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TIME TO WAKE UP ON CLIMATE CHANGE

SENATOR SHELDON WHITEHOUSE*

Thank you for inviting me to speak at today’s Symposium, “Climate Power Play: Financial, Legislative, and Regulatory Moves Toward a New Energy Economy.”¹ I come from Rhode Island, where we take our environment and our state nickname—the Ocean State²—very seriously. This was perhaps best exemplified by an exchange between Senator Theodore Francis Green,³ a Rhode Island Senator of great longevity, and one of his Senate colleagues. Green had apparently

* United States Senator for Rhode Island. He holds a B.A. from *Yale University* and a J.D. from the *University of Virginia School of Law*. Senator Whitehouse is a member of the Senate Environment and Public Works (EPW); Budget; Judiciary; and Health Education, Labor, and Pensions (HELP) Committees. He is the chairman of the Judiciary Subcommittee on Crime and Terrorism and of the EPW Subcommittee on Clean Air and Nuclear Safety. He is also a co-chair of the Bicameral Task Force on Climate Change and the Senate Climate Action Task Force.

1. Held on November 18, 2013, at the law offices of McDermott Will & Emery in Washington, D.C., the Symposium brought together some of the top minds in the energy and climate change arena for a discussion on clean energy finance and policy, legislative efforts on climate, President Obama’s Climate Action Plan, and the U.S. Supreme Court’s decision to review the Environmental Protection Agency’s (EPA) authority to regulate greenhouse gases from stationary sources.

2. *Historical Information*, RI.GOV, <https://www.ri.gov/facts/history.php> (last visited May 1, 2014).

3. Senator Theodore Francis Green represented Rhode Island in the U.S. Senate from 1937 to 1961. *Green, Theodore Francis (1867–1966)*, BIOGRAPHICAL DIRECTORY U.S. CONGRESS, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=g000418> (last visited May 12, 2014).

done something to annoy a fellow Senator, who then turned to him and said, “Theodore, how big is that little state of yours anyway?” Green looked coolly back at him and said, “Well, that would depend wouldn’t it—high tide or low tide?”

My point here is that what’s happening out there, particularly in our oceans, means a lot for Rhode Island, and that makes it a real pleasure for me to be here with you to have this conversation about climate change. I am perhaps the most optimistic person in the Senate—perhaps the most optimistic person in Congress—about our ability to get something done on this issue. And let me take a few minutes here to take you through my case.

The first point in the case is that the reality of climate change is really now beyond serious or sober questioning.⁴ The atmosphere is measurably warming,⁵ Arctic ice is visibly melting,⁶ seas are warming and rising and acidifying,⁷ and these are not complex projections. They’re not computer models. They are measurements. And they are measurements that can be made relatively simply.

We also know how much harm the reality of climate change is causing. And we see its costs all around us. We see it in storm-damaged homes and flooded cities.⁸ We see it in drought-stricken farms and raging wild fires.⁹ We see it in bleaching coral¹⁰ and stressed shellfish.¹¹ We see it in shifting habitats¹² and migrating diseases.¹³

4. See INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2013: THE PHYSICAL SCIENCE BASIS 4 (Thomas F. Stocker et al. eds., 2013), available at http://www.climatechange2013.org/images/report/WG1AR5_ALL_FINAL.pdf (stating that climate warming is “unequivocal”).

5. *Id.* at 5–6.

6. *Id.* at 9–10.

7. *Id.* at 8, 11–12.

8. See *id.* at 7 (examining the correlation between extreme weather and climate events and greenhouse gases); see also INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2014: IMPACTS, ADAPTATION, AND VULNERABILITY—SUMMARY FOR POLICYMAKERS 6–8 (Mar. 2014) [hereinafter IPCC CLIMATE CHANGE 2014], available at http://ipcc-wg2.gov/AR5/images/uploads/IPCC_WG2AR5_SPM_Approved.pdf (summarizing the most significant observed impacts of climate change).

9. See IPCC CLIMATE CHANGE 2014, *supra* note 8, at 7 (“Impacts from recent climate-related extremes, such as heat waves, droughts, floods, cyclones, and wildfires, reveal significant vulnerability and exposure of some ecosystems and many human systems to current climate variability . . .”).

10. See *Climate Change*, NAT’L OCEANIC & ATMOSPHERIC ADMIN. CORAL REEF CONSERVATION PROGRAM, <http://coralreef.noaa.gov/threats/climate> (last visited May 12, 2014) (noting the effects of increased carbon emissions on coral reefs).

11. See generally A Whitman Miller et al., *Shellfish Face Uncertain Future in High CO₂ World: Influence of Acidification on Oyster Larvae Calcification and Growth in Estuaries*, PLOS ONE (2009), available at <http://www.plosone.org/article/fetchObject.action?uri=info%3Adoi%2F10.1371%2Fjournal.pone.0005661&representation=PDF> (predicting that some species of shellfish in estuarine and coastal ecosystems will be unable to sustain continued increases in CO₂); Daiju Narita et al., *Economic Costs of Ocean Acidification: A Look into the Impacts on Global Shellfish Production*, 113 CLIMATIC CHANGE 1049 (2012)

These costs are not, however, being incorporated into the price of the coal or oil that are contributing to climate change by releasing carbon pollution when burned. The big oil companies and the coal barons have managed to offload all of those costs onto the rest of us—onto society.¹⁴ That is wrong, and it is also a market failure. It gives polluting industries an unfair advantage over cleaner energy producers.

So that is why I'm working with a number of colleagues to put a price on carbon pollution—an accurate price on carbon pollution.¹⁵ The idea is a pretty simple one: the big polluters pay a fee to the American people to cover the cost of dumping their waste into our atmosphere and oceans.¹⁶

At present, I will concede that political conditions in Washington do not make that possible. So what do we have to do then? We have to change those political conditions. I think we can do this, and I think we can do it more quickly than most people realize. I see the

(anticipating widespread economic losses related to mollusk production due to increased ocean acidification).

12. See NAT'L CLIMATE ASSESSMENT & DEV. ADVISORY COMM., CLIMATE CHANGE & THE AM. PEOPLE, 291–92 (2013) (draft for public comment), available at <http://ncadac.globalchange.gov/download/NCAJan11-2013-publicreviewdraft-fulldraft.pdf> (indicating that “[e]cosystem perturbations driven by climate change have direct human impacts, including reduced water supply and quality, the loss of iconic species and landscapes, distorted rhythms of nature, and the potential for extreme events to overcome the regulating services of ecosystems”).

13. *Health Effects*, CENTERS FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/climateandhealth/effects/default.htm> (last visited May 12, 2014) (listing global warming's effects on public health).

14. See Richard Heede, *Tracing Anthropogenic Carbon Dioxide and Methane Emissions to Fossil Fuel and Cement Producers, 1854–2010*, 122 CLIMATIC CHANGE 229, 238 (2014) (finding that ninety companies emitted nearly two-thirds of all manmade greenhouse gases). See generally INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2007: MITIGATION OF CLIMATE CHANGE (Bert Mertz et al. eds., 2007), available at http://www.ipcc.ch/pdf/assessment-report/ar4/wg3/ar4_wg3_full_report.pdf (analyzing the costs and benefits of various approaches to mitigating climate change).

15. Carbon pollution refers to emissions of carbon dioxide, the primary greenhouse gas produced by human activity. See *Overview of Greenhouse Gases*, U.S. ENVTL. PROTECTION AGENCY <http://www.epa.gov/climatechange/ghgemissions/gases/co2.html> (last visited May 12, 2014).

16. Representative Henry Waxman, Senator Brian Schatz, Representative Earl Blumenauer, and Senator Whitehouse released a discussion draft on carbon pollution pricing in 2013, which would require covered entities to pay a fee for each ton of carbon pollution reported under the existing EPA greenhouse gas emissions reporting rule. See *Carbon Pollution Fees: A New Workable Approach*, COMMITTEE ON ENERGY & COM. DEMOCRATS (Mar. 12, 2013), <http://democrats.energycommerce.house.gov/sites/default/files/documents/Backgrounder-Carbon-Pollution-Fee-2013-3-12.pdf> (providing a brief overview of the discussion draft). For the full text of this discussion draft, see A Bill To Require the Payment of a Fee for Emissions of Carbon Pollution, 113th Cong. (Mar. 12, 2013), <http://democrats.energycommerce.house.gov/sites/default/files/documents/Bill-Text-Discussion-Draft-Carbon-Pollution-Fee-2013-3-12.pdf>.

path before us; I see the tools to do it with, and it's up to us to pick up those tools and use them.

I'll mention three of them.

The first tool is one that's actually already been wielded, and I give President Obama credit for this. His Climate Action Plan¹⁷ has a particular strength to it, which is that the Environmental Protection Agency will be setting carbon pollution standards for new and existing power plants.¹⁸

The worst fifty power plants in the United States pump out more carbon pollution than Canada.¹⁹ They pump out more carbon pollution than South Korea.²⁰ So setting standards to limit pollution from these plants is a big deal. Now, when the owners of those power plants see those regulations and the associated costs of compliance coming at them, suddenly, an economy-wide carbon fee may look a little better. When their status quo is no longer that they get to pollute for free, their attitude about negotiating carbon legislation may shift. And when the polluters' attitude shifts, the Republican Party's attitude shifts.

Think about it: if you're a practical politician representing a coal state, you have to realize that the jobs and revenue provided by that industry won't last forever.²¹ The revenues that a carbon pollution fee can generate could be used, in part, to provide some transition assistance or alternative economic development for states that rely heavily on fossil fuels. That may be what it takes to make coal state Senators happy and allow them to go home to their constituents and say: "Alright, you know we're going to be phasing out coal, but here's

17. EXEC. OFFICE OF THE PRESIDENT, THE PRESIDENT'S CLIMATE ACTION PLAN (2013), available at <http://www.whitehouse.gov/sites/default/files/image/president27climateactionplan.pdf>.

18. See *id.* at 6; see also Memorandum on Power Sector Carbon Pollution Standards, 78 Fed. Reg. 39,535 (July 1, 2013), available at <http://www.whitehouse.gov/the-press-office/2013/06/25/presidential-memorandum-power-sector-carbon-pollution-standards> (directing the Administrator of the EPA to issue regulations to address carbon pollution).

19. JORDAN SCHNEIDER & JULIAN BOGGS, AMERICA'S DIRTIEST POWER PLANTS: THEIR OVERSIZED CONTRIBUTION TO GLOBAL WARMING AND WHAT WE CAN DO ABOUT IT 4, 6 (2013), <http://environmentamericacenter.org/sites/environment/files/reports/Dirty%20Power%20Plants.pdf> (explaining that the fifty most-polluting American power plants produce more than two percent of worldwide carbon pollution).

20. *Id.* at 5–6.

21. See generally RORY MCILMOIL ET AL., THE CONTINUING DECLINE IN DEMAND FOR CENTRAL APPALACHIAN COAL: MARKET AND REGULATORY INFLUENCES, at ix, xii (2013) available at http://downstreamstrategies.com/documents/reports_publication/key-findings-the-continuing-decline-in-demand-for-capp-coal.pdf (examining the decline in coal production in Central Appalachia, which consists of eastern Kentucky, southern West Virginia, Tennessee, and Virginia and explaining that the "easiest-to-access coal reserves have already been mined").

what I'm delivering in return." A carbon fee could certainly provide a better deal for those states than just strict pollution regulations. And, by the way, we could also use portions of carbon fee revenues to, say, give a raise to people on Social Security, or forgive student loans. There is a lot of good that could come from this.

So that's one. Two is that folks on our side are now starting to fight, using all the tools available in the post-*Citizens United v. Federal Election Commission*²² world. When *Citizens United* came out, the Koch Brothers and the big polluting industries were among the first to deploy.²³ They have built a whole apparatus to exercise political power and spread the propaganda of denial. That kicked in very quickly. Environmentalists and progressives have been behind, but now you see the League of Conservation Voters²⁴ and people like Tom Steyer²⁵ catching up.

When it's an even fight, when we've got allies fighting with us, and when, with any luck, we'll be able to separate a considerable number of climate deniers from their jobs in Congress, that will change the political calculation.

Just to give you a baseline for this, a recent poll showed that if you ask Republican voters under the age of thirty-five what they think about climate change deniers, the majority of them describe climate deniers as "ignorant, out of touch, or crazy."²⁶ Ignorant, out of touch,

22. 130 S. Ct. 876 (2010).

23. See generally *Koch Industries*, SOURCEWATCH, http://www.sourcewatch.org/index.php/Koch_Industries (last updated May 1, 2014) (noting that "[a]s two of the richest people in the world, [the Koch Brothers] are key funders of the right-wing infrastructure" whose expenditures have earned them significant influence within the political process).

24. See generally R. SAM GARRETT, CONG. RESEARCH SERV., "SUPER PACS" IN FEDERAL ELECTIONS: OVERVIEW AND ISSUES FOR CONGRESS 14 tbl.2 (2011), available at [http://op.bna.com/der.nsf/id/rtar-8n6pkq/\\$File/Super%20Pacs%20in%20Federal%20Elections.pdf](http://op.bna.com/der.nsf/id/rtar-8n6pkq/$File/Super%20Pacs%20in%20Federal%20Elections.pdf) (indicating that the League of Conservation Voters Victory Fund spent over \$800,000 supporting or opposing congressional candidates in 2010). The League of Conservation Voters "advocates for sound environmental laws and policies, holds elected officials accountable for their votes and actions, and elects pro-environment candidates who will champion our priority issues." *About LCV*, LEAGUE CONSERVATION VOTERS, <http://www.lcv.org/about/mission> (last visited May 12, 2014).

25. See generally *Tom Steyer's NextGen Climate Action Premieres First in "Keystone Chronicles" Ad Series*, PR NEWSWIRE (Sept. 8, 2013), <http://www.prnewswire.com/news-releases/tom-steyers-nextgen-climate-action-premieres-first-in-keystone-chronicles-ad-series-222843651.html> (describing Steyer's ad campaign entitled "Bringing Down TransCanada's House of Cards: The Keystone Chronicles").

26. In 2013, The League of Conservation Voters commissioned a Republican firm, GS Strategy Group, and a Democratic firm, Benenson Strategy Group, to conduct a public opinion poll on climate change among Americans under the age of thirty-five. See Memorandum from the Benenson Strategy Grp. & GS Strategy Grp. on Recent Polling on Youth Voters to the League of Conservation Voters 2 (July 24, 2013), available at <http://www.lcv.org/issues/polling/recent-polling-on-youth.pdf>

or crazy, according to your own party's thirty-five-and-under voters, is not a great place to be if somebody's prepared to spend a lot of money against you in an election.

The third and most significant force that could drive this is not in place yet. It arises from the fact that on our side, we have an astonishingly broad and diverse group of support. There are truly armies on our side.

We have the environmental groups obviously, and the green tech and investment industry. We've got national security officials. We have the property/casualty insurance and reinsurance industry not only nationally, but internationally. We've got young people, as I've mentioned. If a majority of young Republicans reject climate deniers, you can imagine that sentiment is stronger for people under thirty-five generally. And you see that in the college movement pushing for divestment from coal.²⁷

We have faith groups like the U.S. Conference of Catholic Bishops.²⁸ We have a raft of celebrities.²⁹ We've got hunting, fishing, outdoor, and conservation groups.³⁰ We've got name-brand, major, flagship U.S. companies like Apple, Coca-Cola, Nike, Ford, GM, and

(indicating that [f]or voters under 35, denying climate change signals a much broader failure of values and leadership, as even 53% of Republicans in that age group described climate change deniers as "ignorant, out-of-touch, or crazy").

27. See, e.g., Maggie Livingstone, *Divest Coal Holds Silent Sit-in at U. Hall*, BROWN DAILY HERALD (Nov. 8, 2013), <http://www.browndailyherald.com/2013/11/08/divest-coal-holds-silent-sit-u-hall> (describing the "Divest Coal" movement at Brown University); Victor Luckerson, *College Divestment Movement Takes on Fossil Fuels After Battling Apartheid with Mandela*, TIME (Dec. 10, 2013), <http://nation.time.com/2013/12/10/college-divestment-movement-takes-on-fossil-fuels-after-battling-apartheid-with-mandela> (highlighting how some schools have divested from coal but how administrations at some large universities such as Brown and Harvard have resisted divestment).

28. See *Global Climate Change: A Plea for Dialogue, Prudence, and the Common Good*, U.S. CONF. OF CATH. BISHOPS (2011), <http://www.usccb.org/issues-and-action/human-life-and-dignity/environment/global-climate-change-a-plea-for-dialogue-prudence-and-the-common-good.cfm> ("As people of religious faith, we bishops believe that the atmosphere that supports life on earth is a God-given gift, one we must respect and protect.").

29. See, e.g., Robert Bianco, *Arnold Schwarzenegger Has a New role: Activist*, USA TODAY (Jan. 17, 2014, 7:46 A.M.), <http://www.usatoday.com/story/life/tv/2014/01/16/arnold-schwarzenegger-years-of-living-dangerously-showtime/4523491> (highlighting the 2014 Showtime documentary *Years of Living Dangerously* and how Arnold Schwarzenegger, Harrison Ford, Matt Damon, and Jessica Alba appear in the film to show climate change's effects on ordinary citizens).

30. See, e.g., Climate Change, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP, <http://www.trcp.org/issues/climate-change#.UyYaVF7Qpic> (last visited May 12, 2014) (noting the impacts of detrimental climate change on hunting and fishing and advocating for responsible action based on science); *Curtailing Climate Change*, IZAAK WALTON LEAGUE AM., <http://www.iwla.org/index.php?ht=d/sp/i/2064/pid/2064> (last visited May 12, 2014) (detailing the organization's commitment to preserving the outdoors and reducing the adverse effects of climate change).

so forth.³¹ We've got labor groups, mayors, and local officials.³² We've got a lot going on out there.

The public is on our side as well. The polls show that. According to one poll, sixty-five percent of voters support "the President taking significant steps to address climate change now."³³ Another poll shows that eighty-two percent of Americans believe we should start preparing now for rising sea levels and severe storms associated with climate change.³⁴

So there's plenty of support, but we still lack sufficient organization. We have armies but we have no allied command. There is no place where the property/casualty insurance industry can sit down with the Natural Resources Development Council and the Joint Chiefs of Staff and Apple and say, "Okay, what are we going to do? What's our strategy? What's the plan? How are we going to do it?" Right now our armies are milling about. We need to get them organized and actually form a plan. If that happens, that's another game changer.

When the biggest polluters are staring down the barrel of the regulatory gun; when their political allies, the deniers in Congress, are fearful of well-funded political efforts dedicated to their electoral

31. See, e.g., Coral Davenport, *Industry Awakens to Threat of Climate Change*, N.Y. TIMES (Jan. 23, 2014), <http://www.nytimes.com/2014/01/24/science/earth/threat-to-bottom-line-spurs-action-on-climate.html> (indicating that a 2004 water shortage in India caused Coca-Cola to "embrace[] the idea of climate change as an economically disruptive force"); Ned Resnikoff, *Apple CEO Tells Climate Change Deniers To Sell Their Apple Shares*, MSNBC (Mar. 4, 2014), <http://www.msnbc.com/msnbc/apple-ceo-climate-denial-unwelcome> (noting Apple CEO Tim Cook's response to a suggestion that Apple abstain from advocating for environmental policies that do not have a direct, positive impact on stock performance: "When we work on making our devices accessible by the blind, I don't consider the bloody ROI [return on investment]. If you want me to do things only for ROI reasons, you should get out of this stock." (alteration in original)).

32. See, e.g., *State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience*, WHITE HOUSE (Nov. 1, 2013), <http://www.whitehouse.gov/administration/eop/ceq/initiatives/resilience/taskforce> (announcing the Obama Administration's establishment of the Task Force on Climate Preparedness and Resilience, which includes state and local leaders, "to advise the Administration on how the Federal Government can respond to the needs of communities nationwide that are dealing with the impacts of climate change"); see also Kelly Schwinghammer, *Labor, Environmental & Conservation Leaders Applaud President's Climate Change Plan*, BLUEGREEN ALLIANCE (June 25, 2013), <http://www.bluegreenalliance.org/news/latest/labor-environmental-conservation-leaders-applaud-presidents-climate-change-plan>.

33. Memorandum from the Benenson Strategy Grp. on Recent Polling on Climate Change to the League of Conservation Voters 1 (Feb. 12, 2013), *available at* <http://www.lcv.org/media/press-releases/polling-on-climate-feb-2013.pdf>.

34. STANFORD WOODS INST. FOR THE ENV'T & THE CTR. FOR OCEAN SOLUTIONS, SURVEY RESULTS: U.S. VIEWS ON CLIMATE ADAPTATION (2013), *available at* https://woods.stanford.edu/sites/default/files/documents/Climate_Survey_Exec_Summ_US.pdf ("The public overwhelmingly supports *preparing now* for the impacts of global warming (82%), rather than waiting (16%).").

demise; when mobilized and motivated forces from across the economy are active—that is when the political landscape can shift. It can shift dramatically and it can shift quickly. And then a price on carbon is readily achievable.

I'll make one last point. The Republicans cannot nominate a presidential candidate who denies that climate change is happening—not if they actually hope to win the election in 2016. So rank-and-file Republicans may have to move a little bit away from the denial position in order to fall in line with their nominee. That means we may have a window between 2014 and 2016 when all of these factors fall into place, and a carbon fee becomes a realistic possibility in Congress. That's my personal goal: a carbon fee in 2015.

Because climate change is real. The campaign of denial that prevents us from going forward is frankly as poisonous to our democracy as carbon pollution is to our planet. And yet I am confident we can beat that campaign. When we do, it will be a good thing. It will strengthen our economy. It will redirect our future. It will protect our democracy and allow us to leave a better world to the generations who follow us. But to get this done, we do have to wake up, we do have to pay attention.

Thank you all for working to move the discussion beyond the misleading propaganda of the polluters, beyond the misguided extremism of the Tea Party, and beyond the mistaken belief that we can ignore without consequence the harm that carbon pollution is causing to our planet and our people.