

analysis

# Climate Change Legislation: Where Does It Stand?

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Key Resources:

- The Kerry-Boxer bill, [S. 1733](#), was a cap-and-trade proposal to curb emissions by 20 percent by 2020 and 83 percent by 2050. It has since been abandoned as Sen. John Kerry, one of its sponsors, is working on a new proposal.
- The Waxman-Markey bill, [H.R. 2454](#), has been the most ambitious cap-and-trade bill so far and also the most successful, having passed in the House in June 2009.
- A "tri-partisan" bill is currently being debated by Sens. John Kerry, Joe Lieberman, and up until recently Lindsay Graham. It is not expected to be a comprehensive cap and trade system, but rather to employ a cap and trade system for some industries now, delays it for others, while possibly imposing a carbon tax on others.

The climate change debate in Congress is both fluid and fractured. As with the recent debate around health care, climate change reform appears to be somewhere between inevitable and impossible.

A proposal from the House, which Speaker Nancy Pelosi was barely able to wring out of her caucus, has been languishing for months. A few key Senators are painstakingly hashing out a 'bi-partisan' and much more conservative version of the bill in the upper chamber. And the White House again appears content to let Congress take the lead on drafting the specifics, although this time they've doled out some significant carrots (guaranteed nuclear power plant loans and expanded off-shore drilling) and are brandishing a pretty big stick (the threat of unilateral EPA regulations) in hopes of forcing a deal soon.

But the progressive wing of the Democratic Party appears to be in for another serious disappointment fresh on the heels of the demise of the public option. Reports indicate that a comprehensive "cap and trade" regime is almost definitely off the table.

And again, just as in the healthcare debate, the President and his team have tried to line up support from the necessary business interests in order to avoid embarrassing denunciations and malicious meddling. While the Chamber of Commerce has been combative at times, the business community generally would prefer to see Congress pass a bill, rather than let the EPA - who is sure to be tougher - regulate all on its own. So there has been muted resistance from that corner.

What's different now is that the GOP seems much more willing to play ball than they did during health-care reform. Of course, Republican leadership has hardly been supportive of Democratic efforts recently, but some lawmakers, including the infamous Scott Brown, may be persuadable.

So the situation is fluid. Senators John Kerry, Joe Lieberman, and Lindsey Graham had been negotiating a new direction that seems to have moved on from the "cap and trade" concept embodied in the House Bill and in Kerry's own bill which passed the Senate Environment and Public Works committee in November. (Graham recently pulled out of the negotiations.) The new bill apparently has less restrictive cap-

ping quotas, a possible carbon tax, and also focuses more heavily on creating jobs in the energy sector. But while the "tri-partisan" bill may stand a chance of attracting Republicans and moderates, it may also cause some liberals - especially in the House - to defect. At the same time, there are still five more committees who can claim jurisdiction over the bill, and the EPA has complicated issues by moving ahead with plans to unilaterally mandate emission reductions.

## Relevant Bills

The Lieberman-Warner bill, [S. 2191: The Climate Security Act of 2007](#), was introduced in the Senate in December 2007 and was ultimately stopped by Republicans on June 6, 2008. It was a cap and trade bill that was generally supported by business because it gave away carbon credits to start with instead of auctioning them off. It aimed to reduce greenhouse-gas emissions by between 60% and 65% below present levels by 2050. It proposed to do this by setting limits on the emissions that manufacturers and utilities could release and by establishing a carbon-trade market. The EPA estimated that the plan would have significantly reduced carbon emissions across many sectors of the economy at a cost of up to 2.5% less growth per year in GDP from now until 2050.

The Waxman-Markey bill, [H.R. 2454: The American Clean Energy and Security Act of 2009](#), was passed in June 2009 by the full House. It is also a cap and trade bill and is considered more comprehensive and ambitious than both the Lieberman-Warner Bill and President Obama's proposal. It plans to reduce American greenhouse gas emissions to 20% below 2005 levels by 2020, and to 83% below 2005 levels by 2050. It also mandates that 25% of the nation's energy be produced from renewable sources by 2025, creates new energy efficiency programs, puts limits on the carbon content of motor fuels, and requires greenhouse gas standards for new heavy duty vehicles and engines. This bill would give away most of the initial carbon credits, auction off some, and then use the proceeds to give subsidies to some industries - including coal - as well as to low-income tax payers. It does explicitly state that the new cap and trade system it creates will replace any regulation promulgated by the EPA under the authority of the Clean Air Act. The bill has been met with a mixture of concern, measured praise, and outright criticism from business interests, environmentalists, and Democratic lawmakers. Republicans are fairly unanimously opposed.

The Kerry-Boxer bill, [S. 1733: The Clean Energy Jobs and American Power Act](#), passed the Senate Environment and Public Works Committee Nov. 5, 2009 in spite of a Republican boycott of the markup process. This bill is considered to be somewhat troubled, since many Republicans object to the way it was passed. What's more, one of the bill's main sponsors, Sen. John Kerry, is working on a separate bill with Sens. Lindsay Graham and Joe Lieberman apparently intended to replace this one. This bill proposes a cap and trade regime and would require emissions curbs of 20 percent by 2020 and 83 percent by 2050. This bill would explicitly block the EPA from regulating greenhouse gases under the Clean Air Act. The Congressional Budget Office has found that this bill would reduce the national budget deficit by \$21 billion over the next 10 years.

The "Tri-partisan" bill, which is being debated by Sens. John Kerry, Joe Lieberman, and up until recently Lindsay Graham, is being crafted with the intention of attracting moderate Democrats and Republicans. It is not a comprehensive cap and trade system, but rather employs a cap and trade system for some industries now (utilities), delays it for others (steel, glass, cement manufacturers), while possibly imposing a carbon tax on others (oil, gasoline). It aspires to a 17% emissions cut by 2020 and a cut of 80% by 2050. The bill will also probably include incentives for nuclear power, offshore drilling, clean coal, and carbon sequestration. The bill is likely to be very business friendly, with less stringent caps and a system of distributing, rather than auctioning, credits. It could also impose 'carbon tariffs' on other nations' goods (particularly China) that aren't working towards limiting their greenhouse gas emissions.

This bill also explicitly states that it would pre-empt any state-level or agency regulations of carbon, including those put forth by the EPA.

The Bush proposal was put forward by President Bush in April of 2008. Pres. Bush proposed to stop the growth in greenhouse gas emissions from the US by 2025; but since he offered no specific plan for how to do this, his was widely panned as not a serious proposal. What's more, this goal was actually less ambitious than a goal Bush had already set in 2002 for stopping the growth in emissions by 2012. Pres. Bush also specifically denounced cap and trade legislation being debated in the Senate during this speech.

The Obama proposal was introduced in the President's budget released in January 2009. It was a relatively basic plan for a cap and trade regime designed to reduce emissions to 14% below 2005 levels by 2020, and 83% below 2005 levels by 2050. The plan would auction the carbon credits away to industries, rather than just giving them away. Of the money collected, \$150 billion over the next 12 years would be used to invest in clean energy. The rest of the money would be returned to taxpayers, especially low-income families.

## Time Line

What follows is a rough timeline of the key events that have transpired so far in the effort to create legislation that seeks to curb the effects of climate change and promote energy independence.

(Major events in bold.)

4/2/07: Supreme Court rules in Massachusetts v. EPA that the EPA has the authority to regulate greenhouse gasses.

10/18/07: Sens. Joe Lieberman and John Warner introduce the Lieberman-Warner Climate Security Act of 2007.

**12/5/07: Senate Environment and Public Works Committee passes Lieberman-Warner Bill. This was the farthest climate legislation had ever gotten in the US Congress.**

4/16/08: Pres. Bush unveils plan to stop growth in greenhouse gas emissions by 2025.

**6/6/08: Republicans in the Senate successfully filibuster Lieberman-Warner Bill.**

11/18/08: Pres-Elect Obama announces goal of reducing greenhouse gas emissions to 1990 levels by 2020.

12/10/08: Pres. Obama appoints Steven Chu as Energy Secretary and Lisa Jackson as head of the EPA.

**4/17/09: EPA releases landmark 'endangerment findings' declaring greenhouse gasses a threat to public health. This ruling officially authorizes the EPA to regulate greenhouse gasses and all but assures that such regulation will happen, whether Congress passes legislation or not.**

5/19/09: Pres. Obama announces stricter fuel economy standards for all vehicles starting in model year 2012.

**5/21/09: House Energy and Commerce Committee passes the American Clean Energy and Security Act, also called the Waxman-Markey Bill.**

6/10/09: House Republicans unveil an energy plan focusing mostly on expanding offshore and Arctic drilling and investing in nuclear energy

**6/26/09: House passes Waxman-Markey Bill**

7/10/09: The G8 Summit in L'Aquila, Italy fails to produce a firm commitment to reduce greenhouse gas emissions but member nations pledge to take "mid-term" actions. A larger group of 17 developing nations who joined the summit at the end also refuse to commit to any specific goals.

9/22/09: Pres. Obama addresses a skeptical UN Climate Change Summit, telling them the US is ready to act on climate change, despite the fact that the Senate seems unlikely to take up any climate legislation for the rest of the year.

9/30/09: Sens. John Kerry and Barbara Boxer introduce the Kerry-Boxer Bill which aims to cut carbon emissions by 20% by 2020.

10/5/09: A string of companies, including Apple, Nike, and Pacific Electric Co., leave the Chamber of Commerce over disagreements about climate change legislation.

10/10/09: Sen. Lindsay Graham announces that he will work with Sen. Kerry and others, including Sen. Lieberman, to create a bi-partisan climate change bill.

11/5/09: The Kerry-Boxer Bill passes the Senate Environment and Public Works Committee without any Republican participation.

11/24/09: "Climate-gate" breaks, as English climate scientists are accused of fabricating scientific data.

12/19/09: Marathon international climate talks in Copenhagen end without any firm commitment to reduce emissions. The summit is widely seen as a failure and stifles momentum on a bill in Washington. Congressional Democrats concede that climate legislation will not happen in 2009.

1/29/10: Pres. Obama promises to triple loan guarantees for new nuclear reactors.

3/30/10: Pres. Obama announces plans to expand offshore drilling off the Atlantic coastline, in the eastern Gulf of Mexico, and off the northern coast of Alaska.

3/31/10: Sec. Interior Ken Salazar tells CNBC that the administration will no longer use the term 'cap and trade' to describe climate change legislation.