in increased investment. In addition, the portion of the allowance allocated to the private sector generates funds which would help spur private investment in energy saving technologies.

TABLE ES1.—SUMMARY ENERGY MARKET RESULTS FOR THE REFERENCE AND \$7 PHASED AUCTION CASES

Projection	2020		2030	
	AE02006 reference	Phased auction	AE02006 reference	Phased auction
<b>Emissions of Greenhouse Gases (million metric tons CO<sub>2</sub> equivalent)</b>				
Energy-Related Carbon Dioxide .....	5,900	7,119	6,926	8,114
Other Covered Emissions .....	259	452	195	627
<b>Total Covered emissions .....</b>	<b>6,159</b>	<b>7,571</b>	<b>7,121</b>	<b>8,742</b>
<b>Total Greenhouse Gases .....</b>	<b>7,122</b>	<b>8,649</b>	<b>8,087</b>	<b>9,930</b>
<b>Emissions Reduction from Reference Case (million metric tons CO<sub>2</sub> equivalent)</b>				
Energy-Related Carbon Dioxide .....	—	—	193	—
Other Covered Emissions .....	—	—	258	—
Nonenergy Offset Credits .....	—	—	111	—
Carbon Sequestration .....	—	—	296	—
<b>Total Emission Reductions .....</b>	<b>—</b>	<b>—</b>	<b>562</b>	<b>—</b>
<b>Total (including sequestration) .....</b>	<b>—</b>	<b>—</b>	<b>858</b>	<b>—</b>
Allowance Price (2004 Dollars per metric ton CO <sub>2</sub> equivalent) .....	—	—	7.15	—
<b>Delivered Energy Prices (2004 dollars per unit indicated) (includes allowance costs)</b>				
Motor Gasoline (per gallon) .....	1.90	2.08	2.14	2.19
Jet Fuel (per gallon) .....	1.22	1.42	1.50	1.56
Distillate (per gallon) .....	1.74	1.93	2.04	2.06
Natural Gas (per thousand cubic feet)				
Residential .....	7.74	7.14	7.55	8.22
Electric Power .....	10.72	10.48	10.87	11.67
Coal, Electric Power (per million Btu) .....	6.07	5.53	5.99	6.41
Electricity (cents per kilowatthour) .....	1.39	1.39	2.06	1.51
Fossil Energy Consumption quadrillion Btu				
Petroleum .....	40.1	48.1	47.2	53.6
Natural Gas .....	23.1	27.7	27.4	27.7
Coal .....	22.5	27.6	26.4	34.5
<b>Electricity Generation (billion kilowatthours)</b>				
Petroleum .....	120	107	49	115
Natural Gas .....	702	1,103	1,184	993
Coal .....	1,977	2,505	2,370	3,381
Nuclear .....	789	871	871	871
Renewable .....	358	515	572	559
<b>Total .....</b>	<b>3,955</b>	<b>5,108</b>	<b>5,055</b>	<b>5,926</b>

Source: National Energy Modeling System runs AE02006.DII905A and BL\_PHASED7.D112006B.

GDP and consumption impacts in the Full Auction case are substantially larger than those in the Phased Auction case. Relative to the reference case, discounted total GDP (in 2000 dollars) over the 2009–2030 time period in the Full Auction case is \$462 billion (0.19 percent lower), while discounted real consumer spending is \$483 billion (0.29 percent) lower. In 2030, projected real GDP in the Full Auction case is \$94 billion (0.41 percent) lower than in the reference case, while aggregate consumption is \$106 billion (0.69 percent) lower, almost twice the estimated consumption loss in the Phased Auction case. These results reflect the substantially higher level of auction revenues under the Full Auction case, which, by assumption, are not re-circulated into the economy beyond the \$50 billion in expenditures from the Climate Change Trust Fund. Because these estimated impacts could change significantly under alternative revenue recycling assumptions, these results do not imply a general conclusion that a Phased Auction will necessarily result in lesser impacts on GDP and consumption than a Full Auction.

#### EXHIBIT 2

#### A CBO PAPER, SEPTEMBER 2006: EVALUATING THE ROLE OF PRICES AND R&D IN REDUCING CARBON DIOXIDE EMISSIONS

##### SUMMARY AND INTRODUCTION

Several important human activities—most notably the worldwide burning of coal, oil, and natural gas—are gradually increasing the concentrations of carbon dioxide and other greenhouse gases in the atmosphere and, in the view of many climate scientists, are gradually warming the global climate. That warming, and any long-term damage that might result from it, could be reduced by restraining the growth of greenhouse gas emissions and ultimately limiting them to a level that stabilized atmospheric concentrations.

The magnitude of warming and the damages that might result are highly uncertain, in part because they depend on the amount of emissions that will occur both now and in the future, how the global climate system will respond to rising concentrations of greenhouse gases in the atmosphere, and how changes in climate will affect the health of human and natural systems. The costs of restraining emissions are also highly uncertain, in part because they will depend on the development of new technologies. From an economic point of view, the challenge to policymakers is to implement policies that balance the uncertain costs of restraining emissions against the benefits of avoiding uncertain damages from global warming or that minimize the cost of achieving a target level of concentrations or level of annual emissions.

Researchers have studied the relative efficacy—as well as the appropriate timing—of various policies that might discourage emissions of carbon dioxide (referred to as carbon emissions in the rest of this paper), which makes up the vast majority of greenhouse gases, and restrain the growth of its atmospheric concentration. This paper presents qualitative findings from that research, which are largely dependent of any particular estimate of the costs or benefits of reducing emissions. The paper's conclusions are summarized below.

##### Policies for reducing carbon emissions

The possibility of climate change involves two distinct “market failures” that prevent unregulated markets from achieving the appropriate balance between fossil fuel use and changes in the climate. One market failure involves the external effects of emissions from the combustion of fossil fuels—that is,

the costs that are imposed on society by the use of fossil fuels but that are not reflected in the prices paid for them. The other market failure is a general underinvestment in research and development (R&D) that occurs because investments in innovation may yield “spillover” benefits to society that do not translate into profits for the innovating firm. The first market failure yields inefficiently high use of fossil fuels; the second yields inefficiently low R&D.

Because there are two separate market failures, an efficient response is likely to involve two separate types of policies:

One type of policy would reduce carbon emissions by increasing the costs of emitting carbon, both in the near term and in the future, to reflect the damages that those emissions are expected to cause.

The other type of policy would increase federal support for R&D on various technologies that could help restrain the growth of carbon emissions and would create spillover benefits.

Policymakers could increase the cost of emitting carbon by setting a price on those emissions. That could be accomplished by taxing fossil fuels in proportion to their carbon content (which is released when the fuels are burned) or by establishing a “cap-and-trade” program under which policymakers would set an overall cap on emissions but allow fossil fuel suppliers to trade rights (called allowances) to those limited emissions. Either a tax or a cap-and-trade program would cause the prices of goods and services to rise to reflect the amount of carbon emitted as a result of their consumption. To the extent that a carbon tax or allowance price reflected the present value of expected damages, such policies would encourage users of fossil fuels to account for the costs they impose on others through their emissions of greenhouse gases.

Researchers generally conclude that the appropriate price for carbon would be relatively low in the near term but would rise substantially over time, resulting in relatively modest reductions in emissions in the near term followed by larger reductions in the future. Phasing in price increases would allow firms to gradually replace their stock of physical capital associated with energy use and to gain experience in using new technologies that emit less carbon. Firms would have an incentive to invest in developing new technologies on the basis of their expectations about future prices for emissions.

Federal support could be provided for the research and development of technologies that would lead to lower emissions. Such technologies could include improvements in energy efficiency; advances in low- or zero emissions technologies (such as nuclear, wind, or solar power); and development of sequestration technologies, which capture and store carbon for long periods. Federal support would probably be most cost-effective if it went toward basic research on technologies that are in the early stages of development. Such research is more likely to be underfunded in the absence of government support because it is more likely to create knowledge that is beneficial to other firms but that does not generate profits for the firm conducting the research.

##### *The interaction and timing of policies*

Pricing and R&D policies are neither mutually exclusive nor entirely independent—both could be implemented simultaneously, and each would tend to enhance the other. Pricing policies would tend to encourage the use of existing carbon-reducing technologies as well as provide incentives for firms to develop new ones; federal funding of R&D would augment private efforts; and success-

ful R&D investments would reduce the price required to achieve a given level of reductions in emissions.

Neither policy alone is likely to be as effective as a strategy involving both policies. Relying exclusively on R&D funding in the near term, for example, does not appear likely to be consistent with the goal of balancing costs and benefits or the goal of minimizing the costs of meeting an emissions reduction target. At any point in time, there is a cost continuum for emissions reductions, ranging from low-cost to high-cost opportunities. Unless R&D efforts virtually eliminated the value of near-term reductions in emissions (an outcome that appears unlikely given reasonable assumptions about the payoff of R&D efforts), waiting to begin initial pricing (to encourage low-cost reductions) would increase the overall cost of reducing emissions in the long run.

Near-term reductions in emissions achieved with existing technologies could be valuable even if fundamentally new energy technologies would be needed to prevent the buildup of greenhouse gases in the atmosphere from reaching a point that triggered a rapid increase in damages. Near-term reductions could take advantage of low-cost opportunities to avoid adding to the stock of gases in the atmosphere and could allow additional time for new technologies to be developed and put in place. That additional time could prove quite valuable, given that R&D efforts are highly uncertain and that the process of putting new energy systems in place could be slow and costly.

Determining the appropriate mix of policies to address climate change is complicated by the fact that future policies would be layered on a complex mix of current and past policies, all of which affect today's use of fossil fuels and their alternatives as well as the amount of R&D. The analyses reviewed in this paper typically do not account for existing policies or for the administrative costs of implementing a carbon-pricing program or of initiating a larger (and perhaps redesigned) R&D program for carbon-reducing technologies. However, the qualitative conclusion reached in those analyses—that costs would be minimized by a combination of gradually increasing emissions prices coupled with subsidies for R&D—is not likely to be affected by such considerations.

##### *A global concern*

The causes and consequences of climate change are global, and reductions in U.S. emissions alone would be unlikely to have a significant impact. Cost-effective mitigation policies would require coordinated international efforts and would involve overcoming institutional barriers to the diffusion of new technologies in developing countries, such as India and China. If a domestic carbon-pricing program significantly increased the prices of U.S.-produced goods—and was not matched by efforts to reduce emissions in other countries—it could cause carbon-intensive industries to relocate to countries without similar restrictions, diminishing the environmental benefits of a domestic program.

However, successful domestic R&D efforts, whether funded by the public or private sector, could lower the costs of reducing carbon emissions in other countries as well as within the United States. Some new technologies, such as those that yielded improvements in energy efficiency, might be deployed without additional incentives. Other innovations, such as sequestration technologies or alternative energy technologies that reduce carbon emissions but cost more than their fossil-fuel-based alternatives, would be unlikely to be deployed without financial incentives to reduce carbon emissions.

## EXHIBIT 3

CHAIRMAN AND RANKING MEMBER STATEMENT:  
CLIMATE CHANGE CONFERENCE

On April 4, 2006, the Senate Committee on Energy and Natural Resources held a conference to discuss critical issues involved in the design of a mandatory greenhouse gas (GHG) program. More than 300 people attended the event and over 160 organizations and individuals submitted detailed written comments.

Although the issue of climate change continues to elicit a diverse array of opinions, we are encouraged that a number of general themes are emerging that could form the basis of eventual solutions to reducing greenhouse gas emissions.

The following discussion reflects our perception of key areas where there appears to be a narrowing of disagreement and in some cases an emerging consensus. Of course it is not our intent to imply that there is now or will ever be an absolute unanimity of opinion on issues related to climate change, especially on a greenhouse gas regulatory mechanism. Nevertheless, we remain committed to exploring the development of solutions consistent with the requirements set forth in the June 22, 2005, Sense of the Senate Resolution. We continue to work together with our colleagues on the Committee on Energy and Natural Resources and throughout the Senate to fashion reasonable policy solutions to the key issues identified at the April 4, 2006, Workshop and look forward to ongoing input and engagement from interested stakeholders.

CONCEPTUAL DIRECTION FOR REDUCING  
GREENHOUSE GAS EMISSIONS

In both the written submissions and comments at the workshop, many participants and respondents expressed the view that the risks associated with a changing climate justified the adoption of mandatory limits on greenhouse gas emissions. While opinions varied on the stringency of initial limits, there was support for the notion that a program should begin modestly and strengthen gradually over time. Consistent with the success of the acid rain program and other market-based approaches, most participants supported a market-based approach that would set a "forward price" on greenhouse gas emissions in order to provide both the flexibility and incentive needed to accelerate technology development and deployment.

Most participants recognized that if the price signal initially imposed under a domestic regime is modest, it is unlikely to be strong enough to motivate the development and deployment of the key technologies that will ultimately be needed to eventually eliminate GHG emissions. In order to speed technology deployment, there was general agreement that some portion of the proceeds of a permit auction should be used to enhance current technology incentives. Again there was disagreement about the appropriate size of a permit auction and the means of directing these resources toward technology innovation. Ultimately, we perceive agreement that a GHG policy should provide a combination of a market signal and increased incentives for technology innovation.

In addition to general support for the overall goals of the Sense of the Senate Resolution, we are encouraged by the similarity of views with respect to several of the key questions raised in the White Paper:

**Economy-wide approach:** A threshold decision in designing a mandatory GHG emission reduction program is whether the program should address GHG's on an economy-wide basis or whether the program should focus on the GHG emissions of just one or more sectors of the economy. In general, there was

agreement on the need for economy-wide action to address the wide diversity of sources of GHG's. Many participants argued that an economy-wide program is the most equitable and efficient approach.

**Upstream or hybrid point of regulation:** Most participants supported either an entirely upstream or a hybrid approach for point of regulation. In an "upstream" regulatory approach, the point of regulation is placed closer to energy producers and suppliers than to end-use consumers. Specifically, a requirement to acquire permits or allowances for emissions associated with fossil fuel use might apply to coal mining companies, petroleum refiners, and natural gas shippers, processors or pipelines rather than to the "smokestack" entities (e.g., electric utilities, large industrial plants). Under a "hybrid" approach, major stationary sources that burn coal would be regulated at the point of combustion, while natural gas and petroleum related emissions would be addressed upstream (at refineries for petroleum and at either shippers, processors, or pipelines for natural gas). Regulating the carbon content of fuels at the point in which energy enters the economy was described by many as providing the most complete coverage through the most manageable regulatory approach. However, several participants noted that the efficiency of an upstream program would not be diminished if only major stationary sources were carved out for regulation at the source of combustion. They note that these sources are limited in number and already have the monitoring and knowledge in place necessary to implement such requirements due to participation in the acid rain program.

**Offsets and set-asides:** There was general agreement about the benefits of emission reduction projects at sources outside of a cap on GHG emissions. However, there was some disagreement about how to ensure the environmental integrity of these types of projects. Some panelists argued that offsets could provide low-cost emission reductions and could create incentives for new technologies and approaches. In particular, a few panelists specifically mentioned the potential for offset opportunities in the agricultural sector. Others noted that offsets could dilute the environmental benefit of a mandatory program unless they are accompanied by rigorous and standardized baseline and measurement protocols. An additional option would be to dedicate a percentage of allowances from within a program's overall allowance allocation for offset activities that are less easily verified.

**Links to other trading programs:** Ultimately, GHG emissions cannot be reduced absent an effort that includes meaningful participation from all nations with significant GHG emissions. An emission reduction program in the U.S. could be designed to leave open the possibility of trading with GHG systems in other countries. Most panelists at the conference agreed that linking to other domestic emissions trading programs is theoretically more efficient. However, a few panelists also noted that differences in the design of domestic trading programs (e.g., different target levels, different monitoring and verification systems) may complicate linking programs and make it politically difficult in the near-term.

**Developing country action:** Many participants agreed that an important component of a U.S. GHG program should encourage major trading partners and large emitters of GHG's to take actions that are comparable to those taken by the U.S. Panelists noted that ultimately, action by major developing countries like China and India is critical to address climate change. There was also discussion of the competitive implications if

the U.S. takes action to address climate change and other major trading partners do not. Not all, but many panelists said that the U.S. should not wait for developing countries to act. Rather, the U.S. should take a cautious first step toward mandatory action with additional action conditioned on an evaluation of the efforts of major developing country emitters. There was debate about how to measure progress when different countries have different national circumstances. There was also discussion about the best process for evaluating the actions of developing countries and about how much discretion there should be in this process.

**Allowance distribution:** Multiple views were expressed at the conference on the best approach to allowance distribution. However, a significant number of panelists emphasized that not all allowances need be distributed for free at the point of regulation. For example, several panelists endorsed the concept of using cost burden as a principle for allocation. In other words, even if a sector is not at the point of regulation, it still might receive some allowances to mitigate the cost impacts of a mandatory program. In addition, some panelists argued for the benefits of allowance auctions. According to this view, auctions can level the playing field for new facilities, and can create an incentive for lower-carbon technology. Auctions may also avoid the need for complex allocation rules that might result in unintended competitive advantages, including windfall profits, for certain market participants. On the other hand, some panelists noted the political difficulties of an auction approach and suggested a gradual transition to an auction. Finally, the discussion on allowance distribution highlighted the diverse economic, regulatory, social, and political considerations associated with this issue. There were a number of creative suggestions at the conference on how to accommodate these different considerations.

Based on the discussion at the conference, we believe the following principles for allocation are emerging:

Allowances should be allocated in a manner that recognizes and roughly addresses the disparate costs imposed by the program.

Allowances should not be allocated solely to regulated entities because such entities do not solely bear the costs of the emissions trading program.

A portion of the allowances should be auctioned (or used for "set-aside" programs), with revenues used to advance climate-related policy goals and other public purposes.

Over time, an allowance distribution approach should transition from approaches that attempt to fairly compensate sectors for past investments in carbon intensive technologies to approaches that create incentives for energy efficiency and lower carbon technologies. In practice, this means a gradual transition over an extended period of time from a largely free allocation of allowances to the use of an auction as the predominant method for distribution of allowances.

## NEXT STEPS

The Committee intends to continue soliciting comments on the major points that have been summarized from the conference and on the emerging allowance allocation principles that have been described. The Committee recognizes that any proposals for a mandatory GHG program will deserve further input from affected stakeholders and Members of Congress. We encourage stakeholders and congressional offices to provide the Committee with ideas and suggestions for expanding general findings to the next level of specificity. Please contact John Peschke or Jonathan Black if you have further thoughts or input.

## EXHIBIT 4

S.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Act of \_\_\_\_\_”.

**SEC. 2. ACTIONS TO ADDRESS GLOBAL CLIMATE.**

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended—

(1) by inserting after the title designation and heading the following:

**“Subtitle A—General Provisions”;**

and

(2) by adding at the end the following:

**“Subtitle B—Actions to Address Global Climate Change****SEC. 1611. PURPOSE.**

“The purpose of this subtitle is to reduce greenhouse gas emissions intensity in the United States, beginning in calendar year 2012, through an emissions trading system designed to achieve emissions reductions at the lowest practicable cost to the United States.

**SEC. 1612. DEFINITIONS.**

“In this subtitle:

“(1) CARBON DIOXIDE EQUIVALENT.—The term ‘carbon dioxide equivalent’ means—

“(A) for each covered fuel, the quantity of carbon dioxide that would be emitted into the atmosphere as a result of complete combustion of a unit of the covered fuel, to be determined for the type of covered fuel by the Secretary; and

“(B) for each greenhouse gas (other than carbon dioxide) the quantity of carbon dioxide that would have an effect on global warming equal to the effect of a unit of the greenhouse gas, as determined by the Secretary, taking into consideration global warming potentials.

“(2) COVERED FUEL.—The term ‘covered fuel’ means—

“(A) coal;

“(B) petroleum products;

“(C) natural gas;

“(D) natural gas liquids; and

“(E) any other fuel derived from fossil hydrocarbons (including bitumen and kerogen).

“(3) COVERED GREENHOUSE GAS EMISSIONS.—

“(A) IN GENERAL.—The term ‘covered greenhouse gas emissions’ means—

“(i) the carbon dioxide emissions from combustion of covered fuel carried out in the United States; and

“(ii) nonfuel-related greenhouse gas emissions in the United States, determined in accordance with section 1615(b)(2).

“(B) UNITS.—Quantities of covered greenhouse gas emissions shall be measured and expressed in units of metric tons of carbon dioxide equivalent.

“(4) EMISSIONS INTENSITY.—The term ‘emissions intensity’ means, for any calendar year, the quotient obtained by dividing—

“(A) covered greenhouse gas emissions; by

“(B) the forecasted GDP for that calendar year.

“(5) FORECASTED GDP.—The term ‘forecasted GDP’ means the predicted amount of the gross domestic product of the United States, based on the most current projection used by the Energy Information Administration of the Department of Energy on the date on which the prediction is made.

“(6) FORECASTED GDP IMPLICIT PRICE DEFULATOR.—The term ‘forecasted GDP implicit price deflator’ means [TO BE SUPPLIED].

“(7) GREENHOUSE GAS.—The term ‘greenhouse gas’ means—

“(A) carbon dioxide;

“(B) methane;

“(C) nitrous oxide;

“(D) hydrofluorocarbons;

“(E) perfluorocarbons; and

“(F) sulfur hexafluoride.

“(8) INITIAL ALLOCATION PERIOD.—The term ‘initial allocation period’ means the period beginning January 1, 2012, and ending December 31, 2021.

“(9) NATURAL GAS PROCESSING PLANT.—The term ‘natural gas processing plant’ means a facility designed to separate natural gas liquids from natural gas.]

“(10) NONFUEL REGULATED ENTITY.—The term ‘nonfuel regulated entity’ means—

“(A) the owner or operator of a facility that manufactures hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide;

“(B) an importer of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide;

“(C) the owner or operator of a facility that emits nitrous oxide associated with the manufacture of adipic acid or nitric acid;

“(D) the owner or operator of an aluminum smelter;

“(E) the owner or operator of an underground coal mine that emitted more than 35,000,000 cubic feet of methane during 2004 or any subsequent calendar year; and

“(F) the owner or operator of a facility that emits hydrofluorocarbon-23 as a byproduct of hydrochlorofluorocarbon-22 production.

“(11) OFFSET PROJECT.—The term ‘offset project’ means any project to—

“(A) reduce greenhouse gas emissions; or

“(B) sequester a greenhouse gas.

“(12) PETROLEUM PRODUCT.—The term ‘petroleum product’ means—

“(A) a refined petroleum product;

“(B) residual fuel oil;

“(C) petroleum coke; or

“(D) a liquefied petroleum gas.

“(13) REGULATED ENTITY.—The term ‘regulated entity’ means—

“(A) a regulated fuel distributor; or

“(B) a nonfuel regulated entity.

“(14) REGULATED FUEL DISTRIBUTOR.—The term ‘regulated fuel distributor’ means—

“(A) the owner or operator of—

“(i) a petroleum refinery;

“(ii) a coal mine that produces more than 10,000 short tons during 2004 or any subsequent calendar year; or

“(iii) a natural gas processing plant [size threshold];

“(B) an importer of—

“(i) petroleum products;

“(ii) coal;

“(iii) coke; or

“(iv) natural gas liquids; or

“(C) any other entity the Secretary determines under section 1615(b)(3)(A)(ii) to be subject to section 1615.

“(15) SAFETY VALVE PRICE.—The term ‘safety valve price’ means—

“(A) for 2012, \$7 per metric ton of carbon dioxide equivalent; and

“(B) for each subsequent calendar year, an amount equal to the product obtained by multiplying—

“(i) the safety valve price established for the preceding calendar year increased by 5 percent, unless a different rate of increase is established for the calendar year under section 1622; and

“(ii) the ratio that—

“(I) the forecasted GDP implicit price deflator for the calendar year; bears to

“(II) the forecasted GDP implicit price deflator for the preceding calendar year.

“(16) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy, unless the President designates another officer of the Executive Branch to carry out a function under this subtitle.

“(17) SUBSEQUENT ALLOCATION PERIOD.—The term ‘subsequent allocation period’ means—

“(A) the 5-year period beginning January 1, 2022, and ending December 31, 2026; and

“(B) each subsequent 5-year period.

**“SEC. 1613. QUANTITY OF ANNUAL GREENHOUSE GAS ALLOWANCES.**

“(a) INITIAL ALLOCATION PERIOD.—

“(1) IN GENERAL.—Not later than December 31, 2008, the Secretary shall—

“(A) make a projection with respect to emissions intensity for 2011, using—

“(i) the Energy Information Administration’s most current projections of covered greenhouse gas emissions for 2011; and

“(ii) the forecasted GDP for 2011;

“(B) determine the emissions intensity target for 2012 by calculating a 2.6 percent reduction from the projected emissions intensity for 2011;

“(C) in accordance with paragraph (2), determine the emissions intensity target for each calendar year of the initial allocation period after 2012; and

“(D) in accordance with paragraph (3), determine the total number of allowances to be allocated for each calendar year during the initial allocation period.

“(2) EMISSIONS INTENSITY TARGETS AFTER 2012.—For each calendar year during the initial allocation period after 2012, the emissions intensity target shall be the emissions intensity target established for the preceding calendar year reduced by 2.6 percent.

“(3) TOTAL ALLOWANCES.—For each calendar year during the initial allocation period, the quantity of allowances to be issued shall be equal to the product obtained by multiplying—

“(A) the emissions intensity target established for the calendar year; and

“(B) the forecasted GDP for the calendar year.

“(b) SUBSEQUENT ALLOCATION PERIODS.—

“(1) IN GENERAL.—Not later than the date that is 4 years before the beginning of each subsequent allocation period, the Secretary shall—

“(A) except as directed under section 1622, determine the emissions intensity target for each calendar year during that subsequent allocation period, in accordance with paragraph (2); and

“(B) issue the total number of allowances for each calendar year of the subsequent allocation period, in accordance with paragraph (3).

“(2) EMISSIONS INTENSITY TARGETS.—For each calendar year during a subsequent allocation period, the emissions intensity target shall be the emissions intensity target established for the preceding calendar year reduced by 3.0 percent.

“(3) TOTAL ALLOWANCES.—For each calendar year during a subsequent allocation period, the quantity of allowances to be issued shall be equal to the product obtained by multiplying—

“(A) the emissions intensity target established for the calendar year; and

“(B) the forecasted GDP for the calendar year.

“(c) ADMINISTRATIVE REQUIREMENTS.—

“(1) DENOMINATION.—Allowances issued by the Secretary under this section shall be denominated in units of metric tons of carbon dioxide equivalent.

“(2) PERIOD OF USE.—An allowance issued by the Secretary under this section may be used during—

“(A) the calendar year for which the allowance is issued; or

“(B) any subsequent calendar year.

“(3) SERIAL NUMBERS.—The Secretary shall—

“(A) assign a unique serial number to each allowance issued under this subtitle; and

“(B) retire the serial number of an allowance on the date on which the allowance is submitted under section 1615.

**“SEC. 1614. ALLOCATION AND AUCTION OF GREENHOUSE GAS ALLOWANCES.”****“(a) ALLOCATION OF ALLOWANCES.—****“(1) DEFINITION OF STATE.—**In this subsection, the term ‘State’ means—

“(A) each of the several States of the United States;

“(B) the District of Columbia;

“(C) the Commonwealth of Puerto Rico;

“(D) Guam;

“(E) American Samoa;

“(F) the Commonwealth of the Northern Mariana Islands;

“(G) the Federated States of Micronesia;

“(H) the Republic of the Marshall Islands;

“(I) the Republic of Palau; and

“(J) the United States Virgin Islands.

**“(2) ALLOCATIONS.—**Not later than the date that is 2 years before the beginning of the initial allocation period, and each subsequent allocation period, the Secretary shall allocate for each calendar year during the allocation period a quantity of allowances in accordance with this subsection.**“(3) QUANTITY.—**The total quantity of allowances available to be allocated to industry and States **[OR: to industry and by the President]** for each calendar year of an allocation period shall be the product obtained by multiplying—

“(A) the total quantity of allowances issued for the calendar year under subsection (a)(3) or (b)(3) of section 1613; and

“(B) the allocation percentage for the calendar year under subsection (c).

**“(4) ALLOWANCE ALLOCATION RULEMAKING.—**Not later than 18 months after the date of enactment of this subtitle, the Secretary shall establish, by rule, procedures for allocating allowances in accordance with the criteria established under this subsection, including requirements (including forms and schedules for submission) for the reporting of information necessary for the allocation of allowances under this section.**“(5) DISTRIBUTION OF ALLOWANCES TO INDUSTRY.—**The allowances available for allocation to industry under paragraph (3) shall be distributed as follows:**“(A) COAL MINES.—****“(i) DEFINITION OF ELIGIBLE COAL MINE.—**In this subparagraph, the term ‘eligible coal mine’ means a coal mine located in the United States that is a regulated fuel distributor.**“(ii) TOTAL ALLOCATION.—**For each year, eligible coal mines shall be allocated  $\frac{1}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(iii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to an eligible coal mine shall be the quantity equal to the product obtained by multiplying—

“(I) the total allocation to eligible coal mines under clause (ii); and

“(II) the ratio that—

“(aa) the carbon content of coal produced at the eligible coal mine during the 3-year period beginning on January 1, 2004; bears to

“(bb) the carbon content of coal produced at all eligible coal mines in the United States during that period.

**“(B) PETROLEUM REFINERS.—****“(i) TOTAL ALLOCATION.—**For each year, the petroleum refining sector shall be allocated  $\frac{1}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(ii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to a petroleum refinery located in the United States shall be the quantity equal to the product obtained by multiplying—

“(I) the total allocation to the petroleum refining sector under clause (i); and

“(II) the ratio that—

“(aa) the carbon content of petroleum products produced at the refinery during the

3-year period beginning on January 1, 2004; bears to

“(bb) the carbon content of petroleum products produced at all refineries in the United States during that period.

**“(C) NATURAL GAS PROCESSORS.—****“(i) DEFINITION OF ELIGIBLE NATURAL GAS PROCESSOR.—**In this subparagraph, the term ‘eligible natural gas processor’ means a natural gas processor located in the United States that is a regulated fuel distributor.**“(ii) TOTAL ALLOCATION.—**For each year, eligible natural gas processors shall be allocated  $\frac{1}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(iii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to an eligible natural gas processor shall be the quantity equal to the product obtained by multiplying—

“(I) the total allocation to eligible natural gas processors under clause (ii); and

“(II) the ratio that—

“(aa) the sum of, for the 3-year period beginning on January 1, 2004—

“(AA) the carbon content of natural gas liquids produced by the eligible natural gas processor; and

“(BB) the carbon content of the natural gas delivered into commerce by the eligible natural gas processor; bears to

“(bb) the sum of, for that period—

“(AA) the carbon content of natural gas liquids produced by all eligible natural gas processors; and

“(BB) the carbon content of the natural gas delivered into commerce by all eligible natural gas processors.

**“(D) ELECTRICITY GENERATORS.—****“(i) DEFINITION OF ELIGIBLE ELECTRICITY GENERATOR.—**In this subparagraph, the term ‘eligible electricity generator’ means an electricity generator located in the United States that is a fossil fuel-fired electricity generator.**“(ii) TOTAL ALLOCATION.—**For each year, eligible electricity generators shall be allocated  $\frac{3}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(iii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to an eligible electricity generator shall be the quantity equal to the product obtained by multiplying—

“(I) the total allocation to eligible electricity generators under clause (ii); and

“(II) the ratio that—

“(aa) the carbon content of the fossil fuel input of the eligible electricity generator during the 3-year period beginning on January 1, 2004; bears to

“(bb) the total carbon content of fossil fuel input of eligible electricity generators in the United States during that period.

**“(E) CARBON-INTENSIVE MANUFACTURING SECTORS.—****“(i) DEFINITION OF ELIGIBLE MANUFACTURER.—**In this subparagraph, the term ‘eligible manufacturer’ means a carbon-intensive manufacturer located in the United States that **[used more than \_\_\_\_\_; need to define/specify; need to exclude fossil fuel-fired electricity generation.]****“(ii) TOTAL ALLOCATION.—**For each year, eligible manufacturers shall be allocated  $\frac{10}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(iii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to an eligible manufacturer shall be the quantity equal to the product obtained by multiplying—

“(I) the total allocation to eligible manufacturers under clause (ii); and

“(II) the ratio that—

“(aa) the carbon content of fossil fuel combusted at the eligible manufacturer during the 3-year period beginning on January 1, 2004; bears to

“(bb) the total carbon content of fossil fuel combusted at all eligible manufacturers in the United States during that period.

**“(F) NONFUEL REGULATED ENTITIES.—****“(i) TOTAL ALLOCATION.—**For each year, nonfuel regulated entities shall be allocated  $\frac{1}{55}$  of the total quantity of allowances available for allocation to industry under paragraph (3).**“(ii) INDIVIDUAL ALLOCATIONS.—**For any year, the quantity of allowances allocated to a nonfuel regulated entity shall be the quantity equal to the product obtained by multiplying—

(I) the total allocation to nonfuel regulated entities under clause (i); and

(II) the ratio that—

(aa) the carbon dioxide equivalent of the nonfuel-related greenhouse gas produced or emitted by the nonfuel regulated entity at facilities in the United States during the 3-year period beginning on January 1, 2004; bears to

(bb) the carbon dioxide equivalent of the nonfuel-related greenhouse gases produced or emitted by all nonfuel regulated entities at facilities in the United States during that period.

**“(6) ALLOWANCES TO STATES.—****“(A) DISTRIBUTION.—**The allowances available for allocation to States under paragraph (3) shall be distributed as follows:(i) For each year,  $\frac{1}{2}$  of the quantity of allowances available for allocation to States under paragraph (3) shall be allocated among the States based on the ratio that—

(I) the greenhouse gas emissions of the State during the 3-year period beginning on January 1, 2004; bears to

(II) the greenhouse gas emissions of all States for that period.

(ii) For each year,  $\frac{1}{2}$  of the quantity of allowances available for allocation to States under paragraph (3) shall be allocated among the States based on the ratio that—

(I) the population of the State, as determined by the 2000 decennial census; bears to

(II) the population of all States as determined by that census.

**“(B) USE.—**(i) **IN GENERAL.—**During any year, a State shall use not less than 90 percent of the allowances allocated to the State for that year—

(I) to mitigate impacts on low-income energy consumers;

(II) to promote energy efficiency;

(III) to promote investment in nonemitting electricity generation technology;

(IV) to encourage advances in energy technology that reduce or sequester greenhouse gas emissions;

(V) to avoid distortions in competitive electricity markets;

(VI) to mitigate obstacles to investment by new entrants in electricity generation markets;

(VII) to address local or regional impacts of climate change policy, including providing assistance to displaced workers;

(VIII) to mitigate impacts on energy-intensive industries in internationally-competitive markets; or

(IX) to enhance energy security.

(ii) **DEADLINE.—**A State shall allocate allowances for use in accordance with clause (i) by not later than 1 year before the beginning of each allowance allocation period.(6) **[POSSIBLE SUBSTITUTE FOR (6)]** distribution of allowances by president.—(A) **IN GENERAL.—**The President shall distribute the allowances available for allocation by the President under paragraph (3) in a manner designed to mitigate the undue impacts of the program under this subtitle.]

“(B) USE.—During any year, the President shall use not less than 90 percent of the allowances available for allocation by the President for that year.]

[(i) to mitigate impacts on low-income energy consumers;]

[(ii) to promote energy efficiency;]

[(iii) to promote investment in nonemitting electricity generation technology;]

[(iv) to support advances in energy technology that reduce or sequester greenhouse gas emissions;]

[(v) to avoid distortions in competitive electricity markets;]

[(vi) to mitigate obstacles to investment by new entrants in electricity generation markets;]

[(vii) to address local or regional impacts of climate change policy, including providing assistance to displaced workers;]

[(viii) to mitigate impacts on energy-intensive industries in internationally-competitive markets; and]

[(ix) to enhance energy security.]

“(C) DEADLINE.—The President shall allocate allowances for use in accordance with subparagraph (B) by not later than 1 year before the beginning of each allowance allocation period. [Corresponding changes needed elsewhere if this paragraph is selected.]

“(7) COST OF ALLOWANCES.—The Secretary shall distribute allowances under this subsection at no cost to the recipient of the allowance.

“(b) AUCTION OF ALLOWANCES.—

“(1) IN GENERAL.—The Secretary shall establish, by rule, a procedure for the auction of a quantity of allowances during each calendar year in accordance with paragraph (2).

“(2) BASE QUANTITY.—The base quantity of allowances to be auctioned during a calendar year shall be the product obtained by multiplying—

“(A) the total number of allowances for the calendar year under subsection (a)(3) or (b)(3) of section 1613; and

“(B) the auction percentage for the calendar year under subsection (c).

“(3) SCHEDULE.—The auction of allowances shall be held on the following schedule:

“(A) In 2009, the Secretary shall auction—

“(i) ½ of the allowances available for auction for 2012; and

“(ii) ½ of the allowances available for auction for 2013.

“(B) In 2010, the Secretary shall auction ½ of the allowances available for auction for 2014.

“(C) In 2011, the Secretary shall auction ½ of the allowances available for auction for 2015.

“(D) In 2012 and each subsequent calendar year, the Secretary shall auction—

“(i) ½ of the allowances available for auction for that calendar year; and

“(ii) ½ of the allowances available for auction for the calendar year that is 4 years after that calendar year.

“(4) UNDISTRIBUTED ALLOWANCES.—In an auction held during any calendar year, the Secretary shall auction any allowance that was—

“(A) available for allocation by the Secretary under subsection (a) for the calendar year, but not distributed;

“(B) available during the preceding calendar year for an agricultural sequestration or early reduction activity under section 1620 or 1621, but not distributed during that calendar year; or

“(C) available for distribution by a State under subsection (a)(6), but not distributed by the date that is 1 year before the beginning of the applicable allocation period.

“(C) AVAILABLE PERCENTAGES.—Except as directed under section 1622, the percentage of the total quantity of allowances for each calendar year to be available for allocation, agricultural sequestration and early reduction projects, and auction shall be determined in accordance with the following table:

Year	Percentage Allocated to Industry	Percentage Allocated to States	Percentage Available for Agricultural Sequestration	Percentage Available for Early Reduction Allowances	Percentage Auctioned
2012 .....	55	29	5	1	10
2013 .....	55	29	5	1	10
2014 .....	55	29	5	1	10
2015 .....	55	29	5	1	10
2016 .....	55	29	5	1	10
2017 .....	53	29	5	1	12
2018 .....	51	29	5	1	14
2019 .....	49	29	5	1	16
2020 .....	47	29	5	1	18
2021 .....	45	29	5	1	20
2022 and thereafter ...	2 less than allocated to industry in the prior year, but not less than 0	30	5	0	2 more than available for auction in the prior year, but not more than 65

#### “SEC. 1615. SUBMISSION OF ALLOWANCES.

##### “(a) REQUIREMENTS.—

“(1) REGULATED FUEL DISTRIBUTORS.—For calendar year 2012 and each calendar year thereafter, each regulated fuel distributor shall submit to the Secretary a number of allowances equal to the carbon dioxide equivalent of the quantity of covered fuel, determined in accordance with subsection (b)(1), for the regulated fuel distributor.

“(2) NONFUEL REGULATED ENTITIES.—For 2012 and each calendar year thereafter, each nonfuel regulated entity shall submit to the Secretary a number of allowances equal to the carbon dioxide equivalent of the quantity of nonfuel-related greenhouse gas, determined in accordance with subsection (b)(2), for the nonfuel regulated entity.

##### “(b) REGULATED QUANTITIES.—

“(1) COVERED FUELS.—For purposes of subsection (a)(1), the quantity of covered fuel shall be equal to—

“(A) for a petroleum refinery located in the United States, the quantity of petroleum

products refined, produced, or consumed at the refinery;

“(B) for a natural gas processing plant located in the United States, a quantity equal to the sum of—

“(i) the quantity of natural gas liquids produced or consumed at the plant; and

“(ii) the quantity of natural gas delivered into commerce from, or consumed at, the plant;

“(C) for a coal mine located in the United States, the quantity of coal produced or consumed at the mine; and

“(D) for an importer of coal, petroleum products, or natural gas liquids into the United States, the quantity of coal, petroleum products, or natural gas liquids imported into the United States.

“(2) NONFUEL-RELATED GREENHOUSE GASES.—For purposes of subsection (a)(2), the quantity of nonfuel-related greenhouse gas shall be equal to—

“(A) for a manufacturer or importer of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide, the quantity

of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide produced or imported by the manufacturer or importer;

“(B) for an underground coal mine, the quantity of methane emitted by the coal mine;

“(C) for a facility that manufactures adipic acid or nitric acid, the quantity of nitrous oxide emitted by the facility;

“(D) for an aluminum smelter, the quantity of perfluorocarbons emitted by the smelter; and

“(E) for a facility that produces hydrochlorofluorocarbon-22, the quantity of hydrofluorocarbon-23 emitted by the facility.

##### “(3) ADJUSTMENTS.—

##### “(A) REGULATED FUEL DISTRIBUTORS.—

“(i) Modification.—The Secretary may modify, by rule, a quantity of covered fuels under paragraph (1) if the Secretary determines that the modification is necessary to ensure that—

“(I) allowances are submitted for all units of covered fuel; and

“(II) allowances are not submitted for the same quantity of covered fuel by more than 1 regulated fuel distributor.

“(ii) EXTENSION.—The Secretary may extend, by rule, the requirement to submit allowances under subsection (a)(1) to an entity that is not a regulated fuel distributor if the Secretary determines that the extension is necessary to ensure that allowances are submitted for all covered fuels.

“(B) NONFUEL REGULATED ENTITIES.—The Secretary may modify, by rule, a quantity of nonfuel-related greenhouse gases under paragraph (2) if the Secretary determines the modification is necessary to ensure that allowances are not submitted for the same volume of nonfuel-related greenhouse gas by more than 1 regulated entity.

“(c) DEADLINE FOR SUBMISSION.—Any entity required to submit an allowance to the Secretary under this section shall submit the allowance not later than March 31 of the calendar year following the calendar year for which the allowance is required to be submitted.

“(d) REGULATIONS.—The Secretary shall promulgate such regulations as the Secretary determines to be necessary or appropriate to—

“(1) identify and register each regulated entity that is required to submit an allowance under this section; and

“(2) require the submission of reports and otherwise obtain any information the Secretary determines to be necessary to calculate or verify the compliance of a regulated entity with any requirement under this section.

“(e) EXEMPTION AUTHORITY FOR NON-FUEL REGULATED ENTITIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may exempt from the requirements of this subtitle an entity that emits, manufactures, or imports nonfuel-related greenhouse gases for any period during which the Secretary determines, after providing an opportunity for public comment, that measuring or estimating the quantity of greenhouse gases emitted, manufactured, or imported by the entity is not feasible.

“(2) EXCLUSION.—The Secretary may not exempt a regulated fuel distributor from the requirements of this subtitle under paragraph (1).

“(f) RETIREMENT OF ALLOWANCES.—

“(1) IN GENERAL.—Any person or entity that is not subject to this subtitle may submit to the Secretary an allowance for retirement at any time.

“(2) ACTION BY SECRETARY.—On receipt of an allowance under paragraph (1), the Secretary—

“(A) shall accept the allowance; and

“(B) shall not allocate, auction, or otherwise reissue the allowance.

“(g) SUBMISSION OF CREDITS.—A regulated entity may submit a credit distributed by the Secretary pursuant to section 1618, 1619, or 1622(e) in lieu of an allowance.

“(h) CLEAN DEVELOPMENT MECHANISM CERTIFIED EMISSION REDUCTIONS.—

“(1) IN GENERAL.—The Secretary shall establish, by regulation, procedures under which a regulated entity may submit a clean development mechanism certified emission reduction in lieu of an allowance under this section.

“(2) CLEAR TITLE AND PREVENTION OF DOUBLE-COUNTING.—Procedures established by the Secretary under this subsection shall include such provisions as the Secretary considers to be appropriate to ensure that—

“(A) a regulated entity that submits a clean development mechanism certified emission reduction in lieu of an allowance has clear title to that certified emission reduction; and

“(B) a clean development mechanism certified emission reduction submitted in lieu of an allowance has not been and cannot be used in the future for compliance purposes under any foreign greenhouse gas regulatory program.

“(i) STUDY ON PROCESS EMISSIONS.—

“(1) IN GENERAL.—Not later than [ ] 1, the Secretary shall—

“(A) carry out a study of the feasibility of requiring the submission of allowances for process emissions not otherwise covered by this subtitle; and

“(B) submit to Congress a report that describes the results of the study (including recommendations of the Secretary based on those results).

#### SEC. 1616. SAFETY VALVE.

“The Secretary shall accept from a regulated entity a payment of the applicable safety valve price for a calendar year in lieu of submission of an allowance under section 1615 for that calendar year.

#### SEC. 1617. ALLOWANCE TRADING SYSTEM.

“(a) IN GENERAL.—The Secretary shall—

“(1) establish, by rule, a trading system under which allowances and credits may be sold, exchanged, purchased, or transferred by any person or entity, including a registry for issuing, recording, and tracking allowances and credits; and

“(2) specify all procedures and requirements required for orderly functioning of the trading system.

“(b) TRANSPARENCY.—

“(1) IN GENERAL.—The trading system under subsection (a) shall include such provisions as the Secretary considers to be appropriate to—

“(A) facilitate price transparency and participation in the market for allowances and credits; and

“(B) protect buyers and sellers of allowances and credits, and the public, from the adverse effects of collusion and other anti-competitive behaviors.

“(2) AUTHORITY TO OBTAIN INFORMATION.—The Secretary may obtain any information the Secretary considers to be necessary to carry out this section from any person or entity that buys, sells, exchanges, or otherwise transfers an allowance or credit.

“(c) BANKING.—Any allowance or credit may be submitted for compliance during any year following the year for which the allowance or credit was issued.

#### SEC. 1618. CREDITS FOR FEEDSTOCKS AND EXPORTS.

“(a) IN GENERAL.—The Secretary shall establish, by rule, a program under which the Secretary distributes credits to entities in accordance with this section.

“(b) USE OF FUELS AS FEEDSTOCKS.—If the Secretary determines that an entity has used a covered fuel as a feedstock so that the carbon dioxide associated with the covered fuel will not be emitted, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the quantity of covered fuel used as feedstock by the entity during that year, measured in carbon dioxide equivalents.

“(c) EXPORTERS OF COVERED FUEL.—If the Secretary determines that an entity has exported covered fuel, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the quantity of covered fuel exported by the entity during that year, measured in carbon dioxide equivalents.

“(d) OTHER EXPORTERS.—If the Secretary determines that an entity has exported hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the volume of

hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide exported by the entity during that year, measured in carbon dioxide equivalents.

#### SEC. 1619. CREDITS FOR OFFSET PROJECTS.

“(a) ESTABLISHMENT.—The Secretary shall establish, by regulation, a program under which the Secretary shall distribute credits to entities that carry out offset projects in the United States that—

“(1)(A) reduce any greenhouse gas emissions that are not covered greenhouse gas emissions; or

“(B) sequester a greenhouse gas;

“(2) meet the requirements of section 1623(c); and

“(3) are consistent with maintaining the environmental integrity of the program under this subtitle.

#### “(b) CATEGORIES OF OFFSET PROJECTS ELIGIBLE FOR STREAMLINED PROCEDURES.—

“(1) IN GENERAL.—The program established under this section shall include the use of streamlined procedures for distributing credits to categories of projects for which the Secretary determines there are broadly-accepted standards or methodologies for quantifying and verifying the greenhouse gas emission mitigation benefits of the projects.

“(2) CATEGORIES OF PROJECTS.—The streamlined procedures described in paragraph (1) shall apply to—

“(A) geologic sequestration projects not involving enhanced oil recovery;

“(B) landfill methane use projects;

“(C) animal waste or municipal wastewater methane use projects;

“(D) projects to reduce sulfur hexafluoride emissions from transformers;

“(E) projects to destroy hydrofluorocarbons; and

“(F) such other categories of projects as the Secretary may specify by regulation.

“(c) OTHER PROJECTS.—With respect to an offset project that is eligible to be carried out under this section but that is not classified within any project category described in subsection (b), the Secretary may distribute credits on a basis of less than 1-credit-for-1-ton.

“(d) INELIGIBLE OFFSET PROJECTS.—An offset project shall not be eligible to receive a credit under this section if the offset project is eligible to receive credits or allowances under section 1618, 1620, 1621, or 1622(e).

#### SEC. 1620. EARLY REDUCTION ALLOWANCES.

“(a) ESTABLISHMENT.—The Secretary shall establish, by rule, a program under which the Secretary distributes to any entity that carries out a project to reduce or sequester greenhouse gas emissions before the initial allocation period a quantity of allowances that reflects the actual emissions reductions or net sequestration of the project, as determined by the Secretary.

“(b) AVAILABLE ALLOWANCES.—The total quantity of allowances distributed under subsection (a) may not exceed the product obtained by multiplying—

“(1) the total number of allowances issued for the calendar year under subsection (a)(3) of section 1613; and

“(2) the percentage available for early reduction allowances for the calendar year under section 1614(c).

“(c) ELIGIBILITY.—The Secretary may distribute allowances for early reduction projects only to an entity that has reported the reduced or sequestered greenhouse gas emissions under—

“(1) the Voluntary Reporting of Greenhouse Gases Program of the Energy Information Administration under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b));

“(2) the Climate Leaders Program of the Environmental Protection Agency; or

“(3) a State-administered or privately-administered registry that includes early reduction actions not covered under the programs described in paragraphs (1) and (2).

**“SEC. 1621. AGRICULTURAL SEQUESTRATION PROJECTS.**

“(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish, by rule, a program under which agricultural sequestration allowances are distributed to entities that carry out soil carbon sequestration projects [and other projects?] that—

“(1) meet the requirements of section 1623(c); and

“(2) achieve sequestration results that are—

“(A) greater than sequestration results achieved pursuant to standard agricultural practices; and

“(B) long-term.]

“(b) QUANTITY.—During a calendar year, the Secretary of Agriculture shall distribute agricultural sequestration allowances in a quantity not greater than the product obtained by multiplying—

“(1) the total number of allowances issued for the calendar year under section 1613; and

“(2) the percentage of allowances available for agricultural sequestration under section 1614(c).

“(c) OVERSUBSCRIPTION.—If, during a calendar year, the qualifying agricultural sequestration exceeds the quantity of agricultural sequestration allowances available for distribution under subsection (b), the Secretary of Agriculture may distribute allowances on a basis of less than 1-allowance-for-1-ton.

**“SEC. 1622. CONGRESSIONAL REVIEW.**

“(a) INTERAGENCY REVIEW.—

“(1) IN GENERAL.—Not later than January 15, 2016, and every 5 years thereafter, the President shall establish an interagency group to review and make recommendations relating to—

“(A) each program under this subtitle; and

“(B) any similar program of a foreign country described in paragraph (2).

“(2) COUNTRIES TO BE REVIEWED.—An interagency group established under paragraph (1) shall review actions and programs relating to greenhouse gas emissions of—

“(A) each member country (other than the United States) of the Organisation for Economic Co-operation and Development;

“(B) China;

“(C) India;

“(D) Brazil;

“(E) Mexico;

“(F) Russia; and

“(G) Ukraine.

“(3) INCLUSIONS.—A review under paragraph (1) shall—

“(A) for the countries described in paragraph (2), analyze whether the countries that are the highest emitting countries and, collectively, contribute at least 75 percent of the total greenhouse gas emissions of those countries have taken action that—

“(i) in the case of member countries of the Organisation for Economic Co-operation and Development, is comparable to that of the United States; and

“(ii) in the case of China, India, Brazil, Mexico, Russia, and Ukraine, is significant, contemporaneous, and equitable compared to action taken by the United States;

“(B) analyze whether each of the 5 largest trading partners of the United States, as of the date on which the review is conducted, has taken action with respect to greenhouse gas emissions that is comparable to action taken by the United States;

“(C) analyze whether the programs established under this subtitle have contributed to an increase in electricity imports from Canada or Mexico; and

“(D) make recommendations with respect to whether—

“(i) the rate of reduction of emissions intensity under subsection (a)(2) or (b)(2) of section 1613 should be modified; and

“(ii) the rate of increase of the safety valve price should be modified.

“(4) SUPPLEMENTARY REVIEW ELEMENTS.—A review under paragraph (1) may include an analysis of—

“(A) the feasibility of regulating owners or operators of entities that—

“(i) emit nonfuel-related greenhouse gases; and

“(ii) that are not subject to this subtitle;

“(B) whether the percentage of allowances for any calendar year that are auctioned under section 1614(c) should be modified;

“(C) whether regulated entities should be allowed to submit credits issued under foreign greenhouse gas regulatory programs in lieu of allowances under section 1615;

“(D) whether the Secretary should distribute credits for offset projects carried out outside the United States that do not receive credit under a foreign greenhouse gas program; and

“(E) whether and how the value of allowances or credits banked for use during a future year should be discounted if an acceleration in the rate of increase of the safety

valve price is recommended under paragraph (3)(D)(ii).

“(5) NATIONAL RESEARCH COUNCIL REPORTS.—The President may request such reports from the National Research Council as the President determines to be necessary and appropriate to support the interagency review process under this subsection.

**“(b) REPORT.—**

“(1) IN GENERAL.—Not later than January 15, 2017, and every 5 years thereafter, the President shall submit to the House of Representatives and the Senate a report describing any recommendation of the President with respect to changes in the programs under this subtitle.

“(2) RECOMMENDATIONS.—A recommendation under paragraph (1) shall take into consideration the results of the most recent interagency review under subsection (a).

**“(c) CONGRESSIONAL ACTION.—**

“(1) CONSIDERATION.—Not later than September 30 of any calendar year during which a report is to be submitted under subsection (b), the House of Representatives and the Senate may consider a joint resolution, in accordance with paragraph (2), that—

“(A) amends subsection (a)(2) or (b)(2) of section 1613;

“(B) modifies the safety valve price; or

“(C) modifies the percentage of allowances to be allocated under section 1614(c).

“(2) REQUIREMENTS.—A joint resolution considered under paragraph (1) shall—

“(A) be introduced during the 45-day period beginning on the date on which a report is required to be submitted under subsection (b); and

“(B) after the resolving clause and ‘That’, contain only 1 or more of the following:

“(i) ‘, effective beginning January 1, 2017, section 1613(a)(2) of the Energy Policy Act of 1992 is amended by striking ‘2.6’ and inserting ‘\_\_\_\_\_’.’;

“(ii) ‘, effective beginning \_\_\_\_\_, section 1613(b)(2) of the Energy Policy Act of 1992 is amended by striking ‘3.0’ and inserting ‘\_\_\_\_\_’.’;

“(iii) ‘, effective beginning \_\_\_\_\_, section 1612(13)(B) of the Energy Policy Act of 1992 is amended by striking ‘5 percent’ and inserting ‘\_\_\_\_\_ percent’.’;

“(iv) ‘the table under section 1614(c) of the Energy Policy Act of 1992 is amended by striking the line relating to calendar year 2022 and thereafter and inserting the following:

Year	Percentage Allocated to Industry	Percentage Allocated to States	Percentage Available for Agricultural Sequestration	Percentage Available for Early Reduction Allowances	Percentage Auctioned
2022 and thereafter ...	_____	_____	_____	_____	_____

“(3) APPLICABLE LAW.—Subsections (b) through (g) of section 802 of title 5, United States Code, shall apply to any joint resolution under this subsection.

“(d) FOREIGN CREDITS.—

“(1) REGULATIONS.—After taking into consideration the initial interagency review under section (a), the Secretary may promulgate regulations that authorize regulated entities to submit credits issued under foreign greenhouse gas regulatory programs in lieu of allowances under section 1615.

“(2) COMPARABLE PROGRAMS AND PREVENTION OF DOUBLE-COUNTING.—Regulations promulgated by the Secretary under paragraph (1) shall ensure that foreign credits submitted in lieu of allowances are—

“(A) from foreign greenhouse gas regulatory programs that the Secretary deter-

mines to have a level of environmental integrity that is not less than the level of environmental integrity of the programs under this subtitle; and

“(B) not also submitted for use in achieving compliance under any foreign greenhouse gas regulatory program.

“(e) INTERNATIONAL OFFSETS PROJECTS.—

“(1) ACTION BY THE SECRETARY.—After taking into consideration the results of the initial interagency review under section (a), the Secretary may promulgate regulations establishing a program under which the Secretary distributes credits to entities that—

“(A) carry out offset projects outside the United States that meet the requirements of section 1623(c);

“(B) maintain the environment integrity of the program under this subtitle; and

“(C) do not receive credits issued under a foreign greenhouse gas regulatory program.

“(2) STREAMLINED PROCEDURES AND PREVENTION OF DOUBLE-COUNTING.—Regulations promulgated by the Secretary under the paragraph (1) shall—

“(A) have streamlined procedures for distributing credits to projects for which the Secretary determines there are broadly-accepted standards or methodologies for quantifying and verifying the greenhouse gas emission mitigation benefits of the projects; and

“(B) ensure that offset project reductions credited under the program are not also credited under foreign programs.

**“SEC. 1623. MONITORING AND REPORTING.**

“(a) IN GENERAL.—The Secretary shall require, by rule, that a regulated entity shall

perform such monitoring and submit such reports as the Secretary determines to be necessary to carry out this subtitle.

“(b) SUBMISSION OF INFORMATION.—The Secretary shall establish, by rule, any procedure the Secretary determines to be necessary to ensure the completeness, consistency, transparency, and accuracy of reports under subsection (a), including—

“(1) accounting and reporting standards for covered greenhouse gas emissions;

“(2) standardized methods of calculating covered greenhouse gas emissions in specific industries from other information the Secretary determines to be available and reliable, such as energy consumption data, materials consumption data, production data, or other relevant activity data;

“(3) if the Secretary determines that a method described in paragraph (2) is not feasible for a regulated entity, a standardized method of estimating covered greenhouse gas emissions of the regulated entity;

“(4) a method of avoiding double counting of covered greenhouse gas emissions;

“(5) a procedure to prevent a regulated entity from avoiding the requirements of this subtitle by—

“(A) reorganization into multiple entities; or

“(B) outsourcing the operations or activities of the regulated entity with respect to covered greenhouse gas emissions; and

“(6) a procedure for the verification of data relating to covered greenhouse gas emissions by—

“(A) regulated entities; and

“(B) independent verification organizations.

“(c) DETERMINING ELIGIBILITY FOR CREDITS, AGRICULTURAL SEQUESTRATION ALLOWANCES, AND EARLY REDUCTION ALLOWANCES.—

“(1) IN GENERAL.—An entity shall provide the Secretary with the information described in paragraph (2) in connection with any application to receive—

“(A) a credit under section 1618, 1619, or 1622(e);

“(B) an early reduction allowance under section 1620 (unless, and to the extent that, the Secretary determines that providing the information would not be feasible for the entity); or

“(C) an agricultural sequestration allowance under section 1621.

“(2) REQUIRED INFORMATION.—

“(A) GREENHOUSE GAS EMISSIONS REDUCTION.—In the case of a greenhouse gas emissions reduction, the entity shall provide the Secretary with information verifying that, as determined by the Secretary—

“(i) the entity has achieved an actual reduction in greenhouse gas emissions—

“(I) relative to historic emissions levels of the entity; and

“(II) taking into consideration any increase in other greenhouse gas emissions of the entity; and

“(ii) if the reduction exceeds the net reduction of direct greenhouse gas emissions of the entity, the entity reported a reduction that was adjusted so as not to exceed the net reduction.

“(B) GREENHOUSE GAS SEQUESTRATION.—In the case of a greenhouse gas sequestration, the entity shall provide the Secretary with information verifying that, as determined by the Secretary, the entity has achieved actual increases in net sequestration, taking into account the total use of materials and energy by the entity in carrying out the sequestration.

**SEC. 1624. ENFORCEMENT.**

“(a) FAILURE TO SUBMIT ALLOWANCES.—

“(1) PAYMENT TO SECRETARY.—A regulated entity that fails to submit an allowance (or the safety valve price in lieu of an allow-

ance) for a calendar year not later than March 31 of the following calendar year shall pay to the Secretary, for each allowance the regulated entity failed to submit, an amount equal to the product obtained by multiplying—

“(A) the safety valve price for that calendar year; and

“(B) 3.

“(2) FAILURE TO PAY.—A regulated entity that fails to make a payment to the Secretary under paragraph (1) by December 31 of the calendar year following the calendar year for which the payment is due shall be subject to subsection (b) or (c), or both.

“(b) CIVIL ENFORCEMENT.—

“(1) PENALTY.—A person that the Secretary determines to be in violation of this subtitle shall be subject to a civil penalty of not more than \$25,000 for each day during which the entity is in violation, in addition to any amount required under subsection (a)(1).

“(2) INJUNCTION.—The Secretary may bring a civil action for a temporary or permanent injunction against any person described in paragraph (1).

“(c) CRIMINAL PENALTIES.—A person that willfully fails to comply with this subtitle shall be subject to a fine under title 18, United States Code, or imprisonment for not to exceed 5 years, or both.

**SEC. 1625. JUDICIAL REVIEW.**

“(a) IN GENERAL.—Except as provided in subsection (b), section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)) shall apply to a review of any rule issued under this subtitle in the same manner, and to the same extent, that section applies to a rule issued under sections 323, 324, and 325 of that Act (42 U.S.C. 6293, 6294, 6295).

“(b) EXCEPTION.—A petition for review of a rule under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

**SEC. 1626. ADMINISTRATIVE PROVISIONS.**

“(a) RULES AND ORDERS.—The Secretary may issue such rules and orders as the Secretary determines to be necessary or appropriate to carry out this subtitle.

“(b) DATA.—

“(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use any authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796).

“(2) DEFINITION OF ENERGY INFORMATION.—For the purposes of carrying out this subtitle, the definition of the term ‘energy information’ under section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) shall be considered to include any information the Secretary determines to be necessary or appropriate to carry out this subtitle.

**SEC. 1627. EARLY TECHNOLOGY DEPLOYMENT.**

“(a) TRUST FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury a trust fund, to be known as the ‘Climate Change Trust Fund’ (referred to in this section as the ‘Trust Fund’).

“(2) DEPOSITS.—The Secretary shall deposit into the Trust Fund any funds received by the Secretary under section 1614(b) or 1616.

“(3) MAXIMUM CUMULATIVE AMOUNT.—Not more than \$50,000,000,000 may be deposited into the Trust Fund.

“(b) DISTRIBUTION.—Beginning in fiscal year 2010, the Secretary shall transfer any funds deposited into the Trust Fund during the previous fiscal year as follows:

“(1) ZERO- OR LOW-CARBON ENERGY TECHNOLOGIES.—50 percent of the funds shall be transferred to the Secretary to carry out the zero- or low-carbon energy technologies program under subsection (c).

“(2) ADVANCED ENERGY TECHNOLOGIES INCENTIVE PROGRAM.—35 percent of the funds shall be transferred as follows:

“(A) ADVANCED COAL TECHNOLOGIES.—28 percent shall be transferred to the Secretary to carry out the advanced coal and sequestration technologies program under subsection (d).

“(B) CELLULOSIC BIOMASS.—7 percent shall be transferred to the Secretary to carry out—

“(i) the cellulosic biomass ethanol and municipal solid waste loan guarantee program under section 212(b) of the Clean Air Act (42 U.S.C. 7546(b));

“(ii) the cellulosic biomass ethanol conversion assistance program under section 212(e) of that Act (42 U.S.C. 7546(e)); and

“(iii) the fuel from cellulosic biomass program under subsection (e).

“(3) ADVANCED TECHNOLOGY VEHICLES.—15 percent shall be transferred to the Secretary to carry out the advanced technology vehicles manufacturing incentive program under subsection (f).

“(c) ZERO- OR LOW-CARBON ENERGY TECHNOLOGIES DEPLOYMENT.—

“(1) DEFINITIONS.—In this subsection:

“(A) ENERGY SAVINGS.—The term ‘energy savings’ means megawatt-hours of electricity or million British thermal units of natural gas saved by a product, in comparison to projected energy consumption under the energy efficiency standard applicable to the product.

“(B) HIGH-EFFICIENCY CONSUMER PRODUCT.—The term ‘high-efficiency consumer product’ means a covered product to which an energy conservation standard applies under section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), if the energy efficiency of the product exceeds the energy efficiency required under the standard.

“(C) ZERO- OR LOW-CARBON GENERATION.—The term ‘zero- or low-carbon generation’ means generation of electricity by an electric generation unit that—

“(i) emits no carbon dioxide into the atmosphere, or is fossil-fuel fired and emits into the atmosphere not more than 250 pounds of carbon dioxide per megawatt-hour (after adjustment for any carbon dioxide from the unit that is geologically sequestered); and

“(ii) was placed into commercial service after the date of enactment of this Act.

“(2) FINANCIAL INCENTIVES PROGRAM.—During each fiscal year beginning on or after October 1, 2008, the Secretary shall competitively award financial incentives under this subsection in the following technology categories:

“(A) Production of electricity from new zero- or low-carbon generation.

“(B) Manufacture of high-efficiency consumer products.

“(3) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall make awards under this subsection to producers of new zero- or low-carbon generation and to manufacturers of high-efficiency consumer products—

“(i) in the case of producers of new zero- or low-carbon generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated; and

“(ii) in the case of manufacturers of high-efficiency consumer products, based on the bid of each manufacturer in terms of dollars per megawatt-hour or million British thermal units saved.

“(B) ACCEPTANCE OF BIDS.—

“(A) IN GENERAL.—In making awards under this subsection, the Secretary shall—

“(I) solicit bids for reverse auction from appropriate producers and manufacturers, as determined by the Secretary; and

“(II) award financial incentives to the producers and manufacturers that submit the

lowest bids that meet the requirements established by the Secretary.

“(ii) FACTORS FOR CONVERSION.—

“(I) IN GENERAL.—For the purpose of assessing bids under clause (i), the Secretary shall specify a factor for converting megawatt-hours of electricity and million British thermal units of natural gas to common units.

“(II) REQUIREMENT.—The conversion factor shall be based on the relative greenhouse gas emission benefits of electricity and natural gas conservation.

“(C) INELIGIBLE UNITS.—A new unit for the generation of electricity that uses renewable energy resources shall not be eligible to receive an award under this subsection if the unit receives renewable energy credits under a Federal renewable portfolio standard.

“(4) FORMS OF AWARDS.—

“(A) ZERO- AND LOW-CARBON GENERATORS.—An award for zero- or low-carbon generation under this subsection shall be in the form of a contract to provide a production payment for each year during the first 10 years of commercial service of the generation unit in an amount equal to the product obtained by multiplying—

“(i) the amount bid by the producer of the zero- or low-carbon generation; and

“(ii) the megawatt-hours estimated to be generated by the zero- or low-carbon generation unit each year.

“(B) HIGH-EFFICIENCY CONSUMER PRODUCTS.—An award for a high-efficiency consumer product under this subsection shall be in the form of a lump sum payment in an amount equal to the product obtained by multiplying—

“(i) the amount bid by the manufacturer of the high-efficiency consumer product; and

“(ii) the energy savings during the projected useful life of the high-efficiency consumer product, not to exceed 10 years, as determined under rules issued by the Secretary.

“(d) ADVANCED COAL AND SEQUESTRATION TECHNOLOGIES PROGRAM.—

“(1) ADVANCED COAL TECHNOLOGIES.—

“(A) DEFINITION OF ADVANCED COAL GENERATION TECHNOLOGY.—In this paragraph, the term ‘advanced coal generation technology’ means integrated gasification combined cycle or other advanced coal-fueled power plant technologies that—

“(i) have a minimum of 50 percent coal heat input on an annual basis;

“(ii) provide a technical pathway for carbon capture and storage; and

“(iii) provide a technical pathway for coproduction of a hydrogen slip-stream.

“(B) DEPLOYMENT INCENTIVES.—

“(i) IN GENERAL.—The Secretary shall use ½ of the funds provided to carry out this subsection during each fiscal year to provide Federal financial incentives to facilitate the deployment of not more than 20 gigawatts of advanced coal generation technologies.

“(ii) ADMINISTRATION.—In providing incentives under clause (i), the Secretary shall—

“(I) provide appropriate incentives for regulated investor-owned utilities, municipal utilities, electric cooperatives, and independent power producers, as determined by the Secretary; and

“(II) ensure that a range of the domestic coal types is employed in the facilities that receive incentives under this subparagraph.

“(C) FUNDING PRIORITIES.—

“(i) PROJECTS USING CERTAIN COALS.—In providing incentives under this paragraph, the Secretary shall set aside not less than 25 percent of any funds made available to carry out this paragraph for projects using lower rank coals, such as subbituminous coal and lignite.

“(ii) SEQUESTRATION ACTIVITIES.—After the Secretary has made awards for 2000

megawatts of capacity under this paragraph, the Secretary shall give priority to projects that will capture and sequester emissions of carbon dioxide, as determined by the Secretary.

“(D) DISTRIBUTION OF FUNDS.—A project that receives an award under this paragraph may elect 1 of the following Federal financial incentives:

“(i) A loan guarantee under section 1403(b).

“(ii) A cost-sharing grant for not more than 50 percent of the cost of the project.

“(iii) Production payments of not more than 1.5 cents per kilowatt-hour of electric output during the first 10 years of commercial service of the project.

“(E) LIMITATION.—A project may not receive an award under this subsection if the project receives an award under subsection (c).

“(2) SEQUESTRATION.—

“(A) IN GENERAL.—The Secretary shall use ½ of the funds provided to carry out this subsection during each fiscal year for large-scale geologic carbon storage demonstration projects that use carbon dioxide captured from facilities for the generation of electricity using coal gasification or other advanced coal combustion processes, including facilities that receive assistance under paragraph (1).

“(B) PROJECT CAPITAL AND OPERATING COSTS.—The Secretary shall provide assistance under this paragraph to reimburse the project owner for a percentage of the incremental project capital and operating costs of the project that are attributable to carbon capture and sequestration, as the Secretary determines to be appropriate.

“(e) FUEL FROM CELLULOSIC BIOMASS.—

“(1) IN GENERAL.—The Secretary shall provide deployment incentives under this subsection to encourage a variety of projects to produce transportation fuels from cellulosic biomass, relying on different feedstocks in different regions of the United States.

“(2) PROJECT ELIGIBILITY.—Incentives under this paragraph shall be provided on a competitive basis to projects that produce fuels that—

“(A) meet United States fuel and emissions specifications;

“(B) help diversify domestic transportation energy supplies; and

“(C) improve or maintain air, water, soil, and habitat quality.

“(3) INCENTIVES.—Incentives under this subsection may consist of—

“(A) additional loan guarantees under section 1403(b) for the construction of production facilities and supporting infrastructure; or

“(B) production payments through a reverse auction in accordance with paragraph (4).

“(4) REVERSE AUCTION.—

“(A) IN GENERAL.—In providing incentives under this subsection, the Secretary shall—

“(i) prescribe rules under which producers of fuel from cellulosic biomass may bid for production payments under paragraph (3)(B); and

“(ii) solicit bids from producers of different classes of transportation fuel, as the Secretary determines to be appropriate.

“(B) REQUIREMENT.—The rules under subparagraph (A) shall require that incentives shall be provided to the producers that submit the lowest bid (in terms of cents per gallon) for each class of transportation fuel from which the Secretary solicits a bid.

“(f) ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term ‘advanced lean burn technology motor vehicle’ means a passenger automobile or a light truck with an internal combustion engine that—

“(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel;

“(ii) incorporates direct injection; and

“(iii) achieves at least 125 percent of the 2002 model year city fuel economy of vehicles in the same size class as the vehicle.

“(B) ADVANCED TECHNOLOGY VEHICLE.—The term ‘advanced technology vehicle’ means a light duty motor vehicle that—

“(i) is a hybrid motor vehicle or an advanced lean burn technology motor vehicle; and

“(ii) meets the following performance criteria:

“(I) Except as provided in paragraph (3)(A)(ii), the Tier II Bin 5 emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower numbered bin.

“(II) At least 125 percent of the base year city fuel economy for the weight class of the vehicle.

“(C) ENGINEERING INTEGRATION COSTS.—The term ‘engineering integration costs’ includes the cost of engineering tasks relating to—

“(i) incorporating qualifying components into the design of advanced technology vehicles; and

“(ii) designing new tooling and equipment for production facilities that produce qualifying components or advanced technology vehicles.

“(D) HYBRID MOTOR VEHICLE.—The term ‘hybrid motor vehicle’ means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are—

“(i) an internal combustion or heat engine using combustible fuel; and

“(ii) a rechargeable energy storage system.

“(E) QUALIFYING COMPONENTS.—The term ‘qualifying components’ means components that the Secretary determines to be—

“(i) specially designed for advanced technology vehicles; and

“(ii) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

“(2) MANUFACTURER FACILITY CONVERSION AWARDS.—The Secretary shall provide facility conversion funding awards under this subsection to automobile manufacturers and component suppliers to pay 30 percent of the cost of—

“(A) re-equipping or expanding an existing manufacturing facility to produce—

“(i) qualifying advanced technology vehicles; or

“(ii) qualifying components; and

“(B) engineering integration of qualifying vehicles and qualifying components.

“(3) PERIOD OF AVAILABILITY.—

“(A) PHASE I.—

“(i) IN GENERAL.—An award under paragraph (2) shall apply to—

“(I) facilities and equipment placed in service before January 1, 2016; and

“(II) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 31, 2015.

“(ii) TRANSITION STANDARD FOR LIGHT DUTY DIESEL-POWERED VEHICLES.—For purposes of making an award under clause (i), the term ‘advanced technology vehicle’ includes a diesel-powered or diesel-hybrid light duty vehicle that—

“(I) has a weight greater than 6,000 pounds; and

“(II) meets the Tier II Bin 8 emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower numbered bin.

“(B) PHASE II.—If the Secretary determines under paragraph (4) that the program under

this subsection has resulted in a substantial improvement in the ability of automobile manufacturers to produce light duty vehicles with improved fuel economy, the Secretary shall continue to make awards under paragraph (2) that shall apply to—

“(i) facilities and equipment placed in service before January 1, 2021; and

“(ii) engineering integration costs incurred during the period beginning on January 1, 2016, and ending on December 31, 2020.

“(4) DETERMINATION OF IMPROVEMENT.—

“(A) IN GENERAL.—Not later than January 1, 2015, the Secretary shall determine, after providing notice and an opportunity for public comment, whether the program under this subsection has resulted in a substantial improvement in the ability of automobile manufacturers to produce light duty vehicles with improved fuel economy.

“(B) EFFECT ON MANUFACTURERS.—In preparing the determination under subparagraph (A), the Secretary shall enter into an agreement with the National Academy of Sciences to analyze the effect of the program under this subsection on automobile manufacturers.

**“SEC. 1628. EFFECT OF SUBTITLE.**

“Nothing in this subtitle affects the authority of Congress to limit, terminate, or change the value of an allowance or credit issued under this subtitle.”

Mr. BINGAMAN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENTS NOS. 106, 107, AND 108 EN BLOC

Mr. SESSIONS. Madam President, I would like to share a few thoughts in the form of an overview of our wage situation in the United States and to discuss some things that I think we can do to improve that situation. I would agree that wages are too low for middle-class and lower income workers. They have not kept pace with business profits or with CEO salaries, for example. They have fallen behind. They have fallen behind the profits and bonuses and things of that nature. I believe it is a serious problem. I know the experts tell us—and there is some truth to the fact—that salary increases tend to lag behind business growth and profits. As the profits go up, the first year the bonuses and the salaries don't keep up with it, but they argue that as time goes by, they do make a rise, and we should, therefore, remember that.

There is some historical truth to that argument, there is no doubt about it. But, frankly, it doesn't satisfy me at this point of the issue. It is particularly so to me because the unemployment in our country has been falling and is still so low. I think it is 4.5 percent nationally. It was recently 3.2 percent in my home State of Alabama—the lowest we have ever had. I am excited about that. Why aren't wages, then, for our lower skilled people, our poorer people, our young people, our minority workers—why aren't those wages beginning to increase in a noticeable way? Why aren't they keeping pace, and what can we do about it?

Senator KENNEDY's theory and his argument is pretty clear and simple, as his normally are—and direct. He argues that we should have the Government fix it. Just have the Government set

the wage. That is an easy answer. Have wage and price controls. Well, at least wage controls. Set it. Just have the Government order this, dictate it, and we will just make it go that way.

I will admit that we have had minimum wage laws for quite some time, and although in pure theory they are outside the free market agenda that I usually follow, I have voted for minimum wage increases a number of times. That is just a part of the way we do things here, and the way we have done them for quite a number of years. I would hope maybe to vote for this bill.

But let's talk about it more seriously. What we want is higher wages for all Americans. I think a better approach to achieving that in the long run is to examine our policies to see why market forces are not driving up wages. What is the problem? Are there some political, governmental structures at work that are causing wages not to increase sufficiently? There is one issue that is suppressing wages that I am absolutely confident is unfair, and I believe undisputed and undeniable. No, it is not that some free market purists don't want wages to go up. That is not my problem. I think the problem is this: The problem is an excessive flow of low-skilled immigrant workers into our country in such large numbers that it has stultified and eliminated the growth that would have occurred for low-skilled American workers. I wish that weren't so, but I believe the numbers are quite clear on it. In any number of different ways we can see that this has occurred.

So I will be offering an amendment as part of this bill, one that deals with workplace enforcement and what we can do to make the workplace such that American workers are not competing with low-skilled, illegal immigrants in the workforce. We are receiving 1 million immigrants legally in our country today and more than half that many coming in illegally every year. So the competition American workers face from illegal laborers is a serious problem that affects their wages.

If you bring in a huge amount of wheat, you bring a huge amount of cotton, you bring in a huge amount of corn, you can expect those prices to fall. If you bring in exceedingly large amounts of low-skilled labor, you can expect the wages of low-skilled Americans to follow. I don't know where our free marketeers are on that, but I can tell you that is a fact. It is working against the interests of American workers.

Professor Borjas at Harvard, who has written perhaps the most authoritative book on immigration—himself an immigrant—has concluded that he believes the wages of the lowest-skilled American workers, high school dropouts, have been impacted negatively by 8 percent as a result of our current immigration policies.

I will share with our colleagues an article from the Wall Street Journal,

this journal of free market economics, which I venerate and respect so much. I will not go into the detail today, but I will share briefly the gist of that front-page article from the last week or 10 days.

The article featured a chicken plant in Georgia. A large number of those workers were found to be illegal. They lost their jobs. According to the Wall Street Journal, the businesses got together and started running ads in the paper offering better than a \$1-an-hour increase over the wages they had been paid. They offered transportation from nearby towns for people who would take the jobs. They said people could live onsite in dormitories and work there. What does that say? That was \$1 an hour-plus per worker wage increase without governmental intervention. In fact, it was governmental action to enforce the established laws of our country with regard to immigration.

I suggest ending illegal immigration, creating workplace enforcement that actually works, limiting the number of people who come to our country illegally, emphasizing higher skilled workers. Frankly, if it is impacting adversely our low-skilled workers' salaries, maybe we are bringing in too many low-skilled workers.

Education is a factor for immigration, whether a person would speak English and basically follow the Canadian model of a system which focuses on what is in Canada's best interests. Likewise, we should do that in the United States. We should also consider what the Labor Department says is needed in our country.

I have another proposal that I will shock my colleagues with. We could give the average low-to-middle income worker, a family man or woman, almost a \$1-an-hour raise without any increase in taxes. How would we do that? In the way we administer the earned-income tax credit. The earned-income tax credit was passed many years ago. President Nixon was involved in it, Milton Friedman supported it. It was supposed to be an incentive to Americans to work and not be on welfare; to go out and work and to give benefits to people who were working as opposed to people who were not working. It made a lot of sense. It was supposed to incentivize work.

I am not sure how well it works. It has been criticized. But it has no possibility of achieving its primary goal, which was to incentivize work, the way it is presently being administered. The way it is administered now, a worker who falls in the category of earned-income tax credit, files his income tax return next April, May or March, whenever he gets his papers together, and gets an average of a \$1,700 tax credit from the U.S. Treasury. I submit that worker does not understand or have any real comprehension of the fact that the tax credit incentivizes work. It is not connected to his work.

We ought to reconnect the earned-income tax credit to the workplace. The

way we do that is the way it is now authorized under law—it can be done this way, but it is not being done this way—and that is to put it on the paycheck. And \$1,700 per year is a \$1-an-hour increase in the take-home pay of low-wage workers in America. They could take that money home every week with their paycheck, they could appreciate their jobs much better and they could be more prideful of that paycheck they take home and have more incentive to continue to work.

To me, that is something we should have done a long time ago. I have talked about it for quite a number years. We have not made a serious advancement toward accomplishing it. Some think it could cause more fraud, but I don't think it would. Some think it would cause more people to take advantage of the earned income tax credit because some people probably don't ask for it on the tax returns, but I don't think that is particularly a noble thing to say, that a person who is entitled to it, you hope they don't apply and get it because it would cost the Treasury some dollars. We would be better off to put that in the paycheck. I would like to see us do that. We need to move in that direction.

Finally, one of the great tragedies we are facing as a nation is that we are not saving enough. We need to do a better job of increasing savings in America. I prepared legislation, creating Plus Accounts, that would be a lifetime universal savings plan for every American worker, similar to the Federal Thrift Savings Plan for Federal employees.

On top of Social Security—not taking money from Social Security but on top of it as an individual plan—an account that individual Americans would own. It would be within their grasp.

Half of the American workers work at a company that does not have a savings plan. Of the half that do, 17 million choose not to participate. One more startling statistic, very startling in light of today's volatile labor market. By the age of 35, the average American worker has held nine jobs.

I sat by a gentleman on the plane yesterday. He was 37. He now has a job with the U.S. Civil Service. He is so happy about signing up for the Thrift Plan. I asked him about his previous savings. He had two children, 37 years old. He said, I didn't save much. He had had nine jobs himself. A lot of companies do not have a savings plan. For those that do, maybe you have to work 2 years or a year before you can participate. If you did participate and you change jobs, maybe it is only \$500; maybe it is \$1,000 or \$1,500. And when you change jobs, they cash it in and pay the penalty, figuring it will not amount to much.

But if every American at every paycheck could know that a small percentage of that money was going into an account with their name on it, they would be subject to the magical powers of compound interest and that at age 65

they could have a very substantial nest egg to supplement their Social Security, they would feel better about their work. My plan would say you are given a number at birth. The Government would open the account with a deposit at birth for every child. And every job a person takes, the employee would put in 1 percent, the employer would put in 1 percent at a low-fee managed fund that would allow for conservative investments. If you put in \$1,000 at birth, if you went to work and your employer put in 1 percent and you put in 3 percent at median income in America, \$46,000 a year for a family, that person would retire with half a million in the bank. We have to create a system so it is easy for working Americans, low-income people who are changing jobs regularly, who find themselves with two or three kids at age 35 with nothing saved. That is an American tragedy when they could, literally, easily retire with half a million in their own name, in their own account.

These are some things we ought to talk about. Yes, I look forward to a bill that Senator ENZI approves—if he approves it, I probably will. If he approves this bill, I will vote for it. But fundamentally we have more to do for low-income workers in America who are not keeping pace, in my view, at the rate we would like to see.

We should create an immigration system that does not subject them to floods of imports. Let's create a savings system they can be proud of and adjust our earned-income tax credit so they can get a \$1-an-hour pay raise. If we do some of those things, we will be touching a lot of people in a very special way.

I ask unanimous consent for the purposes of offering my amendments, the pending amendment be set aside and I be allowed to offer three amendments, en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendments numbered 106, 107 and 108 en bloc.

The amendments (No. 106, 107 and 108) are as follows:

#### AMENDMENT NO. 106

**Purpose:** To express the sense of the Senate that increasing personal savings is a necessary step toward ensuring the economic security of all the people of the United States upon retirement

At the appropriate place, insert the following:

#### SEC. \_\_\_\_\_. SENSE OF THE SENATE CONCERNING PERSONAL SAVINGS.

(a) **FINDINGS.**—The Senate finds that—

(1) the personal saving rate in the United States is at its lowest point since the Great Depression, with the rate having fallen into negative territory;

(2) the United States ranks at the bottom of the Group of Twenty (G-20) nations in terms of net national saving rate;

(3) approximately half of all the working people of the United States work for an employer that does not offer any kind of retirement plan;

(4) existing savings policies enacted by Congress provide limited incentives to save for low- and moderate-income families; and

(5) the critically-important Social Security program was never intended by Congress to be the sole source of retirement income.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that—

(1) there is a need for simple, easily-accessible and productive savings vehicles for all the people of the United States;

(2) it is important to begin retirement saving as early as possible to take full advantage of the power of compound interest;

(3) regularly contributing money to a financially-sound investment account is effective in achieving one's retirement goals; and

(4) Congress should actively develop policies to enhance personal savings for retirement.

#### AMENDMENT NO. 107

**Purpose:** To impose additional requirements to ensure greater use of the advance payment of the earned income credit and to extend such advance payment to all taxpayers eligible for the credit

At the appropriate place insert the following:

#### SEC. \_\_\_\_\_. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than January 1, 2010, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

#### SEC. \_\_\_\_\_. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) **IN GENERAL.**—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

#### (b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting “has 1 or more qualifying children and” before “is not married.”

(2) Section 3507(c)(2)(C) of such Code is amended by striking “the employee” and inserting “an employee with 1 or more qualifying children”.

(3) Section 3507(f) of such Code is amended by striking “who have 1 or more qualifying children and”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

#### AMENDMENT NO. 108

**Purpose:** To authorize the Secretary of the Treasury to study the costs and barriers to businesses if the advance earned income tax credit program included all EITC recipients

At the appropriate place insert the following:

## SEC. \_\_\_\_\_. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the costs and barriers to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I am proud to join my colleagues in calling for something that is long overdue for millions of workers across this Nation, an increase in the minimum wage. Today is not our first day to make this call, but it is time, finally, to answer the voices that have cried out for change for too long. Nearly a decade after the last increase in the Federal minimum wage, this Senate has a chance to right the injustice that millions of workers and their families have endured.

America's minimum wage workers are often not in the forefront of our workforce. They may be in the stockrooms, the kitchens or on the night cleaning crew. By increasing the Federal minimum wage, we will be saying that working in the shadows does not mean a life sentence to poverty.

For far too long, we have allowed a subpar minimum wage to exist that leaves a minimum wage worker supporting a family of three at \$6,000 below the poverty level. You get up every day, you work hard, you work 40 hours a week, some of the toughest jobs in America and, at the end, you are still below the poverty level. We are supposed to reward work as a value, not suppress it. We say we want work, not welfare. Yet we have people who get up every day, work some of the toughest jobs and still find themselves below the poverty level.

Those earning minimum wage do some of the toughest jobs our Nation has, and they perform some of the key services we cannot do without, from food preparers, to health care, support staff, to security officers, to cashiers. These occupations are the backbone of businesses and industries that keep our economy running. While we depend on these services they provide every day, many of these workers are earning a wage that is now at its lowest point ever, compared to average hourly wages.

A higher wage is much more than about putting a few more dollars in your pocket each week. A better wage is about fairness, about providing a decent standard of living, and giving workers what they deserve, and ensuring that everyone—everyone—can share in the American dream, not just the top wage earners.

When a minimum wage earner is more likely to be a woman or a minority, we cannot deny that increasing the minimum wage is also about greater

equality and justice to nearly 7 million women, who are well over half of the minimum wage workers, or to the 4 million Hispanics and African Americans earning less than \$7.25 an hour.

So we can look at the chart and see that as the progression goes down, all of those women's wages lag behind men. And then, when we look at African-American women, Hispanic women, they lag even lower. This is about creating equity, equality. It is about justice.

Our Nation has always been a place where people willing to work hard and play by the rules can earn a better life for themselves and their families. My parents, who came to this country in search of freedom, were willing to do whatever work was necessary for a little piece of the American dream. Whether it was long hours bent over a sewing machine in a factory or working in a cramped carpentry shop, they did whatever they could to provide me the opportunities they never had.

That chance to build a better life through one's labor and determination is something no one in this country should be denied. Yet, for nearly a decade, workers earning the minimum wage have been struggling to get by, struggling to provide what their families need, and struggling to realize the dream our country promises.

It is our duty to ensure everyone in this country can share in that dream. When we as a nation turn a blind eye, when we ignore the fact that millions of workers are earning wages that have been frozen for nearly a decade—how much else of our economy has been frozen for nearly a decade—we are failing those seeking out this dream. And because most minimum-wage workers have children and families to support, it is not just the workers who are struggling to make ends meet or fulfill their dreams, but behind them are families who cannot afford health insurance, or children who are growing up in poverty—children growing up in poverty to parents who are working hard, in the toughest jobs in America, 40 hours a week, making the minimum wage, below the poverty level. So lifting up the wages of these workers is as much about improving the lives of their family members and providing a brighter future for their children.

This week we have a chance to change the course, not just for the workers still earning \$5.15 an hour and their family members, but for the country. We will say it is no longer acceptable to leave behind those who may be at the bottom, that they should be as much a priority as any other worker who contributes to our Nation's economy.

I am extremely proud that New Jersey has not waited for Congress to do what is right. Instead, it has taken upon itself to increase the State minimum wage far above the Federal wage. And New Jersey is not alone. Twenty-nine other States have raised their minimum wages above the Federal

minimum wage. Now at \$7.15 an hour, New Jersey's minimum wage has given over a quarter million workers the chance to build a better life.

It is past time for Congress to act and give millions of other minimum wage workers across the country that chance. It is time to provide them what they have been waiting almost 10 long years for—the chance to earn a wage they deserve and to live with greater dignity. It is time to let them know Washington will no longer turn a deaf ear to their struggles.

I listen to some of our colleagues sometimes, and it is amazing. Congress has raised its salary more than \$31,000 over the same time period in which many Members have voted against raising the minimum wage. It is interesting; we can vote to increase the wages of Members of Congress and the minimum wage workers get nothing. I am sure there are Members who would say it was well worth it, of course. But what about minimum wage workers? Nothing for nearly a decade. Congress raises its salary \$31,000.

Now, interestingly enough, no one said: Well, we need to give a tax break in order to give the Members of Congress a raise. No one said, certainly, while they were voting for these increases, they did not deserve it. Yet families across this country are struggling in some of the toughest jobs in America. They could not get the same type of support for their struggles. It is simply wrong.

Now is our chance to correct that injustice, but I hope it is only the first step. We can never, ever again allow the hardest workers in our country to see their wages eroded by 10 years of inflation while those at the top of the pile make more and more but give less and less back.

I hope the Senate will pass this overdue increase in the minimum wage. I hope we do not have to give away the store in order to be able to get some of those who are working at some of the toughest jobs, finding themselves below the poverty level—struggling to have families be nurtured to achieve their dreams and hopes and aspirations—I hope we do not have to give away the store. I hope we do not see another increase in Congress before we see an increase in the minimum wage. Therefore, when we pass this overdue increase in the minimum wage, I hope it will work in the future to make sure this increase stands the test of time.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## IRAQ RESOLUTION

Mr. NELSON of Nebraska. Madam President, I am here speaking a little

bit early. Senator WARNER will appear on the scene shortly. But as you know, Madam President, I will be presiding, so this gives me the opportunity to speak now.

Senators WARNER and COLLINS and I have worked to develop a bipartisan resolution dealing with Iraq. I thank them for working to forge this bipartisan resolution. I would clarify that the goal of this resolution is to broaden the resolution's appeal. It is important to send a strong message to the White House and Iraq. And the more support the resolution receives in the Senate, the stronger our message will be.

This may not be an either/or situation. We are bringing forth a new set of ideas, something more broadly worded for Senators to consider. Some can vote for this resolution, and the other, without feeling any contradiction.

The content of this resolution is more inclusive of the Iraq Study Group's recommendations and steers clear of partisan or Presidential rhetoric.

I urge our colleagues—some of whom I have spoken with today, and some of whom I have spoken with over the weekend, and others in recent days, some tomorrow—to read this resolution carefully. I believe they will find the resolution to be thoughtful, forceful, and meaningful.

If a Senator is not comfortable with the wording of the previously announced resolution, if a Senator was concerned that the resolution did not include the recommendations of the Iraq Study Group, if a Senator was concerned about the infringement on executive powers, I think that Senator will find our resolution more appealing.

In the end, we all have a responsibility to lead. We are accountable to our constituents—the American people, as is the President. When we see a policy development that we feel is not in the best interests of the United States and the U.S. military, we must speak out, we must act, and we must communicate with the President that we disagree with his plan.

Simply put, that is what we are trying to do—to express our concern, our opposition, or disagreement with deploying troops in the heart of a civil war in Iraq.

The goal is maximum bipartisan support to send the strongest message possible from the Senate to the President, to the American people, and to Iraq about our concern about this plan.

Thank you, Madam President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will read the motion.

The 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, do hereby move to bring to a close the debate on Calendar No. 5, H.R. 2, providing for an increase in the Federal minimum wage.

Ted Kennedy, Barbara A. Mikulski, Daniel Inouye, Byron L. Dorgan, Jeff Bingaman, Frank R. Lautenberg, Jack Reed, Barbara Boxer, Daniel K. Akaka, Max Baucus, Patty Murray, Maria Cantwell, Tom Harkin, Debbie Stabenow, Robert Menendez, Tom Carper, Harry Reid, Charles Schumer, Richard Durbin.

Mr. REID. I ask unanimous consent that reading of the names of the Senators be dispensed with.

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

#### MORNING BUSINESS

Mr. REID. I ask unanimous consent that we now proceed to a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each.

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

#### TRIBUTE TO DEANNA JENSEN

Mr. REID. Mr. President, I rise to pay tribute to Deanna Jensen, a lifelong Nevadan whose commitment to breast cancer advocacy will always be remembered. After her own long but heroic battle against breast cancer, she passed away on January 7. My thoughts and prayers are with Deanna's husband Don and her family as they mourn this great loss.

As a loving wife and mother, cherished friend, and respected member of the community, Deanna touched many lives near and far. And my home State of Nevada was fortunate to have her from the beginning. Born in Elko and raised in Clover Valley on a cattle ranch, she graduated from Wells High School and eventually earned a master's degree in speech pathology-audiology at the University of Nevada, Reno. Deanna remained in Nevada, devoting herself to a career as a speech pathologist and working by her husband's side at his business, Jensen Pre-cast.

When breast cancer finally struck, Deanna fought back and became a cancer survivor. In fact, before her recurrent metastatic breast cancer had returned for the final time, she had been cancer free for 5 years. In that time, Deanna had become a tireless activist for the cause of advancing breast cancer research. With a determination and persistence that would not surprise her loved ones, she sought to translate her

private struggles with this terrible disease into civic action for the greater good. It was clear to everyone that she cared deeply about the issue. "Why me?" was a question Deanna surely wondered about herself, but she wanted answers for all women who asked that question.

The search for those answers is a driving force behind the Breast Cancer and Environmental Research Act, bipartisan legislation that Deanna sought to see enacted. While the devastating effects of breast cancer are all too evident, its causes are still mostly unknown. We do know that a better understanding of the links between the environment and breast cancer could help improve our knowledge of this complex illness. The Breast Cancer and Environmental Research Act is designed to reveal those links by making a truly meaningful research investment and charting a national research strategy.

In Deanna's words, that is why passing the Breast Cancer and Environmental Research Act is a real opportunity for Congress to "step up for women and breast cancer." Recognizing this call to action, 66 of my Senate colleagues and 262 members of the House of Representatives joined me in the 109th Congress in supporting the legislation. I hope that the new session of Congress will give us another opportunity to make good on our promise to finally pass the bill.

In one of my last correspondences with Deanna, she wrote of her frustration that a bill with so much support had yet to be enacted by Congress. It was a fitting reminder of the way Deanna was mindful of the public sphere beyond her own immediate situation, even as she dealt with a grueling regimen of radiation and chemotherapy in her final moments. Her inner strength could not be extinguished then, nor will her contributions be forgotten now. She will be greatly missed.

#### MICHAEL KAISER ON CULTURAL DEVELOPMENT AND EXCHANGE

Mr. KENNEDY. Mr. President, I am pleased to share with my colleagues a recent speech by Michael Kaiser, the president of the Kennedy Center. Mr. Kaiser is an impressive and highly respected national leader in arts policy and advocacy. Last month, he addressed the National Press Club and spoke about the importance of cultural development and exchange.

In addition to his role as the president of our national performing arts center, Mr. Kaiser serves as a cultural ambassador for the administration. He has traveled around the globe to assist cultural organizations in many countries—including Latin America, the Middle East, and Asia. Cultural diplomacy is an effective part of our Nation's outreach to other countries and cultures, and Mr. Kaiser's role is an impressive part of that effort.

He is an articulate and visionary leader for the Kennedy Center and a