

POLICY PAPER

September 2009 Published by:
No. 0909

AMERICANS FOR PROSPERITY®

Exposing the Special Interests Behind Waxman-Markey

Influence, Corruption and Control in H.R. 2454

James Valvo and Carl Oberg

1. Road to Passage: Key Players	2
2. Free Allowances: The Biggest Corporate Welfare Program in History	3
3. Implementation: Getting Rich Trading Permits	6
4. Eco-Protectionism: Are Carbon Tariffs Smoot-Hawley II?	9
5. Implementation II: National Greenhouse Gas Registry	12
6. Green Mortgages: Fannie Mae and Freddie Mac	12
7. Carbon Offset Credits: Forest Preservation	14
8. Union Giveaways: Davis-Bacon and PLAs	18
9. Green Construction Projects	20
10. Conclusion	23
11. Appendix and Citations	24

On June 26, 2009, the U.S. House of Representatives passed H.R. 2454, the American Clean Energy and Security Act of 2009, by the scant margin of 219-212. This bill envisions a major reordering of the American economy with a heavy reliance on a government-controlled energy strategy.

It is widely agreed that H.R. 2454, cosponsored by Reps. Henry Waxman (D-Calif.) and Edward Markey (D-Mass.), is not an environmental bill. This may seem coun-

terintuitive because the drumbeat for global warming legislation was consistently used as cover to advance the scheme. No, Waxman-Markey is about control. The more of the bill you read and the more of the players around the plan you examine, the clearer it becomes who stands to benefit and why.

Americans for Prosperity offers the following analysis of H.R. 2454 as a tool for stakeholders, legislators and citizens alike to understand the magnitude of government control envisioned by this legislation.

Mr. Valvo is government affairs manager and can be reached at james.valvo@afphq.org

Mr. Oberg is a policy associate and can be reached at carl.oberg@afphq.org

1. Road to Passage: Key Players

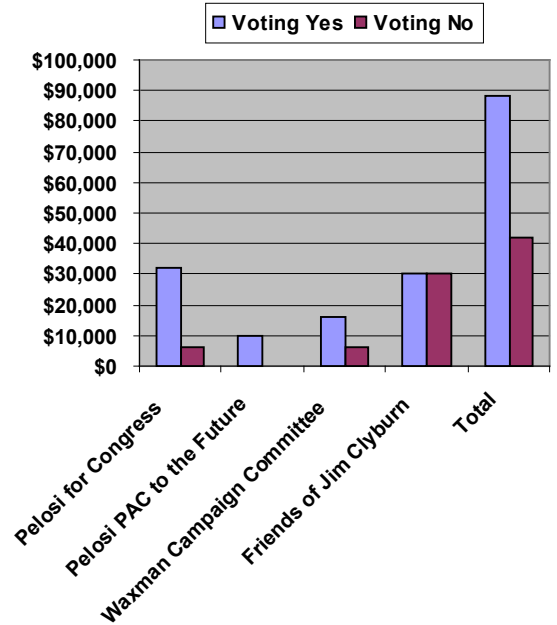
The power shift from Republicans to Democrats over the past few elections has seen California-based central state advocates reaching the zenith of their power. House Speaker Nancy Pelosi (D-Calif.), House Energy and Commerce Chairman Henry Waxman, and Senate Environment and Public Works Chairman Barbara Boxer (D-Calif.) are the power players moving this legislation through Congress. They have signed on to an agenda that prioritizes bureaucratic planning over market efficiencies. The beneficiaries of this centralization are power hungry politicians in Washington, handpicked so-called green energy upstarts, environmental non-profits and labor unions. The losers will be the American consumer, small businesses and the dependable sources of energy that continue to lift countless millions out of poverty around the world.

Waxman-Markey was not the first attempt by central planners to introduce command-and-control energy policy. However, it is the first time that a cap-and-trade scheme targeting carbon dioxide emissions has passed either chamber of Congress. In the past, concerns about levels of taxation, efficacy of government and regulatory impacts on business has stymied other legislation. However, in 2009 the political landscape was different. Large majorities in the House of Representatives gave far-Leftists the upper hand, but nonetheless, as the vote approached it became clear that Waxman-Markey did not have enough support to pass.

Buying Votes: Round One

In an effort to win votes where she alone could not, Speaker Pelosi called in the White House to put pressure on members to support the legislation. White House Chief of Staff Rahm Emanuel gathered

Democratic Leadership PAC Donations - \$130,000
June 23-30, 2009



reluctant Democrats for a meeting in the West Wing. Rep. Tim Walz (D-Minn.) reported, “Those that were undecided got a tap on the shoulder and met with the president.”¹ Members of Congress from across the political spectrum were rightly concerned about the impact of Waxman-Markey on constituents and businesses in their districts. However, cajoling was not enough to pass the bill and in a transparent and corrupt move to show support for members who were worried about losing their seats due to voter backlash, the Democratic leadership began stocking campaign war chests.

In a span of one week, June 23rd-30th, surrounding the roll call vote of June 26th, a total of \$130,000 was given to 41 swing Democratic voters by four key Democratic leadership PACs.² The most active was Friends of Jim Clyburn, the PAC directed by the majority whip from South Carolina, which gave undecided members \$60,000 just two days before the vote; the recipients ended up evenly divided among yes and no votes. The cash carrot-and-stick approach was chronicled in the *Politico*, which quoted Democratic Congressional Campaign Committee spokesman Ryan Rudominer

defending the behavior by saying, “Considering the long list of contributions that Leader Boehner gave ... their false accusations against Democrats are at best phony outrage and at worst, hypocrisy of the highest order.”³ The minority leader from Ohio gave \$2,000 each to eight Republicans, for a total of \$16,000, piling in comparison to Democratic expenditures.⁴

Campaign contributions were not the only means employed to attract undecided votes. Classic pork barrel politics pushed this flawed legislation over the finish line. Examples of vote-buying earmarks in Waxman-Markey include:

- Rep. Bobby Rush (D-Ill.) angled for nearly \$1 billion worth of energy-related job training and public housing energy efficiency upgrades in exchange for his vote.⁵
- Rep. Alan Grayson (D-Fla.) made sure that his pet project would benefit his home district before he handed over a “yes” vote. Grayson bragged about securing \$50 million for a new National Hurricane Research Center to be located in Orlando.⁶
- Rep. Mary Kaptur (D-Ohio) surrendered her vote in exchange for a \$3.5 billion federal power authority, which is authorized to dole out taxpayer money for renewable energy project in Ohio.⁷ Minority Leader John Boehner (R-Ohio) was critical of the move, calling it pork, even though it would benefit his home state.
- Rep. Frank Kratovil (D-Md.) only offered his vote after bill managers agreed to include \$1 billion worth of agriculture offset provisions, which would allow

Maryland farmers to take steps to reduce emissions and then sell the offsets to covered entities.⁸

While the bill was pushed through the House with a combination of White House lobbying, political payoffs and incessant vote whipping, the predictably corrupt process is just the beginning.

The 309-page manager’s amendment to Waxman-Markey, which contained many of the most problematic provisions, was used to cajole last minute supporters with parochial giveaways. The amendment was not made public until 3 a.m. the morning of the vote and was still being collated into the official text as members were being asked to vote on final passage, a point Minority Leader Boehner made quite emphatically in an hour-long floor reading of sections of the amendment.⁹ If members of Congress had been given time to read the bill, they would have discovered troubling provisions that prioritize government control and offered paybacks for lifelong political allies.

2. Free Allowances: The Biggest Corporate Welfare Program in History

The centerpiece of Waxman-Markey is a cap-and-trade scheme that seeks to lower carbon emissions by establishing an arbitrary cap on the amount of carbon a covered entity can emit and a trading program that lets “polluters” cannibalize each other to stay in business. Any cap-and-trade scheme is primarily concerned with two issues: at what level should the cap be set and how should the permits for emission be distributed; this section examines the latter.

An August 4, 2009, report by the Government Accountability Office (GAO) discussed the various ways that emission allowances could be distributed.

While the bill was pushed through the House with a combination of White House lobbying, political payoffs and incessant vote whipping, the predictably corrupt process is just the beginning.

“If you didn’t auction the permits it would represent the largest corporate welfare program that has ever been enacted in the history of the United States.”¹⁵

– White House Budget Director Peter Orszag, March 9, 2009

They outline that “the method of allowance allocation will generally not affect the level of emission reductions.”¹⁰ The two issues are largely independent economic functions.

The GAO states that “regardless of the mechanism for distributing allowances, customers will bear most of the cost of a cap-and-trade system...”¹¹ However, if the emission allowance distribution scheme favored giving away allowances for free, “[m]ost of the benefits ... will accrue to the shareholders of entities that receive them ... consumers are unlikely to see these benefits in the form of lower prices, since most covered entities will pass on costs associated with a cap-and-trade program, even when they receive allowances for free.”¹²

GAO insisted that maximizing auctioning is not only the most transparent and economically efficient method for distribution, but it is also the best way to ensure that generators do not profit from the implementation of the system. While examining the international record for this type of program, GAO found that “in the first phase of the European Union’s [Emissions Trading Scheme], electric utilities that received free allowances reaped substantial profits by charging ratepayers for the opportunity cost of those allowances.”¹³

An appropriate analogy that clarifies this point has been offered by pro-cap-and-trade environmental economists Kristen Sheeran and James Barrett. They wrote:

Try buying World Series tickets from a scalper. Would he charge you any less if he found the tickets on the ground? Of course he wouldn’t. Like energy, the street price of World Series tickets is based on supply and demand. The supply and demand for tickets is the same no matter how much the scalper paid for them, and so the price he

charges you will also be the same no matter how he got them.

Of course, the scalper would much rather get his tickets for free - and that’s precisely the point. Polluters are financially much better off if permits are given away instead of auctioned, but the cost of cutting emissions and the resulting effect on energy prices will be the same no matter how the permits are delivered.¹⁴

GAO and environmental economists are not the only ones who see gifted allowances as a giveaway to business. In March 2009, President Obama’s budget director, Peter Orszag made exactly the same point, saying, “If you didn’t auction the permits it would represent the largest corporate welfare program that has ever been enacted in the history of the United States. All of the evidence suggests that what would occur is that corporate profits would increase by approximately the value of the permits.”¹⁵

Let’s explain how this corporate welfare will occur. In addition to basic explanation that government will be providing—free of charge—a commodity that has been imbued with value to businesses, many of the targeted emitters will be electricity generation and distribution companies. We will witness new government regulations running afoul of older government regulations; in this case, rate controls.

In a Q&A session with Forbes Magazine, American Electric Power CEO Mike Morris said that the mandated clean energy technologies in Waxman-Markey



will actually boost his profits.¹⁶ Public utilities are so heavily regulated in the United States that if they need to make infrastructure investments, they must ask government for the right to raise rates to recover the cost. Morris was quite candid in his discussion of cap-and-trade's impact on his business:

Q: What effect would a carbon cap-and-trade scheme, which would require AEP to use allowances and carbon offsets to meet greenhouse-gas-emissions reduction targets, have on your business?

In the early years of such a scheme there won't be much going on at all. I'll have both enough allowances and I will have created or bought enough offsets ... Therefore, my rates will stay pretty steady in the early going. They'll begin to go up when I begin to react in a costly cap-and-trade market or deploy carbon-capture and storage technology. Rates could go up as much as 30% to 50% to pay for all of that. Most people miss the point when it comes to profitability ... much of the analyst community still looks at AEP as being negatively affected by carbon law, and that isn't true. Our business profile actually increases.

Q: So the states just allow you to pass on costs?

You're complying with federal law. When I put a scrubber on a smokestack my investment is absolutely recoverable ...

Q: What happens if carbon-capture technology, which is still experimental, doesn't work out. Will you simply buy carbon credits?

Sure. Today, every credit I buy as part of the Clean Air Act [to cover sulfur dioxide emissions] is recovered dollar for dollar.¹⁷

Morris isn't alone in his calculations; John Rowe—CEO of Exelon, one of the nation's largest electricity distributors—estimates that for every \$10 increase in the price of cap-and-trade permits, Exelon's annual revenues will increase \$750 million dollars.¹⁸ Those estimates can only mean that Morris and Rowe believe, correctly, that they will be able to raise their rates to recover for their new costs. That's why electric utilities support Waxman-Markey, because they stand to make a fortune from it.



It's nice to see that in the contentious debate over cap-and-trade everyone can agree on one thing: consumers will pay, companies will benefit. From environmental economists Kristen Sheeran and James Barrett, to the Government Accountability Office, to White House Budget Director Peter Orszag, to energy company CEOs John Rowe and Mike Morris, everyone acknowledges that the cost of Waxman-Markey will fall on citizens and small businesses, not so-called "carbon polluters."

Buying Votes: Round Two

If we know that giving allowances away is bad policy, then why does Waxman-Markey dole out eighty-five percent of the permits for free? The rationale that was offered by those handing out the permits is that it would soften the blow on businesses, who are then ostensibly supposed to refrain from turning around and raising rates and prices on consumers.

On June 23, three days before the vote, President Obama said, "this legislation

It's nice to see that in the contentious debate over cap-and-trade everyone can agree on one thing: consumers will pay, companies will benefit.

“There’s so much revenue that comes in from a cap-and-trade system that you can really go to a person in a congressional district and get enough votes there by saying, ‘What do you need? What do you want?’ ...”²¹
- Senator Barbara Boxer, June 6, 2009

is paid for by the polluters who currently emit the dangerous carbon emissions that contaminate the water we drink and pollute the air we breathe.”¹⁹ Although it is unclear how carbon emissions contaminate drinking water, perhaps the president should consult with his budget director and learn the real financial impact of the bill on consumers and businesses. Rep. Waxman proffered a similar platitude in a July 29, 2009 radio interview. He stated, “We’re giving away the credits to utilities in order to protect ratepayers. The credits they won’t have to pay for won’t be charged to ratepayers, both individual consumers and businesses... So this is a way to be fair to the consumers.”²⁰ However, as we have just shown in the preceding section, every indication is that exactly the opposite is true.

The real reason emission allowances were given away for free was to buy votes. Waxman-Markey was only able to pass because the allowance distribution methodology was used to gain support from members of Congress who were rightly concerned over the negative effects this bill would have on their constituents. Senator Barbara Boxer, who will be in charge of passing out allowances in the Senate, explained how this works, “There’s so much revenue that comes in from a cap-and-trade system that you can really go to a person in a congressional district and get enough votes there by saying, ‘What do you need? What do you want?’ -- You can really help them.”²¹

In addition to the earmarked projects discussed earlier, the House Democratic leadership followed Boxer’s advice and used emission allowances to buy enough votes for passage. The series of compromises that were reached with agriculture-state Democrats, led by Rep. Collin Peterson (D-Minn.) were also instrumental to the process. As we will outline shortly, Peterson was successful in not

only absolving the entire agriculture and forestry industries from the emission cap and winning lucrative offset provisions, but he was also aggressive in winning \$400 million in free allowances for rural electric cooperatives. These carve outs eased the fears of some moderate Democrats; Peterson and his cohorts ended up voting for the bill.²² Coal-burning utility companies fell in line after Rep. Rich Boucher (D-Va.) secured forty-three percent of the free permits, worth billions of dollars; Boucher abandoned his opposition and supported the bill.^{23,24} Rep. Gene Green (D-Texas) won oil refiners two percent of the allowances at no cost; Green voted for final passage.²⁵ The automotive industry won 3 percent of the free allowances, securing the votes of Rep. John Dingell (D-Mich.), and other members leery of the bill’s impact on the industrial base.²⁶

In the end, eighty-five percent of the allowances proved enough of a corporate giveaway to mollify the opposition and pass the bill by a count of 219-212. A bill that originally purported to address climate change and energy dependency had become, in White House Budget Director Peter Orszag’s words, the “largest corporate welfare program that has even been enacted in the history of the United States.”

3. Implementation: Getting Rich Trading Permits

After allowances have been distributed to covered entities—whether sold at auction or given away based on political consideration—a market will be established so companies with more permits than they need can sell them to companies that have been unable to restrict their emissions below the cap. This is the so-called market-driven function of a cap-and-trade scheme that makes it so attractive to central planners. Not only are they able to dictate the terms of the

cap, create the allowance distribution methodology, and establish the permit retirement rate, but they can do so by hijacking conservative language and making it appear as though they value private markets.

How much wealth would be peddled in a carbon market? Commodity Futures Trading Commissioner Bart Chilton estimates that within five years carbon emission markets could swell to \$2 trillion and become the largest commodity market in the world.²⁷ These trillions of dollars will be extracted from consumers, routed through energy companies, managed by commodity brokers and regulated by Washington bureaucrats. Each layer will introduce new costs to society and reduce the efficacy and efficiency of the program. The resulting waste, fraud, abuse and corruption associated with a massive carbon commodities market will be staggering.

Tantalized by the sheer scale of the ensuing market, many Wall Street firms are busy readying themselves to manage and profit from the scheme. Goldman Sachs has been aggressively positioning itself to capitalize from the looming government-created faux-commodity market. Based on its 2005 Environmental Policy Framework, Goldman Sachs established the “Center for Environmental Markets to ... explore/develop public policy options for establishing effective markets around climate change [and] ... to act as a market maker in emissions trading (CO₂, SO₂), weather derivatives, renewable energy credits, and other climate related commodities...”²⁸ Future Secretary of the Treasury Hank Paulson was chairman and CEO of Goldman Sachs while this venture was in the planning stages and simultaneously served as the Chairman of the Board of Directors for the Nature Conservancy, who we will see later played a major role lobbying for and drafting Waxman-Markey.

... trillions of dollars will be extracted from consumers, routed through energy companies, managed by commodity brokers and regulated by Washington bureaucrats.



In addition to trading in the allowances to emit carbon, another market will be established to trade in carbon offsets. A major player in this area has been General Electric, a member of the U.S. Climate Action Partnership (USCAP), a group of businesses that have been lobbying for cap- and-trade and salivating over how to leverage environmental activism for private gain. GE's Energy Financial Services partnered with AES Corporation, a global power company, to launch Greenhouse Gas Services with the aim of trading carbon offset credits. According to its website, “Greenhouse Gas Services, invests in and develops a diverse range of projects that reduce greenhouse gas emissions and supplies corporate clients with real, independently verified GHG credits to offset emissions from operations, products and services.”²⁹ One type of offset will be generated by the forestry industry and is discussed at length in a subsequent section.

Hedge fund managers are also not waiting for the market to be established before launching their projects. In August 2008, Gressel Advisors spawned Universal Carbon Fund in hopes of capturing business from a mandatory emissions regime. However, this won't be the type of fund that average Americans can benefit from; the fund requires a \$250,000 minimum investment.³⁰

A Green Bubble: Attempting to Shape the Marketplace

Another issue to keep an eye on is the possibility of Waxman-Markey creating a new asset bubble in the financial markets. The carbon commodities that would be created by a cap-and-trade scheme have no inherent value; they are simply rights to emit carbon and are thus extremely vulnerable to massive price swings and speculative trading.

A March 2009 report by Friends of the Earth found that “speculators do the majority of carbon trading, and they will continue to dominate as carbon markets grow ... a market dominated by speculators may push up prices, create a bubble and spur development of subprime assets.”³¹ The report’s author Michelle Chan warns:

With a boom and a bust cycle, which sometimes occurs when there is a bubble, when carbon prices collapse ... it could pull the rug out from underneath those companies that have really made expensive early investments in research and development, in green capital, technologies, [and] infrastructure ... but if carbon prices all of a sudden collapse around them, then they will find that by the time that these ... technologies come online it really would have just been cheaper for them to buy their way out of compliance instead of making these investments.³²

Although Waxman-Markey contains language that would prohibit “market manipulation and excess speculation, and provide measures to limit unreasonable fluctuation in the prices of regulated allowances,” as many as nine Senate Democrats are already voicing concerns about turning the permit trading market over to Wall Street.³³

In addition to the general Democratic apprehension toward markets, recent speculation-driven price swings in oil futures have Senate bill authors cautious. Senator Maria Cantwell (D-Wash.) said, “The volatility that has existed in the oil market is exactly what we don’t want to happen in carbon markets.”³⁴ In addition to Cantwell, Senators Harry Reid (D-Nev.), John Kerry (D-Mass.), Amy Klobuchar (D-Minn.), Byron Dorgan (D-N.Dak.), Bernie Sanders (I-Vt.), Joe Lieberman (I-Conn.), Jeff Bingaman (D-N.Mex.) and Arlen Specter (D-Pa.) have expressed concerns over letting Wall Street run the derivative and credit default swap markets that would inevitably spin off from a cap-and-trade scheme.

However, Chan counsels that, “The ability of Washington to regulate Wall Street is really pretty bad. It would be pretty imprudent actually to create a very very large and complex carbon market and foist it upon a new and untested financial regulatory regime.”³⁵ If Senate Democrats are convinced that Wall Street traders will inject too much uncertainty into a carbon trading market, who are they comfortable empowering to run the multi-trillion dollar regime?

One solution would be to allow only covered entities to trade the permits among themselves and ban Wall Street firms entirely from the process. This would create problems because energy companies most likely would not command the expertise in this area and would be forced to hire additional staff simply to comply. More significantly, it would shield the process from lobbying and special interest access; we can rest assured the politicized process will not allow this to be final outcome.



*“...it would be pretty imprudent actually to create a very very large and complex carbon market and foist it upon a new and untested financial regulatory regime.”³⁵
- Michael Chan,
March 2009*

Another vehicle for implementation might be venture capital firms like Kleiner Perkins Causfield & Buyers, who boasts Al Gore among its partners. The California-based firm has been investing in green technology start-ups and recently launched Hara Environmental and Energy Management. Hara is a software services company that will assist companies and municipalities calculate their carbon emissions and determine their position relative to a cap. “Hara has raised \$6 million to date. Even Al Gore, a Kleiner Perkins partner and the former U.S. vice president, personally vetted the company’s business plan. The environmental champion encouraged Hara to have global aspirations.”³⁶ This type of software is a pivotal piece in Kleiner Perkin’s broader strategy to leverage green legislation that Gore is pushing.

Another player likely to be favored by those picking winners and losers is the Chicago Climate Exchange. The private group, which received \$1.1 million in 2000 and 2001 from the Joyce Foundation while then-State Senator Barack Obama served on its board, is “North America’s only cap and trade system for all six greenhouse gases, with global affiliates and projects worldwide.”³⁷ The president of the Joyce Foundation when it awarded the grants was Paula DiPerna. She has since left to serve as executive vice president for the Exchange, which officially launched in 2003. As president of Joyce, DiPerna said she was enabling the Exchange during “the design of a pilot phase for a carbon dioxide emissions trading market ... [however,] the ability of the marketplace to create incentives for reducing carbon dioxide emissions has not been tested.”³⁸ If cap-and-trade becomes law, DiPerna and the Exchange will not have to rely on a market, reductions will be mandated and they can act as an administrative arm for the federal government.

...Leakage is the result of production shifting overseas away from the regulations that are meant to control carbon output ... achieving no reduction in carbon emissions but instead creating a significant loss of jobs and decreased domestic production capacity.

While establishing a massive new marketplace for trading in government-created commodities will create huge challenges, countless entities are jockeying to reap the rewards. These are just a few of the many challenges that this market will face and one many routes that an entirely new financial trading system could travel.

4. Eco-Protectionism: Are Carbon Tariffs Smoot-Hawley II?

Waxman-Markey also contains a frightening return to protectionism, this time in the name of carbon reductions. The accelerating pace of free trade around the world has been the driving force behind the rapid rise in living conditions and wealth creation in developing nations and in the United States. Enacting painful new regulations on American businesses and then attempting to shield them from global competition by reestablishing Depression Era tariffs is ill-advised.

The first level of protection provided for industries that would be competitively-disadvantaged by this bill is an “Emission Allowance Rebate Program.” The goal of the program is “to provide a rebate to the owners and operators of entities in domestic eligible industrial sectors for their greenhouse gas emission costs incurred under this title,” and “to design such rebates in a way that will prevent carbon leakage.”³⁹

Leakage can occur in two ways. First, domestic producers can shift their production activities—and the corresponding jobs—to countries with less stringent environmental standards. This would not only result in no reduction in carbon emissions but would also mark an increase in other environmentally-damaging behaviors. Second, domestic producers may keep production in the country, but their newly disadvantageous

“...I think we have to be very careful about sending any protectionist signals.”⁴⁷
– President Barack Obama, July 24, 2009

position would allow foreign companies—in countries with less stringent environmental regimes—to capture a larger market share. Either way, leakage is the result of production shifting overseas away from the regulations that are meant to control carbon output. This shift has the result of achieving no reduction in carbon emissions but instead creating a significant loss of jobs and decreased domestic production capacity.

The second protectionist component in Waxman-Markey is the border adjustments section, which insists that each “foreign country take appropriate measures to limit the greenhouse gas emissions of [that] country and ... that, beginning on January 1, 2020, the international reserve requirements of this subpart may apply to a covered good.”⁴⁰ This would allow the president to require importers to submit proof of carbon offsets or emissions allowances in order for their goods to reach our market. This U.S. Government-imposed cost is a tariff, which will drive up the cost of production and goods for consumers in all countries and leave everyone poorer for the exercise.

These provisions bear a striking resemblance to the disastrous Smoot-Hawley Act of 1930, which was passed in response to a fear that a post-World War I Europe would flood the American market with goods produced at a much lower cost. Smoot-Hawley raised tariffs on more than 20,000 imported goods. The result was a trade war, as within two years 25 countries had retaliated and the U.S. saw its exports fall from \$5.24 billion in 1929 to just \$1.6 billion in 1932.⁴¹ The act was so damaging that the depression cascaded around the world. It took a second world war before the Bretton Woods Agreement of 1944 lowered trade barriers again and put the world on a path of economic resurgence that has endured nearly unmitigated until today.



Representative W.C. Hawley (left) and Senator Reed Smoot (right) shake hands in agreement on new tariff bill.

Image Source: [Projections, Inc](#)

The fear of low-cost foreign production that spawned Smoot-Hawley closely mirrors the concerns of those who can plainly see the negative effects of a cap-and-trade scheme on domestic producers. A letter from ten Senate Democrats representing states with large industrial, mining and manufacturing sectors that will be particularly hard hit by Waxman-Markey insisted that unless carbon tariffs were included in the Senate bill they “would find it extremely difficult to support” the bill.⁴² The senators from Ohio, Michigan, Wisconsin, Indiana, Pennsylvania, West Virginia and Illinois wrote in strong support of “a border adjustment mechanism” to “prevent the export of jobs and related greenhouse gas emissions” to countries not afflicted by a cap-and-trade scheme.⁴³

While Waxman-Markey would saddle American firms with a cost for their carbon consumption, producers in the rapidly developing world would not have to bear these burdens. India and China have both adamantly insisted that they will not place First World carbon concerns ahead of Third World hunger and poverty. Top advisors for both countries have also pointed to the protectionist nature of the Waxman-Markey border adjustments.

India’s Minister for Environment and Forests Jairam Ramesh greeted U.S. Secretary of State Hillary Clinton on July 19 by stating, “There is simply no

case for the pressure that we [India] — who have among the lowest emissions per capita — face to reduce emissions ... and as if this pressure was not enough, we also face the threat of carbon tariffs on our exports to countries such as yours.”⁴⁴ An April 2009 article in the *Financial Times* outlined China’s reaction as follows:

A top adviser to the Chinese government ... warned that a proposed US border tax on carbon sensitive materials “smells of protectionism” and could spark retaliation from developing countries ... Tung Cheehwa, vice-chairman of the Chinese People’s Political Consultative Conference (CPPCC), the Chinese government’s official advisory, said that a proposed “border adjustment” programme could be challenged through the World Trade Organization and that he was “distressed” by the new bill introduced to Congress.⁴⁵

Just as more than 1,000 economists sent a letter to President Hoover urging him to veto the Smoot-Hawley Act, so too today is the alarm bell being sounded about the dangers of artificially raising the cost of goods for consumers.⁴⁶ President Obama reacted to the last-minute addition of the carbon tariffs by saying, “At a time when the economy worldwide is still deep in recession and we’ve seen a significant drop in global trade, I think we have to be very careful about sending any protectionist signals.”⁴⁷ *The Wall Street Journal* quickly pointed out that “the provision inserted by Democratic leaders ... would impose tariffs on goods imported from countries that don’t match U.S. carbon-dioxide restrictions -- a slap at China and India that some business interests fear could provoke a trade war.”⁴⁸

Central planners have put themselves in a tough position. They want to screw down the cap on American carbon emissions but the carbon leakage to rapidly developing countries will totally undermine their efforts. They have turned to tariffs as a means to slow the problem but the resulting “beggar-thy-neighbor” policy is even worse than the leakage they seek to remedy. Smoot-Hawley was bad policy with disastrous results but at least it arose in response to existing conditions. The eco-protectionism in Waxman-Markey is twice as bad because it seeks to counteract the damage done by other provisions in the same bill. We can easily avoid another trade war by simply refusing to economically cripple our domestic producers and encouraging research, innovation and ingenuity to combat our energy concerns.

U.S. carbon-dioxide restrictions -- a slap at China and India that some business interests fear could provoke a trade war.” Central planners have put themselves in a tough position. They want to screw down the cap on American carbon emissions but the carbon leakage to rapidly developing countries will totally undermine their efforts. They have turned to tariffs as a means to slow the problem but the resulting “beggar-thy-neighbor” policy is even worse than the leakage they seek to remedy.

Smoot-Hawley was bad policy with disastrous results but at least it arose in response to existing conditions. The eco-protectionism in Waxman-Markey is twice as bad because it seeks to counteract the damage done by other provisions in the same bill. We can easily avoid another trade war by simply refusing to economically cripple our domestic producers and encouraging research, innovation and ingenuity to combat our energy concerns.

Central planners have put themselves in a tough position. They want to screw down the cap on American carbon emissions but the carbon leakage to rapidly developing countries will totally undermine their efforts.

...Facilities will have their emissions calculated not on what they are actually emitting, but on what they may emit. Waxman-Markey will require that businesses lower not their actual carbon output, but instead they will need to demonstrate that their potential to emit is lower.

5. Implementation II: National Greenhouse Gas Registry

Centrally planning any system requires a massive amount of data collection. The new eco-state can only plausibly claim to be able to control the country's emissions if it collects and monitors emission levels throughout the economy. Enter the Greenhouse Gas Registry, section 713 of Waxman-Markey.⁴⁹ Energy intensive industries have been voluntarily reporting emissions since 1992 but it is clear that this approach will no longer be deemed acceptable.

The voluntary approach is being scrapped because it has largely been ineffective in lowering emissions. In fact, it has had just the opposite effect. A study by University of Michigan scholars found that, "participants in the [voluntary] program reported significant reductions while actually increasing their emissions. Ironically, firms that did not participate in the program reduced their emissions."⁵⁰ While replacing the existing failing voluntary reporting program may seem like good policy, it belies the core issue. Accurate measurements and employing third party verifiers will plague the mandatory reporting requirement in much the same way they did the voluntary one. The University of Michigan study exposes that "The sources of uncertainty include unobserved alternative attributes, unobserved individual attributes, and measurement errors."⁵¹

In order to try to offset the issue of inaccuracy in reporting, Waxman-Markey proclaims that all facilities will not be rated on their actual emissions, but instead on an "estimate of such levels assuming the [business] is emitting ... at a maximum potential level."⁵² That's right; facilities will have their emissions calculated not on what they are actually emitting, but on what they may emit. Waxman-Markey will require that



businesses lower not their actual carbon output, but instead they will need to demonstrate that their potential to emit is lower. However, grappling with measurement accuracy and potential emission thresholds are not the worst aspect of the provision.

One of the biggest concerns about installing a mandatory reporting requirement is the compliance cost. James McNew, vice president of technical and marketing services for the Outdoor Power Equipment Institute, a trade association for manufacturers said, the cost "will run in the millions of dollars for some manufacturers."⁵³ On the lower end of the spectrum is an estimate put forth by the Environmental Protection Agency in March 2009, when they proposed a similar mandatory reporting requirement, which put the average cost at \$13,000 per facility; or an estimated \$160 million burden to the economy.⁵⁴ Remember, this is just for businesses to report greenhouse gas emissions; compliance with emission caps, renewable electricity standards and mandatory technology adoption would impose additional costs.

Businesses that are struggling to reestablish profit margins and maintain employee rolls in the recession will be faced with the prospect of passing these costs along to consumers and jeopardizing their position in the marketplace, or simply shutting down.

6. Green Mortgages: Fannie Mae and Freddie Mac

If Edmund Burke is right and those who do not know history are destined to repeat it, then America is setting itself up for failure. We should have learned from the bursting of the housing bubble



that creating subprime boondoggles and overextending credit to those unable to pay is toxic for the economy. Even though Fannie Mae and Freddie Mac played a key role in the meltdown of the housing sector and both have a poor record (see the Housing and Community Development Act of 1992 and the Community Reinvestment Act) of identifying credit worthy loan applications, Waxman-Markey instructs them to overextend credit again, only this time in the name of socioeconomic environmental political correctness.

Sections 286 and 287 of Waxman-Markey create additional lines of credit for the two government sponsored enterprises to make energy-efficient and location-efficient mortgages; the bill instructs the GSEs to focus these loans in “underserved markets.” The text reads, they “shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for energy-efficient and location-efficient mortgages on housing for very low-, low-, and moderate-income families.”⁵⁵ It seems far too soon after our last housing debacle for Congress to be myopic enough to mandate “secondary markets” and “flexible underwriting guidelines.” Waxman-Markey even explicitly acknowledges the danger inherent in this lending strategy by including a provision authorizing the director of the programs to suspend the risky lending if circumstances threaten “the safety and soundness of the portfolio holdings of the enterprise.”⁵⁶ In other words, the far-Left wants GSEs to lend money to people to advance their green agenda even if they can’t afford the loans, unless of course their inability to repay the loans begins to undermine the stability of the GSE. Burke would be horrified.

What types of projects do Reps. Waxman and Markey to fund? The bill contains language urging Fannie and Freddie to extend loans to borrowers seeking “energy-saving design, construction or improvements (including use of renewable energy sources, such as solar, geothermal, biomass, and wind, super-insulation, energy-saving windows, insulating glass and film, and radiant barrier.)”⁵⁷ You can also get a taxpayer-backed loan to move closer to work, because that shortens your commute and thus lowers your carbon footprint. We are once again threatening the stability of the nation’s housing sector when it is just getting back on its feet so that members of Congress who represent constituents who that cannot afford mortgages can install new windows and move closer to work, all under the guise of environmentalism.

The inclusion of community development provisions is curious in a bill that was ostensibly geared toward helping the environment. An analysis of similar efforts to hijack other bills by inserting unrelated community development provisions bears attention:

Several [community development] initiatives ... were the result of advocates opportunistically exploiting a policy window in Washington. They gained the attentions of a group of inside policymakers and were able to insert a community-based program in a policy. Sometimes ... into legislation designed to accomplish some other purpose ... These have proven far less viable than initiatives ... which resulted from long cultivation of local initiatives that became a groundswell pervading many policy quarters and commanding long-term support.⁵⁸

In other words, unsurprisingly, top-down efforts by well-meaning but ill-informed or ill-supported community development

advocates have failed to achieve the desired results. Waxman-Markey was only able to pass the House of Representatives because it included provisions that members could take back to their constituencies as legislative victories. For coastal elites, it was the triumph of central planning over the carbon sins of a nation; for urban representatives it was a promise that this time the government handouts would effectively reach the inner city. Unfortunately, neither of these is likely to be the case.

7. Carbon Offset Credits: Forest Preservation

Waxman-Markey is a classic experiment in government picking winners and losers in the economy. A perfect example of this behavior is the carbon offset handouts for the forestry industry. Because the emissions cap in Waxman-Markey is nearly impossible for businesses to meet, the bill contains various ways for companies to offset their carbon emissions by purchasing credits from other activities in the economy that claim their activities have a net reduction in carbon emissions. The bill allows for offset credits to be created for any “afforestation, reforestation, conservation, reduction of deforestation, urban tree-planting or agroforestry.”⁵⁹ In other words: promise not to cut down a tree, sell an offset, and make a quick buck.

Waxman-Markey also contains provisions that will be mean big business for tree planting and landscaping interests. The last minute manager’s amendment instructs the Secretary of Housing and Urban Development to “enter into agreements and partnerships with tree-planting organizations, nurseries, and landscapers to certify that trees, shrubs, grasses, and other plants are planted in the proper manner, are provided adequate maintenance, and survive for at least 3 years after planting or are

replaced.”⁶⁰ The overreach by the federal government has reached the maintenance of our flower beds; stunning.

Not only does the forestry sector stand to benefit from selling carbon offsets by promising not to cut down its trees, they are also exempt from the emissions cap that will stifle the rest of the economy. The Waxman-Markey bill specifically states that the carbon emission cap applies to any “sector of economic activity that directly emits capped emissions, including the industrial sector, the electricity generation sector, the transportation sector, and the residential and commercial sectors ... but not including the agricultural or forestry sectors.”⁶¹ (Emphasis added.) This provision is crucial if Washington wants to prop up the carbon offset market because if they did not let forestry off the hook for its emissions, there would be no offsets to sell to the rest of the economy.

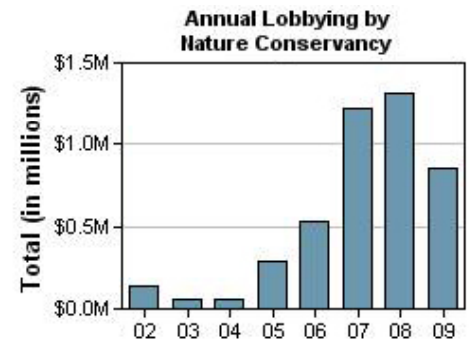
Why is this? When a tree dies, it releases all of the carbon that it absorbed over its offset-producing lifecycle. A *Wall Street Journal* piece examining forest offset potential states that “nearly 20% of man-made greenhouse-gas emissions come from deforestation: trees cut and burned by humans, or mowed down by forest fire, or rotted away by disease. That is more carbon dioxide than comes from all the world’s cars, trucks, planes, trains and ships, combined.”⁶² So unless Waxman-Markey absolves agriculture and forestry, these sectors will simply consume all of their own offsets by using part of their forests to allow them to continue to manage or cut down the other part. Since this result would not allow Washington politicians to hand out offsets to buy votes, they simply let forestry and agriculture industries walk away from the carbon emission cap free and clear.

The *Journal* article continues its examination by outlining the boondoggle over the valuable forest credits:

Facing impending government orders to help curb climate change, energy-intensive companies argue that if they help prevent a forest from being destroyed, they will be keeping carbon dioxide out of the air. So they are proposing that they pay forest owners to keep their trees alive, and in exchange they receive carbon credits that reduce their obligation to make costlier emission cuts at their own factories.

“You’ve got all these folks lined up around the idea that we want to generate as many of these credits as possible so we can continue to pretend that regulating emissions is going to be cheap and easy,” says David Victor, a professor of international relations at the University of California, San Diego.⁶³

Verifiability and “additionality” are two huge obstacles with forestry offsets, and they are largely ignored by Waxman-Markey. Forest offsets will be handled in an abstract and promissory fashion. Projects “which seek to protect forests as a means of sequestering carbon, are by nature difficult to verify ... it is difficult to verify with accuracy how many tons of [greenhouse gases] were sequestered by preventing a tract of land from being deforested or degraded.”⁶⁴ “Additionality” references whether an offset project is new and would not have been undertaken without the existence of an offset market. Ostensibly, the current policy of the Kyoto Protocol’s Clean Development Mechanism is to only issue offset credits for projects that can be verified as additional. However, “it is nearly impossible to establish with certainty that an offset project is additional, which is a major risk contributing” to the formation of the carbon asset bubble that was outlined above.⁶⁵



The bill also struggles to outline provisions to contain the leakage and reversals (the loss of net carbon retention when forests that were used as offsets are later burned, cut or thinned) and comes up woefully short of being able to account for future circumstances. The bill commands that any forest used as a credit must not be altered for 20 years, a likely unattainable goal.⁶⁶ With this much uncertainty and variability in an offset market, who is pushing for its creation and who will reap the benefits.

So, Who Benefits?

One group that is well-positioned to capitalize on the emerging forest offset market is the Nature Conservancy. The group, which has been much maligned for its faux-environmentalism, has been a big proponent of both Waxman-Markey and the forestry offset provisions. Perhaps not coincidentally, they have one of the largest non-state forest inventories in the world. The group’s website boasts control of 119 million acres in all 50 states and more than 30 countries. They are not only flush with land but also cash. A 2003 *Washington Post* piece found that “By 2002, Conservancy revenue had reached \$972 million, more than 10 times the size of the Sierra Club revenue.”⁶⁷

Kenneth Green, a resident scholar at the American Enterprise Institute, indicated that such a large landholding represents a valuable opportunity for the Conservancy to capitalize on its lobbying and turn the property into carbon offsets.⁶⁸

“You’ve got all these folks lined up around the idea that we want to generate as many of these credits as possible so we can continue to pretend that regulating emissions is going to be cheap and easy.”⁶³
— Professor David Victor

The Nature Conservancy



If environmentalists can show that they have mollified some corporations, it goes a long way toward convincing the public that cap-and-trade might not be so bad.

While the group poses as a beneficent land conservator, it has not been idle in its political dealings.

Since the Pelosi/Waxman/Boxer team took over Capitol Hill, the Nature Conservancy's lobbying activities have increased markedly. The group reported \$1.2 million of lobbying activity on environmental issues in 2007, which was more than double its expenditures from the previous year when Republicans controlled Congress. Likewise, 2008 was the group's largest lobbying effort to date with \$1.3 million in expenditures. The group looks to be on track to break their own record this year; through the first three months of 2009 the group has doled out \$850,000 to push legislation, all of it on environmental issues.⁶⁹

Effective and expensive lobbying means access when it comes time to draft the bill. Just as we saw with GE earlier, the Nature Conservancy is also a member of USCAP, who has been pivotal to the Left's strategy to convince the nation that cap-and-trade won't hamper the country's ability to emerge from the recession, or prosper again once it has. If environmentalists can show that they have mollified some corporations, it goes a long way toward convincing the public that cap-and-trade might not be so bad.

The Washington Times reported on the undue access the group gained in a piece entitled "Lobbyists help Dems draft climate change bill." The article states, "The sweeping climate bill Mr. Waxman and Rep. Edward J. Markey

... introduced at the end of March includes a provision that benefits Duke Energy Corp., a founding member of ... USCAP, whose climate plan released in January the lawmakers have frequently called a "blueprint" for their climate legislation."⁷⁰

The *Times* piece also quoted Myron Ebell, climate and energy policy director for the Competitive Enterprise Institute, who told lawmakers, "The authors of the draft bill have invited the beneficiaries of what could turn out to be the biggest transfer of wealth from consumers to special interests in American history to write the rules for this legalized plunder."⁷¹

In addition to lobbying, the Nature Conservancy's board members have been heavy donors to Democratic powerbrokers. The Conservancy's President and CEO Mark Tercek gave tens of thousands of dollars to Senator Chuck Schumer (D-N.Y.), ex-DNC Chairman Howard Dean and New Jersey Governor John Corzine.⁷² Tercek is also the director of Goldman Sachs' Environmental Markets Initiative, which stands to reap significant benefits from trading in carbon emission permits, carbon offset credits and all of their various derivatives.

John Sall, board member and chairman of the Conservancy's Audit Committee, has also been a prolific donor to those now pushing forest-based carbon offset provisions. Over the past decade Sall has contributed more than \$228,000 to

the DNC, the Democratic Senatorial Campaign Committee, numerous state level Democratic organizations and Democratic candidates.⁷³ The politicians that he has helped put in office are now installing provisions that will mean huge returns on investment for the Conservancy.

“There’s a lot of enthusiasm about a new administration coming in to office,” said Robert Bendick, the [Conservancy’s] director of U.S. government relations. “It’s really hard to say whether it’s been successful. There’s so much legislation in play right now. We have a long-term view of things.”⁷⁴

The group has committed to such a “long-term view of things” that about a decade ago it realized that there were great gains to be made by posturing as environmentally friendly to gain favor with both politically-vulnerable polluters and politicians in need of green pet projects to support. A four-article series by the *Washington Post* exposed the extent of the “greenwashing” that the Conservancy was undertaking. An excerpt from the article discusses the relationship between the Conservancy and one of the nation’s biggest loggers: International Paper:

The Dogwood Alliance, a coalition of 70 grassroots environmental groups, says ... the partnership gives loggers a public relations boost from “greenwashing.” ... International Paper [has] used the Conservancy “to pull the wool over the public’s eyes,” said Trevor Fitzgibbon, Dogwood’s former spokesman. “It makes it seem they are doing great things for the environment when what they’re doing is destroying [our] natural heritage.”

International Paper is on the Conservancy’s leadership council. In 1998, the company sold 185,000

acres of Maine forest to the Conservancy for \$35 million. The Conservancy then contracted with a Maine company to log 136,000 acres of the land to help offset costs ... Such ties create a “commonality of interest” between the Conservancy and International Paper, said Tom Jorling, a company vice president. “This enables us to get more legitimacy because the Conservancy has the kind of reputation it does.”⁷⁵

The Conservancy is just one of numerous groups that have embraced the public relations value in posing as environmentally friendly in order to reap political, organizational and financial benefits. Any doubt as to the forestry industry’s position more broadly are quickly allayed upon reading their constructive suggestions for architects of the bill.

The National Alliance of Forest Owners is not only ready and willing to provide lucrative carbon offset credits, using land they were just sitting on before, but they want access to the market even more quickly and with less oversight than Waxman-Markey envisions. The group insists that:

Climate legislation must give offset project developers as much early guidance and certainty as possible so they can attract investment and develop projects in time for the first compliance periods. To ensure a prompt start, H.R. 2454 must streamline procedures for approving projects and certifying offsets. As the bill is currently drafted, numerous layers of rulemakings and agency actions spread over multiple years may bar offsets from coming available for as long as a decade.⁷⁶

In summary, groups like the Nature Conservancy have established a niche where they attract investment from companies who fear political reprisal

... citizens will be stuck picking up the bill for the environmental absolution of politically unpopular industries.

for their business practices. The Conservancy then employs individuals who donate in huge sums to elect politicians who are actively working to crush those companies. Next, in morbid harmony, the Conservancy lobbies these same politicians to enact legislation, like Waxman-Markey, that will greatly increase the cost of doing business for industry, unless they buy the carbon offset credits that the Conservancy now stands to have in abundance. The entire process is an incestuous mess that bears little hope of benefiting the environment but ensures that citizens will be stuck picking up the bill for the environmental absolution of politically unpopular industries.

8. Union Giveaways: Davis-Bacon and PLAs

Waxman-Markey is also a blatant giveaway to Big Labor that locks in artificially high wage rates for related projects, thus ensuring that it wastes even more taxpayer money and increases energy costs. It discriminates against small and minority-owned construction businesses, and provides unions with more political clout.

Waxman-Markey requires that all contractors and subcontractors funded in whole or in part by the law must be compliant with the Davis-Bacon Act of 1931.⁷⁷ This law was passed at the depths of Great Depression in an effort to artificially prop-up falling wages and prevent out-of-town laborers from competing with local contractors. It forces federal government contractors to pay their laborers the regional “prevailing wage,” as determined by bureaucrats in Washington.⁷⁸ It should come as no surprise to find out the methods used by the Department of Labor are flawed and overstate the prevailing wage in many districts.⁷⁹

It should also be noted that the Davis-Bacon Act has an insidious and racist history. Many of the Congressmen who voted for the bill’s initial passage in 1931 publicly expressed an interest in keeping “cheap,” “transient,” “colored” labor out of their state while keeping unionized, high-price contractors protected from competition.⁸⁰ Of course, unions and Congress no longer openly discriminate against African Americans. But “prevailing wage” laws, by artificially raising labor costs, discriminate against low skilled and non-unionized workers, taking them out of competition for many jobs.

These problems with the Davis-Bacon provisions are well documented and researched. In February 2008, the Beacon Hill Institute at Suffolk University found that U.S. Department of Labor’s methods for determining prevailing wages inflate wages by 22 percent, construction costs by 9.91 percent, and raise public construction costs by \$8.6 billion per year.⁸¹ Many states also have “little Bacon-Davis” laws that apply to state contracts, with much the same results. The Public Policy Foundation of West Virginia has found that the state’s prevailing wage program:

is severely biased, creating unemployment and inequities among workers who normally earn the same amount in regular market employment. West Virginia’s average prevailing wage rate is at least 49 percent higher than is accurate, and based on adjustments, this upward bias is likely to truly exceed 74 percent. The net effect is to significantly lower job prospects in West Virginia. The harm is greatest for the lowest skilled workers. This report estimates that at least 1,500 West Virginians are without work because of the inaccurate method for calculating prevailing wage rates.⁸²

This history of flawed competition, increased costs, and employment discrimination has now been brought to the environment. H.R. 2454 requires that all cap-and-trade related government contracts adhere to Davis-Bacon for projects greater than 6,500 square feet.⁸³ The National Federation of Independent Business (NFIB) notes that, “Small businesses engage in construction, renovation and retrofitting projects of varying sizes – not just those less than 6,500 square feet.”⁸⁴ The NFIB also says that, “Davis-Bacon prevents many qualified small and minority-owned businesses from even bidding on public projects, because the complexities and inefficiencies in the Act make it nearly impossible for small businesses to compete. By including such language in H.R. 2454, Davis-Bacon will only drive up taxpayer energy costs even further.”⁸⁵

Not only will this drive up the cost of energy supplied by these projects, it will also drive up the costs of the projects themselves, thus ensuring that fewer of them will be constructed. The self-reinforcing waste of taxpayer dollars will continue unimpeded. Davis-Bacon rules “increase public construction costs by anywhere from 5 to 38 percent above projected costs for the same project in the private sector.”⁸⁶ Even if we take President Obama, the Congressional leadership, and their interest in building an environmentally friendly infrastructure at face-value, why did they just make it more expensive and more difficult?

Associated Builders and Contractors released a letter opposing H.R. 2454 while reminding Congress that unionized labor is not synonymous with



American labor and that it is wrong for Congress to choose winners before the contracts are even written. They wrote:

Federal and federally funded projects paid for by taxpayers should be administered in a manner that is free from favoritism and discrimination while efficiently spending tax dollars. Construction contracts subject to union-only project labor agreements (PLA) almost always are awarded exclusively to unionized contractors and their all-union workforces. This means union-only PLAs would discriminate against almost 85 percent of the private construction workforce.⁸⁷

PLAs are a way for politicians on the Left to reward the union interests that helped put them in office. Because nearly eighty percent of construction contractors have opted not to unionize, Labor turned to PLAs as a way to keep business flowing their way. This is accomplished by including a mandatory “collective bargaining agreement in a public construction project’s bid specifications.”⁸⁸ Not surprisingly, this results in artificially inflated wages, over budget projects and wasted taxpayer money. This is a deplorable giveaway to Labor and government should not be in the business of selecting who benefits from its contracts. Instead, they should be responsible stewards of tax dollars and seek to optimize their investments. One of the more disturbing parts of Davis-Bacon is that government knows it does not work and is willing to suspend its provisions the moment an emergency hits. This most recently occurred in September 2005, following Hurricane Katrina’s destruction of the New Orleans area. Designating a “national emergency,” then-President Bush wrote that his decision to suspend Davis-Bacon was justified because it increases construction costs, and its suspension “will result in greater assistance to these devas-

... “Prevailing wage” laws, by artificially raising labor costs, discriminate against low skilled and non-unionized workers, taking them out of competition for many jobs.

Davis-Bacon rules “increase public construction costs by anywhere from 5 to 38 percent above projected costs for the same project in the private sector.”⁸⁶

- Republican Study Committee

tated communities and will permit the employment of thousands of additional individuals.”⁸⁹ The ridiculous assertion here is that during non-emergency times we do not need to “permit the employment of thousands of additional individuals” and that artificially high wages are more important as long as massive destruction does not need to be repaired.

Forcing government contracts into the hands of high-priced union labor is not good for taxpayers or for those genuinely concerned with the economic and environmental value produced by Waxman-Markey and its projects. These prevailing wage provisions do nothing except increase costs, decrease the amount of value created by the spending, and perpetuate a myth, now over 70 years old, that government artificially raising wages is the way to ensure a sustainable and prosperous construction industry.

9. Green Construction Projects

An example of wasteful and over-priced projects is the “Green Construction Careers Demonstration Project,” outlined in Section 424A of the bill. The program claims to:

Promote middle class careers and quality employment practices in the green construction sector among targeted workers and to advance efficiency and performance on construction projects related to this Act. In order to advance these purposes, the Secretary [of Labor] shall identify projects, including residential retrofitting projects, funded directly by or assisted in whole or in part by or through the Federal Government pursuant to this Act ...⁹⁰

However, efficiency and performance are the least likely outcomes from this program. This is the result of a series of restrictions and requirements that subject

the program to political manipulation and union influence. First, as noted above, projects are selected by the Secretary of Labor, making this initial process a boon for lobbyists and businesses eager to have their “green” construction program the center of attention of the U.S. Government. The Department of Labor will no doubt be targeted through letters, ad campaigns, and possibly worse in an effort by businesses to get their projects into the program. But why would a business choose to restrict itself through a complicated and ill-conceived government plan?

The answer lies in the government’s incentives: there is no way any project under this program will be allowed to fail, no matter how expensive it becomes. All we have to do is look to the FutureGen project to see the likely outcome. FutureGen is a clean coal and carbon sequestration project started by the Bush Administration’s Department of Energy in partnership with several energy companies.

In January 2008, the Bush Administration reversed course and cancelled the project, citing huge cost increases.⁹¹ Those cost increases were later revised down from a 100 percent to a 38 percent increase, a still significant jump.⁹² Despite these costs, the Obama Administration, at the urging of Senator Richard Durbin (D-Ill.), has reinstated the program using stimulus funds and is moving ahead.⁹³ At no point has any Administration official addressed the cost increases, stating only its importance to the environment.⁹⁴

The Green Construction Careers Demonstration Project will no doubt have similar government inertia behind it.

Surely there must be some objective criteria through which to judge this program besides vague notions of “middle class careers,” “quality employment

practices,” and “efficiency.” In fact, the bill “establish[es] minimum proportions of hours to be worked by targeted workers on such projects.” In other words, qualifying projects will provide a set amount of work for “targeted workers,” regardless of the costs involved.

So who are these “targeted workers?” They are individuals who live near the work-site who:

- receive child welfare,
- are veterans who receive food stamps or are disabled,
- live in a community “empowerment” zone,
- have a substantial handicap to employment and have completed a vocational rehabilitation program,
- are “summer youth employees,”
- are food stamp recipients,
- receive social security supplementary income,
- receive long-term family assistance from social security,
- resides in a census tract in which not less than 20 percent of the households have incomes below the Federal poverty guidelines,
- is a member of a family that received a total family income that, during the 2-year period prior to employment on the project or admission to the pre-apprenticeship program, did not exceed 200 percent of the Federal poverty guidelines, or
- is a displaced homemaker.⁹⁵

Finding workers that fit these very specific requirements will result in huge expenses for contractors and therefore huge costs to taxpayers. Construction companies are not prepared to, or have the authority to dive into the details of an applicant’s income, welfare situation, or veteran status. These requirements are an invasion of privacy and a needless restriction of work to certain categories of people. The bill’s authors should be reminded that all Americans are paying for this work. Shouldn’t all Americans have an equal chance to gain from it?

But the bill is not done inserting restrictive and costly requirements on contractors. Paragraph (g) introduces the concept of the “qualified apprenticeship program” and states that contractors and subcontractors participating in the project must “submit adequate assurances with its bid or proposal that it participates in a qualified apprenticeship or other training program, with a written arrangement with a qualified pre-apprenticeship program, for each craft or trade classification of worker that it intends to employ to perform work on the project.”

Again, definitions are crucial. An apprenticeship program is qualified if the program is an “employee welfare benefit plan” under Title 29, Section 1002 of the U.S. Code⁹⁶ and provides training under the definitions and regulations as stipulated by Title 29, Section 29.⁹⁷ These are fairly complicated labor law issues that involve both state and federal law. But according to Associated Builders and Contractors, these laws and regulations restrict the recognition of non-union apprenticeship programs by state and federal levels of government.⁹⁸ By falling back on outdated and corrupted federal regulations, the Waxman-Markey bill forces construction companies and the Secretary of Labor to lean towards the selection of unionized firms for the provision of labor.

Later in the bill, it requires contractors to enter into an agreement with the government to “facilitate compliance” of all the above. These agreements are known as PLA’s (Project Labor Agreements) and they are another tool through which the government funnels contracts and money directly to the unions to the exclusion of 84.4 percent of construction industry.⁹⁹ PLA’s, mandated for large-scale government projects under a February 6, 2009, Executive Order,¹⁰⁰ frequently require that contractors recognize unions as the workers’ representatives, use union halls as a worker referral method, pay union level fees and dues, obtain apprentices exclusively from union programs, and obey outdated work rules.¹⁰¹ All of these requirements frequently combine into an unavoidable push to union labor and union cost levels.

In addition, many of these requirements work against each other. How can you ensure getting local laborers while at the same time restricting your options to 15.6 percent of the available labor pool? How can you assist the working poor, when most union members make far above the minimum wage?

Representative Bobby Rush (D-Ill.) is the author of this confused giveaway.¹⁰² He claims it will “promote middle-class careers and quality employment practices in the green construction sector.” But Representative Rush’s record suggests he is interested in promoting union careers and high-priced employment practices with little regard to taxpayer value. He has a lifetime 100% union-compliant voting record according to the AFL-CIO.¹⁰³ At the same time, he has received a grade of ‘F’ from the National Taxpayers Union every year



since he entered Congress in 1993.¹⁰⁴ Rush is also a big fan of pork. According to David Broder in the *New York Times*, “Representative Bobby Rush ... withheld his support for the bill until a last-minute accord was struck to provide nearly \$1 billion for energy-related jobs and job training for low-income workers and new subsidies for making public housing more energy-efficient.”¹⁰⁵ As was discussed earlier, he was more than willing to vote against the bill if the promised funds for his supporters were not forthcoming.

The Green Construction Careers Demonstration Project was always heavily touted by green economy pressure group, Green For All. This organization and its CEO, Phaedra Ellis-Lamkins, aggressively pushed this program and loudly applauded its inclusion into the final House bill.¹⁰⁶ Green For All was founded by Anthony “Van” Jones, the recently-resigned Special Advisor for Green Jobs, Enterprise and Innovation at the White House Council on Environmental Quality, better known as the Green Jobs Czar. Van Jones’ past has been rigorously investigated and reported on by Americans for Prosperity’s Phil Kerpen, who noted on a July 10, 2009, episode of Fox & Friends:

He has a very checkered past. This is somebody who was involved in radical politics out in San Francisco, California. He was arrested during a demonstration/riot following the Rodney King verdict. And he said himself that he was radicalized in jail, that he found communism and anarchism. And then he started a pretty radical, kind of communist, socialist, utopian group that was supposed to end all racism through central planning. And then he decided that the real path the sort of progressive nirvana was this green jobs idea.

I think it's pretty instructive what his past is, I am not just trying to smear the guy, but I think it's the same sort of philosophy, the idea that government ought to be re-ordering society in accordance with some utopian vision that failed with communism and socialism, and will fail with this green jobs idea.

Mr. Jones' vision is the source of the Green Construction Careers Demonstration Project and needs to be exposed as a costly, top-down effort at social and economic engineering.

Van Jones was also a board member of the Apollo Alliance. The group headed by former California State Treasurer Phil Angelides has been a driving force behind nearly all of the labor and energy provisions in the stimulus and climate legislation this year. Apollo is an umbrella group that seeks to heal traditional rifts between the three big wings of the Democratic Party: organized labor, environmentalists and the social justice movement.

With a PR strategy that centers on "green jobs" for minorities, Apollo speaks to all three sectors at once. In response to the bill's introduction, Angelides said, "The Apollo Alliance applauds Chairmen Waxman and Markey for heeding Apollo's call for a bold clean energy agenda that responds to America's economic and security challenges while assisting displaced workers and low-income families."¹⁰⁷

10. Conclusion

Waxman-Markey represents the culmination of a dream. It is a dream by the far-Left to finally establish government control over the entire energy sector. It is a dream that allows politicians to pick winners and losers that will benefit their political allies and punish corporations

who do not sign on to the deal. It is a dream that will align union bosses, environmentalists and community organizers to harness the power of government to fund political projects on the backs of hardworking taxpaying Americans.

Waxman-Markey is also an admission that the public does not support legislation that would have a substantive impact on carbon emissions. Power brokers in Washington were forced to wrap their environmental concerns in a package that portends to punish carbon intensive energy producers, but really hurts every American through higher prices for energy, fewer jobs and less freedom. The bill also attempts to hide the realities of globalization behind the guise of carbon tariffs, harkening back to the days of protectionism. If proponents of this legislation were open and honest about the financial pain the country will experience to make sizable cuts in its emissions, it never would have passed.

Waxman-Markey is a case study in the evisceration of public policy used to buy votes, fool the public and appease powerful special interests, all for the benefit of an "enlightened" few who claim to speak for us all. For the sake of the nation, we can only hope the Senate never passes this bill.

11. Appendix

Table 1

Member of Congress	Pelosi for Congress	Pelosi PAC to the Future	Waxman Campaign Committee	Friends of Jim Clyburn	Total
Voted Yes					
Zack Space	\$4,000	\$10,000			\$14,000
John Adler			\$2,000		\$2,000
Steve Driehaus			\$2,000	\$2,000	\$4,000
Phil Hare			\$2,000		\$2,000
Martin Heinrich			\$2,000	\$2,000	\$4,000
Suzanne Kosmas			\$2,000	\$4,000	\$6,000
Betsy Markey			\$2,000	\$2,000	\$4,000
Carol Shea-Porter	\$2,000		\$2,000	\$2,000	\$6,000
Gerry Connolly	\$2,000				\$2,000
Baron Hill				\$2,000	\$2,000
Alan Grayson	\$2,000			\$2,000	\$4,000
John Boccieri				\$2,000	\$2,000
Leonard Boswell	\$2,000			\$2,000	\$4,000
Jim Himes	\$2,000			\$2,000	\$4,000
Mary Jo Kilroy				\$2,000	\$4,000
Kurt Schrader	\$2,000			\$2,000	\$4,000
Jerry McNerney	\$2,000			\$2,000	\$4,000
Tom Perriello				\$2,000	\$2,000
Gabrielle Giffords	\$2,000				\$2,000
Steve Kagan	\$2,000				\$2,000
Dan Maffei	\$2,000				\$2,000
Scott Murphy	\$4,000				\$4,000
Harry Teague	\$2,000				\$2,000
Dina Titus	\$2,000				\$2,000
Subtotal	\$32,000	\$10,000	\$16,000	\$30,000	\$88,000
Voted No					
Jason Altmire				\$2,000	\$2,000
Kathy Dahlkemper			\$2,000	\$2,000	\$4,000
Harry Mitchell			\$2,000	\$2,000	\$4,000
Glenn Nye			\$2,000		\$2,000
Bill Foster				\$2,000	\$2,000
Bobby Bright				\$2,000	\$2,000
Chris Carney	\$4,000			\$2,000	\$6,000
Jean Kirkpatrick				\$2,000	\$2,000
Larry Kissell				\$2,000	\$2,000
Eric Massa				\$2,000	\$2,000
Mike Arcuri				\$2,000	\$2,000
Marion Berry				\$2,000	\$2,000
Chet Edwards				\$2,000	\$2,000
Travis Childers				\$2,000	\$2,000
Parker Griffith	\$2,000			\$2,000	\$4,000
Ciro Rodriguez				\$2,000	\$2,000
Subtotal	\$6,000	\$0	\$6,000	\$30,000	\$42,000
Total	\$38,000	\$10,000	\$22,000	\$60,000	\$130,000

Citations

¹ *Climate: House Dems Prepare to Gamble on Cap-and-Trade Vote*. Energy and Environmental Daily. Darren Samuelsohn and Ben Geman. June 26, 2009. Spotlight Vol. 10 No. 9.

² See Table 1 in Appendix. Data from Federal Election Commission.

³ *Big Dem cash dump on eve of climate vote*. Politico.com. Glenn Thrush. July 17, 2009. http://www.politico.com/blogs/glennthrush/0709/Big_Dem_cash_dump_on_eve_of_climate_vote.html

⁴ Ibid.

⁵ *With Something for Everyone, Climate Bill Passed*. The New York Times. John M. Broder. June 20, 2009. http://www.nytimes.com/2009/07/01/us/politics/01climate.html?_r=3&hp=&adxnnl=1&pagewanted=1&adxnnlx=1251381781-ZCoIwiQkHuC495UKGHIXuQ

⁶ *Grayson Sights for Energy Bill Funding*. Congressman Alan Grayson's Website. June 26, 2009. <http://grayson.house.gov/2009/06/grayson-fights-for-energy-bill-funding.shtml>

⁷ *Rep. Kaptur gets \$3.5 billion sweetener in climate bill*. The Washington Times. Edward Felker. July 1, 2009. <http://www.washingtontimes.com/news/2009/jul/01/sweetener-helped-sway-vote-on-house-climate-bill/>

⁸ *Kratovil Backs American Clean Energy and Security Act*. Congressman Frank Kratovil's Website. June 29, 2009. <http://kratovil.house.gov/index.cfm?sectionid=22&parentid=21§iontree=21,22&itemid=155>

⁹ *House GOP: "The American People Have a Right to Know" About Speaker Pelosi's "Biggest Job-Killing Bill."* Congressman John Boehner's Website. June 27, 2009. <http://johnboehner.house.gov/News/DocumentSingle.aspx?DocumentID=134832>

¹⁰ *Preliminary Observations on Options for Distributing Emissions Allowances and Revenue under a Cap-and-Trade Program*. United States Government Accountability Office. Testimony before the Committee on Finance, U.S. Senate. GAO-09-950T. August 4, 2009. Page 7.

¹¹ Ibid. Page 1.

¹² Ibid. Page 15.

¹³ Ibid. Page 8.

¹⁴ Qtd. in *Why Free Allocation of Carbon Allowances Means Windfall Profits for Energy Companies at the Expense of Consumers*. Sightline Institute. Clark Williams-Derry and Eric de Place. February 2008. Page 2. http://www.sightline.org/research/energy/res_pubs/windfalls/windfalls

¹⁵ Qtd. in *Climate: House panels seek to limit effect of cap and trade on nation's pocketbook*. Energy and Environment News. Darren Samuelsohn. March 9, 2009. <http://www.eenews.net/public/EEDaily/2009/03/09/1>

¹⁶ *Utilities Could Cash In On Climate Bill*. Forbes.com. Andy Stone and Jonathan Fahey. June 17, 2009. <http://www.forbes.com/2009/06/16/aep-global-warming-business-energy-utilities.html>

¹⁷ Ibid.

¹⁸ *Exelon: Meeting with Management Provides Insights on CO2 Regulation and NRG Acquisition*. Hugh Wynne. Bernstein Research. June 10, 2009. Page 1.

¹⁹ *Transcript of President Obama's Opening Statement to reporters*, as transcribed by CQ Transcriptions. The New York Times. June 23, 2009. <http://www.nytimes.com/2009/06/23/us/politics/23text-obama.htm>

²⁰ *How Can We Combat Climate Change?* Montel Across America. Air America Radio. June 29, 2009. Audio: <http://airamerica.com/content/how-can-we-combat-climate-change>

²¹ *Will Key Chairmen Power Up For Energy Bill?* National Journal Magazine. Alexis Simendinger. June 6, 2009. http://www.nationaljournal.com/njmagazine/cs_20090606_8698.php

²² *With Something for Everyone, Climate Bill Passed*. The New York Times. John M. Broder. June 20, 2009. http://www.nytimes.com/2009/07/01/us/politics/01climate.html?_r=3&hp=&adxnnl=1&pagewanted=1&adxnnlx=1251381781-ZCoIwiQkHuC495UKGHIXuQ

²³ H.R. 2454. 782(a) (2009) Pg. 864. http://energycommerce.house.gov/Press_111/20090701/hr2454_house.pdf

²⁴ *With Something for Everyone, Climate Bill Passed*. The New York Times. John M. Broder. June 20, 2009. http://www.nytimes.com/2009/07/01/us/politics/01climate.html?_r=3&hp=&adxnl=1&pagewanted=1&adxnlx=1251381781-ZCoIwiQkHuC495UKGHIXuQ

²⁵ H.R. 2454. 782(j) (2009) Pg. 875.

²⁶ Ibid. Pg. 874.

²⁷ *Media Advisory: Green CAT Markets to be Largest in World*. U.S. Commodity Futures Trading Commission. June 11, 2009. <http://www.cftc.gov/newsroom/MediaAdvisory/2009/mediaadvisory061109.html>

²⁸ *Environmental Policy Framework*. Goldman Sachs. 2005. Pages 5, 4. <http://www2.goldmansachs.com/ideas/environment-and-energy/goldman-sachs/env-policy-pdf.pdf>

²⁹ *Why Greenhouse Gas Services?* Greenhouse Gas Services Website. http://www.ghgs.com/ghgs/index?page=why_ghgs_overview¤tpicnum=1&&view=GHGS_VIEW&locale=en

³⁰ *Phoenix Firm Launches Carbon-Trading Hedge Fund*. FIN Alternatives. August 14, 2008. <http://www.finalternatives.com/node/5231>

³¹ *Subprime Carbon?* Friends of the Earth. Michelle Chan. March 2009. <http://www.foe.org/subprimecarbon> Pg 4.

³² *Video Interview with Michelle Chan, Author, Subprime Carbon?* Friends of the Earth. March 2009. <http://www.foe.org/subprimecarbon>

³³ H.R. 2454. 401(b) (2009) Pg. 1028.

³⁴ *Goldman Faces Carbon Market Curbs in Senate Proposals*. Bloomberg.com. Jim Efstathiou Jr. and Daniel Whitten. August 13, 2009. <http://www.bloomberg.com/apps/news?pid=20601109&sid=a9qWGysLQ.Cg>

³⁵ *Video Interview with Michelle Chan, Author, Subprime Carbon?* Friends of the Earth. March 2009. <http://www.foe.org/subprimecarbon>

³⁶ *Kleiner Perkins hatches stealthy software startup Hara*. Lisa Sibley. Cleantech Group. June 1, 2009. <http://cleantech.com/news/4522/kleiner-perkins-incubates-stealthy-hara>

³⁷ *Obama Years Ago Helped Fund Carbon Program He Is Now Pushing Through Congress*. Ed Barnes. FOX-News.com March 25, 2009. <http://www.foxnews.com/politics/first100days/2009/03/25/obama-helped-fund-carbon-scheme/>

³⁸ Ibid.

³⁹ H.R. 2454. 761(a) (2009) Pg. 1088.

⁴⁰ Ibid. Pg. 1114.

⁴¹ *Smoot-Hawley*. Brian Trumbore. President, Stocksandnews.com. http://www.buyandhold.com/bh/en/education/history/2002/smoot_hawley.html

⁴² *Letter to President Obama*. United States Senate. August 6, 2009. Accessed on New York Times Website. <http://graphics8.nytimes.com/images/blogs/greeninc/manuf.pdf>

⁴³ Ibid.

⁴⁴ *India says no to emission reduction*. Guardian.co.uk. July 21, 2009. <http://www.guardian.co.uk/environment/2009/jul/21/india-emissions>

⁴⁵ *Chinese official warns US on protectionism*. Alan Rappeport. Financial Times. April 21, 2009. http://www.ft.com/cms/s/0/0318fd3c-2ea1-11de-b7d3-00144feabdc0.html?nclink_check=1

⁴⁶ *1,028 Economists Ask Hoover To Veto Pending Tariff Bill*. New York Times. May 5, 1930. <http://www.clubforgrowth.org/media/uploads/smooth%20hawley%20ny%20times%2005%2005%2030.pdf>

⁴⁷ *Cap-and-trade or Smoot-Hawley?* The Denver Post. July 5, 2009. http://www.denverpost.com/opinion/ci_12744933

- ⁴⁸ *Obama Wary of Tariff Provision*. Greg Hitt and Naftali Bendavid. The Wall Street Journal. June 29, 2009. http://online.wsj.com/article/SB124621613011065523.html?mod=rss_com_mostcommentart
- ⁴⁹ H.R. 2454. 713 (2009) Pg. 711-723.
- ⁵⁰ *Greenhouse Gas Reductions or Greenwash?: The DOE's 1605b Program*. University of Michigan. Thomas P. Lyon and Eun-Hee Kim. February 2009. Pg. 2 <http://www.ucei.berkeley.edu/POWER-07/Files/7.pdf>
- ⁵¹ Ibid. Pg. 16-17.
- ⁵² H.R. 2454. 713(b) (2009) Pg. 720.
- ⁵³ *GHG registry good for climate, bad for business?* United Press International: Energy Resources. Rosalie Westenskow. April 6, 2009. http://www.upi.com/Energy_Resources/2009/04/06/GHG-registry-good-for-climate-bad-for-business/UPI-55521239057736/
- ⁵⁴ *EPA Proposes Greenhouse Gas Reporting Rule*. Ohio Environmental Law Blog. Joe Koncelik. March 16, 2009. <http://www.ohioenvironmentallawblog.com/admin/trackback/118754>
- ⁵⁵ H.R. 2454. 287(D) (2009) Pg. 609.
- ⁵⁶ Ibid. Pg. 610.
- ⁵⁷ H.R. 2454. 287(e) (2009) Pg. 610.
- ⁵⁸ “*Urban Problems and Community Development*.” Ronald Ferguson and William Dickens. Brookings Institution Press. Washington, DC. 1999. Pages 125-126.
- ⁵⁹ H.R. 2454. 503(b) (2009) Pg. 1394.
- ⁶⁰ Manager’s Amendment to H.R. 2454, Offered by Mr. Waxman of California. Pg. 133 http://www.rules.house.gov/111/AmndmentsSubmitted/hr2454/waxman121_hr2454_111.pdf
- ⁶¹ H.R. 2454. 501(b) (2009) Pg. 1390.
- ⁶² *A New Fight Over Pollution Curbs Takes Root*. Jeffrey Ball. The Wall Street Journal. July 24, 2009. Pg. A11. <http://online.wsj.com/article/SB124839162543777499.html>
- ⁶³ Ibid.
- ⁶⁴ *Subprime Carbon?* Friends of the Earth. Michelle Chan. March 2009. <http://www.foe.org/subprimecarbon> Page 3.
- ⁶⁵ Ibid..
- ⁶⁶ H.R. 2454. 504(e) (2009) Pg. 1404.
- ⁶⁷ *Nonprofit Land Bank Amasses Billions: Charity Builds Assets on Corporate Partnerships*. The Washington Post. David Ottaway and Joe Stephens. May 4, 2003. Page A01.
- ⁶⁸ *Climate: Lobbying cash paved Waxman-Markey’s road to House floor*. Energy and Environment Daily. Greenwire. Ann Mulkern. <http://www.eenews.net/public/Greenwire/2009/06/26/4>
- ⁶⁹ *Annual Lobbying Report: Nature Conservancy*. Center for Responsive Politics. <http://www.opensecrets.org/lobby/clientsum.php?year=2009&lname=Nature+Conservancy&id=>
- ⁷⁰ *Lobbyists help Dems draft climate change bill*. The Washington Times. Tom LoBianco. May 4, 2009. <http://www.washingtontimes.com/news/2009/may/04/green-lobby-guides-democrats-on-climate-bill/print/>
- ⁷¹ Ibid.
- ⁷² *Donor Lookup: Mark Tercek*. Center for Responsive Politics. <http://www.opensecrets.org/indivs/search.php?name=tercek%2C+mark&state=&zip=&employ=&cand=&all=Y&sort=N&capcode=vnxq8&submit=Submit>
- ⁷³ *Donor Lookup: John Sall*. Center for Responsive Politics. <http://www.opensecrets.org/indivs/search.php?capcode=vnxq8&name=sall,%20john&employ=&cand=&state=&zip=&all=Y&old=N&c2008=N&c2006=N&c2010=N&sort=N&page=&page=1>

- ⁷⁴ *Lobbying cash paved Waxman-Markey's road to House floor.* Energy and Environment Daily. Greenwire. Ann Mulhern. <http://www.eenews.net/public/Greenwire/2009/06/26/4>
- ⁷⁵ *Nonprofit Land Bank Amasses Billions: Charity Builds Assets on Corporate Partnerships.* The Washington Post. David Ottaway and Joe Stephens. May 4, 2003. Page A01.
- ⁷⁶ *National Alliance of Forest Owners. Statement to House Committee on Agriculture.* Hearing on H.R. 2454. June 11, 2009. Pg. 9 <http://www.nafoalliance.org/Portals/0/Communications/house%20ag%20climate%20change%206-11-09%20final.pdf>
- ⁷⁷ H.R. 2454. 338(a) (2009) Pg. 1024.
- ⁷⁸ *FAQs.* Wage Determinations Online.gov <http://www.wdol.gov/faqs.aspx#Q5>
- ⁷⁹ *Davis-Bacon Act, Prevailing Wage Information.* Alliance for Worker Freedom <http://www.workerfreedom.org/davis-bacon-act-prevailing-wage-information-a3392>
- ⁸⁰ *Congress' Insidious Discrimination.* Williams, Walter. Jewish World Review. March 12, 2003. <http://www.jewishworldreview.com/cols/williams031203.asp>
- ⁸¹ *The Federal Davis-Bacon Act: The Prevailing Mismeasure of Wages.* Sarah Glassman, et al. Beacon Hill Institute at Suffolk University. February 2008. http://www.abc.org/res.ashx?p=files/Government_Affairs/StateAffairs/DavisBaconPrevWage080207Final.pdf
- ⁸² *An Economic Examination of West Virginia's Prevailing Wage Law.* Andrea M. Dean. The Public Policy Foundation of West Virginia. January 2009. <http://www.westvirginiapolicy.com/West%20Virginia%20Prevailing%20Wage%20Report.pdf>
- ⁸³ H.R. 2454. 338(b) (2009) Pg. 1025.
- ⁸⁴ *NFIB Cap-and-Trade Update.* National Federation of Independent Business. <http://www.nfib.com/tabid/739/Default.aspx?cmsid=49481&v=1>
- ⁸⁵ *NFIB's Letter to the Hill on Cap and Trade (H.R. 2454).* National Federation of Independent Business. June 24, 2009. <http://www.nfib.com/tabid/60/tabid/739/Default.aspx?cmsid=49408&v=1>
- ⁸⁶ *Legislative Bulletin.* Republican Study Committee. June 26, 2009. Pg. 3 http://rsc.tomprice.house.gov/UploadedFiles/LB_062609_Cap_and_Tax.pdf
- ⁸⁷ *Waxman-Markey House KEY VOTE Letter.* Associated Builders and Contractors, Inc. June 25, 2009. <http://www.abc.org/files/Newsroom/Newsline/Waxman-Markey%20House%20KEY%20VOTE%20Letter%206-25-09.pdf>
- ⁸⁸ *What is a Project Labor Agreement and how does it affect workers?* National Right to Work Legal Defense Foundation, Inc. Website. http://www.nrtw.org/en/neutrality/na_6.htm
- ⁸⁹ *Bush Suspends Pay Act in Areas Hit by Storm.* Thomas Edsall. The Washington Post. September 9, 2005. <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/08/AR2005090802037.html>
- ⁹⁰ H.R. 2454. 424A (2009) Pg. 1134
- ⁹¹ *Higher Costs Cited as U.S. Shuts Down Coal Project.* Matthew L. Wald. The New York Times. January 31, 2008. <http://www.nytimes.com/2008/01/31/business/31coal.html>
- ⁹² *Energy Department Said to Err on Coal Project.* Matthew L. Wald. The New York Times. March 10, 2009. <http://www.nytimes.com/2009/03/11/science/earth/11coal.html>
- ⁹³ *Clean Coal Project Revived in Illinois.* Kate Galbraith. The New York Times. June 12, 2009. <http://greeninc.blogs.nytimes.com/2009/06/12/clean-coal-project-revived-in-illinois/>
- ⁹⁴ *Secretary Chu Announced Agreement on FutureGen Project in Mattoon, IL.* U.S. Department of Energy. June 12, 2009. <http://www.energy.gov/news2009/7454.htm>
- ⁹⁵ H.R. 2454. 424A (2009) Pg. 1136, and U.S. Code, Title 26, Section 51, http://www.law.cornell.edu/uscode/26/uscode_sec_26_00000051----000-.html

⁹⁶ U.S. Code, Title 29, Section 1002, <http://law.onecle.com/uscode/29/1002.html>

⁹⁷ U.S. Code, Title 29, Section 29, <http://www.lni.wa.gov/TradesLicensing/Rules/files/apprenticeship/cfr2929.pdf>

⁹⁸ *Comments before the U.S. Department of Labor. Associated Builders and Contractors, Inc. March 12, 2008.* http://www.abc.org/Government_Affairs/Issues/Workplace_Policy/Apprenticeship_Training.aspx and http://www.abc.org/res.ashx?p=files/Legal/Comments/DOL_ETA_Apprenticeship%20Comments_FINAL%20APPROVED_031208.pdf

⁹⁹ Table 3, *Union affiliation of employed wage and salary workers by occupation and industry.* Bureau of Labor Statistics. <http://www.bls.gov/news.release/union2.t03.htm>

¹⁰⁰ *Executive Order: Use of Project Labor Agreements for Federal Construction.* The White House. February 6, 2009. http://www.whitehouse.gov/the_press_office/ExecutiveOrderUseofProjectLaborAgreementsforFederalConstructionProjects/

¹⁰¹ *Put Freedom to Work,* <http://opencontracting.com/info/>

¹⁰² *Rush applauds historic vote for ACES Act that both secures America's clean energy future while strengthening the working class.* Bobby Rush. Press Release, June 26, 2009, http://www.house.gov/list/press/il01_rush/pr_090626.shtml

¹⁰³ *AFL-CIO Voting Record, Scorecard for the Year 2008.* AFL-CIO. <http://www.aflcio.org/issues/legislative/alert/votes/index.cfm?location=House&termyear=2008&statecode=IL&Go.x=8&Go.y=11&Go=Go&act=3>

¹⁰⁴ *Rates Congress Database.* National Taxpayers Union. http://www.ntu.org/main/components/ratescongress/details_all_years.php3?house_id=223

¹⁰⁵ *With Something for Everyone, Climate Bill Passed.* David Broder. The New York Times. June 30, 2009. http://www.nytimes.com/2009/07/01/us/politics/01climate.html?_r=2&ref=politics

¹⁰⁶ *ACES passes House! Giant leap toward green economy for all!* Ellis-Lamkins, Phaedra, and Green For All, <http://www.greenforall.org/blog/aces-passes-house-giant-leap-towards-green-economy-for-all> & <http://www.greenforall.org/media-room/statements/statement-from-green-for-all-ceo-phaedra-ellis-lamkins-on-the-house-2019s-passage-of-the-american-clean-energy-security-act> & http://www.huffingtonpost.com/phaedra-ellis-lamkins/the-clean-energy-bill-sto_b_223561.html.

¹⁰⁷ *House Energy Bill Follows Path Blazed by Apollo Alliance.* Apollo News Service. March 31, 2009. <http://apolloalliance.org/press-releases-2009/statement-house-energy-bill-follows-path-blazed-by-apollo-alliance/>