mayor of one of the major cities in America. I appreciate what he did last night, what he said last night. On foreign policy, he has the credentials to speak.

Yesterday, he gave voice to the growing sentiment among his Republican colleagues that we must change course in Iraq and change now—not in September but now. Senator LUGAR said:

> Persisting indefinitely with the surge strategy will delay policy adjustments that have a better chance of protecting our vital interests over the long term.

I recommend and suggest to all Senators, Democrats and Republicans, that they read the brilliant speech given by DICK LUGAR last night. It was very good. It was, I am sure, prepared by him, every word. I understand it is not easy to speak out against the war. I can vouch for that. I also recognize how difficult it is for Republicans to speak out against the war. It has been hard enough for this Democrat to speak out against the war. Senator LUGAR's comments and those of a handful of other Republicans who share his view—to this point, two have said so publicly—takes real courage. Courage is the only way we will change course in Iraq.

Some floor speeches go unnoticed. Most floor speeches go unnoticed. Senator RICHARD LUGAR's speech last night is not one of them. When this war comes to an end—and it will come to an end—and the history books are written—and they will be written—Senator LUGAR's words yesterday could be remembered as a turning point in this intractable civil war in Iraq. But that will depend on whether more Republicans take the stand Senator LUGAR took, a courageous stand, last night.

I look forward to working with Senator LUGAR—and hope and believe a growing number of Republicans—to put his words into action by delivering a responsible end to the war that the American people demand and the American people deserve.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMPLOYEE FREE CHOICE ACT OF 2007—MOTION TO PROCEED

COMPREHENSIVE IMMIGRATION REFORM ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume en bloc the motions to proceed to H.R. 800 and S. 1639, which the clerk will report.

The assistant legislative clerk read as follows:

> Motion to proceed to H.R. 800, an act to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.
>
> Motion to proceed to the consideration of S. 1639, a bill to provide for comprehensive immigration reform and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:30 will be equally divided between the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Wyoming, Mr. ENZI, or their designees, with the time from 11:30 to 11:40 reserved for the Republican leader and the time from 11:40 to 11:50 for the majority leader.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield 15 minutes to the Senator from Pennsylvania.

Mr. GREGG. Mr. President, if the Senator will respond to an inquiry, would it be possible to have an order set up so that we could know when we are going? If I could get Senator KENNEDY's attention, would it be possible that Senator ALEXANDER be recognized and I be recognized, both for 5 minutes, at some point after Senator SPECTER, on Senator ENZI's time? Is that possible?

Mr. KENNEDY. That is agreeable. We will try to accommodate the time. Senator SPECTER wanted 15 minutes; others are 5 minutes. But we will be glad to accommodate, so if he goes for 15, you can go for 5.

Mr. GREGG. Senator ALEXANDER can be recognized for 5 and then I can be recognized for 5.

Mr. KENNEDY. That would be fine.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I thank the distinguished chairman for yielding time. I have sought recognition to speak on the legislation entitled the ''Employee Free Choice Act.'' I have had numerous contacts on this bill, both for it and against it, very impassioned contacts. People feel very strongly about it. The unions contend they very desperately need it. The employers say it would be an abdication of their rights to a secret ballot. I believe there are a great many important issues which need to be considered on this matter, and that is why I will vote, when the roll is called, to impose cloture so that we may consider the issue. I emphasize that on a procedural motion to invoke cloture—that is, to cut off debate—it is procedural only and that my purpose in seeking to discuss the matter is so that we may consider a great many very important and complex issues. I express no conclusion on the underlying merits in voting procedurally to consider the issue.

In my limited time available, I will seek to summarize. I begin with a note that the National Labor Relations Act does not specify that there should be a secret ballot or a card check but says only that the employee representative will represent in collective bargaining where that representative has been ''designated or selected'' for that purpose. The courts have held that the secret ballot is preferable but not exclusive.

In the case captioned ''Linden Lumber Division v. National Labor Relations Board,'' the Supreme Court held that ''an employer has no right to a secret ballot where the employer has so poisoned the environment through unfair labor practices that a fair election is not possible.''

The analysis is, what is the status with respect to the way elections are held today? The unions contend that there is an imbalance, that there is not a level playing field, and say that has been responsible in whole or in part for the steady decline in union membership.

In 1954, 34.8 percent of the American workers belonged to unions. That number decreased in 1973 to 23.5 percent and in 1984 to 18.8 percent; in 2004, to 12.5 percent; and in 2006, to 12 percent. In taking a look at the practices by the National Labor Relations Board, the delays are interminable and unacceptable. By the time the NLRB and the legal process has worked through, the delays are so long that there is no longer a meaningful election. That applies both to employers and to unions, that the delays have been interminable.

In the course of my extended statement, I cite a number of cases. In Goya Foods, the time lapse was 6 years; Fieldcrest Cannon, 5 years; Smithfield—two cases—12 and 7 years; Wallace International, 6 years; Homer Bronson, 5 years.

In the course of my written statement, I have cited a number of cases showing improper tactics by unions, showing improper tactics by employers. In the limited time I have, I can only cite a couple of these matters, but these are illustrative.

In the Goya Foods case, workers at a factory in Florida voted for the union to represent them in collective bargaining. Following the election, the company refused to bargain with the union and fired a number of workers for promoting the union. The workers filed an unfair labor practices case in June of 2000, seeking to require the employer to bargain.

In February of 2001, the administrative law judge found the company had illegally fired the employees and had refused to bargain. But it was not until August of 2006 that the board in Washington, DC, adopted those findings, ordered reinstatement of the employees with backpay, and required Goya to bargain in good faith—a delay of some 5 years.

In the Fieldcrest Cannon case, workers at a factory in North Carolina sought an election to vote on union representation. To discourage its employees from voting for the union, the company fired 10 employees who had vocally supported the union. The employer threatened reprisal against other employees who had voted for the union and threatened that immigrant

workers would be deported or sent to prison if they voted for the union. The union lost the election in August of 1991. Although workers filed an unfair labor practice case with the NLRB, the administrative law judge did not decide the case until 3 years later, in 1994, and his order was not enforced by the Fourth Circuit until 1996—a lapse of some 5 years. In my written statement, I cite seven additional cases.

Similarly, there have been improper practices by unions. On the balance, I have cited nine on that line, the same number I cited on improper activities by employers.

At a Senate Appropriations subcommittee hearing, which I conducted in Harrisburg, PA, in July of 2004, we had illustrative testimony from an employee, Faith Jetter:

Two union representatives came to my home and made a presentation about the union. They tried to pressure me into signing the union authorization card, and even offered to take me out to dinner. I refused to sign the card . . . shortly thereafter, the union representatives called again at my home and visited my home again to try to get me to sign the union authorization card. I finally told them that my decision was that I did not want to be represented . . . despite that . . . there was continuing pressure on me to sign.

At a hearing of the House Committee on Labor this February, witness Karen Mayhew testified about offensive pressure tactics by the unions. I would cite some of my own experience with the issue. When I was an assistant district attorney in Philadelphia, I tried the first case against union coercive tactics to come out of the McClellan Committee investigation. The McClellan Committee had investigated Local 107 of the Philadelphia Teamsters Union, found they had organized a goon squad, beat up people, and exercised coercive tactics to form a union. That case was brought to trial in 1963 and resulted in convictions of all six of the union officials and they all went to jail. Without elaborating on the detailed testimony, it was horrendous what the union practices were in that case.

There is no doubt if you take a look at the way the National Labor Relations Board functions—it is not functioning at all—but that it is dysfunctional.

If you take a look at the statistics, on the one category of intake, it declined from 1,155 in 1994, to 448 in 2006. In another category, it declined from almost 41,000 in 1994, to slightly under 27,000 in 2006. On injunctions, where the NLRB has the authority to go in and get some action taken promptly, it is used very sparingly, and again there is a steep decline: from 104 applications for injunctions in 1995, to 15 in 2005, and 25 in 2006. The full table shows a great deal of the ineptitude as to what is going on.

So what you have, essentially, is a very tough fought, very bitter contest on elections, very oppressive tactics used by both sides and no referee. The National Labor Relations Board is inert. It takes so long to decide the case that the election becomes moot, not important anymore. What they do is order a new election and they start all over again and, again, frequently the same tactics are employed.

If there is an unfair labor practice in a discharge, the most the current law authorizes the NLRB to do is to reinstate the worker with backpay. That is reduced by the amount the individual has earned otherwise, which is in accordance with the general legal principle of mitigation of damages. But there is no penalty which is attached. So when you take a look at what the NLRB does, it is totally ineffective.

Those are issues which I think ought to be debated by the Senate. We ought to make a determination whether the current laws are adequate and whether there ought to be changes and whether there ought to be remedies. We ought to take a look, for example, at the Canadian system. When I did some fundamental, basic research, I was surprised to find that 5 of the 10 provinces of Canada employ the card check; that is, there is no right to a secret election. One of the provinces had the card check, rejected it, and then I am told went back to the card check. So their experiences are worthy of our consideration.

In Canada, elections are held 5 to 10 days after petitions are filed. I believe this body ought to take a close look at whether the procedures could be shortened, whether there could be mandatory procedures for moving through in a swift way—justice delayed is justice denied, we all know—whether there ought to be the standing for the injured parties to go into court for injunctive relief. That is provided now in the act, but only the NLRB can undertake it.

This vote, we all know, is going to be pro forma. We have the partisanship lined up on this matter to the virtual extreme. There is no effort behind the debate which we are undertaking today to get to the issues. There is going to be a pro forma vote on cloture. Cloture is not going to be invoked. We are going to move on and not consider the matter. We know there are enough votes to defeat cloture. The President has promised a veto. So it is pro forma.

But that should not be the end of our consideration of this issue because labor peace—relations between labor and management—is very important, and we ought to do more by way of analyzing it to see if any corrections are necessary in existing law.

It is worth noting, in the history of the Senate, there has been considerable bipartisanship—not present today. But listen to this: In 1931, the Davis-Bacon Act was passed by a voice vote. In 1932, the Norris LaGuardia Act was passed by a voice vote. In 1935, the National Labor Relations Act, also known as the Wagner Act, was passed by a voice vote. In 1938, the Fair Labor Standards Act was passed, again, by a voice vote. In 1959, only two Senators voted against the Landrum-Griffin bill.

A comment made by then-Senator John F. Kennedy, on January 20, 1959, commenting on the Landrum-Griffin bill, is worth noting. I quote only in part because my time is about to expire, but this is what Senator John F. Kennedy had to say:

[T]he necessity for bipartisanship in labor legislation is a principle which should guide us all. . . .The extremists on both sides are always displeased. . . .Without doubt, the future course of our action in this area will be plagued with the usual emotional arguments, political perils, and powerful pressures which always surround this subject.

Madam President, I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. In conclusion, it would be my hope we would take a very close look at this very important law in this very important field and recognize that harmonious relations between management and labor are very important. That is not the case today, with a few illustrations I have given in my prepared statement. We ought to exercise our standing, which we pride ourselves as the world's greatest deliberative body.

Although that will not be done today because cloture is not going to be invoked, I intend to pursue oversight through the subcommittee where I rank which has jurisdiction over the NLRB.

Madam President, I ask unanimous consent that my extensive statement be printed in the RECORD.

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

STATEMENT OF SENATOR ARLEN SPECTER—S. 1041, THE EMPLOYEE FREE CHOICE ACT

Mr. SPECTER. Mr. President, I seek recognition today to discuss the legislation entitled the Employee Free Choice Act. The Senate will later today vote on Cloture on the Motion to Proceed to this important legislation. The Senate prides itself on being the world's greatest deliberative body, and I am voting for cloture to enable the Senate to deliberate on this legislation and the important issues it raises in an open and productive manner.

The Employee Free Choice Act is an issue of deep and abiding interest to labor organizations and to employers. There has been intense advocacy on both sides. At the field hearing in Pennsylvania in July 2004, and in the many discussions that I have had with labor leaders and employers since that time, I have heard evidence indicating that employees are often denied a meaningful opportunity to determine whether they will be represented by a labor union. There are many stories and cases about employers asserting improper influence over their employees prior to an election, and there are also many cases of unions attempting to assert undue influence over workers in an attempt to establish a union. I am talking about threats, spying, promises, spreading misleading information, and other attempts to coerce workers and interfere with their right to determine for themselves whether they wish to be represented by a labor organization. Based on what I have heard, I have concerns that we have lost the balance of the National Labor Relations Act's fundamental

promise—that workers have the right to vote in a fair election conducted in a non-threatening atmosphere, free of coercion and fear, and without undue delay. Workers should be assured that their decisions will be respected by their employer and the union—with the support of the government when necessary. The overwhelming evidence demonstrates that the NLRB is not doing its job and is dysfunctional.

In light of the numerous contacts I have had with constituents on both sides of this issue, and in consideration of the evidence that has been presented by both sides, I have decided to hold off on cosponsoring the Employee Free Choice Act in the 110th to give more opportunity to both sides to give me their views and to give me more time to deliberate on the matter. At a time when union membership is decreasing and when employers face increasing competition in a global economy, it is our duty in Congress to have a vigorous debate and to reach a decision on the issues that the Employee Free Choice Act purports to resolve.

The 1935 Wagner Act guarantees the right of workers to organize, but it does not require that unions be chosen by election. Instead, Section 9 provides more broadly that an employee representative that has been ''designated or selected'' by a majority of the employees for the purpose of collective bargaining shall be the exclusive representative of those employees in a given bargaining unit. The Act further authorizes the National Labor Relations Board to conduct secret ballot elections to determine the level of support for the union when appropriate. Since 1935, secret ballot elections have been the most common method by which employees have selected their representatives.

Labor organizations have experienced a sharp decline in membership since the 1950s. Unions represented 34.8 percent of American workers in 1954, 23.5 percent in 1973, 18.8 percent in 1984, 15.5 percent in 1994, 12.5 percent in 2004, and 12 percent in 2006. In Senate debate, we should consider whether labor laws have created an uneven playing field that has led to this dramatic decline.

We should also consider where the fault lies in deciding what changes, if any, should be made to our labor laws. There are certainly abuses by both unions and employers. The Supreme Court described the problem in *NLRB* v. *Gissel Packing Co.*, 395 U.S. 575 (1969), noting that ''we would be closing our eyes to obvious difficulties, of course, if we did not recognize that there have been abuses, primarily arising out of misrepresentations by union organizers as to whether the effect of signing a card was to designate the union to represent the employee for collective bargaining purposes or merely to authorize it to seek an election to determine that issue.'' The following cases and testimony are illustrative of this problem:

At a July 2004 Senate Appropriations Subcommittee I held in Harrisburg, Pennsylvania entitled ''Employee Free Choice Act—Union Certifications,'' a letter from employee Faith Jetter was included in the record. In that letter, Ms. Jetter testified: ''Two union representatives came to my home and made a presentation about the union. They tried to pressure me into signing the union authorization card, and even offered to take me out to dinner. I refused to sign the card . . . shortly thereafter, the union representatives called again at my home and visited my home again to try to get me to sign the union authorization card. I finally told them that my decision was that I did not want to be represented . . . despite that . . . I felt like there was continuing pressure on me to sign.''

In testimony before the Senate Committee on Health, Education, Labor, and Pensions on March 27, 2007, in a hearing entitled ''The Employee Free Choice Act: Restoring Economic Opportunity for Working Families,'' Peter Hurtgen, a former chairman of the NLRB, testified that ''in my experience, neutrality/card check agreements are almost always the product of external leverage by unions, rather than an internal groundswell from represented employees.''

On February 8, 2007, at a hearing of the House Committee on Labor, Education and Pensions entitled ''Strengthening America's Middle Class through the Employee Free Choice Act,'' Karen Mayhew, an employee at a large HMO in Oregon, testified that local union organizers had misled many employees into signing authorization cards at an initial question-and-answer meeting. She said: ''At the meeting, employees asked the union agents questions about the purpose of the cards. The union agents responded by telling us that signing the card only meant that the employee was expressing an interest in receiving more information about the union, or to have an election to decide whether or not to bring the union in. It was made clear to all of us there in attendance that those authorization cards did NOT constitute a vote right there and then for exclusive representation by SEIU.''

A May 22, 2007 National Review article by Deroy Murdock entitled ''Union of the Thugs'' quoted Edith White, a food-service worker from New Jersey who recalled being visited by a union organizer who told her that she ''wouldn't have a job'' if she did not sign the authorization card and that ''the Union would make sure'' that she was fired.

A June 29, 2006 Boston Globe article by Christopher Rowland entitled ''Unions in Battle for Nurses'' reported that organizers at a local hospital had told nurses that signing an authorization card would ''merely allow them to get more information and attend meetings.'' The nurses were quoted as saying that the process ''left [them] feeling deceived and misled.''

On February 8, 2007, at a hearing of the House Committee on Labor, Education and Pensions entitled ''Strengthening America's Middle Class through the Employee Free Choice Act,'' Jen Jason, a former labor organizer for UNITE HERE, testified that she was trained to create a sense of agitation in workers and to capitalize on the ''heat of the moment'' to get workers to sign union support cards. She compared the American system of free ballots to the check card system in Canada, where she also worked as a union organizer, noting ''my experience is that in jurisdictions in which 'card check' was actually legislated, organizers tend[ed] to be even more willing to harass, lie, and use fear tactics to intimidate workers into signing cards.'' She also noted that ''at no point during a 'card check' campaign is the opportunity created or fostered for employees to seriously consider their working lives and to think about possible solutions to any problems.''

At that same hearing before the House Committee on Labor, Education and Pensions, a former union organizer, Ricardo Torres, testified that he resigned because of ''the ugly methods that we were encouraged to use to pressure employees into union ranks.'' He testified that ''I ultimately quit this line of work when a senior Steelworkers union official asked me to threaten migrant workers by telling them they would be reported to federal immigration officials if they refused to sign check-off cards during a Tennessee organizing drive . . . . Visits to the homes of employees who didn't support the union were used to frustrate them and put them in fear of what might happen to them, their family, or homes if they didn't change their minds about the union.''

Enactment of the Landrum-Griffin Act in 1959 followed extensive Senate hearings by the McClellan Committee on union abuses. Based on evidence compiled by that Committee, where Senator John F. Kennedy was a member and Robert F. Kennedy was General Counsel, I secured the first convictions and jail sentences from those hearings for six officials of Local 107 of the Teamsters Union in Philadelphia. That union organized a ''goon squad'' to intimidate and beat up people as part of their negotiating tactics. Their tactics were so open and notorious that my neighbor, Sherman Landers, with whom I shared a common driveway, sold his house and moved out, afraid the wrong house would be fire-bombed. The trial, which occurred from March through June 1963, was closely followed by Attorney General Kennedy who asked for and got a personal briefing on the case and then offered me a position on the Hoffa prosecution team.

Similarly, there are many examples of employer abuses during campaigns and initial bargaining. Each of the following cases illustrates the principle often attributed to William Gladstone: ''Justice delayed is justice denied.''

In the Goya Foods case, 347 NLRB 103 (2006), workers at a factory in Florida voted for the union to represent them in collective bargaining negotiations. Following the election, the company refused to bargain with the union and fired a number of workers for promoting the union. The workers filed an unfair labor practices case in June of 2000, seeking to require the employer to bargain. In February of 2001, the Administrative Law Judge found that the company had illegally fired the employees and had refused to bargain. It was not until August of 2006, however, that the Board in Washington, D.C. adopted those findings, ordered reinstatement of the employees with back pay, and required Goya to bargain in good faith—six years after the employer unlawfully withdrew recognition from the union.

In the Fieldcrest Cannon case, 97 F.3d 65 (4th Cir. 1996), workers at a factory in North Carolina sought an election to vote on union representation in June of 1991. To discourage its employees from voting for the union, the company fired at least 10 employees who had vocally supported the union, threatened reprisal against employees who voted for the union, and threatened that immigrant workers would be deported or sent to prison if they voted for the union. The union lost the election in August of 1991. Although workers filed an unfair labor practice case with the NLRB, the Administrative Law Judge did not decide the case until three years later, in 1994, and his order was not enforced by the Fourth Circuit until 1996—five years after the election.

In the Smithfield case, 447 F.3d 821 (D.C. Cir. 2006), employees at the Smithfield Packing Company plant in Tar Heel, North Carolina filed a petition for an election. In response, the employer fired several employees, threatened to fire others who voted for a union and threatened to freeze wages if a union was established. The workers lost two elections—one in 1994 and one in 1997. Workers filed an unfair labor practices case. The administrative law judge ruled for the workers in December of 2000, but the NLRB did not affirm that decision until 2004, and the Court of Appeals did not enforce the order until May of 2006—twelve years after the first tainted election.

In another case involving the Smithfield Company, 347 NLRB 109 (2006), employees at the Wilson, North Carolina location sought an election for union representation. Prior to the election, the company fired employees who were leading the union campaign and threatened and intimidated others. The

union lost the election in 1999. The workers filed an unfair labor practices case and the Administrative Law Judge found in 2001 that the employer's conduct was so egregious that a Gissel bargaining order (which mandates a card check procedure instead of an election) was necessary because a fair election was not possible. However, by the time the NLRB affirmed the ALJ's decision in 2006, it found that the NLRB's own delay in the case prevented the Gissel bargaining order from being enforceable and—7 years after the employer prevented employees from freely participating in a fair election—the remedy the Board ordered was a second election.

In the Wallace International case, 328 NLRB 3 (1999) and 2003 NLRB Lexis 327 (2003), the employer sought to dissuade its employees from joining a union by showing its workers a video in which the employer threatened to close if the workers unionized and the town's mayor urged the employees not to vote for a union. The union lost an election in 1993. The Board ordered a second election, which was held in 1994, that was also tainted by claims of unfair labor practices. The employees brought unfair labor practice cases after the election. In August 1995, the ALJ found against the employer and issued a Gissel bargaining order because a fair election was impossible. However, as in the Smithfield case, by the time the NLRB finally affirmed the ALJ's decision, in 1999, the Gissel order was not enforceable. In subsequent litigation, an ALJ found that the employer's unlawful conduct, including discriminatory discharge, had continued into 2000—7 years after the first election.

In the Homer Bronson Company case, 349 NLRB 50 (2007), the ALJ in 2002 found that the employer had unlawfully threatened employees who were seeking to organize that the plant would have to close if a union was formed. The Board did not affirm the decision until March 2007, again noting that a Gissel order, though deemed appropriate by the NLRB General Counsel, would not be enforceable in court because of the delays at the NLRB in Washington, D.C.

The National Labor Relations Board found unlawful conduct by employers in a number of recent cases in my home state of Pennsylvania:

In the Toma Metals case, 342 NLRB 78 (2004), the Board found that at least eight employees at Toma Metals in Johnstown, PA were laid off from their jobs because they voted to unionize the company. In addition, David Antal, Jr. was terminated because he told his supervisor that he and his fellow employees were organizing a union. He was laid off the same evening the union petition was filed.

In the Exelon Generation case, 347 NLRB 77 (2006), the Board found that the employer in Limerick and Delta, PA threatened employees during an organizing campaign that they would lose their rotating schedules, flextime, and the ability to accept or reject overtime if they voted for union representation.

In the Lancaster Nissan case, 344 NLRB 7 (2005), the Board found that the employer failed to bargain in good faith following a union election victory by limiting bargaining sessions to one per month. The employer then unlawfully withdrew recognition from the union a year later based on a petition filed by frustrated employees, automotive technicians.

In addition to showing employer abuses, these cases demonstrate the impotency of existing remedies under the NLRA to deal effectively with the problem. Further, the convoluted procedures and delays in enforcement actions make the remedies meaningless.

In 1974, in Linden Lumber Division v. NLRB, 419 U.S. 301 (1974), the court made it clear that an employer may refuse to recognize a union based on authorization cards and insist upon a secret ballot election in any case, except one in which the employer has so poisoned the environment through unfair labor practices that a fair election is not possible. In those cases involving egregious employer conduct, the Board may impose a ''Gissel'' order that authorizes card checks. This remedy takes its name from NLRB v. Gissel Packing Co., which I cited earlier.

Most often, however, when the Board finds that an employer improperly interfered with a campaign, it typically only orders a second election, often years after the tainted election, and requires the employer to post notices in which it promises not to violate the law.

The standard remedy for discriminatory discharge, the most common category of charges filed with the NLRB, is an order to reinstate the worker with back pay, but any interim earnings are subtracted from the employer's back pay liability, and often this relief comes years after the discharge.

The other common unfair labor practice case involves an employer's refusal to bargain in good faith. The remedy is often an order to return to the bargaining table.

In relatively few cases each year, the NLRB finds that the unfair labor practices are so severe that it chooses to exercise its authority under Section 10(j) of the NLRA to seek a federal court injunction to halt the unlawful conduct or to obtain immediate reinstatement of workers fired for union activity. The NLRB too rarely exercises this authority, and the regional office must obtain authorization from Washington, D.C. headquarters to seek injunctive relief.

Additionally, under the procedures of the Act, after the union wins an election, the employer may simply refuse to bargain while it challenges some aspect of the pre-election or election process. The union must then file an unfair labor practice charge under Section 8(a)(5), go through an administrative proceeding, and ultimately the matter may be reviewed by a Federal court of appeals, since a Board order is not self-enforcing. All of this takes years.

The following tables reflect that from 1994 to 2006 the number of cases handled by the NLRB regional offices declined steadily from 40,861 cases in 1994 to 26,717 in 2006. Yet, despite this decline in workload, in 2005 the median age of unresolved unfair labor practice cases was 1232 days, and for representation cases the median age was 802 days. In 1995, the NLRB sought 104 injunctions; in 2005, it sought 15; and in 2006, 25 injunctions. In Washington, D.C., the Board's caseload declined from 1155 cases in 1994 to 448 cases in 2006.

The number of decisions issued declined from 717 in 1994 to 386 in 2006. The backlog hit a peak of 771 cases in 1998 and declined to 364 in 2006, but that decline must be viewed in the context of a case intake for the Board that had fallen to only 448 cases in 2006.

TABLE 1: REGIONAL OFFICE STATISTICS

	1994	1995	1996	1997	1998	2003	2004	2005	2006
Case Intake	40861	39935	38775	39618	36657	33715	31787	29858	26717
ULP (Case Age in Days)	758	893	846	929	985	1030	1159	1232	—
Representation (Case Age in Days)	152	305	369	370	473	473	576	802	—
Section 10(j)	83	104	53	45	17	14	15	25	—

TABLE 2: WASHINGTON OFFICE STATISTICS

	1994	1995	1996	1997	1998	2003	2004	2005	2006
Case Intake	1155	1138	997	1084	1083	818	754	562	448
Decisions	717	935	709	873	708	543	576	508	386
Case Backlog	585	459	495	672	771	673	636	544	364

What has the Board been doing? Although many cases are resolved at earlier stages out in the regions where the NLRB may be generally effective, one must ask why it took years for the Board to order reinstatement in the cases cited earlier?

During the Senate's debate on the Employee Free Choice Act, it is important that we focus on the employees' interests, not on the employers' or the unions' interests. We must protect employees from reprisals from either side. We must ensure they have an environment in which they may make a free choice. We must ensure that employees' decision, whether it is for or against representation, is respected. And we must ensure that if the employees do choose to be represented, they can have confidence that their employer will bargain with the union, and that the employer will not try to undermine the union by threatening the employees during bargaining for an initial agreement.

And finally, we must ensure that the Federal statute designed to provide this protection of employees—and the government agency tasked with the statute's enforcement—are effective. If the statute needs to be modified to provide stronger remedies or more streamlined procedures, then that should be addressed. If the NLRB itself is causing delay and confusion as to what the law is, then that should be addressed. We do not need symbolic votes. We need meaningful debate and careful consideration of these important issues. America's workers deserve nothing less.

It is worthwhile to look at the experience of our neighbor, Canada, where five of the ten provinces use the card check procedure instead of secret ballot elections. In hearings this year before the Senate and the House concerning the Employee Free Choice Act, witnesses testified that unions are more successful in their organizing campaigns under the card check system—perhaps an indication that card check prevents employers from exercising undue influence over workers to prevent unionization. On the other hand, there was testimony suggesting that the Canadian card check system has allowed

unions to exert undue influence on employees in order to obtain their signatures on union recognition cards.

In a 2004 study of the gap between Canadian and U.S. union densities, an economics professor from Ontario found that simulations suggest that approximately 20 percent of the gap could be attributed to the different recognition procedures—card check or secret ballot elections—in the two countries. She further noted that the election procedures in Canada are not identical to those of the U.S. I am intrigued by the fact that union elections in Canada must take place within 5 to 10 days after an application or petition is filed, depending on the province. In the U.S. there is no such statutory time limit between petition and voting, and it may be several months before the election is held. This creates a wider window of opportunity for the employer to influence workers, using legal or illegal means. The professor also notes that when unfair labor practices occur, the differences in procedures and the role of the courts in the two countries mean that it is faster and less expensive to process complaints in Canada than in the U.S.

In 2001, another economics professor published a study in which he noted that in the previous decade, an increased number of Canadian provinces had abandoned their longstanding tradition of certification based on card check by experimenting with mandatory elections. In British Columbia, for example, legislation requiring elections was enacted in 1984 and then abandoned in 1993. In examining the impact of union suppression on campaign success in British Columbia, the professor tested whether the length of an organizing drive had an impact on organizing success. The evidence demonstrated that the probability of a successful organization of employees decreased by 1 percent for every two days of delay when an unfair labor practice was involved. The unfair labor practice itself decreased the probability of success even further. The professor observed that mandatory elections, as compared with a card check system, were detrimental to unions' success. He found that not only did success rates fall, but the number of certification attempts fell substantially as well. He concluded that unions believe organizing will be more difficult under mandatory voting as so are less willing to invest in it. He concluded his paper with this observation:

It seems more likely, however, that the recent trend towards compulsory voting represents a shift in beliefs towards elections as a preferable mechanism for determining the true level of support within the bargaining unit. . . . If governments are opting for a more neutral stance towards unions, our results suggest that stricter employer penalties should be considered. Currently even when an [unfair labor practice claim] is found to be meritorious, penalties for illegal employer coercion are largely compensatory. . . . Furthermore, our evidence shows that strict time limits form a useful policy tool in encouraging neutrality in the organizing process since the combination of union suppression and a length certification process is quite destructive.

I also note a 2006 study published in the Industrial Law Journal by an Oxford professor who has studied the statutory recognition procedures in England's Trade Union and Labour Relations Act of 1992. He compares the English, Canadian and American systems, and states at page 9: ''Indeed, the law itself has erected the most substantial barriers to unions' organizational success, and this is manifest in the dilatoriness of legal procedures. Delay erodes the unions' organizational base by undermining workers' perceptions of union instrumentality.'' These studies of the Canadian and the English experiences are instructive if we are to carefully consider the many aspects of the secret ballot election process.

Since 1935, there have been two major substantive amendments to Federal labor law. In 1947, Congress passed the Taft-Hartley Act and, in 1959, it passed the Landrum-Griffin Act. These additions to the law strengthened workers' right to refrain from union activity and regulated the process of collective bargaining and the use of economic weapons during labor disputes, but Congress has not amended the provisions of federal labor law that protect the right of self-organization.

On July 18, 1977, President Carter asked Congress for labor law reform legislation. His proposals were incorporated into H.R. 8410, which was introduced on July 19, 1977. An identical bill, S. 1883, was introduced that same day by Senators Williams and Javits. Ten days of hearings by the Subcommittee on Labor-Management Relations began on July 25, 1977.

UNIONS, FORMER SECRETARIES OF LABOR, CIVIL RIGHTS AND THE RIGHT TO WORK COMMITTEE TESTIFIED AGAINST H.R. 8410

In the House alone, from 1961 through 1976, over 60 days of hearings were held on the National Labor Relations Act. Nineteen days of hearing were held between July 15, 1975 and May 5, 1976, concerning, among other bills: H.R. 8110, to expedite the processes and strengthen the remedies of the Labor Act with respect to delegation and treble damages; H.R. 8407 to include supervisors within the protection of the Act; H.R. 8408, to improve the administration and procedures of the Board in terms of technical amendments; H.R. 8409, to strengthen the remedial provision of the Act against repeated or flagrant transgressors; and H.R. 12822, to amend the National Labor Relations Act to expedite elections, to create remedies for refusal-to-bargain violations, and other purposes. In 1978, H.R. 8410 was debated for 20 days in the Senate. After failing 5 cloture votes on the bill and amendments, the bill was returned on June 22, 1978 to the Senate Committee on Human Resources, and there it died. We should try again to address the problems raised during these extensive hearings and debates.

The National Labor Relations Act created a system of workplace democracy that to a large extent has served our nation well for more than 70 years. American labor unions, with a strong history of social progress and accomplishments in improving the workplace, have made America and the American economy strong. Yet, despite these successes, the NLRA is too often ineffective at guaranteeing workers' rights in the face of bad conduct by some employers and some unions.

The essential plan and purpose of the Wagner Act was described by President Franklin Roosevelt when he signed the measure into law:

''This act defines, as part of our substantive law, the right of self-organization of employees in industry for the purpose of collective bargaining, and provides methods by which the government can safeguard that legal right. It establishes a National Labor Relations Board to hear and determine cases in which it is charged that this legal right is abridged or denied, and to hold fair elections to ascertain who are the chosen representatives of employees.

A better relationship between labor and management is the high purpose of this act. By assuring the employees the right of collective bargaining, it fosters the development of the employment contract on a sound and equitable basis. By providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of wasteful economic strife. By preventing practices which tend to destroy the independence of labor it seeks, for every worker within its scope, that freedom of choice and action which is justly his . . .''

It has been too long since the Senate has fully and freely debated whether our labor laws continue to adequately safeguard workers' rights. It is important that we focus on the real problems with the NLRA and try to achieve a result that can garner bipartisan support. Just take a look at the bipartisan support that has been a necessary basis of any successful labor legislation:

In 1926, only 13 Senators voted against the Railway Labor Act.

In 1931, the Davis-Bacon Act was passed by voice vote.

In 1932, the Norris-LaGuardia Act was passed by voice vote.

In 1935, the National Labor Relations Act (also known as the Wagner Act) was passed by voice vote.

In 1936, the Walsh-Healey Public Contracts Act was passed by voice vote.

In 1938, the Fair Labor Standards Act was passed by voice vote.

In 1947, the Taft-Hartley Act was passed when 68 Senators voted to override President Truman's veto.

In 1959, only 2 Senators voted against the Labor-Management Reporting and Disclosure Act (also known as the Landrum-Griffin Act).

In 1965, the McNamara-O'Hara Service Contract Act was passed by voice vote.

In 1974, not a single Senator voted against the Employee Retirement Income Security Act.

On January 20, 1959, Senator John F. Kennedy introduced a section of the Landrum-Griffin Act. His remarks in his floor speech were instructive and prophetic:

''[T]he necessity for bipartisanship in labor legislation is a principle which should guide us all. . . . So let us avoid . . . unnecessary partisan politics or uninformed or deliberate distortions. This is particularly true in the controversial field of labor—which is precisely why no major labor legislation has been passed in the last decade. The extremists on both sides are always displeased. . . . [But] in the words of Business Week magazine . . . 'wise guidance in the public interest can be substituted for concern over wide apart partisan positions.' I wish to mention the key provisions of the bill introduced today—the basic weapons against racketeering which will be unavailable in the battle against corruption if such a measure is not enacted by the Congress this year: . . . Secret ballot for the election of all union officers or of the convention delegates who select them. . . . This is, in short, a strong bill—a bipartisan measure—a bill that does the job which needs to be done without bogging down the Congress with unrelated controversies. Without doubt, the future course of our action in this area will be plagued with the usual emotional arguments, political perils, and powerful pressures which always surround this subject.''

I am voting for cloture today because I believe that it is time for Congress to thoroughly debate this issue and to address the shortcomings in the National Labor Relations Act in a bipartisan and comprehensive manner.

Mr. SPECTER. Madam President, I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Madam President, I yield 5 minutes to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized for 5 minutes.

Mr. ALEXANDER. Madam President, I thank the Senator from Wyoming.

I have enjoyed the remarks, as always, by the Senator from Pennsylvania. It is not a bad idea to consider labor-management relations in a bipartisan way. A good place to start doing that is in the Senate committees, where this discussion belongs, rather than bringing directly to the floor the question of whether we should just one day decide to get rid of the secret ballot in elections.

The Senator from Pennsylvania has done a beautiful job of looking at history. Let me point to some history as well.

May 13, 1861, was the day set aside in North Carolina for the election of delegates to the State Convention on Secession from the Union. This is a book by William Trotter about bushwhackers. Part of the United States in which I grew up and my family has come from is where counties and families were divided during the Civil War.

On that day, May 13, 1861, according to Mr. Trotter's book, there was to be a vote about secession, and one of the most visible people in the square on that misty spring day was the sheriff, who was an ardent spokesman for secession. He had been elected, according to the author, and supported by the wealthier farmers and merchants, nearly all of whom favored the idea of secession.

The sheriff had gotten a little whiskey and was boisterous and encouraged by his supporters. He went around town making it clear the prevailing sentiment in the county was for secession. He was in an exuberant mood because he knew, at the end of day, secession would be ratified. So exuberant was he, that he shot one of the Unionists, and that person's father then shot the sheriff. That day is called ''Bloody Madison'' in western North Carolina.

But the point is that when the secret ballots were counted, despite the sheriff and the wealthy farmers and merchants, there were only 28 votes for secessionist delegates, and 144 voted to stay with the United States of America. The secret ballot they exercised that day was for a reason. It made a difference.

In a little more personal way, a few months ago, we had a contest here among friends for our No. 2 position on the Republican side of the aisle. I sought it. So did my friend of 40 years, TRENT LOTT, the Senator from Mississippi. Going into the election, I had 27 votes. When the votes were counted, I had 24. The secret ballot we employ in our Senate caucus we employ for a reason. It makes a difference.

The unions, in the 1930s, when they were gaining a foothold and being established, insisted on a secret ballot. They still have a secret ballot when the vote is to decertify a union.

In our democracy, the right to vote is prized. We keep candidates away from polling places. We don't want people looking over your shoulder while you vote. We help you, if you can't read the ballot. We got rid of the poll tax to give you access to the ballot. The Voting Rights Act has become the single greatest symbol of the civil rights movement in the 1960's. The right to vote is the essence of our democracy.

This proposed legislation is brazen kowtowing to union bosses. This bill creates the possibility that large union recruiters might come stand around you at the work site and encourage you to sign a card. They might visit your home. They might make phone calls. They might be like the sheriff in Madison County, elected by the powerful and very persuasive, going around with his pistol or his gun or his influence, or looking over your shoulder while you voted. Fortunately, instead of that scenario, we have a secret ballot, and we ought to keep it.

What is next if we get rid of the secret ballot for union elections? Will we get rid of the secret ballot for union leaders, for Senators, for Governors, for managers of the pension funds? Even most union members want to keep the secret ballot. According to a Zogby poll in 2004, 71 percent said that the secret ballot process is fair, and 78 percent said they favored keeping the current system in place.

So whether it is voting day in Madison County at the beginning of the civil war, whether it is the Senate caucus on the Republican or Democratic side, or whether it is a union election to organize or to decertify, the right to vote is precious in America. Not having someone looking over your shoulder while you vote makes that precious right even more precious. There is a reason we have a secret ballot. It makes a difference.

I intend to vote no on cloture. I urge my colleagues to do the same.

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

Mr. ENZI. Madam President, we are debating two things this morning, the card check and immigration. I yield 5 minutes to the Senator from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I appreciate the courtesy of the Senator from Massachusetts earlier who made it possible for us to get an order for speaking.

Let me associate myself with the remarks made by the Senator from Tennessee relative to card check. It is totally inappropriate to eliminate secret ballots in a democracy.

I wish to talk a little bit about the immigration bill. This is going to come to a vote in a few minutes, or in about an hour, and there are some serious issues relative to the process. Since this is a process vote, I wanted to raise those issues. These are the issues: This bill could have been handled well. It could have been addressed through a process that would have allowed amendments that Members wanted to hear and take up, but it hasn't been.

What has happened is there is a working organization which produced the bill, and it is now controlling the amendment process. For example, I have requested that we have an effective, clean amendment on the issue of how we do H–1Bs. H–1Bs are a critical element of getting quality people to come to the United States and do jobs which we don't presently have people to do, mostly in the science field. Those people create jobs; they don't lose jobs. By bringing a person like that, we are actually creating a job center because that type of individual adds value to the American workplace. So we need a robust H–1B program. I wasn't saying it had to be in the bill, but I did say we have to have a clean vote on it so we can get an up-or-down vote on whether we are going to have a robust and effective H–1B program.

What has happened, however, is, through this process which has been developed—which prejudices those of us who are not members of the process, and since there are only five or six people in the process, it is prejudicing obviously about 90 of us—there is a situation that has been created where even if I get a clean vote on H–1B, which I am not sure they will even give me that under this clay pigeon approach, there will be language put in the managers' package which will basically gut the H–1B program. It is called the Durbin language.

The practical effect of the Durbin language is this: It says if you bring somebody in under H–1B, you must pay them the prevailing wage under skill level 2 of the prevailing wage. Well, the practical effect of that is it essentially means if you bring someone in under H–1B, after you have paid all the fees, all the finding fees, all the attorney's fees, which adds a lot for bringing that type of individual into this country, you then must pay a wage which is significantly higher than other people working in that same area.

Take a small software company in New Hampshire, of which there are many, that would use H–1B types of individuals, scientists, coming into our country. Let's say they had 10 positions, they only filled 9, so they had to bring in a 10th person. The average wage for a software person is about $80,000 in New Hampshire for nine of those people, but the person who came into the country would get $100,000. On top of that, they would also have the fees, the attorney's fees for getting the permit to bring the individual into the country. Obviously, the practical effect of that would be that H–1B would not work.

So this language, which is essentially killer language to the H–1B program, is going to be put in the managers' package, as I understand—although I don't really know that because nobody will actually tell us what is going on; this

is just a rumor—or alternatively, it is going to be put into somebody else's amendment, which we know will pass. But, anyway, there is a deal in the works which says the people who drafted this bill are going to lock hands and make sure that language is put in the bill which, even if we get a decent vote on a decent H–1B program, will gut that vote.

That raises serious issues of process and obviously fairness. I just wanted to make it clear that I am not comfortable with it in its present form and have significant reservations.

Madam President, I yield the floor and yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BIDEN. Madam President, on behalf of Senator KENNEDY, I yield myself 5 minutes.

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

Mr. BIDEN. Madam President, history shows when the union movement is strong, the middle class is strong. When the middle class is strong, our Nation is strong.

But when the union movement is under attack, the middle class is under attack. When the middle class is under attack, our Nation is weaker economically and politically. Let there be no mistake, the union movement and our middle class are under attack. Just take a look at the numbers.

Since 1973, 26 percent of the workers in America belong to unions. The pay and benefits, the working conditions, the basic dignity they fought for spilled over to the rest of working class Americans. We are all better off for it.

I would like to show you a couple of charts. Between 1947 and 1973, if you look at rising income growth, and based on the percentile of income shown on this chart, essentially everyone from 1947 to 1973—the rising tide lifts all boats, and it lifted all boats—there was an actual real income growth of almost 118 percent for the lowest 20 percentile. The top 20 percentile grew over 80 percent. There was some genuine equity.

Then take a look at what happened as the union movement began to take blows from the Supreme Court and the NLRB. There used to be card check back in those days, by the way. If you wanted to join a union, you got a card check, a little like we are talking about now.

Look what happened between 1973 and the year 2000. Real income growth, the lowest 20 percent, grew just about 12 percent. The top 20 percent grew over 67 percent. We begin to see the building inequities as a consequence of the demise of the American union movement, as well as tax policy and the types of jobs we are creating.

Now, because I only have 5 minutes, I am going to do this quickly. Let's fast-forward to the era of President Bush, George W. Bush. Look what has happened in terms of real income growth, in terms of 2004 dollars. There has actually been a net decline in the income of the lowest 20 percent, almost 5 percent; the second lowest tier, almost 4 percent; the middle income, people making between $40,000 and $60,000 per family, their real income actually dropped over 2 percent—all the way across the board, everybody but the top 1 percent. You have to have an income roughly of $435,000 to make it into that category. Average salary income in that category is $1.4-plus million per year. That is the only outfit growing, and look at what happened.

If I could superimpose a chart on organized labor, you would see a direct decline; you would see an inverse proportion of what happened. As labor declined, the economic power of corporate America increased, and the power of the wealthiest among us skyrocketed.

It is time to change. Today, just 12 percent of American workers belong to unions, and the spending power of the paycheck is actually lower than it was in 1973. The median income is lower, but productivity is up more than 80 percent since 1973.

It used to be we had a grand bargain in this country. As labor increased productivity, as they did more, as businesses and stockholders were able to benefit from the increased productivity, they benefited. Now it is in inverse proportion. On the sweat and their backs, they have increased productivity, and they have been penalized for it.

Even in my State of Delaware, the hourly wage is down since 2000. The median family income is below its 2000 level. The number of workers represented and protected by unions has fallen from 1 in 4 in 1973 to 1 in 10 today. The basic social compact that built our economy, that built our middle class, that built our country after World War II, has been broken. That compact said if workers produce more, they would share in the gains. Today, that is not true. Unions help to cut that deal, and they kept their end of the bargain. Business and government have not kept their part of the deal.

It is harder now to organize, harder to get a union certified to represent the interests of the workers. It is harder because business is fighting back harder because this administration has launched its own unrelenting attack on the union movement. It is not just pay that has taken a hit. Basic benefits such as health care, pensions—things unions fought for and won—they are, more and more, just a thing of the past.

More and more of the American people have no health insurance—46 million as of last year—a number that just keeps growing. In my State of Delaware there are 100,000 uninsured.

Just imagine the fear, the insecurity, the helplessness that the families must feel, going from day to day—the man lying in bed and the woman lying in bed at night staring at the ceiling, having no insurance, looking over at his pregnant wife, knowing it is a premature child, and they will literally lose their house.

I yield myself 3 more minutes.

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

Mr. BIDEN. Madam President, a quarter of a century ago, 9 out of 10 American workers could count on a pension plan with a guaranteed payout. They had security in knowing they could pay their bills. Today, only about one-third of Americans are in that shape.

Union membership means more security. The facts are clear. Union jobs earn 30 percent more than nonunion jobs.

We have to stop and reverse the decline of union membership, and that means passing the Employee Free Choice Act, which I have supported from the beginning, and which used to exist.

In Delaware right now the Laborers International Union of North America says the majority of the workers at the Walker International Transportation Company near my home in New Castle, DE, want to join them. They want to join because they need the benefits such as decent health care, pay, and working conditions for which unions have fought. Since May, the union has filed four complaints with the NLRB, complaints that the company is interfering with their organizing efforts.

Under current law, this process could be drawn out indefinitely. They should be able to resolve this with a clear, simple count of cards, certified by the National Labor Relations Board.

The Employee Free Choice Act will make the will of the majority of workers clearer. It will punish employers who break the law, and it will guarantee that new unions will get their first contract, not just another runaround.

It is time to bring the strength of the union movement back within the reach of the American people. It is time to rebuild the middle class by giving organized labor the strength to fight for decent pay and benefits.

My colleagues, it is time for a new social compact, a new social compact because of white-collar workers who never thought they needed a union, and who all of a sudden are finding out their companies are not so generous with them when they walk in and shut down a division and shut them out. I say to my colleagues, I believe American white-collar workers who never thought about the union movement are prepared to think about it now.

I don't want to just reverse the slide of organized labor in America, I want to energize a new compact between white-collar workers and blue-collar workers to give back power to the middle class so this graph you see here from the year 2008 through 2020 looks more like this graph that existed from

1947 to 1973. It is the only way to keep the middle class in the game. They are getting crushed now. They are getting crushed.

I yield the floor, and I thank my colleague for the time.

Mr. ENZI. Madam President, as I allocate the time, I do want people to know that the next sentence I say is tongue in cheek. I had no idea that taking the secret ballot away from America's workers could solve all the problems of the world.

I yield 5 minutes to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized for 5 minutes.

Mr. CORKER. Madam President, I thank the Senator from Wyoming.

It never ceases to amaze me the tremendous creativity that exists in the Senate, just by virtue of the name of this act we are discussing today, the Employee Free Choice Act, and to, of course, hear my colleague, the Senator from Delaware, talk about some of the ills that face labor today. Certainly, I want to say that as someone who has worked as a laborer and as someone who has worked with people who have worked in labor, I want to make sure the American people have good wages.

I agree with that 100 percent. I think all of us in America want to see people make a good living, to be able to raise their families in a way that certainly is full of respect. I want to see the same things occur.

I wish to say this debate today is most unusual. To talk about this vote we are going to have a little later today as being one about ''free choice'' is most ironic. Unlike most people who serve in the Senate, I have actually carried a union card. I have actually paid union dues. I have actually served as a trustee on a pension fund to ensure employees of mine who were union employees were able to receive their pensions down the road. So I worked with labor and I have been a laborer. I have been one of those people who certainly was talked to about organization and about people being members of a union.

I wish to say again—to reiterate what the Senator from Wyoming said—it is amazing that all of the ills relating to the labor movement today can be brought back to this one act that we are talking about today that has to do with card check.

I know people have talked about Supreme Court rulings and about books and about a lot of things. I wish to talk about what it means to be out on a jobsite and to be talking with union representatives, whether it is on a picket line or on the jobsite itself. If this act were to pass, instead of people having a secret ballot, such as we have in the Senate when we select our leadership, such as people have when they vote for us to be in the Senate—instead of that, what would occur is that each individual would be talked to about whether they would like to see a union come in. I have witnessed this, where people would go up to a water cooler on a construction site, and four or five large people representing the union gather around that person and ask them if they would like to be a member of the union. I have witnessed this when people are living out in rural areas and they don't want to vote for the union, but people pay them a visit in the dark of night suggesting they should check off a card, if you will, so they can call the union to form in the organization they happen to work for.

This is not about free choice. Certainly, this is about making sure the union leaders don't have to do the job that is necessary to cause people to want to join their union by offering the membership things they would like to have, but instead they would have the ability to strongarm people and cause people to do things that are not in their own interest. What is amazing to me is that union membership doesn't even want to see this happen.

What this, in essence, would do is cause union leadership not to even have to carry out their jobs in a way that would cause people to want to be a member of the union but instead threaten people at the jobsite, at their homes late at night, to cause them to be a member of the union.

For that reason, and because of the time we have at this point, I urge all those in the Senate to vote against this piece of legislation, which goes against the very principle we all support, and that is secret ballots, freedom of choice. I vehemently oppose this legislation because I believe this would set our country back a hundred years. I urge my fellow Senators to vote against this act.

I yield the rest of my time to the Senator from Wyoming.

Mr. ENZI. Madam President, we are hearing two debates today, and that was intentional. We will shift gears and go to immigration.

I yield 5 minutes to the Senator from Alabama.

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

Mr. SESSIONS. Mr. President, I thank the Senator from Wyoming, a fine Senator and a great manager of legislation.

I have to tell you we pretty well know this card check bill is going down like a lead balloon. We have an issue that has galvanized the attention of the American public—and we will be voting on that at the same time—and that is the immigration bill that we are about to go to.

I think it is odd that the allocators of time allocated a rather small amount of time to Senator ENZI to allocate to those who oppose this legislation.

Let me—since I only have 5 minutes and maybe now 4—see if I can succinctly say to my colleagues why the legislation before us today is a bad piece of legislation. Yes, we need to reform immigration; yes, we need to reform immigration in much the way those who are promoting this legislation say it should be reformed. But the bill we are going to vote on will not do that—very much like 1986, when the promoters of that bill said: Let's give amnesty to 3 million people and we will create a legal system in the future that will work.

Why would I say that, that this bill does not work? Our own Congressional Budget Office, on June 4—this month—did an analysis of the legislation. They concluded that if this bill were to become law, illegal immigration would only be reduced 13 percent. What an astounding number. Only 13 percent? We have been hearing we must pass this immigration bill, and if you don't like amnesty, you must vote for it because that is the only way we are going to create a legal system of immigration in America.

My analysis, before CBO came out with theirs, was that the bill would not be effective; it had loophole after loophole. They concluded the same. They say a 25-percent reduction in the border security and an increase in visa overstays nets a 13-percent reduction. That is in the CBO report, which is available to every Senator. We should look at that. How can we vote for legislation that we know is not going to work as it is promised to work?

Second, I don't know that the American people or Members of this body realize it will double the legal immigration flow into America over the next 20 years, giving twice as many green card statuses, legal permanent resident statuses, as the current law provides. We are not going to get any substantial reduction in illegality. We are going to double illegality. It will cost, according to CBO, the Treasury of the United States $30 billion—not expenses of enforcement, none of that, but for additional welfare and other benefits that would be paid to those who come into the country illegally.

Senator BIDEN talked about the middle class. This is not a little issue. I don't know that his numbers were exactly correct. But for some time I have been troubled by the fact that middle and lower skilled workers have not seen their income levels rise at the rate that corporate executives are seeing their income levels rise. Friday, when I left this body, right on the street there was a gentleman out there who had gray hair and a gray beard and he had a sign about jobs. I spoke to him. He said he opposed this immigration bill. He was a master carpenter from Melbourne, FL. He told me that he, in the 1990s, was making $75,000 a year. Now he is making a fraction of that. He is going to have to get out of the business. He attributed that solely to illegal immigration, this incredible flow of almost unlimited numbers of workers into his neighborhood, which had made his skill far less valuable.

If we are concerned about the middle class, we have to ask how many workers this country can accept without

seeing a marked drop in their income. The American people do not like this bill. Our phones are ringing off the hook. A decent respect for our constituents, I urge my colleagues, would be to say you have rejected this bill.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Mr. SESSIONS. I thank the Chair. I yield the floor and urge that we vote against cloture on this legislation.

Mr. ENZI. Madam President, I yield 5 minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 5 minutes.

Mr. CORNYN. Madam President, I was forwarded a copy of a transcript of an interview of a White House official yesterday commenting on some remarks I made on the floor regarding the immigration bill. I wish to speak to that.

I have argued the current bill sets up the Department of Homeland Security for failure because it requires the Department of Homeland Security to grant full work and travel authorization to applicants for Z visas within 24 hours of their application, whether or not a background check has been completed. That is the text in the current immigration bill. Yesterday, though, the White House told reporters this was part of a ''misunderstanding and mythology'' surrounding this provision.

Let me quote the text of the provision. It reads:

> No probationary benefits shall be issued to an alien until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner.

That is what the bill says. There is no mythology, no misunderstanding. I know people think that draft language is a perfect draft and believe it should attain its own mythological status, but this is pretty straightforward. If an alien applies, he or she gets legal status, full travel and work authorization no later than the next day.

The White House official believes this provision is workable because, as he says, ''Four of the layers of that background check are almost invariably completed within 24 hours.'' ''Almost'' always completing a background check within 24 hours is not always completing a background check within 24 hours. He acknowledges that one of the checks takes longer than 24 hours. So by his own admission, the Department of Homeland Security will confer legal status to nearly every applicant, even though they have not completed a background check.

This is not what the American people are hearing when they are selling this bill. The American people are being told that foreign nationals will have to pass a background check before they are granted legal status. This is not true, according to the text of the underlying bill, and it is not factually possible, according to the lead negotiator from the White House.

Not to be deterred by facts, however, this official believes this should be of no concern because if anything comes up in the background check beyond the 24-hour period, then the Department of Homeland Security will declare that person ineligible and deport them.

Certainly, that is a concept we can all support; that is, if someone is ineligible, they should be deported. My concern is the gulf between the promise being made to the American people and the likelihood that that promise will be carried out. The White House said this is of no concern because they will declare them ineligible and deport them. But the question Americans are asking is: Will they? Can they? If they already have this capability, why has nothing been done about 623,000 alien absconders already?

The Department of Homeland Security has reportedly created a unit to track down, apprehend, and deport these fugitives, but no appreciable dent has been made in this number. The Department of Homeland Security has information on these individuals already.

But let's keep in mind that as the Department of Homeland Security is so diligently tracking down the thousands of criminal aliens who have already had a chance and have gone underground, or have left the country and reentered illegally based on a deportation order, they have to do a lot of other things, and Americans are asking can they get all of this done? Can they train, hire, and deploy up to 20,000 additional Border Patrol agents? Can they implement a worker verification system to screen the workers around the country? Can they build up to the 370 miles of fencing and 300 miles of vehicle barriers? Can they deploy the secure border initiative? Can they deploy the exit monitoring system of the US-VISIT Program? Can they process 12 million initial applicants for Z visas? Can they build 105 radar and camera towers? Can they detain all removable aliens caught on the southern border utilizing detention facilities with a capacity of only 31,500 people per day?

I think the American people can be forgiven for doubting the commitment of the Federal Government and the willingness of the Federal Government to actually do all the things it is promising. That is why this bill is such a tough sell, to say the least—especially because, as of 2 years ago, we were doing nothing to beef up border security. It is hard to take the commitment at face value that, yes, now we are serious about it.

So I fear that, similar to 1986, we are being promised something the American people know we cannot and will not deliver. We should slow down, read this bill, offer and debate amendments that will improve the bill and vote on amendments freely.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Madam President, I yield myself 1 minute.

The fact is, if we sink this bill, if we vote against this bill, we wouldn't even have tried to do all the background checks, we wouldn't even have tried to get a secure border.

We know what so many Members of this body are against, but we have yet to hear what they are for. The Senator from Texas outlined in very considerable detail the kind of security to which we believe this legislation is committed. Defeat this legislation and all of that security is out the window.

This bill may not be perfect, but it is the best opportunity we have to do something significant and substantial, and I believe the bill is good.

I see my friend from Ohio. I yield him 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN. Madam President, I rise in support of the Employee Free Choice Act which will be in front of this body this week. Historians who take a clear-eyed look at the last 30 years will tell you productivity has been rising, our economy has been expanding, corporate profits are up, executive salaries are way up, and yet the workers responsible for our Nation's prosperity have not reaped anywhere near their share of the benefits.

The hallmark of our economy for generations has been those people who produce the wealth, people who work with their hands, people who work with their minds, the employees of this country. Those who produce wealth will share in the wealth they create. As productivity goes up, through most of our history, certainly in the last 100 years, so have wages. But things have changed.

In 2005, the real median household income in America was down 3 percent from the median income in 2000. In Ohio, my State, it was down almost 10 percent. Meanwhile, the average CEO makes 411 times more than the average worker. In 1990, the average CEO made 107 times more. We can see, as productivity goes up for workers, executives make more, profits are higher, but workers are not sharing in the wealth they create. That is what made the 2006 elections so important because the middle class spoke up, the middle class understanding their wages are stagnated, understanding they have not shared in the wealth they created. That is what makes today so important.

We are considering today landmark legislation supported by workers, employers, religious organizations, civil rights groups, advocates for children's legislation, which will give employees a real choice on whether they want to join a union.

This legislation probably won't pass this week. Republicans have again, one more time, threatened to filibuster and one more time we probably won't get the 60 votes to pass this legislation. But it is clear a majority of the American people want it, a majority of the House of Representatives wants it, a majority of the Senate wants it. We will keep coming back year after year

supported by these workers, employers, religious organizations, civil rights groups, and advocates for children.

I would point out, in pursuit of economic justice, why this Employee Free Choice Act is so important and what has happened to our economy in the last six decades. Each of these bars represents 20 percent of wage earners in this country, the lowest 20-percent wage earners and the highest 20 percent. We can see, from 1947 to 1973, the height of unionism in our country, the period when the most American workers belonged to unions, what happened. There was strong economic growth for all of society, for all workers in every category, but the strongest economic growth in wages was the lowest 20-percent of wage earners from 1947 to 1973.

In the seventies and eighties, the percentage of American workers in unions declined. Other things were going on too, such as the trade surplus went to a trade deficit, and other things. The big part of that was unionization. Look at 1973 to 2000; there was still economic growth in all segments of our society. On average, in each category, workers' incomes went up, but the lowest 20 percent had the lowest percentage growth in income, and the highest 20 percent had the highest growth in income. We can already see a splitting apart, where wage growth did not quite track productivity.

Since 2000, we can see something else happened. This trend has exploded. Since 2000, all five categories have seen their wages go down. The lowest 20 percent has had the biggest decline. Only when we cut off the top 1 percent have we seen incomes go up. The top 1 percent has seen their incomes go up 6 percent; the lowest has seen their incomes drop about 5 percent. Again, that is in large part because fewer and fewer Americans belong to labor unions, and it is more and more difficult to join a union.

Employers are stronger. Employers spend more money. Employers hire more firms with great expertise on how to stop union drives, to defeat unions, to refuse to bargain if a union is voted in. Literally there have been tens of thousands of infractions those employers have engaged in against their employees. This bill makes sense.

The PRESIDING OFFICER (Mr. TESTER). The Senator has used 5 minutes.

Mr. BROWN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I urge my colleagues to vote ''no'' on cloture on the check card bill. I urge them to do this because a secret ballot is not only a part of the political process in the United States, but a part of a process in many organizations to make sure that people vote their convictions and not their emotions or emotions that have been forced upon them.

I want to use a personal example of why I think, in union elections in particular, a secret ballot is so important. I have told some of my colleagues, not very often, but in past debates on the floor of the Senate that while I was a member of the State legislature, I worked at a factory in Cedar Falls, IA, called Waterloo Register Company. We made furnace registers. I had the glorious job for those 10 years of putting screw holes with a small punch in those registers. I worked there from September of 1961 until the plant shut down in March of 1971. During that period of time, from February of 1962 until the plant shut down, I was a member of the International Association of Machinists. Everything was going all right for that plant until about 1967, 1968, 1969, when our products made by the International Association of Machinists were not being installed by the Sheet Metal Workers Union members in Pennsylvania, is what I was told at the time. Our company wanted us to change from the International Association of Machinists to Sheet Metal Workers. This is not an instance of the company trying to keep a union out. There was already a union there. The company was getting behind the Sheet Metal Workers Union in a dispute that involved an illegal secondary boycott against our products. So our management thought if we were part of the Sheet Metal Workers Union we would get our products installed easier around the country by sheet metal worker installers. Presumably, we were one of the few companies making registers at that particular time that was a member of the International Association of Machinists, as opposed to being a member of the Sheet Metal Workers.

So our company and that union pushed to have an election to change unions from International Association of Machinists to Sheet Metal Workers. It was highly debated. Obviously, machinists and their members loyal to them wanted the machinists union to stay. The company and some workers who were sympathetic to the company point of view would rather have the Sheet Metal Workers Union because we were told they would not stay in business if the Sheet Metal Workers were not there.

We had an election. I forget the exact date. I tried to look up newspaper stories for this debate, and I couldn't find them. My recollection is that in March of 1969 or March of 1970, we had an election. I remember driving 100 miles from Des Moines where the legislature was in session to my factory—I had a leave of absence—to vote in that election. I don't mind telling people how I voted. I voted to keep the International Association of Machinists because I had been a member for 6 or 7 years. I thought they were serving my interests right. I wanted to keep them in there, and I didn't believe the story of the management and I didn't believe we should ratify an illegal secondary boycott.

In the meantime, we obviously got a lot of pressure both ways—from the machinists to keep the machinists, and we got a lot of pressure from management to change the union. There was a lot of intimidation. But we could go into that secret voting booth and cast our ballot, and nobody knew how we voted. We did vote, and we kept the International Association of Machinists in that particular election.

I know the overall reasons haven't changed in the last 40 years to have a secret ballot. They have been debated well here. But I thought I would share with my colleagues a personal story about the intimidation that can come from management, not necessarily from the union, to vote a certain way.

Consequently, I was fortunate we were able to keep our International Association of Machinists, and everybody went on happily until the plant finally closed down a couple years later.

So, I urge colleagues to vote against cloture and preserve the secret ballot to ensure that the intimidation that can be active by management as well as labor isn't used.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise to urge my colleagues to vote ''yes'' on the motion to proceed to S. 1639, the immigration reform package. This immigration reform legislation has been long in coming. Immigration has been debated on the floor in the last year for almost a month. We debated it earlier this year for several weeks. It has been the subject of multiple hearings.

The fact is this national security problem is not going to go away until the Members of the Senate have the courage to stand up and deal with this issue.

The legislation before this body may not be the perfect legislation everybody wants, and there are people who will find fault with the legislation, but at the end of the day, it addresses three fundamental principles we must address on immigration reform.

The first of those principles is that it secures America's borders, and it does that with tough provisions in how we police the borders, the addition of more Border Patrol agents, 370 miles of fencing, 70 ground-based radar and camera towers, 200 miles of vehicle barriers, new checkpoints of entry, and so forth.

Second, this law will enforce our Nation's immigration laws for the first time. For far too long, for the last 20 years, what has happened is America has looked the other way and turned a blind eye toward the enforcement of

our laws in this country. This legislation has significant enforcement provisions in it that will, in fact, be enforced and funded.

Third, this legislation secures America's economic future. It does it by the passage of the AgJOBS Act which is supported by more than 800 organizations, farmers, ranchers, and the agricultural community throughout our great Nation.

It addresses the economic needs of America by moving forward with a new temporary worker program that will address the needs of America today in terms of jobs that other people do not want.

And finally, it sets forth a realistic solution for America's undocumented workforce, and it is a far cry from what those who are on the other side of this issue will say—that it is amnesty. It is not. When we are having the people pay the kinds of penalties we have in the bill, when we have them go to the back of the line, when we put them through an 8-year purgatory, when we put them through that probationary period of time, what we are saying to them is: You have broken the law, you are going to pay significantly to get back into the line relative to the possibility of having a green card which will not come until 8 to 13 years from now.

So I think we have struck the right balance here, and I would urge my colleagues to move forward and to give us a ''yes'' vote on the motion to proceed to debate this fundamental issue of national security.

Finally, I would say that the moral issues which are at stake, which are at the foundation of this debate on immigration, are moral issues we cannot escape from. This Senate has to have the courage to stand up and say we are going to address those issues now.

Mr. KERRY. Mr. President, we are here today to bring a long overdue measure of fairness to a system that because of years of powerful opposition and millions of dollars spent remains rigged against the American worker.

Today, it is simply too difficult for workers to claim their legal right to join a union and too easy for employers to prevent them from doing so. This is no accident, and it must change.

Throughout our history, it is the labor movement above all else which has stood up as the driving force in support of working Americans, a gateway to the middle class. So much of what we take for granted today—the 5-day workweek, paid vacations, pensions, health insurance didn't happen by accident; they became reality because people in organized labor were willing to fight, willing to march, and sometimes willing to die to stand up for the rights of the American worker.

But the work of making America a little bit more fair and a little bit more just isn't over—and once again to achieve another milestone we must stand with labor over the objections of powerful corporate opposition.

As a cosponsor and strong supporter of the Employee Free Choice Act of 2007, I urge my colleagues to vote for cloture to pass this important legislation and continue the march of progress in this century which organized labor began in the last one.

In 1935 Congress passed the National Labor Relations Act, NLRA, historic legislation that marked the first time the Federal Government recognized collective bargaining as a right for workers. Employees won the right to organize and a legal forum to settle disputes with management, air grievances, and generally improve workplace standards.

This 1935 law represented a tremendous breakthrough for workers, but its unintended consequences have worked to undo its basic promise that when a majority of workers want to join a union, they have the right to do so.

Unfortunately, the union recognition process today allows antiunion employers to stall both the organizing and bargaining process for months and even years—opening up the door for the very abuses the NLRA explicitly seeks to prevent.

First, once workers decide and demonstrate that they would like to unionize, our current system offers employers a window of time in which to lobby, cajole, and otherwise pressure them not to do so before holding a surreptitious secret vote. When presented with signatures from a majority of employees, employers can call for a secret election—delaying the process and creating a window of opportunity during which employers can hire antiunion consultants, conduct an unlimited number of employee meetings, and bar labor representatives from the workplace.

Second, under the current rules, there are too few penalties to dissuade companies from taking illegal actions far beyond the questionable practices permissible under the NLRA. Facing light penalties, companies make a rational calculation that it is cheaper to violate labor laws and be punished than it is to follow them.

In 2005, the National Labor Relations Board, NLRB, reported that 31,000 workers were disciplined or fired for union activity. Studies show that employees are fired in one-quarter of all organizing campaigns and that one in five workers who openly advocate for a union during an election campaign is fired.

The odds are stacked against workers: when they present a majority, their employers are given every chance to dissuade them from unionizing. When employers cross these already generous lines and break the law, they are not held to account.

The Employee Free Choice Act of 2007 brings the letter of the law in line with the spirit of the law. It takes practical measures to protect and deliver what is supposedly already guaranteed: workers' right to organize.

The bill requires the NLRB and businesses to recognize a union when a majority of employees have signed their names to authorization cards and presented them to the National Labor Review Board. It also requires a binding arbitration process if an employer and a new union cannot reach agreement on an initial contract, empowers the NLRB to enforce compliance with the law in Federal court, and levies substantial fines on employers that engage in union-busting activities.

This legislation is about fundamental fairness. Millions of Americans want to join a union and ought to be able to, but can't. Just ask John Elia of Melrose, MA, field technician for Verizon who wants to organize his unit within the Communication Workers of America. John has been trying for months to get Verizon to recognize the union authorization cards he and the majority of his coworkers have signed. He even handed the signed cards to Verizon's CEO Ivan Seidenberg and asked him to accept them, but he was refused. Earlier this year, Congressman STEPHEN LYNCH, Congressman JOHN TIERNEY, Massachusetts Lieutenant Governor Tim Murray, and I publicly verified the field technician's authorization cards and called on Verizon to recognize them but we were refused as well.

John Elia wants what every worker wants—better pay, decent health care, a stable retirement plan, and real job security. Research shows that unionized workers are paid 30 percent more than nonunion workers, 92 percent of unionized workers have some health care coverage, and three out of four have defined benefit retirement plans—compared to just one in six nonunion members. No wonder a majority of Americans say they would join a union if they could.

This bill is especially timely because the Bush administration has rolled back the clock on worker rights and created an atmosphere that has emboldened many employers to engage in the kind of illegal activity that this bill would help end. For instance, Wal-Mart has been known to shut down stores and relocate them with different employees to prevent them from organizing. The Employee Free Choice Act would require the country's biggest employer to finally recognize its employees' right to form unions and bargain for better pay and benefits.

Opponents of this bill including the Chamber of Commerce want us to believe that instant card check recognition is undemocratic and will hurt businesses. In fact, it fulfills the promise of the National Labor Relations Act of 1935 by ensuring that a majority organizing vote will be honored. What is more democratic than honoring the wishes of the majority? Doubters at the Chamber of Commerce may also want to talk to cell phone provider Cingular, which has voluntarily agreed to honor instant card check unionization. Cingular reported $9 billion in revenue and a record $782 million fourth quarter profit in 2006. It hardly seems to be struggling under the weight of its unions.

Mr. President, as chairman of the Senate Committee on Small Business and Entrepreneurship, let me assure you that this bill is not bad for small businesses. It is aimed at large businesses that engage in union-busting, something small businesses cannot afford to do. In fact, 20 million out of America's 26 million small businesses don't have any employees.

We must restore balance to a broken labor system that breeds resentment on both sides. We must do so most of all so that millions of Americans see their hard work translate into a better standard of living. I urge my colleagues to support cloture so that we can improve conditions for hardworking Americans everywhere.

Mr. DODD. Mr. President, I rise in strong support of the Employee Free Choice Act, a bill that will ensure dignity and prosperity for millions of American workers.

It is no secret that unions helped build in America the largest and strongest middle class the world had ever seen. But where does that middle class stand today? Since 2000, real median household income is down, real wages are down; real wages, in fact, are lower now than they were in 1973. Nearly 50 million Americans, and more every day, are without health insurance. And all this stagnation while corporate profits are up 83 percent since 2005, while the pay of CEOs has skyrocketed to 411 times the pay of their workers.

It is no secret that, while American inequality has reached these heights, fewer and fewer workers are members of unions. In large part, that is not by choice. Worker intimidation is not the activity of a few outlaws—it is persistent, it is systemic, and it is devastating. Employers illegally fired workers in one quarter of union organizing drives. In 2005, more than 30,000 workers were discriminated against in connection with union-busting activities.

If we are going to preserve the American middle class—if workers are going to have the ability to bargain for their fair share—then we need to deter coercion and discrimination; we need a way for workers to fearlessly let their voices be heard.

The Employee Free Choice Act is the tool they need. It has three key provisions.

First, the bill recognizes that union elections are often the high point of employers' intimidation tactics. Rather than provide them a concentrated target, the EFCA establishes majority signup: If a majority of workers sign cards stating that they want union representation, a union is certified as their official collective bargaining agent. Workers are still free to participate in a secret ballot election supervised by the National Labor Relations Board if they so choose; but the Employee Free Choice Act gives that choice to workers themselves.

Second, the bill provides strict penalties for employers interfering with their workers' free choice to join or establish a union. Under the bill, the National Labor Relations Board may obtain a court injunction against an employer that is illegally firing or otherwise harassing workers. Illegally fired workers will be entitled to three times their back pay—a strong deterrent. And willful and repeated violation of workers' rights will result in a civil fine of $20,000 per incident. These penalties replace consequences that, to date, have proven ineffective. Companies will no longer have an incentive to ignore the law.

Third, the bill makes it easier for unions and employers to reach their first contract. It stipulates that bargaining must begin within 10 days of a new union being certified. If, after 90 days, no agreement has been reached, this legislation then authorizes either party to seek mediation through the Federal Mediation and Conciliation Service, which, in 2006 handled more than 5,500 cases and had an 86 percent success rate; if no contract is reached after 30 days of mediation, the parties will then submit to binding arbitration, which will impose a contract that lasts for 2 years. This clear process ensures that unions serve their purpose—because, without contracts, collective bargaining is meaningless.

There is no doubt that majority signup, stricter intimidation penalties, and the clear first contract process will strengthen American unions. But this is not a union bill, not if that term is understood to mean any narrow constituency or any narrow interest. Whatever his or her choice, it is in the interest of every American worker to have that choice recorded fairly, free from fear and threat. When the unfair and illegal barriers are removed, however, I am confident that more and more workers will put their trust in unions. Unions offer millions of us better wages, sounder health care, and more secure pensions. They are the best way we have yet discovered to share the fruits of our prosperity more equally. Workers know that, Mr. President—and they are waiting to be heard.

Mr. MCCAIN. Mr. President, I am strongly opposed to H.R. 800, the so-called Employee Free Choice Act of 2007. Not only is the bill's title deceptive, the enactment of such an ill-conceived legislative measure would be a gross deception to the hard-working Americans who would fall victim to it.

Since the inception of our democracy, we as citizens have placed a great amount of pride in our ability to freely cast votes and voice our opinions on how Federal, State, and local business should be conducted. Our ability to voice opinions through secret ballots stands as one of the hallmarks of our democratic process. Certainly, now, perhaps more than ever, we should be working to uphold this hallmark, not tear it down for the convenience of organized labor, which has been struggling with a declining membership. This bill is the product of partisan politics at its worst, and it must be soundly defeated.

During the early 20th century, we experienced a rapid growth in our labor force and, as a result, a push by unions to increase their membership. In response to aggressive and questionable recruiting practices by some unions, Congress passed the National Labor Relations Act, NRLA, of 1947. One of the main tenets of this legislation was to afford hard-working Americans the right to privately cast their vote on whether to organize, free of intimidation and coercion from union representatives and employees. Unfortunately, before us today is a bill that seeks to strip this fundamental right from our Nation's workers. Ironically dubbed the ''Employee Free Choice Act of 2007,'' this legislation would enact a ''card check'' process, allowing unions to bypass the long used and successful secret balloting system.

The proposed legislation is a direct attack on one of the most basic tenets of our democratic process, which is why it is opposed by a majority of American workers. A recent poll conducted by the nonpartisan Coalition for a Democratic Workplace found that 90 percent of union households oppose this legislation. Another poll by McLaughlin and Associates indicated that almost 9 out of 10 voters agree that workers should continue to have the right to a federally supervised secret ballot election when deciding whether to organize a union.

My concern is—and it is a concern shared by many—that if enacted this measure would expose workers to intimidation and the fear of retaliation for votes cast. We simply cannot allow this assault on democracy from becoming law. Instead, we should be working for the swift enactment of S. 1312, the Secret Ballot Protection Act of 2007, which I am proud to cosponsor along with 26 of my colleagues, to ensure secret ballot elections for employees.

I strongly urge my colleagues to vote no on H.R. 800 and to halt the full Senate's debate on this ill-conceived, flawed measure.

Mrs. BOXER. Mr. President, I rise today in strong support of the Employee Free Choice Act. For far too long, our Nation's labor laws have created an environment that has made it harder and harder for workers to organize and form unions.

The current system overwhelmingly favors the employer, who too often use their advantage to intimidate and coerce their employees.

The end result of this system has led to a squeeze on America's middle-class families, and the time has come to put an end to a union election system where employer intimidation tactics prevent middle-class workers from earning decent wages, health care, and fair working conditions.

It should come as no great surprise that middle-class families are facing increased economic hardships because of the Bush administration's policies.

Corporate profits have jumped 83 percent since 2001, with the richest Americans getting richer, while health care, energy, food, and education costs have skyrocketed, creating the largest income gap in 65 years.

In 2005, households in the bottom 90 percent experienced a .6-percent income loss, while workers at the top enjoyed a 16-percent increase in income.

Real wages for U.S. workers are lower today than in 1973, and in California, the real median hourly wage fell by 2.7 percent between 2003 and 2005.

In addition to seeing their wages squeezed, many middle-class workers are unable to provide health care for their families.

Over 7 million Californians are uninsured and the numbers of uninsured increase every year.

In fact, from 1999 to 2005, the number of Californians with employer-provided health care dropped from 60 percent to 55 percent.

To put into perspective the pressure being placed on the middle class, I recently found my son Doug's pay stub from when he worked as a checker at a supermarket in 1986.

Twenty-one years ago, a checker at his supermarket earned $7.41 per hour. According to the United Food and Commercial Workers union, an entry-level checker starting today would earn around $8.90 per hour, which is $4.86 less than my son's 1986 wages adjusted for inflation.

This downward pressure on middle-class wages must stop—and increased union participation can help solve this problem.

Encouraging more participation in unions is a simple and proven way to help middle-class families.

Union wages are on average more than 30 percent higher than nonunion wages. Union cashiers earn 46 percent more than nonunion cashiers. Union food preparation workers earn 50 percent more than nonunion workers.

To help increase participation in unions, the Employee Free Choice Act puts to an end the current culture of intimidation and coercion that surrounds some union elections, and instead presents a choice to workers contemplating unionization.

Under EFCA, workers can choose to proceed with union elections through secret ballot or they can choose organization through a simple card check procedure. Under current law, only the employer can choose how its employees choose to elect union representation.

Responsible employers, like Kaiser Permanente and Cingular, gave their employees such a choice, and the results have been great.

At a Kaiser Permanente health care facility in Orange County, CA, nurses were able to quickly and easily form a union without fear of intimidation and illegal firings. The smooth unionization process has led to an all-time low nurse vacancy rate and low nurse-to-patient ratios, which has increased the quality of health care provided to Kaiser's patients.

But workers who have not been given a choice on how to proceed with union elections have faced unfairly harsh consequences.

Employer intimidation and coercion are serious problems.

In 2005, over 30,000 workers lost wages or were fired because they were involved in union organizing activities.

The current union election system is badly broken and breeds fear in the workplace.

Workers under open threat of firings and layoffs from their employers are not given a real choice in choosing to organize a union.

Workers are fired in 25 percent of all private sector union organizing campaigns, and 1 in 5 workers involved in union organizing efforts is fired.

Over 75 percent of private employers require managers to give anti-union messages to employees, and over half of all employers threaten to close or relocate the business if workers elect a union.

At a Rite Aid distribution center in Lancaster, CA, workers thought forming a union would help them negotiate better working conditions. Workers at this distribution center work with no job security, mandatory overtime after 10-hour shifts, and no temperature controls in the warehouse.

When the union movement began to gain momentum, one of the lead employees, who had worked there for 6 years with a spotless record, was fired for poor performance.

Said the worker after his termination, "People were afraid to sign union cards because they saw what happened to me."

At the Los Angeles Airport Hilton Hotel, two workers leading the union effort were fired on trumped-up charges. One of them, Alicia Melgarejo, is a single mother of a 14-year-old daughter, who worked as a housekeeper at the hotel for 8 years.

Despite the fact that she had never been disciplined in 8 years on the job, she was immediately fired after being accused by management of stealing towels.

She asked management to show her video to back up their claim, but they refused. She believes she was simply fired for her role in union organizing efforts and her active support of Los Angeles' living wage law.

Under current law, these gross examples of intimidation can only be penalized by what amounts to a slap on the wrist for large companies. Employers can ruin lives, like they did to Alicia and her daughter, yet they often build into their budgets the costs of union-busting activities and the small penalties authorized by the National Labor Relations Board.

The current union election system creates a battle between employer and employee, with no real winner.

Our workers have earned the right to work in an environment free from fear, and they should be given the right to choose if they want a union through a process that doesn't provide incentives for employers to coerce and intimidate their employees.

EFCA changes the game and provides workers with a fair choice in choosing to organize.

It also takes away incentives for employers to break the law and illegally fire union organizers by requiring back pay for workers who are fired or retaliated against, increasing civil fines to up to $20,000 for each illegal act, and authorizing Federal court injunctions to immediately return fired workers to their jobs.

EFCA provides employees with a choice in choosing a union, gives teeth to penalties for violations to prevent employer bullying and intimidation, and levels the playing field for workers seeking well-deserved living wages, health care, and fair workplace treatment.

I urge my colleagues to support cloture on the motion to proceed to this bill.

Mr. OBAMA. Mr. President, all across the country, Americans are anxious about their future. In a global economy with new rules and new risks, they have watched as their Government has shifted those risks onto the backs of the American worker, and they wonder how they are ever going to keep up.

In coffee shops and town meetings, in VFW halls and all along the towns that once housed the manufacturing facilities that built our country, the questions are all the same. Will I be able to leave my children a better world than I was given? Will I be able to save enough to send them to college? Will I be able to plan for my retirement? Will my job even be there tomorrow? Who will stand up for me in this new world?

The Employee Free Choice Act can alleviate some of these concerns. I support this bill because in order to restore a sense of shared prosperity and security, we need to help working Americans exercise their right to organize under a fair and free process and bargain for their fair share of the wealth our country creates.

The current process for organizing a workplace denies too many workers the ability to do so. The Employee Free Choice Act offers to make binding an alternative process under which a majority of employees can sign up to join a union. Currently, employers can choose to accept—but are not bound by law to accept—the signed decision of a majority of workers. That choice should be left up to workers and workers alone.

Moreover, workers who want to form a union today are vulnerable to a concentrated period of union-busting tactics by employers. Far too often, workers petition to form a union, the employer is notified, and then the employer uses the time between notification and the vote to force workers into closed-door meetings where they might

mislead and scare their employees into opposing the organizing drive. In thousands of cases, employers just start firing prounion employees to send a message. And they consider any penalties that result from that behavior an acceptable cost of doing business.

The Employee Free Choice Act would give workers the right to collect signed cards from a majority of their colleagues to form a union and would require the employer to respect and accept that decision. It increases penalties to discourage employers from punishing workers trying to organize their colleagues, and it encourages both sides to negotiate the first contract in good faith by sending stalemates to binding arbitration.

As executive compensation skyrockets and money managers rake in millions in income annually, American workers are wondering if the rules aren't tilted against them. They question whether their vote and their efforts matter. They feel they have an increasingly weaker voice in the decisions their employers and their Government make. They find themselves competing against workers abroad who lack fair pay and benefits. And they feel ill-equipped to challenge employers who are cutting wages or refusing to raise wages at the same time as they are shedding their health care and retirement contributions.

What the history of America's middle class teaches us—and what we have to make real today—is the idea that in this country, we must value the labor of every single American. We must be willing to respect that labor and reward it with a few basic guarantees—wages that can raise a family, health care if we get sick, a retirement that is dignified, working conditions that are safe.

To protect that labor, we need a few basic rights: organization without intimidation, bargaining in good faith, and a safe workplace. These are commonsense principles, and this bill affirms those principles. For this reason, I stand in solidarity with working people around the country as an original cosponsor of the Employee Free Choice Act, and I urge my colleagues to pass it.

Mr. ENSIGN. Mr. President, I rise today to address the so-called Employee Free Choice Act.

Over the past few weeks the Democrats have painted a very partisan picture for the American public; coloring their failures by laying blame at the feet of the Republicans. In reality, Republicans have come to the table in good faith time and again to address the issues facing this Nation and its hard-working citizens.

Now, this week, despite their promises to deliver energy solutions, the Democrats have chosen to set aside the only energy bill they have brought before the Senate. Sadly, we only had mere days to debate proposals that could have put this country on the path to lower gas prices and energy independence.

What is more important than securing America's future?

It is with complete disregard for the rights of American workers that the Democrats have brought to the floor—at the cost of vital legislation—the deceptively titled ''Employee Free Choice Act.'' This act would revoke the right of workers to cast secret ballots in elections when voting on whether to form a union. Workers could now be unionized by the practice known as ''card check,'' which would make employees cast their vote publicly by signing cards that would be allowed to count as votes in place of a secretly cast ballot. This practice would allow for unionization as soon as a majority of employees give consent, thus eliminating the voice and vote of a significant percentage of employees.

This country is founded on the fundamental principles of freedom and choice. Let's be clear, this is not a debate about the merits of unionization, rather this is a debate about ensuring that Americans maintain their right to make their choice in private, from the voting booth to the workplace. The United States has a rich tradition of Americans choosing their elected representatives by secret ballot in free and fair elections. Every Member of Congress was elected through a secret ballot process, something I have worked throughout my career to protect. Ensuring that employees maintain the right to secret-ballot elections protects those who would choose to not unionize from undue peer pressure, public scrutiny, coercion, and possible retaliation. We cannot allow political payback to undermine 60 years worth of democracy in the workplace.

This is not what the American worker wants. Although I do not believe in governing by polls, it is an important tool to gauge support on an issue such as this. According to a Zogby poll, 78 percent of union workers favor keeping the current secret ballot process in place. It is also important to note that preserving the rights of workers does not mean the end of unionization. As a matter of fact, a study conducted by the National Labor Relations Board confirmed that unions win 60 percent of all elections conducted by a secret ballot. Knowing that would prompt any reasonable person to ask why the Democrats are so eager to secure the favor of big labor, especially when it is at the cost of the workers they claim to protect.

This bill would reverse 60 years of Federal labor law that has guaranteed workers the right to cast a private ballot. In 1947, Congress made a decision to amend the National Labor Relations Act and expressly mandated that workers be given the right to a secret ballot. Both the National Labor Relations Board, which oversees unions, and the Supreme Court have upheld the law and the rights of workers by recognizing that secret-ballot elections are the most satisfactory way to establish a union. Public support for the secret ballot for union representation is strong and an overwhelming number of union employees agree that a worker's vote to organize should remain private.

Currently, during union elections, all votes are cast secretly, and every vote is counted. This is important to protect employees from coercion and retaliation, not only from the employer but also from union officials. You see, what people fail to realize is that union officials have been as guilty of applying pressure, as they can alienate individuals, kill careers, or even threaten with physical force. Employees have had representatives from big labor visiting their places of employment, writing down license plate numbers, and visiting their homes later that night. Casting votes in secret provides all employees protection from these and other pressures.

Allowing the Employee Free Choice Act to pass into law would result in a dictatorial rule over laborers and their civil rights. I encourage this body to stand up and ensure that the Democrats are not allowed to make political fodder of the civil rights of hard working Americans. We cannot restrict the rights of workers by denying them their fundamental right to cast a private ballot in union organizing elections. Let's call this for what it is—a political payback—and vote against the ''Employee No Choice Act.''

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I believe I have 6 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, again I wish to thank my friend from Colorado for putting into 3 short minutes the compelling case for the support for cloture we will be voting on in just a very short period of time and thank him not only for his eloquence and his passion but also the strong ongoing effort he has made to try to make sure this legislation is worthy of the goals he has outlined. He has made an extraordinary contribution, and history will show it.

If the Chair will let me know when I have 1 minute left.

Mr. President, on the employee checkoff legislation, first of all, we want to point out that free elections are in the Employee Free Choice Act. They are in the legislation. We have heard a lot of issues and questions about whether they are in or they are not in. They are in the legislation. But let me really point out, in the few minutes that remain, why this legislation is necessary.

It is necessary because of the impact of what is happening today to so many workers who are trying to be able to pursue their economic interests.

This is Verna Bader, a machine operator in Taylor, MN. Verna wanted to form a union to help address health and safety problems at work. This is often the case. It isn't just their own economic interest; it is the health and safety problems they see on the job.

She and other union supporters were harassed by the foreman, who threatened: ''If you do get a union in here, you're gonna find out that you aren't gonna have a job.'' We have heard of intimidation, and this is the type of intimidation which so many workers, when they try to form a union, are faced with.

After employees voted to form a union, the harassment became unbearable for Verna. ''There's days that I literally went out of there crying. This is the kind of conditions that the employer set.''

Taylor Machine illegally shut down the department where union supporters worked. Eventually, the NLRB ordered the company to give them back their jobs. The company refused and appealed the ruling, delaying justice for the workers. Verna and her coworkers didn't get the backpay the company owed them until 8 years later.

This is Bonny Wallace, a nurse from Roseburg, OR. Bonny and her coworkers decided to form a union after the hospital began increasing nurses' patient loads, forcing them to work mandatory overtime. Many times, these workers would come down exhausted at the end of their 8-hour shift and be told: No, you are going to have to continue to work. Many of them had children at home or children they were picking up at school, and they were told they had to go out. The workers tried to find out if they couldn't get at least some kind of recognition of their needs. ''We needed some help and some representation. We needed someone to listen to us, when management would not. That's why we called the union.''

The hospital started a campaign of fear and intimidation. Despite a shortage of workers, the hospital forced them to attend antiunion meetings during their shifts. The meetings were demeaning and dehumanizing. ''We felt insulted by the half-truths they put forward.''

The nurses won the election, but 1 year after the union was certified, they still had no contract. Management has come to bargaining meetings unprepared to negotiate, stalling the negotiations and slow-walking the outcome.

So you have the situation where an individual is fired and another situation where they have just refused to negotiate.

Now, what happens every year? These are the figures from 2005: 30,000 workers—30,000 workers—have had to get backpay from the National Labor Relations Board because of examples I have just given here this afternoon. And these are not the exception. This is what is happening all over America. It didn't used to be that way. It didn't used to be that way.

Years ago, when they did have the card and the checkoff, the numbers that were actually being talked about at that time were about 3,000 individuals. Now, as has been pointed out during the course of the debate, the powers that are out there to defeat these workers, humiliate these workers, intimidate these workers are very effective, and we have 30,000 who get backpay.

Employees are fired in one-quarter of all the private sector union-organizing campaigns. One in five workers who openly advocate for a union during an election campaign is fired. That is the technique used in order to destroy. That is what we are trying to deal with in this legislation. That is what this legislation is all about. Let us allow the workers to have the choice and the employee recognition that they can vote for or vote against having a union but not have intimidation.

Finally, what are the penalties? I mentioned 30,000 different instances where they had to get backpay. The average backpay in 2005 was $2,660. Imagine that worker out of work for 8 years and finally gets the backpay, and the backpay is $2,660. If you had the violation on this Smokey Bear image, it would be $10,000.

This is not only an economic issue, it is a moral issue, and we have this open letter from 124 religious leaders that states: We as leaders of the faith communities, representing the entire spectrum of U.S. religious life, call upon the U.S. Senate to pass the Employee Free Choice Act so that workers will be able to represent themselves.

It is a civil rights issue. The Leadership Conference on Civil Rights and the Governors understand this. There is a letter from some 16 Governors, who think this makes sense.

There is also this extraordinary letter from a former Secretary of Labor, Ray Marshall, and he quotes the Dunlop Commission. John Dunlop, a Republican, was probably one of the greatest Secretaries of Labor in the history of this country.

Mr. KENNEDY. Mr. President, over the past several days I have addressed the Senate several times about the dramatic changes in our economy, and the overwhelming challenges facing American workers. I am deeply concerned about the growing divide between the haves and have-nots in our country. Working families are not receiving their fair share of our economic gains, and it is threatening the vitality of the American middle class and the American dream.

It is time to have a real conversation about economic security. We need to be talking about how we can return to the days where the rising tide really did lift all boats, and working Americans shared in the Nation's prosperity.

Unfortunately, my colleagues on the other side of the aisle don't seem interested in having that conversation. Instead, they have chosen to spread misconceptions and half-truths about the Employee Free Choice Act.

Before we can continue talking about the economic challenges facing America's workers, we need to set the record straight. I would like to clear up the misconceptions and half-truths about this legislation so we can return to focusing on the issues that matter to working families.

First, several of my Republican colleagues have come to the Senate floor to argue that the current system for choosing a union works just fine. They argue that there is no real problem here because 60 percent of NLRB elections are won by unions.

Actually, I still find that number disappointing, because in a substantial percentage of the elections that unions lose, the organizing efforts had majority support before the election process began. And nearly half the election petitions filed by unions are withdrawn even before the election occurs because union support has been so eroded that there is no point in going forward. Something happened during the election process to scare and intimidate workers.

But more importantly, the number of NLRB elections that unions win does not tell the whole story. What tells the story is how many employees want a union and don't have one. What tells the story is how many workers never get to that stage of the process.

According to a December 2006 poll by Peter Hart Research Associates, 58 percent of America's nonmanagerial workers—nearly 60 million—say they would join a union right now if they could. But only 7 percent of employees in the private sector have a union in their workplace. This shows that NLRB elections are not working to get workers the unions they want.

Some critics have also taken issue with some of the supporting statistics that I and my Democratic colleagues have used to demonstrate the widespread problem of anti-union behavior and abuses of the law by employers. Specifically, they have attacked a study performed by Professor Kate Bronfenbrenner of Cornell University concluding that employees are fired in one-quarter of all private-sector union organizing campaigns. These attacks are unfounded.

Professor Bronfenbrenner's study is one of many research projects that confirm what many of us have long known—that abuses of employees who try to form a union are rampant and our current system has proved inadequate to protect workers' rights.

Kate Bronfenbrenner's research has been relied upon for 20 years by Congress and the U.S. Trade Deficit Review Commission, USTDR, among others, to gauge the extent of employer behavior that affects the exercise of rights by workers. Her research has been published in a number of peer-reviewed books and journals where it was found to have upheld the stringent standards for methodological review for those publications.

It's abundantly clear that there is a serious problem, but Republicans argue that the Employee Free Choice Act is not the solution. They have pointed to a 2004 Zogby survey of union workers and a 2007 poll of workers by McLaughlin and Associates to argue

that workers—even union workers—don't want this.

Both the McLaughlin poll and the Zogby poll are unpersuasive. Both of these surveys presented people with a false choice—between majority sign-up and a fair and democratic election. Neither asked workers to choose between majority sign-up and the NLRB election process.

I think if the choice was presented accurately those results would have been much different, because a fair and democratic choice is just not what the NLRB election process provides. NLRB elections are so skewed in favor of the employer there's nothing fair or democratic about them.

The Hart research survey I have cited is far more accurate—I'll use the exact wording so there's no chance of misunderstanding:

> Under majority signup, once a majority of employees at a company join the union by signing authorization cards, the company must recognize and bargain with the union, with no election held. Do you favor or oppose this proposal?

When asked this question—with no slant or bias in it—70 percent of union members and 50 percent of workers overall supported majority sign-up, compared to only 20 percent of union members and 36 percent of workers overall who opposed it.

Beyond public perceptions, when it comes to the substance of the bill, each of the three major provisions of the act—the majority sign-up, the first contract timeline, and the enhanced penalties—has been the subject of misleading and inaccurate attacks. I will address each of these sections of the bill in turn.

On majority sign-up, the most common criticism I have heard is that the Employee Free Choice Act is undemocratic or that it eliminates the secret ballot election. Neither of these assertions is true—the bill does not abolish the NLRB election process, and if the goal of a democratic system is to have an outcome that reflects the will of the people, the Employee Free Choice Act establishes a far more democratic alternative to the current system.

Initially, the bill does not abolish the secret ballot election process. That process would still be available. It just gives workers—not employers—the choice whether to use the NLRB election process or majority signup.

My friend and colleague from Wyoming, Senator ENZI, has cited a letter from the Congressional Research Service, arguing that this letter proves that the bill eliminates secret ballot elections. With respect, I think that's a misreading of CRS's conclusions. What CRS said was that the bill would not permit an election when the majority of the employees has already signed valid authorizations designating a union as their collective bargaining representative. And that is correct—if the majority has already spoken and chosen a representative by signing authorization cards, the employees have already decided how they want to choose a union. It's that majority choice—the decision to choose a union through majority signup—that we want to protect. If the workers were to choose to use the election process instead—if they were to sign cards asking for an election rather than designating a bargaining representative—they would get an election. The Employee Free Choice Act lets the workers use the system they want. This makes perfect sense—after all, it is the workers' representative, why should the employer get to control how the workers get to choose?

In their discussions of the majority signup process, my Republican colleagues seem to suggest that the NLRB election process is a model of democratic fairness. But nothing could be further from the truth. NLRB elections are nothing like the public elections we use to elect our Congressional representatives. One side has all the power. Employers control the voters' paychecks and livelihood, have unlimited access to voters, and can intimidate and coerce them with impunity. By the time employees get to vote in an NLRB election, the environment is often so poisoned that free choice is no longer possible. That is not a free election or a fair election. Workers should have the option to choose a better process.

Another common criticism raised about majority signup is that employees may be coerced by their colleagues, or by union representatives, into supporting the union. This is really not a cause for significant concern. It is already clearly against the law for unions to coerce or intimidate employees into signing union authorization cards. Those cards are invalid and cannot be counted towards majority signup, and nothing in the Employee Free Choice Act changes that.

Along these same lines, several of my colleagues have cited a Supreme Court case—NLRB v. Gissel Packing Company—for the proposition that authorization cards are an ''inherently unreliable'' indicator of true employee support for a union. I am distressed that my colleagues would take this quotation so drastically out of context. Those words—''inherently unreliable''—were used by the Court to articulate the employer's contention, which the Court rejected. In fact the Court in Gissel held the exact opposite! They found that authorization cards can adequately reflect employee desires for representation and the NLRB's rules governing the card collection process are adequate to guard against any coercion that might occur.

I don't understand my colleague's suggestion that authorization cards aren't a valid indicator of a worker's wishes. We have always used these cards to determine whether workers want an election or not, and there's never been any suggestion that coercion or misrepresentation makes the process unfair.

Majority signup is a better system. It respects the free choice of workers by giving them the freedom to choose a union in a simple, peaceful way. Experience has shown that when majority signup replaces the battlefield mentality of the NLRB election process, conflict is minimized and the workplace becomes more cooperative and productive—a win for both sides.

Briefly, there are three more concerns that have been raised about majority signup that I would like to dispel. Each of these concerns reflects a misunderstanding of how the bill would affect current law.

First, my Republican colleagues claim that the Employee Free Choice Act would require ''public'' card signings, which is simply untrue. Under the act, signing a card will be no more or less confidential than it is now. Under current law, workers can request an election if 30 percent of them sign cards saying they are interested in an election. The NLRB keeps the cards—and the card signer's identity—confidential and will not reveal that information to the employer. The Employee Free Choice Act does that change these NLRB confidentiality requirements that protect workers from being targeted by their employers for later retaliation.

Second, some of my colleagues have suggested that the Employee Free Choice Act will ''silence'' employers and restrict their ability to express their views about the union. But nothing in the Employee Free Choice Act changes the free speech rights of an employer. Employers are still free to express their views about the union as long as they do not threaten or intimidate workers. The act also does not change the types of anti-union activity that are prohibited by law. What the act does do is strengthen the penalties for anti-union activity that are prohibited by law. It also allows workers to find an alternative to the contentious NLRB election process, when many of these violations of the law can occur.

My friend and colleague from Utah, Senator Hatch, claims that by giving workers an alternative to the NLRB election process, the employer is ''effectively silenced'' because it is possible that the employer will not know about the majority signup campaign until the cards are presented to the employer. While that is theoretically possible, it is highly unlikely. Most employers know when employees are thinking about forming a union. Even in the rare instance where an employer was truly taken by surprise, the employer has no ''right'' to an additional period of time to engage in anti-union tactics. Majority signup is about workers choosing their own representative. Why should the employer have a guaranteed say in the workers' decision about their own representative? That would be like saying that one party in a court case can't hire a lawyer until the other party has a guaranteed period of time to argue that his opponent

shouldn't be allowed to have a lawyer. It is nonsensical.

Third, critics have argued that the Employee Free Choice Act inappropriately lets employees choose the appropriate unit for bargaining, instead of the National Labor Relations Board. Again, this reflects a misunderstanding of current law, and of the scope of the Employee Free Choice Act.

Under current law, when employees petition for an election they have a right to choose the unit for bargaining. Employees need only choose an appropriate unit, not the most appropriate unit. Employers then have the right to ask the National Labor Relations Board to determine whether the unit chosen by the employees is inappropriate or unlawful. The Employee Free Choice Act does not alter the law in this respect. Employees will still have the right to choose their bargaining unit. EFCA maintains this important right for employees, while continuing to protect employers from being forced to recognize an inappropriate or unlawful unit.

Unfortunately, opponents of this bill have not confined their misguided attacks to the majority signup provisions. They have also raised several unjustified criticisms of the provisions in the bill providing a timetable to get workers a first contract.

Primarily, my Republican colleagues have argued that these provisions would allow the government to impose a contract on the parties, threatening business's bottom line. These sensationalistic references to ''government-imposed contracts'' are way off-base. It is a scare tactic that has no relationship to what this bill actually does.

The Employee Free Choice Act does not compel arbitration whenever the parties have difficulty reaching a contract, as my colleagues suggest. It provides a procedure where unions or employers can seek assistance from the Federal Mediation and Conciliation Service if they are encountering difficulties in their negotiations. The first step of this process is mediation. Collective bargaining mediation provides a neutral, third-party mediator to assist the two sides in reaching contract agreement on their own. The FMCS has provided collective bargaining mediation services—including mediation of first contract negotiations—for more than 50 years, and they have an 86 percent success rate in helping the parties agree to a contract. That is a pretty impressive record.

Only in the rare instance where mediation fails does the act provide for arbitration. Binding arbitration is a last resort, and will rarely be used. It primarily serves as an incentive to bring the parties to the table. Neither the union nor the employer wants any uncertainty in the process, and therefore the parties have a strong reason to sit down at the table and work things out on their own rather than letting an arbitrator rule. The bill's negotiating framework is similar to what is used in most Canadian provinces. Canada's experience shows that arbitration is rarely used, and is an incentive—rather than a roadblock—to parties reaching their own agreement.

Finally, even in the rare case where parties do resort to arbitration, it will be limited to the issues that the parties are unable to agree on. These arbitrations will be handled by highly qualified FMCS arbitrators with long experience in crafting fair contract provisions. They will not impose unfair or extreme terms. I also don't know where my colleagues get the impression that an arbitration through the FMCS would produce a contract biased in favor of the union. It is not in anyone's interest to put a company out of business—workers would lose their jobs and unions would lose their members. Typically, arbitration produces middle-ground solutions that everyone can live with, and often parties settle their disputes during arbitration, alleviating the need for the arbitrator to render a decision at all.

The second criticism that has been leveled against the first contract timeline is that in the rare instance where a contract is actually imposed through the arbitration process, workers will lose their ''right'' to vote to ratify the contract. This reflects a complete misunderstanding of current law. Under current law, employees do not have a ''right'' to ratify a collective-bargaining agreement. A ratification vote is a courtesy that unions routinely give the workers they represent as a matter of policy. It is not a legal requirement.

Under the bill, if unions want to provide their members with input during the first contract negotiation process, they could submit the union's arbitration proposal to the membership for a ratification vote. This would ensure that the position the union takes in arbitration is consistent with the views of the membership.

Perhaps most importantly, in the rare case where a union gets a contract through arbitration, this contract will only be for a 2-year term—a relatively short timeframe for a labor contract. And, during the short duration of the first contract, the membership will no doubt still be far better off than if they had no contract at all.

Finally, opponents of the bill have argued that arbitration of first contracts is incompatible with the collective bargaining process. In support of this assertion, they cite a text on arbitration written by Elkouri and Elkouri, quoting it to say that using arbitration to reach a first contract is the ''antithesis of free collective bargaining.''

My Republican colleagues are taking this quotation out of context. Read in full, the text says: ''The arguments against compulsory arbitration as revealed in literature on the subject, are, broadly stated, that it is incompatible with free collective bargaining . . .'' Elkouri and Elkouri are merely reporting arguments made by others, not endorsing this position.

Indeed, later in the book, the authors acknowledge that, in some instances in which ''the parties find it difficult or impossible to reach agreement by direct negotiation,'' and ''the use of economic weapons [may] be costly and injurious to both parties'' or to the public, ''interest arbitration by impartial, competent neutrals, whether voluntary or statutorily prescribed, offers a way out of the dilemma.''

Using interest arbitration to resolve difficult situations is hardly unheard of. In fact, it has become quite common in public sector employment, public utilities, and railroads. It is also used in most Canadian provinces, where it has been perfectly consistent with a robust system of collective bargaining.

The system established by the Employee Free Choice Act gives a responsible employer every opportunity to pursue a contract fairly. There's bargaining, then there's mediation—arbitration is only a last resort. And the parties can always agree to keep talking or to extend any of the deadlines in the timetable. The process can last as long as it takes to reach a deal, so long as the parties are acting reasonably and can agree to keep talking.

Finally, I would like to take just a brief moment to respond to an argument raised by my friend from Utah, Senator HATCH, regarding penalties. He argued that the Employee Free Choice Act is unfair because it requires employers—but not unions—to pay triple backpay when they violate workers rights. While it is true that the bill does not provide for the same treble backpay penalty against unions, this is hardly problematic. Backpay is a remedy for wages to which an employee would otherwise have been entitled. Unions do not have the power to fire, demote, layoff, or take away workers' raises or overtime pay. Those are abuses only an employer can impose. Because unions cannot retaliate against workers in this manner, there is no reason to impose treble backpay on them.

In 2005 alone, over 30,000 workers received backpay from employers who violated their rights. In contrast, unions paid backpay to only 132 employees. This small set of backpay awards against unions primarily involves mishandled employee benefits—not the types of appalling abuses the Employee Free Choice Act is intended to address. When it comes to causing workers to lose their pay and benefits, it is employers—not unions—that are the problem, and the Employee Free Choice Act provides a solution, putting real teeth in the law, so that unscrupulous employers can no longer dismiss the penalties for violating workers rights as a minor cost of doing business.

The Employee Free Choice Act does one thing—it empowers workers. It gives them the freedom to choose—

without fear of intimidation or harassment—whether they want union representation. There's nothing more democratic than that.

I hope that my comments today have set the record straight. I hope that we can now move on to discussing the critical role this legislation can play in helping working families to overcome the challenges of new economy return to a time of shared prosperity. I urge all of my colleagues to vote to proceed to this bill so we can have that important debate.

Mr. ROCKEFELLER. Mr. President, we have before us a bill that will strengthen the historic right of workers to join together for higher wages, safer working conditions, and better benefits. The Employee Free Choice Act, which I have cosponsored for the last three Congresses, will allow workers to bolster their rights in the employment negotiation process. It will offer real deterrents for that small minority of employers who exercise undue influence over fairly and legally held elections for union representation, and as a result it will ensure workers more control of their working conditions.

Passage of this bill will have an enormous effect in my State of West Virginia. It will protect the rights of working men and women in my State, allowing them to bargain for increased wages, employer-provided health care and pension benefits, as well as better working conditions.

In fact, the pendulum has swung for too long solidly in favor of employers. This bill will bring us closer to equilibrium, giving employees more of a level playing field. The Employee Free Choice Act will enable a majority of employees to clearly and unambiguously make their decision known to organize.

If a majority of workers want a union, then they should be able to band together and speak as one. It is simple and fair, and this right should be free from intimidation. Today, even within legal strictures in place, the current election system allows that small—group of employers to intimidate workers in the midst of a union election, which is simply unacceptable. For example, under the current regime, employers may discourage organizing activities while workers who support unions may not use the workplace as a vehicle to show their support.

The current system leaves employees who want to organize in a vulnerable position. They may be threatened with the loss of their job or the closure of their plant. Among workers who openly advocate for a union during an election campaign, one in five is fired. In my own State, Ms. Mylinda Casey Hayes was unlawfully discharged from her job as a production line worker after she stopped wearing an antiunion button and began supporting employee efforts to organize.

I could give you many other examples of hard-working West Virginians fighting for their rights as employees who face similar tactics. Frankly, the penalties for employers who use these tactics are small—a mere slap on the wrist that does nothing to deter them from improperly and illegally influencing the election. It is high time that we put an end to this practice by showing that there are consequences for ignoring workers' rights. We must strengthen the penalties for companies that coerce or intimidate employees. The increased penalties in the Employee Free Choice Act will restore a more level playing field for employers and employees.

Now, we have the opportunity to extend democratic principles to all workers across the country. The Employee Free Choice Act will give workers the freedom to make their own choices free from intimidation and harassment. This freedom affects the wages, health care, pensions, and other benefits of our Nation's families. When America's hard working men and women are given the opportunity to improve their economic situations, we are all improved. This bill will improve wages, health care, pensions, and working conditions—in turn bolstering our economy. I strongly support this legislation, and I hope my colleagues will join me.

The PRESIDING OFFICER. The Senator's time is up.

Mr. KENNEDY. I will include those references in the RECORD, and I thank the Chair.

Mr. ENZI. Mr. President, I yield myself the remainder of my time.

We are actually debating two things here this morning because we are going to have two cloture votes right in a row. And there are some similarities between the two bills. The similarities are that neither has been through the committee process. Neither bill has been to committee. And I will tell you, when you don't send bills to committee around here, at least in my 11 years here, I don't think I have seen one bill pass that didn't go to committee. Why? Because people don't feel as if they had any input into it.

Just imagine. A coalition gets together and puts bills together and leaves everybody out and then tries to limit the amount of amendments that can be offered on them. The way the coalition works is that one person has this piece of a bill which they are really enamored with but hardly anybody likes it. Another person has this piece of a bill which he is really enamored with but hardly anybody likes it. And you get enough of those people together, throwing their bad parts of the bill in and agreeing to support it to the bitter end in order to pass the bill, but it is a conglomeration, sometimes, of bad things. So it shouldn't be a surprise when cloture isn't invoked on these bills that don't go through the committee process. The only chance for the person who is not in the coalition to have any kind of a voice is at the time of cloture.

Both of these bills, both the immigration bill and the card check bill, have not been through committee. The main bill I am talking about is the Employee Free Choice Act—I have to give them a lot of credit for picking a good name. Ironically, however, it is not about free choice; it is about taking away free choice. It should be called the "Employee Intimidation Act" or the "Take Away the Secret Ballot Act." It should not be called the Employee Free Choice Act, and I urge my colleagues to vote no on cloture on the motion to proceed.

For generations, this body has faithfully protected and continually expanded the rights of working men and women. This legislation does exactly the opposite and would strip away from working men and women their fundamental democratic right. Should cloture be invoked, we will get to talk about this for 30 hours, and I am going to go through each and every one of the charts the other side has used to show that statistics aren't always the truth. But everybody knew that already.

We see some charts that show how much people made during one 25-year period and which group, which 20 percent, made the most. Then we switch to another chart, and we show how that changed in the next 25 years. But the third chart is the fascinating one. If you count the spaces on that chart, we have gone from five slots of 20 percent to six slots because the emphasis is on what the top 1 percent in the country made. If you are going to have honest charts, you have to show what the top 1 percent made on the first two charts as well. Statistics—yes, you can get them to say what you want.

Another chart claimed that 30,000 people got backpay because they were fired for organizing. That isn't 30,000 people who got backpay because of organizing efforts; that is 30,000 people whom the National Labor Relations Board—through all of their proceedings has awarded backpay. They do a whole lot of cases that don't have anything to do with union organizing, such as contract interpretation, and those can result in settlements that award backpay. For example, in 200, two thirds of the recipients of "backpay" were involved in a single case involving contract interpretation, it had nothing to do with organizing.

But I don't want to go into all that now. I will have plenty of time if we do invoke cloture. I suspect there are plenty of people around here who can see the flaw in something called the Free Choice Act which takes away the right of people to vote, so I won't dwell on that.

For generations, we have guaranteed all workers in our country the right to choose whether they do or do not wish to be represented by a union. We have secured that right through the most basic means of a free people—the use of the secret ballot election. Now, however, proponents of this legislation would cast that right aside. One can almost feel the discomfort from our colleagues across the aisle as they grasp

at straws to ultimately prevent a futile effort to justify the shameful assault on workers' rights.

We have had related to us that it would solve fair trade, it would solve executive pay, and untold issues in the world would just be solved if we just took away the right to vote from people who are being organized.

We have been told the system is broken and the bill is needed to fix it. Simply untrue. Unions that participate in the democratic election process have never in history enjoyed as much success as in the last decade, a record of 10 straight years of an increasing winning rate, the last 2 years at record rates of 62 percent. I guess they are upset that in 38 percent of the votes, they lost.

Employer unfair labor practice allegations are down dramatically, more than 40 percent over prior decades. Most importantly, the National Labor Relations Board has only found it necessary to invalidate less than 1 percent of the elections it held last year. In fact, we took a look at 2,300 elections, and there were only 19 that were rerun, and those were because of union violations as well as employer violations.

We are told, secondly, that something must be wrong with the system because there are fewer unionized employees in the workforce. That is true, but I would suggest unions need to look elsewhere to explain this phenomenon. Many observers believe the problem for unions is that today's employees see them as out of step, too political. They talk about not having enough money to take on management. If they took some of the money they put into political campaigns and went after management, they would probably win more of the elections. Their members see them as being too political and too concerned with their own agenda rather than the workers. I don't know if that is true, but I do know that when unions push an undemocratic bill such as this, which takes rights away from workers, it does little to dispel that view.

I also note that the level of union membership has absolutely nothing to do with the law this bill seeks to radically alter. The law governing unionization and the law providing for a secret ballot has not changed for over 60 years. It is the same today as generations ago when union membership was at 35 percent. The law is plainly not the problem.

Third, we have been told increased unionization is necessary to boost worker pay and benefits. Increased benefits and pay cost money, and unions do not contribute a penny to such costs. Thus, the notion that these two are causally linked is simply smoke and mirrors.

But even if that were the case, the promise of higher wages and benefits is exactly the kind of appeal a union is free to make to employees in a free election process with a secret ballot. It is not an excuse to strip them of the right to vote. This bill is nothing more than a transparent payoff to union bosses to help them artificially and unfairly boost their membership numbers, to increase their bank accounts through more union dues, and increase the political leverage that such money buys. Pandering to special interests is a bad enough problem, but when the cost of such pandering is the most basic of American rights for American workers, it is disgraceful.

I urge my colleagues to reject this effort and to vote no on cloture.

I ask how much time I have remaining?

The PRESIDING OFFICER. The time now belongs to the Republican leader, the next 10 minutes.

Mr. ENZI. I yield the floor.

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

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Mr. President, first let me thank my friends and colleagues, Senator HATCH and Senator ENZI, for their hard work on the card check issue. They have been passionate and persuasive in defending worker rights. The Republican conference and the American worker are grateful.

We heard a lot yesterday from supporters of the so-called Employee Free Choice Act about the potential effect this bill would have in expanding unions. But we heard next to nothing from them about how it would bring that about. The way we do things in this country is just as important as what we do. This is what has always set us apart as a nation. So it is important we be clear about what this bill would do and how and why it must be defeated.

First, what would it do? Sixty years ago, Congress gave Americans the same voting rights at work they had always enjoyed outside of work. Worker intimidation was common during union organizing drives in those days, so Congress amended the National Labor Relations Act to include a right for workers to vote for or against a union without somebody looking over their shoulder.

As a result, a lot of workers stopped joining unions. Since the 1950s, the number of unionized workers in our country has fallen sharply. For one reason or another, voters opted out. This is their choice. Today, less than 8 percent of private sector jobs in our country are unionized. The so-called Employee Free Choice Act would reverse that law. It would strip workers of a 60-year-old right that was created to protect them from coercion, rolling back the basic worker protection that no one has questioned until now. This is what the bill would do.

Who is behind it? It should be obvious. The unions are desperate. They are losing the game, and now they want to change the rules. But in this case the rule they want to change happens to be one that is so deeply engrained in our democratic traditions that few people would believe it is even being debated today on the Senate floor. Surveys show that 9 out of 10 Americans oppose rolling back the right to a private ballot at the workplace, including an astonishing 91 percent of Democrats. Indeed, many of our colleagues on the other side have defended the secret ballot with passion and eloquence in the past. This is why we hear about the effects but not the cause.

The Democrats are rolling over in support of this antidemocratic bill. All but two Democrats in the House voted against their version of it in March. I expect even fewer Senate Democrats will defect from the party line today. They know the bill will fail. Senate and House Republicans have vowed to block it. The President has vowed to veto it. Yet Senate Democrats are forcing us to vote on it anyway. Why? As the senior Senator from Delaware told a reporter yesterday:

> I'll be completely candid . . . I would not miss that vote because of the importance to labor.

Republicans appreciate the candor, and we will be candid too. This antidemocratic bill will be defeated today, but it will not be forgotten. Republicans will remind our constituents about the fact that Democrats proposed to strip workers of their voting rights. No one can put voting rights on the table and expect to get away with it.

For Democrats, the end in this case clearly justifies the means. But the American people disagree with the means and the end. Voting in this country is sacred, and it is secret.

Republicans will stand together in defense of that basic right today by proudly defeating this dangerous and antidemocratic bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. President Franklin Delano Roosevelt said:

> It is one of the characteristics of a free and democratic nation that it have free and independent labor unions.

Roosevelt's New Deal lifted America through the Great Depression by showing us the rights of working people can go hand in with economic growth. His call for equality and basic fairness, which guaranteed our country a permanent workforce of skilled, trained, and professional employees, is something that is one of his legacies. But now, 70 years later, for many Americans the New Deal has become a raw deal.

Today in America, hourly wages are down, way down, while the number of uninsured is up, way up. Today in America, household income is down, way down, while the average chief executive officer's pay is a staggering, record-shattering, 411 times higher than the pay of the average working person, and going up every day. This has happened in part because, to use a term from Las Vegas, ''the boss holds all the chips.''

I rise to support that we proceed to the Employee Free Choice Act, a bill that will level the playing field for the American worker. It is unquestioned that when employees join labor unions, their standard of living improves and they become more productive employees. It is a win-win for employers and employees alike. Yet too often some employers coerce, harass, and threaten their employees to keep them from organizing. Our current laws give our employees little recourse when that happens, and it happens a lot. The Employee Free Choice Act puts the choice to organize squarely on the shoulders of the employees, and that is where it belongs.

This bill requires employers to recognize the formation of a union when the majority of employees express their support by signing a simple authorization card—a card check. It gives both sides a right to bring in the Federal Mediation Service to mediate the first contract once a union is formed, and enforces stronger penalties for companies that interfere with the right to organize.

Providing the American workers with free choice will ensure access to higher wages and better benefits, better fringe benefits. That means more working families will have good health care and will be able to save, for example, for a college education for their children and maybe even for a better retirement. They will be guaranteed fair benefits, such as vacation time, a reasonable workday, better on-the-job safety.

This is particularly true for African Americans, Latinos, and certainly women. There are some who claim this is a political vote, a gesture to labor. It is a gesture to the American working men and women. I can only venture to guess that those people who do not understand what this bill is all about are those who do not like the bill. This bill is an honest attempt to help improve the lives of Americans who often work hardest and are rewarded the very least.

Opponents of this bill, I guess, see it differently. Lobbyists for big business argue the status quo NLRB secret ballot election works just fine. It is not just fine. It doesn't work just fine. In reality, the status quo is often unfair and undemocratic. Big business wields tremendous power in secret balloting, and too often they use that power abusively. Big business controls the paychecks of the voters and livelihoods of labor. Big business sets the work schedule and terms of employment. And big business has a captive audience, an unfiltered audience to voters. All of us, save our new colleague who was sworn in at 3:15 yesterday, Dr. BARRASSO, have earned a place in the Senate through an election. But I guarantee everyone here, everyone within the sound of my voice, in any of the elections of the other 99 Senators who serve here now, if our opponents controlled 100 percent of the information that voters receive, none of us would be here.

That is what this is all about. There is nothing more democratic in politics and in government and the workplace than a level playing field.

For those who are skeptical of this legislation, let me remind you that it is already working. The NLRB permits the use of majority signup, or card check as it is often described. For example, in Nevada, a State where business and labor work together, most union organizing drives are implemented through majority signup.

Let me say this. Let me be very clear. This bill does nothing to limit employee options in right-to-work States such as Nevada, nor does it eliminate secret ballot elections, as some have said. It simply gives employees the choice to determine their path to union representation. That seems fair. That is the level field we are talking about.

Skeptics of this bill should look to Nevada to see that labor organizing does not have to be adversarial. The Employee Free Choice Act will be good for both sides: It will be good for labor, and it will be good for management. This legislation will help provide the fair, square deal for working people that President Roosevelt first promised 70 years ago and will keep our country strong and certainly more competitive.

I encourage all my colleagues to join in supporting the Employee Free Choice Act. That is what it is, a free choice act.

Mr. President, after we vote on the Employee Free Choice Act, we will return to immigration. Attention will be brought back to that issue, which is so critical—comprehensive immigration reform.

We would not have been able to revisit this issue if Democrats and Republicans hadn't put aside their differences to move forward. We may not all agree on the destination, but we now do at least have a roadmap. The process for this debate and the number of amendments we will consider were decided with the complete support of the Republican leader, Senator MCCONNELL. Senator MCCONNELL and I have worked together in good faith to ensure a full, open, and productive debate on an issue of such overriding national importance. But this bill will not get done without Republican support. The bill is here, but we need Republican support.

Sunday I had the good fortune to visit with the President. I spoke the same evening with Secretary Gutierrez. I spoke to Josh Bolton, the President's Chief of Staff. I explained to them, this is not a Democratic bill. They understand that. We had a Democratic bill last year. It died because the Republicans wouldn't allow us to go to conference. This is a bill that was negotiated in good faith with the total support of the President. He has made public statements that he supports this legislation. Throughout this debate, Democrats have done our part. Eighty percent of us voted for the President's bill; 14 percent of Republicans did the same. That is not enough. We are not asking the Republicans to equally match our support, although I wish they would, for their President's bill. If they deliver even 50 percent of their caucus, the legislation will pass. We need 25 Republicans to support us in this matter.

This is important legislation. The stakes are too high for inaction. We are the Senate of the United States. People have said the issue is too complex; let's not do it.

We have to take hard votes. We have an immigration system that is broken and needs to be fixed. That is what we are trying to do, fix it. We would be derelict in our duties if we didn't make every effort to get this legislation passed.

When we finish here, is it over with? Of course not. It goes to the House, and they will take up a measure. They will do what they think is appropriate. It will go to conference and we will come up with something that hopefully will solve most of the problems of immigration. I believe that to be the case. Comprehensive immigration reform will require us to tackle a number of difficult issues, such as border security. We have done a remarkably important thing in this bill regarding border security. Previously, there was authorization for money to do border security. This bill gives direct funding of $4.4 billion to address border security. If for no other reason, people should vote for this. I am confident this bill will take care of border security more than anything we have talked about in recent years. It will also look at a fair temporary worker program. There is in the legislation an agricultural workers program that is excellent. In this legislation there is the DREAM Act for education for children who previously could not be educated. Of course, there are employer sanctions which are important.

I am confident this bill addresses all four of these issues in a way that honors our country, our strong immigrant history, and sets us on the path to a stronger future.

I was looking at some commentary, talking about me and immigration. Actually, they made fun of fact that my father-in-law came from Russia, as if it were a negative. My wife's father was born in Russia. That is the strength of our country. My grandmother was born in England. I used to talk to my grandmother. She didn't remember much

about anything, but she remembered a few things. The fact that my father-in-law came from Russia, my grandmother came from England makes us a better country. Immigrants are the strength of this country. This legislation honors that fact.

We need to proceed with this legislation and send the American people a better life for everybody. That is what this legislation will do. It will allow us to solve the problem, secure our borders, have a temporary worker program that meets the demands of our country, and put 12 million people on a pathway to legalization. As Secretary Gutierrez said, it is not amnesty. If we do nothing, there is silent amnesty. What this bill does is make sure that people learn English. It makes sure they pay their taxes. It makes sure they work, stay out of trouble, pay penalties and fines. Even then, they go to the back of the line. Remember, these people, whether we like it or not, have American children. This will allow them to come out of the shadows, be productive citizens and with the great work we have done on border security, stop illegals from coming into the country in the future. That is what this legislation is all about. It is good legislation. We have an obligation, as the legislative branch of Government, to do something to work with the President and get this passed.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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 debate on the motion to proceed to Calendar No. 66, H.R. 800, the Free Choice Act of 2007.

Harry Reid, Ted Kennedy, Patty Murray, Bernard Sanders, Charles Schumer, Russell D. Feingold, Jack Reed, Barack Obama, Christopher Dodd, B.A. Mikulski, Pat Leahy, John Kerry, Robert Menendez, Claire McCaskill, Debbie Stabenow, Frank R. Lautenberg, Joe Biden, H.R. Clinton.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 800, an act to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—51

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

NAYS—48

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

NOT VOTING—1

Johnson

The PRESIDING OFFICER. On this question, the yeas are 51, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

CLOTURE MOTION

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 208, S. 1639, Immigration.

Ted Kennedy, Russell D. Feingold, Daniel K. Inouye, Tom Carper, Sheldon Whitehouse, Pat Leahy, Richard J. Durbin, Benjamin L. Cardin, Ken Salazar, Frank R. Lautenberg, Joe Lieberman, Dianne Feinstein, John Kerry, Charles Schumer, Ben Nelson, B.A. Mikulski.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1639, a bill to provide for comprehensive immigration reform, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The yeas and nays resulted—yeas 64, nays 35, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—64

Akaka	Feingold	Menendez
Bennett	Feinstein	Mikulski
Biden	Graham	Murkowski
Bingaman	Gregg	Murray
Bond	Hagel	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Brown	Inouye	Obama
Brownback	Kennedy	Pryor
Burr	Kerry	Reed
Cantwell	Klobuchar	Reid
Cardin	Kohl	Salazar
Carper	Kyl	Schumer
Casey	Lautenberg	Snowe
Clinton	Leahy	Specter
Coleman	Levin	Stevens
Collins	Lieberman	Voinovich
Conrad	Lincoln	Warner
Craig	Lott	Webb
Dodd	Lugar	Whitehouse
Domenici	Martinez	Wyden
Durbin	McCain	
Ensign	McConnell	

NAYS—35

Alexander	Crapo	Roberts
Allard	DeMint	Rockefeller
Barrasso	Dole	Sanders
Baucus	Dorgan	Sessions
Bayh	Enzi	Shelby
Bunning	Grassley	Smith
Byrd	Hatch	Stabenow
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Tester
Cochran	Isakson	Thune
Corker	Landrieu	Vitter
Cornyn	McCaskill	

NOT VOTING—1

Johnson

The PRESIDING OFFICER. On this vote, the yeas are 64, the nays are 35. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

RECESS

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

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

The majority leader is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 1

Mr. REID. Mr. President, despite the fact that we are fast approaching the 6-year anniversary since the terrible terrorist attacks of September 11, it is painfully clear we have much work left