



## **Lieberman-Warner lesson: Making cap-and-trade 'simpler' isn't so easy** *(Tuesday, September 23, 2008)*

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Global warming legislation faces many obstacles on its way to passage. But none may be bigger than the size and complexity associated with a cap-and-trade program that budget experts say could cost trillions of dollars over its half-century lifetime.

Describing a cap-and-trade bill on the Senate floor this summer, Republican Leader Mitch McConnell of Kentucky may have summed it up best when he declared, "This proposes to be the largest restructuring of the American economy since the New Deal."

Several months later, the 548-page Senate bill sits on the cutting room floor, a long way from becoming law. And as lawmakers, lobbyists and advisers study what went right and went wrong, more and more people are talking about how to make global warming legislation "simpler" the next time around.

"That's a sensible objective, to keep the legislation to the minimum necessary to accomplish the objective," said Doug Holtz-Eakin, domestic policy adviser to Republican presidential nominee John McCain. But how does the next president and Congress write a "simple" climate change bill when the political reality requires coalition building and more than a few special items inserted to capture different voting blocs? Recall the extra funding for rural electric cooperatives in Montana and Virginia that was needed to win support from two senators (Senate Finance Chairman Max Baucus (D) and Republican Sen. John Warner, respectively) who had already pledged their support for the bill once.

"Giving lots of benefit to a family coal mine in Alaska to get two votes in the Senate, if that's what it takes, that's what it takes," said Robert Stavins, director of Harvard University's environmental economics program. "That's the nature of a representative democracy."

Authors of climate change legislation must also accept the fact that their issue is not exactly the simplest of subjects to deal with, especially when that new U.S. policy is layered on top of an even heftier international climate regime.

"It's complicated in every country," said Yvo de Boer, the top global warming official for the United Nations. "Squaring a circle is never easy. You have energy intensive industry interests. You have interests to companies exposed to international competition. You have concerns about money going abroad rather than being plowed back into sectors that have to foot the bill. It's not easy anywhere."

### **Too many pages?**

Page counts are not normally a strong indicator of successful legislation.

But the Senate bill from Sens. Joe Lieberman (I-Conn.), Barbara Boxer (D-Calif.) and Warner that crashed on the floor this summer was 10 times longer than the climate bill Boxer had dubbed the "gold standard" bill upon its introduction in January 2007.

Or try comparing it to Senate Energy and Natural Resources Committee Jeff Bingaman (D-N.M.), who produced his own cap-and-trade plan at 54 pages. Offering an alternative approach, the carbon tax, Rep. Pete Stark (D-Calif.) wrote a bill that took only six pages to demand an 80 percent cut in emissions by

midcentury, a target that stands out even higher than the Lieberman-Warner-Boxer approach. Looking toward 2009, there are many answers to the question of how to make the next iteration of climate legislation "simpler."

Sen. Lamar Alexander (R-Tenn.) said the best way to come at the issue is through a focus on specific industrial sources of emissions. He supports capping carbon dioxide emissions from power plants only as part of a cap-and-trade program that deals with the traditional forms of air pollution, including nitrogen oxides, sulfur dioxide and mercury.

"I think an economy-wide cap-and-trade is too complex," Alexander said, explaining that while sponsors of the Lieberman-Warner bill claimed their bill was "economy-wide," it only addressed emissions from about 85 percent of the U.S. economy.

Alexander's plan would deal just with electric utilities, covering about 40 percent of the country's carbon dioxide emissions. Couple that with a low carbon fuel standard, Alexander says, and "that gets you up to 65 to 70 percent of the economy in a much less complicated, fewer-surprise way."

Another idea to simplify things comes from Sen. Dianne Feinstein (D-Calif.), who suggests that President Bush's successor take global warming head on by first starting direct negotiations with China. "If this can be done by whoever is the next president, it I think simplifies the situation and creates a kind of road map," she said.

Feinstein said the U.S. policy could mirror California's climate law, Assembly Bill 32, that Gov. Arnold Schwarzenegger (R) signed in 2006. The bill left the heaviest lifting to state government agencies. "You've got to get that cap in," Feinstein said. "You've got to decide what to cap the global warming gases at and by when. That's the key. The rest of it fits into that pattern. I didn't think so originally. I thought it was overly simplistic. And now, I'm not sure that's right."

To be clear, not everyone is on the bandwagon to go the California route, which suggested using a marketbased system such as cap-and-trade, but didn't prescribe it. After all, the nuanced details being debated in Sacramento now offer telling reminders that someone, somewhere, has some heavy lifting to do. "Simplicity is not the only version we're striving for," said Mary Nichols, chairman of the California Air Resources Board. "Simplicity is valuable. But we're dealing with a problem that's very complicated."

There are many lessons to be learned from working through implementation of A.B. 32, Nichols said, including how to structure a program that demonstrates efficiency, cost effectiveness and equity. "There's a bunch of different goals that should be pursued and hopefully optimized at the same time," Nichols said. "That may mean that the ultimate program is less simple than it could be, especially if simplicity was the only goal."

Back in Washington, a straightforward California bill has almost no chance of passing given the deep distrust lawmakers from both parties would have in allowing U.S. EPA to write the most critical pieces of a climate package, even if it was being done by a sympathetic administration.

"Turning the whole thing over? I don't think it passes the straight-face test on the Hill," said former Bush EPA air pollution chief Jeff Holmstead.

House Energy and Commerce Chairman John Dingell (D-Mich.), for one, is known for his preciseness on environmental legislation. "I can't imagine the House passing legislation like that," said John Mimikakis, a former Republican aide to the House Science Committee and now a senior policy manager at the Environmental Defense Fund. "It just doesn't seem to be either Chairman Dingell's style or his committee's normal way of operating."

### **The allocation 'monkey wrench'**

Other suggestions to make things simpler deal with core design features of a cap-and-trade plan. Some suggest regulating industrial sources of greenhouse gas emissions as far upstream as possible, meaning at the coal mine or the petroleum refinery. This route would capture the most molecules of carbon dioxide and other greenhouse gases before they enter the distribution chain, whether it be a pipeline or a power plant.

But this approach would sidestep some of the same industrial players that now carry the most knowledge of

cap and trade. After all, it is the electric utilities who have dealt with air pollution regulations and cap and trade through the 1990 Clean Air Act.

"Going upstream to the natural gas wellhead or coal mine mouth seems like you end up cutting out the people who'd provide you with the most experience and feedback," Mimikakis said. Some proposals, including the Lieberman-Warner plan, did use a hybrid that dealt with power companies downstream and upstream for natural gas and transportation fuels.

Another approach comes from Peter Barnes, a senior fellow at the Tomales Bay Institute in Point Reyes, Calif. He has been making the rounds on Capitol Hill promoting the idea of distributing 100 percent of the emission credits via an auction and then using all the revenue to send back to U.S. consumers through tax rebates.

The premise is very similar to how Alaska residents get annual checks from the state government for oil and gas proceeds, said Barnes, the founder of the Working Assets long-distance telephone company. Here, Barnes contends that since Americans own the atmosphere, they should bank all the revenue that comes when the government auctions away the right to release greenhouse gases there. More money will be raised as carbon prices go up in check with a tougher emission cap. And Americans who then use less energy will end up pocketing more of their rebate. "If you conserve, you come out ahead," he said. "It gets the middlemen out of the picture. It does what a cap needs to do, which is fix the market failure."

Barnes shrugged off questions about how he would build the political support to make his approach a reality in Washington, saying that is a decision best left to policymakers. Indeed, this is where the political argument comes roaring back into play, as different interest groups line up for their piece of the pie. "If you have \$300 billion to be distributed through auction revenues, the people who think they are claimants probably add up to \$1 trillion," said David Montgomery, a climate expert and researcher at Charles River Associates.

Next time through the process, expect considerable debate among the groups that took home promises of funding through the Lieberman-Warner bill. They're likely to push for that same legislation as a starting point. Or at the very least, they're not going to want to end up with anything less than what was in the earlier measure.

Consider that in Lieberman-Warner, sponsors tried to divide up trillions of dollars in emission allowances across many different needs. State wildlife officials got \$237 billion through 2050 to help with adaptation. More than \$1.7 trillion was set aside for tax cuts and deficit reduction. And national forest firefighters would have received some \$1.1 billion per year.

"I don't know who's going to become Solomon and divide it up and make everyone happy," Montgomery said. "The allocations are throwing a tremendous monkey wrench into it. The more complicated they get, the more invitations to give to California firefighting funds, the harder it gets."

Alas, it is also the proven method lawmakers use to craft a deal -- simple or not. Said Mimikakis, "The more members you have who are involved in what the bill is, understanding the solutions Congress comes up with, I think the more likely you'll have an enduring system at the end of the day when they send a bill to the president."

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