

National Affairs and Legislation Committee

The Garden Club of America 111th Congress, 2nd Session — May 4, 2010

Update #9

- **Climate Change Legislation—Down to the Wire**

GCA policy:

In 2010, the Garden Club of America reissued its 2007 official position in support of strategies to slow global warming, specifically endorsing federal, state and local legislation to control greenhouse gases (GHG) and slow global warming. It cites the harm that climate change will do to plant diversity, oceans and forests.

How you can help:

The climate bill urgently needs a push in the Senate. If you favor legislation to limit emission of greenhouse gases and spur the development of lower-carbon and renewable energy, NOW is the time to contact your Senators, even if you have done so before. Urge them not to let the immigration issue or the Gulf oil spill knock the climate bill off the rails. There is not much time left in the legislative year, and if the Senate doesn't act soon, it will be too late.

Legislative process on climate bill hits some snags:

The Senate Climate/Energy bill has had a very hard time gaining any traction. Last week it became even more mired in political infighting. Then, as the huge oil spill in the Gulf washed ashore, the outlook went from bad to worse.

Update #8 described the Senate's tortuous path to a climate/energy bill, eventually culminating in a legislative proposal developed by Senators Kerry (D-MA), Graham (R-SC) and Lieberman (I-CT). After months of consultations, the three senators had planned to unveil their draft language on Earth Day, April 22, so that it could be debated sometime between Memorial Day and the start of the August recess. Next, the bill's debut was postponed to Monday, April 26. A press conference was scheduled, press releases and talking points were written, and three major oil companies (Shell, BP and ConocoPhillips), Edison Electric Institute (representing investor-owned utilities), and business and environmental group leaders were lined up to appear at the press conference in support of the proposal. But on Saturday, suddenly and unexpectedly, Senator Graham pulled the plug.

What happened? Immigration. Sen. Graham balked because Senate Majority Leader Reid (D-NV) decided to schedule consideration of the highly contentious and complex immigration legislation ahead of the trio's climate bill. Sen. Graham, who has been involved in previous unsuccessful efforts on the knotty immigration issue, protested that the Senate could not possibly write both an immigration bill AND a climate bill before the August recess. Fighting back, Graham said, "Immigration brought up this year is nothing but a political stunt. It will divide the country."

Why immigration? Why now? The sudden push on immigration was inflamed by Arizona's newly enacted immigration law. As that controversial measure gained news attention, built political momentum and spawned protests and marches, Senator Reid—who himself faces a tough reelection in the fall—decided the Senate had to act on the immigration issue. He has refused to back down on this and relented only as far as pledging that the Senate would tackle the climate bill first, noting that climate legislation "is much further down the road."

One hopeful sign of progress:

The three senators sent the draft language of their K-G-L bill (as the Kerry-Graham-Lieberman is called) to the Environmental Protection Agency and the Energy Information Agency so both agencies could get started on modeling the legislation's economic and budgetary consequences.¹ This must be done before floor debate can begin, and it is a lengthy and complex process that normally takes four to six weeks. A similar analysis also will be done by the Congressional Budget Office.

Initially, the trio had planned to make their legislative draft public on April 26, use the six-week wait for economic and fiscal analysis to build political support, and then bring the bill to the floor when Congress returns after a short Memorial Day break. But now, a week after the cancelled press conference, where are we?



Gulf oil spill creeps toward coast.

NASA photo

- Kerry, Graham and Lieberman are still in synch on their bill and its provisions. But Graham still remains adamant that the Senate cannot handle both a climate/energy bill AND an immigration bill in the short time remaining in this session—on top of the three-week debate expected on the financial reform issue, and more weeks to confirm a Supreme Court justice and pass a budget and debate a dozen appropriations bills.
- Some environmental and business groups and a number of Democratic legislators are urging President Obama to mediate between Graham and Reid to get the climate bill back on track. But so far, the White House is keeping mum. One factor: Sen. Graham is a key Republican bargaining with the administration on several different issues, including closing Guantanamo. Also, Graham's willingness to negotiate with Democrats has riled home state South Carolina conservatives who think he is already too cozy with Democrats. If the White House asks him to back down, and he does, it would cost him political support at home.
- Energy only? The Senate Energy and Natural Resources Committee gave 15-8 approval to a bipartisan comprehensive energy reform bill, S.1462 in June, 2009. Back then, four Republican Senators voted for it: Murkowski (AK), Brownback (KS), Sessions (AL) and Corker (TN). Originally, the idea was that this would be one part of a comprehensive bill pieced together with input from six committees. But the Environment and Public Welfare Committee's mark-up disintegrated into a bitter partisan battle (see Update # 6), the original strategy was replaced by the Kerry-Graham-Lieberman effort, and the Energy Committee bill was left in limbo. Now that K-G-L has stalled, Energy Committee Chairman Bingaman (D-NM) is urging the Senate to take up his energy-only bill as the base bill. This would allow the Senate to open debate on the energy legislation, and senators could attach climate provisions if they have enough support.

S. 1462 would increase the requirement for renewable electricity generation, overhaul federal financing for clean energy projects, mandate federal transmission siting authority, study nuclear power, and open up more of the eastern Gulf of Mexico to oil and gas leasing with royalties going to the federal government. It would not impose limits on GHG emissions, but cleaner and more efficient energy would have the effect of reducing emissions. However, there is considerable opposition to many elements of the bill. Environmentalists don't like the offshore drilling provisions, and their concerns will be amplified in light of the recent Gulf of Mexico disaster. Some senators insist that states be given a cut of the offshore royalties but other senators vehemently oppose such "revenue-

¹ Update #6 discussed the ruckus over the lack of an EPA study of EPW Chairman Boxer's (D-CA) bill last November and Sen. Voinovich's (R-OH) adamant insistence that a complete EPA analysis be completed before the bill moved out of committee. Voinovich is already insisting that updated analyses of K-G-L be updated if/when the bill is changed by Reid's office or on the floor during debate.

sharing." Some senators are concerned that the bill's nuclear energy provisions go too far, others that they don't go far enough. So it is not 100 percent certain that an energy-only bill could succeed.

Drill, Baby, Drill—or Wait, Baby, Wait?

Every day brings more bad news from the Gulf of Mexico about the oil rig explosion, fire, continuing spill and coastal damage. Politicians who had been aggressively calling for increased drilling in coastal waters have fallen silent. California's Gov. Schwarzenegger withdrew his support for drilling off Santa Barbara, saying there were better ways to close the state's budget gap.

To get the 60 votes required to proceed with Senate debate on a climate bill, Kerry-Graham-Lieberman needed acquiescence from the oil companies. And to get them on board, K-G-L had to include two things: 1) facilitate oil and gas exploration and development including opening new coastal areas to offshore drilling; and 2) put a separate limit on the oil industry's GHG emissions outside the overall cap placed on other industries.

The Gulf oil spill threatens to disrupt this strategy. Graham says there is no reason to change the bill's offshore provisions, maintaining that "we've had problems with car design, but you don't stop driving." Kerry isn't so sure. And it is certain that once debate begins, there will be amendments dealing with limiting offshore drilling.²

What is in the K-G-L bill?

Senators Kerry, Graham and Lieberman have pulled off the rare feat in a town trading on gossip and inside information of keeping the details of their draft bill secret. However, as the Senators negotiated with the various groups and interests whose support they need, the general outlines have been revealed.



K-G-L: still a black box

Here's what we think is in the bill: it would impose a limit on U.S. carbon emissions that would tighten over time. But it would not create an economy-wide cap-and-trade system for enforcing those limits. Instead the bill would set up what some call "reduction and refund." Regulated companies that create carbon emissions would pay a fee to the government, three-fourths of which would be returned to consumers to hold them harmless. The remaining one-fourth would go to keeping the bill deficit-neutral over time. Rather than a single overall system, there would be a phased-in approach with sector-specific emission limits and start-up dates, beginning first with electric utilities, and then moving four years later to manufacturers and then to petroleum refiners. For coal: the bill is expected to promote the deployment of clean coal technologies. For nuclear power advocates: look for tax incentives and loan guarantees to promote expansion of nuclear power and a definition that would count nuclear capacity in reaching the "clean power standard." For natural gas: replacing coal with natural gas would count toward the "clean power standard," and replacing inefficient coal-fired plants with plants fueled by natural gas would qualify for a bridge fuel tax credit. For manufacturing: a border adjustment to put tariffs on carbon-intensive goods from developing countries that lack strong climate policies. Like the House bill, the K-G-L bill would preempt not only state-level GHG regulations (such as the Regional Greenhouse Gas Initiative (RGGI) in the northeast) but also any EPA authority to use the Clean Air Act to regulate GHG's.

After the Senate?

The K-G-L bill is fundamentally different from the House-passed legislation. If the Senate reaches a final vote on it before the August recess, there is not likely to be time enough for a House-Senate conference to resolve the huge differences between the two approaches. Thus, passage of a Senate bill represents a challenge to the House: either take our bill in its entirety, or end up with nothing except EPA's Clean Air

² MoveOn, Greenpeace, Friends of the Earth and others are urging the president to ban offshore drilling. To see MoveOn's ad, go to at <http://www.youtube.com/watch?v=vOfsFF7bAzE>

Act regulations that are being hotly contested. House members hear echoes of the health reform debate here. Obviously they are not happy with this situation. Stay tuned.

How you can help:

The immigration issue and the destructive and continuing oil spill in the Gulf of Mexico have brought the Kerry-Graham-Lieberman effort to a halt. The number of legislative days remaining in 2010 is dwindling, and if there is going to be climate legislation enacted this year, the Senate must turn to in after Memorial Day. Delay means no bill.

Public opinion polls continue to show that more Americans put financial reform (39%) and immigration reform (36%) ahead of climate (about 20%) as their highest priority for Congress according to a Gallup poll released May 3. By contacting your Senators, you can counteract this perception that *their* voters aren't very concerned about climate and energy issues.

Right now is the time to contact your two Senators. Urge them to support beginning debate on a climate/energy bill—whether the Kerry-Graham-Lieberman bill or the Energy Committee's S. 1462. Once either bill is taken up, there will be many amendments. If you have views on off-shore drilling, nuclear power, natural gas, renewable energy, curtailing EPA's authority to use the Clean Air Act to address climate issues, or any of the other aspects of this complicated legislation, this is also the time to share those views with your Senators.

How to contact your legislators:

To send e-mail to your senator, go to http://www.senate.gov/general/contact_information/senators_cfm.cfm and scroll to the senator's name. There you will see a "web form" address in red type. Click on that address and follow the directions for sending e-mail.

To telephone any senator: Call the Capitol switchboard: 202-224-3121. Ask for your Senator's office. When the phone is answered, say that you want to leave a message about upcoming legislation. A very young aide will take the message or send you to the legislator's voice mail. This seems impersonal, but is nevertheless effective—legislators keep track of how many calls come in on different issues and the direction in which sentiment is running. Even a relatively small number of calls are enough to warrant serious consideration of the view expressed.

NAL updates serve in an **advisory** capacity, based on committee research. Individual clubs and members may act on any issue as they choose.
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