

# Senators Circulate Mandatory Greenhouse Gas Reduction Legislation

January 17, 2007

Last week, Senators John McCain (R-AZ) and Joseph Lieberman (D-CT) advanced legislative proposals for establishing mandatory caps on U.S. greenhouse gas (GHG) emissions. Separately, Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) also circulated a draft GHG bill. The McCain-Lieberman and Bingaman bills are the first of numerous global warming proposals expected during the 110<sup>th</sup> Congress. An analysis of the Bingaman proposal by the Energy Information Administration (EIA) predicts it would curb growth in U.S. GHG emissions by half with little impact on the economy.

## Comparison of McCain-Lieberman and Bingaman Bills

Both the McCain-Lieberman and Bingaman bills would regulate GHG emissions by establishing national, economy-wide “cap-and-trade” programs. However, the bills differ significantly in their stringency and many of their design elements. Following is a comparison of key features of the proposals:

- **Nature of Emissions Cap.** The McCain-Lieberman bill would set an “absolute” cap on GHG emissions through annual tonnage limits. The Bingaman bill sets annual caps based on GHG “intensity,” defined as emissions per dollar of Gross Domestic Product (GDP).
- **Stringency of Caps.** The McCain-Lieberman bill would cap absolute emissions from covered sources at 2004 levels starting in 2012. The reductions would become more stringent over time, gradually increasing to 60% below 1990 levels in 2050 and thereafter. The Bingaman plan is significantly less stringent. It would reduce GHG intensity from covered sources by 2.6% annually beginning in 2012 and increasing to 3.0% annually in 2022.
- **Cost Control Measures.** The McCain-Lieberman bill would limit costs primarily by allowing regulated entities to “borrow” allowances from future years. The Bingaman plan includes a “safety valve” provision allowing regulated sources to purchase emissions permits at a given price. The safety valve price would start at \$7 per metric ton of CO<sub>2</sub>-equivalent and increase each year by 5% over the projected rate of inflation.
- **Coverage and Point of Regulation.** Both the McCain-Lieberman and Bingaman plans would provide almost economy-wide coverage of CO<sub>2</sub> emissions from fossil fuel combustion and also coverage of certain sources of non-CO<sub>2</sub> emissions. The McCain-Lieberman bill would require certain facilities in the electric, industrial, and commercial sectors to surrender allowances to cover their emissions. It also would require petroleum importers and refiners to surrender allowances to cover the carbon content of the fuel they sell for transportation purposes. The Bingaman plan would cover CO<sub>2</sub> emissions by regulating on a carbon content basis. The bill would regulate petroleum importers and refiners, coal mines, and natural gas processors.
- **Allowance Allocations and Auctions.** In its current form, the McCain-Lieberman bill provides broad authority to the Environmental Protection Agency (EPA) to determine how many allowances for the cap-and-trade program to allocate without cost and how many to auction. It also authorizes EPA to determine how to allocate allowances among and within sectors. The Bingaman proposal includes detailed provisions on allocation and auction of allowances. In the first year, industry would receive 55% of the allowances for free. The bill specifies formulas for distributing these allowances among and within sectors. The Bingaman bill further provides that the States (or the President) would have the authority to distribute 30% of the allowances. The percentage of allowances auctioned would start at 10% and gradually increase to 65% over 30 years.

VanNess  
Feldman

ATTORNEYS AT LAW

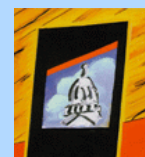
A Professional  
Corporation

1050 Thomas Jefferson  
Street, NW  
Washington, DC  
20007-3877  
(202) 298-1800  
(202) 338-2416

The Millennium Tower  
719 Second Avenue  
Suite 1150  
Seattle, Washington  
98104  
(206) 623-9372  
(206) 623-4986

[www.vnf.com](http://www.vnf.com)

I  
S  
S  
U  
E



A  
L  
E  
R  
T

## **EIA Analysis of Bingaman Proposal**

In response to a request by Senator Bingaman and other lawmakers, EIA on January 11<sup>th</sup> released an analysis of the draft Bingaman legislation. According to the EIA analysis, the Bingaman plan would have the following impacts:

- Projected increases in GHG emissions covered by the program from 2004-2030 would be cut by half compared to business as usual. Under the plan, projected covered GHG emissions are lowered by 7.4% in 2020 and 14.4% in 2030 relative to business as usual. Even if the Bingaman bill were adopted, however, overall GHG emissions still would increase by 24% between 2004 and 2030.
- The cost to the U.S. economy would be approximately 0.1% total GDP from 2009-2030.
- Electricity prices would increase by 3.6% in 2020 and 11% in 2030.
- Emissions allowance prices would be about \$3.70 per metric ton CO<sub>2</sub>-equivalent in 2012, \$7.14 per metric ton CO<sub>2</sub>-equivalent in 2020, and \$14.18 per metric ton of CO<sub>2</sub>-equivalent in 2030.
- Coal use would continue to grow, but at half the rate expected under business as usual. Nuclear and non-hydro renewable electricity generation would increase significantly by 2030.

No economic analysis is currently available on the projected economic impacts of the new McCain-Lieberman legislation.

### **For Additional Information**

The McCain-Lieberman and Bingaman bills are the first of numerous GHG bills expected during the 110<sup>th</sup> Congress. Van Ness Feldman has substantial experience in the area of global climate change and is advising a range of companies on climate policy, corporate strategy, and other developments in this area. For more information, please contact Kyle Danish, Stephen Fotis, Doug Smith, Bob Nordhaus, or any member of the firm's Environmental practice at (202) 298-1800, or visit the firm's website at [www.vnf.com](http://www.vnf.com).

# # #

Founded in 1977, **Van Ness Feldman** helps clients in a variety of industries achieve their business goals by designing and complying with the nation's energy and environmental laws. Many of the firm's more than 80 attorneys and public policy professionals served as chief legal counsel to key congressional committees and Members of Congress; high-level officials in the Department of Energy, the Federal Energy Regulatory Commission, the Environmental Protection Agency, The White House, and the Department of the Interior; or as high-ranking officers in major trade associations.