

## Democrats Report Kerry-Boxer Cap-and-Trade Bill from Senate EPW Committee; Sen. Stabenow Introduces Offsets Bill

There has been a considerable amount of activity in the Senate on climate change legislation over the past two days. (1) The Senate Environment and Public Works Committee voted to report the Kerry-Boxer bill (S. 1733) out of committee during a Republican boycott; (2) Senators John Kerry (D-MA) and Lindsey Graham (R-SC) continue their efforts to find key compromise positions for a successful climate and energy package; and (3) Senator Debbie Stabenow (D-MI) led a group of Democrats from farm and manufacturing states in introducing a bill to create a domestic offsets program as well as other climate-related funding for the agriculture and forestry sectors.

### ENVIRONMENT AND PUBLIC WORKS COMMITTEE ACTION

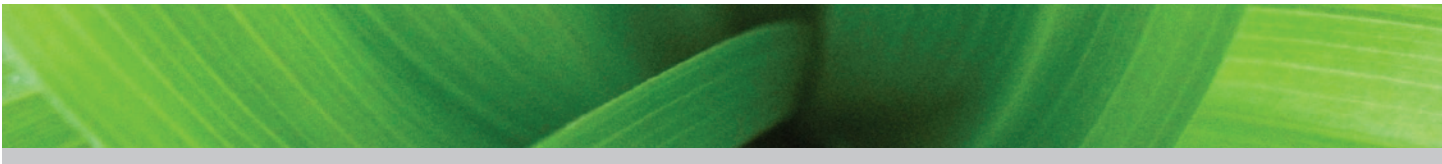
The Senate Environment and Public Works Committee voted to report the Clean Energy Jobs and American Power Act (S. 1733) out of committee on November 5 by a vote of 11-1, without any Republicans present. The Republican Committee members boycotted the mark-up, arguing that additional EPA analysis of the bill was needed before the vote. Senator Max Baucus (D-MT) cast the sole vote against the bill, but said he will work with other Senators to create a package that can garner 60 votes.

Environment and Public Works Committee Rules only require a majority of members to cast votes in person in order to report a bill from Committee. However, because the rules require two members of the minority party to be present to hold a business meeting, no amendments to the bill were considered. The version reported appears to be the “Manager’s Amendment” that was released last Friday. Chairman Boxer pledged to work to have the Democratic amendments—of which over fifty had been filed—included in the climate change legislation assembled for floor consideration. Chairman Boxer’s press release and the version of the bill reported out of committee are available at [http://www.epw.senate.gov/public/index.cfm?FuseAction=Majority.PressReleases&ContentRecord\\_id=c512ac4d-802a-23ad-4884-2b95a8405efe](http://www.epw.senate.gov/public/index.cfm?FuseAction=Majority.PressReleases&ContentRecord_id=c512ac4d-802a-23ad-4884-2b95a8405efe).

Statements made by a number of Senators on and off the Committee, including Chairman Boxer, indicate that S. 1733 is expected to undergo significant changes before being brought up for consideration by the full Senate. S. 1733 will now be referred to the five other committees with jurisdiction over elements of the bill’s contents: Agriculture, Nutrition, and Forestry; Finance; Foreign Relations; Energy and Natural Resources; and Commerce, Science, and Transportation. These committees may hold a formal mark-up of the portions of the legislation over which they have jurisdiction, or may simply provide alternative language.

### NEXT MOVES IN THE SENATE

It is still unclear whether and how supporters of climate and energy legislation will find enough votes to overcome a filibuster in the Senate. Moderate Senators are working on pieces of the bill they hope will attract the support of key swing votes.



On Wednesday, Sens. John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) met with Administration officials to discuss the contents of a possible compromise climate change and energy legislative package that could win the support of 60 Senators and the White House. Sen. Kerry said that their efforts will move on a “dual track” with consideration of climate-related legislation by the six committees in the Senate with jurisdiction. It is unclear whether these efforts will lead to a finished legislative package and a vote during this Congress, or if it will be put off until after the mid-term elections in the fall of 2010.

Also on Wednesday, Senator Debbie Stabenow (D-MI) introduced the Clean Energy Partnership Act (S. 2729), which would create a domestic offsets program within a cap-and-trade bill and provide a number of other financial rewards for agriculture and forest-sector efforts to reduce greenhouse gas emissions or enhance sequestration. The legislation was co-sponsored by Sens. Max Baucus (D-MT), Mark Begich (D-AK), Sherrod Brown (D-OH), Tom Harkin (D-IA), and Amy Klobuchar (D-MN)—all are key votes for ultimate passage of climate change legislation. The offsets provisions delegate oversight of domestic forestry and agricultural projects to the Department of Agriculture, and provide a pathway for approved offset project types from existing non-federal offset programs to generate federal offset credits during the early years of the cap-and-trade program. The bill’s offset provisions are generally more flexible than those in the Kerry-Boxer bill, and could build support for climate legislation within the agriculture community and among moderate Democrats.

#### FOR ADDITIONAL INFORMATION

Van Ness Feldman has an experienced climate change and energy policy team that assists a wide range of clients on policy, strategy and advocacy issues. We can provide expert analysis and advice on bills emerging in Congress, the surrounding policy and political debate, and the implications for your organization. If you would like more information, or are interested in a more detailed analysis of the Kerry-Boxer bill, please contact Kyle Danish, Doug Smith, Stephen Fotis, or any member of the firm’s Climate Change or Energy Policy practices at (202) 298-1800. Those interested in on-going coverage of climate change policy developments may wish to subscribe to the weekly Climate Change Policy Update at <http://www.vnf.com/news-signup.html>.

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