



ICLEI USA's Analysis of the Senate Climate Bill, With Comparison

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This analysis of the Senate climate bill (the Chairman's Mark of S.1733, the Clean Energy Jobs and American Power Act, or Kerry Boxer, released Oct. 27, 2009) highlights local government provisions in the bill and contains comparisons with the first draft of the Senate bill and the House bill.

Please note: This analysis is intended exclusively for educational and informational purposes only, and does not constitute legal advice or services under any circumstances.

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Overview of the Bill's Major Local Government Provisions

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Reducing GHG pollution

- 27) Empowers state and local governments to set GHG emissions standards for taxis
- 28) Creates a national program to increase energy efficiency in buildings codes
- 29) GHG reporting requirement for regulated and some non-regulated entities
- 30) Establishes a cap and trade program to reduce GHG pollution from the biggest sources
- 31) State cap and trade programs preempted between 2012-2017
- 32) No GHG standards for unregulated sources such as landfills at least through 2020

Introduction

This paper looks at local government provisions in the latest Senate climate change bill, S.1733. It is called “the Senate Chairman’s Mark” here because it represents changes by made by the Chairman of the Environment and Public Works Committee, one of six Senate Committees that may work on various sections expected to eventually be compiled into one comprehensive bill.

This analysis additionally offers comparisons between “the First Senate Draft” of S. 1733 (released September 30, 2009) and with “the House Bill” – H.R. 2454, The American Clean Energy and Security Act, or Waxman Markey (passed by the House of Representatives on June 26, 2009). At the end of this document is an Appendix outlining the percentages of allowances mentioned throughout the paper. Citations to relevant sections are made available as (Div. ____Sec. ____), and where a bill would amend to the Clean Air Act, this is noted in the citations as (CAA Sec. ____)

Cap and Trade and Why it Means Funding for Local Governments

The House and Senate versions regulate GHGs through a cap and trade system. To comply, regulated entities (the biggest polluters) could only emit so much GHG pollution each year. For example, if a regulated entity emitted 100,000 tons of GHGs, they would need to obtain 100,000 “allowances.” An allowance is like a pollution permit that gives the right to emit 1 ton of GHGs.

This way the regulated entities can either i) lower their own GHG emissions or ii) buy emission allowances to cover their emissions in a given year. The total amount of these allowances available on the market decreases over time, thus lowering economy wide GHGs. Regulated entities could use a combination of allowances and “offsets credits.” Offset credits are earned through approved offset projects which lower GHGs like renewable energy or forest protection projects – these offsets are designed to prevent GHG pollution that would have otherwise occurred. Allowances and offset credits

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have value and work like stocks and can be bought and sold on the market. Under the House and Senate versions, local governments would receive allowance values and likely be eligible to develop offset projects for credit.

Key Differences Between the House and Senate Versions

Under the House and Senate versions, local governments would receive the value from these allowances and have opportunity to earn offset credits. However, the House bill routes the allowances through states for local governments to use only for specific enumerated purposes where the Senate versions allocate a specific amount to local governments for the Energy Efficiency and Conservation Block Grants Program.

The Senate Chairman's Mark directs states to provide allowance values to local governments for adaptation purposes and recycling programs, provides for a green economic development grant program for economically distressed areas, and provides allowance values to be used to reduce transportation related GHGs. The House bill does not contain these provisions.

The Senate versions both differ with regards to offsets. The Senate gives more preference to domestic offsets and specifically provides for landfill projects, while both the House bill and the Senate versions list urban tree-planting and maintenance and biogas capture and combustion for offsets. The Senate versions delay EPA determination for GHG regulation for landfills until 2020, whereas the House Bill would likely result in landfill new source performance standards for GHG emissions.

Funding for Local Governments

1) Direct funding for the Energy Efficiency and Conservation Block Grants Program

- A group of entities would have annual allowances divided up as such: 1-3% to Indian tribes first with the remainder distributed - 25% to local governments, 60% to states, and 15% to renewable energy generators (20 MW or more). The local government distribution is for the Energy Efficiency and Conservation Block Grant Program (Div. B Sec. 202).
- States must use this funding for implementation and enforcement of building codes, the energy efficient manufactured homes program, building energy performance labeling, low-income community energy efficiency programs, and for the REEP retrofit program (see Div. A Sec. 164), district heating, combined heat and power, and can include projects that capture and use thermal energy from municipal

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- processes, renewable energy programs, improvement in electricity transmission, consumer efficiency programs including those administered by local governments, retrofits and housing investments, and smart grid development (Div. B Sec. 202).
- \$ - Allowances distribution schedule in the Appendix of this analysis under “State, Indian and local governments and renewable energy generators.”

Comparison:

This differs from the House Bill Sec. 132, where all funding in the form of allowances available to local governments would be directed to accounts handled by state energy offices called “State Energy and Environment Development” (SEED) Accounts and funding uses are predetermined in the House Bill. This is also different from the First Senate Draft which provided for: 25% to local governments, 62.5% to states, at least 1% to indian tribes, 10% to Metropolitan Planning Organizations and 2.5% to renewable energy generating companies greater than 20MW. Funding for MPOs is accounted for in the Senate Chairman’s Mark in Div. A Sec. 113. Similar to the First Senate Draft.

2) Local governments could apply for funds to recognize previous climate actions

- Provides for the exchange of approved offset credits issued before January 1, 2009 and for the compensation in the form of allowances to entities including local governments for documented early reduction, avoidance or sequestration of GHG emissions from projects or process improvements begun before January 1, 2009 (Div. B CAA Sec. 782).
- \$ - Allowances - 2% of allocated allowances for the years 2012 and 2013 (Div. B Sec. 771)

Comparison:

Similar to the House Bill CAA Sec. 795 and the First Senate Draft.

3) States to administer 12.5% of State Climate Change Response (SCCR) funds for adaptation

- Directs states under to establish State Climate Change Response (SCCR) Accounts with 12.5% to be administered to local governments by states (Div. B Sec. 210) for the following specific purposes: grants to fund water system mitigation and adaptation partnerships (Div. A Sec. 381), flood programs (Div. A Sec.

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- Sec. 382), water systems resilience (Div. A Sec. 381), state recycling programs (Div. A Sec. 154), adaptation for agriculture, air quality programs relating to climate impacts, programs that lower GHGs and air pollutants, and wildfire programs. This section also includes direction for use of allowances by states and tribal governments through the SCCR Accounts.
- \$ - Allowances distribution schedule in the Appendix of this analysis under “State Climate Change Response (SCCR) Accounts.”

Comparison:

Not in the House Bill. Similar to the First Senate Draft.

4) States to administer 25% of state recycling programs funds

- Directs the EPA to establish a state recycling program to reduce GHG emissions. Out of funding directed to the State Climate Change Response (SCCR) Accounts (Div. B Sec. 210), states are directed to distribute at least: 25% of funding to local governments with recycling programs; 25% to recycling facilities to improve recycling quality, quantity and technology; and 25% to manufacturing facilities to deploy improved technology.
- The minimum 25% of funds distributed to county and municipal recycling programs must be used: for recycling programs and source reduction; to provide incentives to reduce GHG emissions from recyclables transportation and processing; to cover recycling program expenses; and to ensure recyclables are not incinerated during a down recyclables market (Div. A Sec. 154).
- \$ - Allowances distribution schedule in the Appendix of this analysis under “State Climate Change Response (SCCR) Accounts.”

Comparison:

No comparable provisions in House Bill. Similar to the First Senate Draft

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Grant Programs with Local Government Eligibility

5) Water Efficiency and Conservation Grants

- Authorizes EPA grants for entities, including: local governments, wastewater or sewerage utilities, municipal water authorities, energy utilities, water utilities, or nonprofit organizations with water efficiency incentive programs. The grants, designed to supplement up to 50% of the cost of establishing or carrying out a water efficiency program, must offer incentives to end users who purchase and install water efficient products such as WaterSense labeled products (Div. A Sec. 143).
- \$ - Appropriates \$100 million for 2010, \$150 million for 2011, \$200 million for 2012, \$150 million for 2013, \$100 million for 2014, with additional future amounts to be determined by formula.

Comparison:

Similar to the House Bill Sec. 217. Similar to the First Senate Draft.

6) Water system adaptation grants

- Directs the EPA to establish a water system mitigation and adaptation partnership program for states to administer competitive water system adaptation project grants – giving highest priority to systems with the most risk. Eligible entities include, among others, municipal owners and operators of water systems such as: community water systems, treatment works, municipal separate storm sewer system, wastewater treatment systems for domestic sewage, groundwater storage and replenishment systems, and systems for transport and delivery of water for irrigation or conservation.
- Eligible climate resilience projects would be: planning, design, construction, implementation, or operation or maintenance of projects that include: water conservation and efficiency, water infrastructure modification or replacement, water quality preservation or improvements, groundwater remediation, desalination, green infrastructure and demand management. Federal share not to exceed 50% of total program cost (Div. A Sec. 381).

Comparison:

No comparable provisions in House Bill. Similar to the First Senate Draft.

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7) Renewable Energy Grants in states with goals for renewable energy

- The EPA, in consultation with the DOE, DOI, and USDA, would provide grants covering up to 50% of the cost for renewable energy projects. State, indian and local governments among other entities from states with renewable portfolio standards (RPS), and with non-binding goals for renewable energy goals could apply, with priority given to applications submitted by states with a binding RPS. Renewable energy projects would include: solar, wind, biomass, landfill gas, ocean, geothermal, and municipal solid waste (Div. A Sec. 161).
- \$ - Authorizes appropriations without specifying amounts.

Comparison:

The House Bill does not contain this specific grant program, but the House Bill does provide renewable energy opportunities for local governments such as: SEED Accounts (House Bill Sec. 132), the Clean Energy Deployment Administration (House Bill Sec. 181-184) and a Renewable Energy Incentives Program (House Bill Sec.788). Similar to the First Senate Draft.

8) Advanced natural gas technologies grants

- Municipalities, among other entities, would be eligible for this EPA research and deployment grant program for low GHG technologies for natural gas electricity generation (Div. A Sec. 182).
- \$ - Authorizes appropriations without specifying amounts.

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft.

9) Transportation efficiency grants

- An expansion of the existing EPA SmartWay program and relevant grants to eligible entities including local governments. SmartWay is designed to help truckers upgrade to less polluting and more fuel efficient vehicles to include support for technologies, products, fuels and strategies that reduce transportation related GHG emissions. EPA would define eligible entities for grants including local governments (Div. A Sec. 114).
- \$ - Authorizes appropriations without specifying amounts.

Comparison: Similar to the House Bill Sec. 223. Similar to the First Senate Draft.

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10) Air pollution control agency grants

- Allows the EPA to make grants to air pollution control agencies for the purposes of assisting in implementing programs to reduce global warming (Div. B CAA Sec. 862)

Comparison:

Similar to the House Bill Sec. 862. Similar to the First Senate Draft

Other Funding Opportunities for Local Governments

11) Green economic development funding for economically distressed areas

- Directs the Economic Development Administration (EDA) to provide to eligible recipients, including local governments: technical assistance, grants, contract, or otherwise provide amounts for green economic development projects in economically distressed areas for: energy efficiency; renewable energy; alternative transportation fuels, electricity and heat; environmentally sustainable infrastructure; and environmentally sustainable economic development practices and models (Div. A Sec. 156).
- \$ - Authorizes \$50 Million for 2009-2013.

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft

12) Efficient stoves replacement program funds

- Directs the EPA to establish a wood and pellet stoves replacement program to assist in replacing inefficient stoves with ones that meet high efficiency performance standards. Local governments, among other entities, would be eligible to receive funds for replacement or refurbishing and installation of old inefficient stoves. Funds should additionally be used to support existing programs and incentives.
- \$ - Appropriates \$20 million for 2010-2014

Comparison:

Similar to the House Bill Sec. 218. Not in the First Senate Draft.

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13) Climate health impacts planning funds

- Directs the HHS to create a National Strategic Action Plan to assist health officials in preparing for and responding to the health impacts of climate change. In preparing this plan, HHS is instructed to consult with interested stakeholders, the Centers for Disease Control (CDC), the EPA, other appropriate federal agencies, and state, local and tribal governments.
- Directs the HHS to provide funding for preparedness planning at all levels, including the local level, to respond to the health impacts of climate change (Div. A Sec. 353).
- \$ - Allowances – Proceeds from auction 0.1% for 2012 -2050 (Div. B CAA Sec.771)

Comparison:

Similar to the House Bill; however both Senate versions direct the HHS to provide funding whereas the House Bill directs the HHS to do so through the CDC (House Bill Sec. 463).

14) Retrofit program for buildings could be administered through local governments

- Directs the EPA, in consultation with the DOE, to create the voluntary Retrofit for Energy and Environmental Performance (REEP) Program, designed to facilitate the retrofitting of existing buildings. Building off of existing standards like Energy Star, the EPA would develop standards for residential and non-residential retrofits.
- States are to administer the program at the state level, and can delegate to political subdivisions including local governments. Where a state elects not to participate, local governments can propose to the EPA to directly administer the program and directly receive the funding that the locality would have received had the state participated. States and local governments could authorize other parties such as utilities, contractors and non-profits to perform audits and retrofit services.
- Funding would be conditional upon meeting certification and inspection standards. Funds could be used for credit support, revolving loan funds, loan payments bonded through utility bills, local government programs to provide REEP services, and other means as approved by the EPA. Funds would be available to finance up to 50% of the cost of retrofits with additional funding increasing proportionate to efficiency achievement (Div. A Sec. 164).
- \$ - Allowances distribution schedule in the Appendix of this analysis under “State, Indian and local governments and renewable energy generators.”

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Comparison:

Substantively, the REEP Program is similar to the House Bill Sec.202 and provides for localities to petition to administer where states elect not to; however the funding under the House Bill would go through the SEED Accounts. Similar to the First Senate Draft.

15) Funding for MPO transportation related GHG planning and implementation

- The bill requires the EPA in consultation with the DOT to create national transportation GHG reduction goals and standardized emissions models and methodologies for use by the states and Metropolitan Planning Organizations (MPOs). MPOs within Transportation Management Areas (TMAs) will be required to establish their own GHG targets and goals. MPOs not within TMAs will have the option to develop these targets and strategies, and if so will be subject to the requirements under this provision.
- MPO emission reduction plans should include strategies such as: efforts to increase public transit ridership; efforts to increase walking and biking; land use regulations that support infill, transit oriented development, re-development, or mixed use development; travel demand management programs like car pool programs; rail improvements; and public facilities to supply electric vehicle plug in.
- To be approved, DOT must determine that the plans meet the minimum requirements and are likely to achieve the targets.
- Savings Clause states: “nothing in this section will infringe on the existing authority of local governments to plan or control land use or provides or transfers authority over land use to any other entity.” (Div. A Sec. 112)
- To fund this activity, the bill creates a DOT grant program for states and MPOs to support the development and implementation of GHG reduction targets and strategies with a federal share of 80%. MPOs will receive 10% for planning purposes with the remainder to be allocated for implementation under “performance grants” for states and MPO plans determined by GHG reduction and innovation. Local governments with responsibility or authority to implement the GHG reduction strategies could be eligible as subgrantees (Div. A Sec. 113).

- This program would be funded by allowances for transportation with half to the DOT grant program and the other half to fund strategies that demonstrate reductions in GHGs and would be distributed by the following formula: 80% to the Urbanized Area Formula Assistance Program, 10% to large the Capital Investment Program, and 10% to the Non-urbanized Area Formula Program (Div B Sec 215).
- \$ - Allowances distribution schedule in the Appendix of this analysis under “Transportation Greenhouse Gas Emission Reduction Programs.”

Comparison:

The planning requirements for MPOs and states to create GHG reduction targets and strategies are similar to the House Bill Sec.222 and similar to the First Senate Draft. The funding through grants and by formula is not in the House Bill, however the House Bill Sec. 132 provides for not more than 10% of a state’s portion in the SEED account to be used the non-Federal share of support for surface transportation capital projects. Regarding funding, the First Senate Draft had put MPOs in the grouping with state, tribal and local governments and renewable energy generators, giving 10% of an then undefined amount of allowances.

16) Offset projects credit, a possible source to fund local government innovation

- Encourages innovation outside of the pool of regulated entities for the development of offset projects to reduce GHGs. Offset project developers would be eligible to apply for credits by the ton of GHG. These credits could then be sold for use by regulated entities to come into compliance. Currently emerging is the concept of local governments acting as offset project developers.
- Within two years of enactment, the President would establish an offset credit program. Under the program, offsets credits must represent a real GHG reduction, avoidance, or sequestration that avoids or minimizes any negative human or environmental impacts (Div. B CAA Sec.731 - 743). The President is directed in creating the offset program and the following project types are listed for consideration: methane collection and combustion projects at landfills, nonland-fill methane collection, combustion and avoidance projects involving organic waste streams including biogas capture and combustion, and urban tree-planting and maintenance (Div. B CAA Sec. 733). Additionally, there will be opportunity to receive credit for offsets that are approved by the President and meet certain criteria (Div. B 2 CAA Sec. 740).

Comparisons:

- Out of the total amount of offsets that can be used in a given year by regulated entities, the percentage of domestic offsets has increased Senate side. The House Bill CAA Sec. 722 set the percentages at 50% domestic offsets and 50% international offsets. Both Senate versions Div. B CAA Sec. 722 changes this to 75% domestic and 50% international.
- Under the House Bill, landfill offset projects would likely not be available for credit, a likely outcome of the new stationary source standard requirements (House Bill CAA Sec.811). This is because to receive offset credit, the action must not be required by any law (House Bill CAA Sec.732). However, under both Senate versions, Div. B CAA Sec. 733, landfill projects are explicitly listed for consideration – and are exempt from new source performance standards until at least 2020 (Div. B CAA Sec. 811).
- Where both Senate versions establish only one offsets program to be administered by the President (which would likely be delegated down to the agency level), the House Bill establishes two, with the USDA directed to administer its own separate offset program similar to the EPA's for agriculture and forestry (House Bill Sec.503). The House and Senate versions both list urban tree-planting and maintenance and biogas capture and combustion for offsets, but differ in that the President would approve projects under the Senate versions (Div. B CAA Sec. 733) and the USDA would under the House bill (House Bill CAA Sec.811).

17) Funds to support GIS database development for fish and wildlife corridors

- Establishes the National Wildlife Habitat and Corridors Information Program to create a geographic information systems database to inform planning and development decisions concerning fish and wildlife habitat corridors and to facilitate the use of this database by federal, state, local and tribal decision makers. The Department of the Interior is authorized to provide funding to state and tribal governments for activities that will support the development of the system (Div. A Sec. 371)

Comparison:

Similar to the House Bill Sec. 481. Similar to the First Senate Draft.

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Programs and Assistance to Empower Local Governments

18) Water utility adaptation research assistance program

- The EPA, in cooperation with the DOC, DOE, DOI, are directed to establish a research program to be conducted through a non-profit drinking water research foundation and to assist water utilities to adapt to the effects of climate change. Research areas will include: water quality and quantity, impacts to groundwater supplies from carbon sequestration, infrastructure, desalination, alternative supply technologies, energy efficiency and GHG minimization, regional and hydrological basin cooperative water management solutions, utility management, decision support systems, water management models, demand management, and public communications and education (Div. A Sec. 211).
- \$ - Appropriates \$25 million for 2010 – 2020 (Div. B CAA Sec. 771)

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft.

19) WaterSense Program partnerships

- Authorizes EPA's existing WaterSense program – a voluntary water efficiency labeling program. The EPA is to establish performance criteria for products, buildings, landscapes, facilities, processes, and services (similar to Energy Star). Directs the EPA to identify and, if appropriate, implement voluntary approaches in municipal sectors to encourage recycling and reuse technologies to improve water efficiency or lower water use. Local governments currently partner in this program to strengthen outreach efforts, reduce market research costs, receive recognition from the EPA as an environmental steward, and to access free water efficiency tools and resources (Div. A Sec. 141).
- \$ - Authorizes \$7.5 million for 2010, \$10 million for 2011, \$20 million for 2012, and \$50 million for 2013, with additional future amounts to be determined by formula.

Comparison:

Similar to the House Bill Sec.215. Similar to the First Senate Draft.

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20) Flood programs to provide direct assistance to local governments

- The EPA is instructed to create a Flood Control, Protection, Prevention and Response Program to provide funds to states and indian tribes for flood control, protection, prevention and response programs that address the impacts of climate change. Priority projects would, among other objectives, directly assist local governments and communities (Div. A Sec. 382).

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft.

21) Building efficiency benchmarking assistance program

- The EPA is instructed to establish and carry out the Efficient Buildings Program to achieve GHG reductions by providing assistance to owners of new and existing buildings using Energy Star's benchmarking program to determine building efficiency. The form of assistance from EPA is not specified (Div. A Sec. 158).

Comparison:

There is no comparable provision in the House Bill or the First Senate Draft.

22) National programs and services to provide climate change adaptation information

- Establishes a National Climate Change Adaptation Program to develop climate information, data, forecasts, and warnings at national and regional scales and to distribute information related to climate impacts to state, tribal and local governments and the public (Div. A Sec. 341).

Comparison:

Both Senate versions lack detail where the House Bill provides more specificity for the National Climate Change Adaptation Program (House Bill Sec. 452).

- Establishes within NOAA a National Climate Service to develop climate information, data, forecasts, and warnings at national and regional scales. The Service is to distribute climate impacts information to state, tribal and local governments and the public (Div. A Sec. 342).

Comparison:

The Senate versions are both nominally similar to the House Bill Sec.452; however, the House Bill provides much more detail on the National Climate Service.

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23) National climate change adaptation strategy for natural resources

- Establishes a Natural Resources Climate Change Adaptation Strategy to be created in consultation with various stakeholders including local governments, conservation organizations and scientists to increase natural resources resiliency. The Strategy will be integrated into natural resources federal agency plans, environmental reviews, programs and activities (Div. A Sec. 366).

Comparison:

Similar to the House Bill Sec. 476. Similar to the First Senate Draft

24) States with natural resources adaptation plans would receive funding

- In order to receive allowances for natural resource adaptation (Div. B Sec. 370), states would be required to have approved plans in place detailing efforts to adapt to ongoing and expected climate change impacts (Div. A Sec. 369)
- Establishes the Natural Resources Climate Change Adaptation Fund with allocations to federal and state agencies for the purposes of carrying out state natural resources adaptation activities. In some instances this includes funding federal agencies working in cooperation with local governments for restoring and protecting freshwater and estuaries, basins and watersheds (Div. A Sec. 370).
- \$ - Allowances distribution schedule in the Appendix of this analysis under “State Natural Resources Climate Change Adaptation Account”

Comparison:

Similar to the House Bill Sec. 479 – 480. Similar to the First Senate Draft

25) Natural resources adaptation technical assistance program

- Directs NOAA and the USGS to provide technical assistance to state, local and tribal governments to plan for and address natural resource climate change impacts, and provide research products to these entities (Div. A Sec. 367).

Comparison:

Similar to the House Bill Sec. 477. Similar to the First Senate Draft

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26) Local communities assistance to prepare for increased wildfires

- Authorizes the USDA and DOI to implement a cost share grants program to reduce the risk of wildfires in “fire-ready communities” that are located in priority areas with: cooperative fire agreements, local codes for fire-resistant home design and building materials, a community wildfire protection plan, a multi-stakeholder collaborative process. Eligible activities include: educational programs, firefighter training, equipment procurement, community wildfire protection program implementation, and fuels reduction actions (Div. A Sec. 383).

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft.

Reducing GHG Pollution

27) Empowers state and local governments to set GHG emissions standards for taxis

- Allows for states and political subdivisions of states to set fuel economy and emissions standards that are at least as stringent as applicable federal laws for taxi cabs and other automobiles that: carry no more than 10 people, are commercially available or designed and manufactured under contract with a state or political subdivision, can be operated for hire under local regulation, provide fare based local transportation, and are not used exclusively for transportation to and from airports (Div. A Sec. 172 - 173).

Comparison:

No comparable provisions in the House Bill. Similar to the First Senate Draft.

28) Creates a national program to increase energy efficiency in buildings codes

- The EPA is instructed to create regulations to establish national building codes targets for commercial and residential buildings efficiency for the years 2014 through 2030 and may also create provisions for state adoption of the national building code standards (Div. A Sec. 163).
- \$ - Allowances - 0.5% for 2012-2050 (Div. CAA Sec. 771)

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Comparison:

In contrast, the House Bill contains detailed provisions for national building efficiency targets (House Bill Sec. 201) and contains a grant program for local codes enforcement departments (House Bill Sec. 207). Both Senate versions give broad discretion to the EPA in adopting building codes and deciding if any conditions will be placed upon states with regards to building codes whereas the House Bill attaches significant federal funding in the form of allowances for compliance with meeting efficiency targets and additionally allows for local governments to apply for this funding in the event that a state is out of compliance. Similar to the First Senate Draft.

29) GHG reporting requirement for regulated and some non-regulated entities

- To track economy-wide emissions, the bill establishes a GHG reporting requirement for all entities regulated under the cap and trade program, and some non-regulated entities emitting more than 10,000 annual tons of CO₂e. The EPA is directed to consider other entities and to consider including automobile fleets emitting over 25,000 tons CO₂e as part of this GHG registry. In establishing this registry, the EPA is to consider other GHG accounting methods including The Climate Registry.

Comparison:

Similar to the House Bill CAA Sec.713. Similar to the First Senate Draft

30) Establishes a cap and trade program to reduce GHG pollution from the biggest sources

- Establishes a cap and trade program which would require regulated entities to obtain a combination of allowances (GHG emissions credits) and offset credits to account for their annual GHG emissions. These allowances and offset credits could be traded on the market like stocks. The amount of total allowances, and thus total GHG emissions, throughout the economy would be gradually decreased over time in an effort to avert catastrophic climate change (Div. B CAA Sec.721-723).

Comparison:

Similar to the House Bill CAA Sec.721-723; however the 2020 economy wide GHG target under both Senate versions has been strengthened to 20% in 2020 where the 2020 target is 17% by 2020 in the House Bill.

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- The cap and trade program would regulate electric utilities generating power from fossil fuels for sale – excluding power produced from qualified power generation using more than 95% of MSW, and qualified steam and electricity co-generation facilities. Other covered entities would include: oil and gas producers and importers, industrial sources, and natural gas local distribution companies (Div. B CAA Sec.700 and 722).

Comparison:

Similar to the House Bill CAA Sec.700 and 722. Similar to the First Senate Draft.

31) State cap and trade programs preempted between 2012-2017

- In the event that a federal auction for emissions allowances is conducted – states, or their political subdivisions, would be preempted from implementing or enforcing a cap and trade program between 2012 and 2017; however, the bill permits: non-cap and trade targets, limits, standards, regulations or programs to reduce GHGs (Div. B CAA Sec. 861)

Comparison:

Similar to the House Bill CAA Sec.861; however this provision in both Senate versions preempts state programs only in the event that the federal cap and trade program is actually in operation. Similar to First Senate Draft.

32) No GHG standards for unregulated sources such as landfills at least through 2020

- The EPA would have to wait until 2020 to create new source performance standards for stationary sources not regulated GHGs under the cap and trade program and from offset projects approved under the offset program (Div. B CAA Sec.811).

Comparison:

Different from the House Bill CAA Sec.811 which lays out a detailed formula for new source performance standards for uncapped sources and as a result landfills would likely become subject to such promulgated standards. Under the House Bill CAA Sec. 732, such regulations covering landfills would likely exclude landfill GHG reduction projects from receiving credit under the offset program. Similar to the First Senate Draft.

Appendix - Detailed Allowances Schedule (Div. B Sec. 771)

State, Indian and local governments and renewable energy generators Div. B Sec. 202

* Note: Only a portion of this allowance pool would be directed to states and local governments. Initially, 0.5% is reserved for this group from 2012 – 2050; with an additional annual distribution to follow:

2012	10.35
2013	10.35
2014	8.55
2015	8.55
2016	5.85
2017	6.12
2018	5.22
2019	5.22
2020	4.95
2021	4.95
2022	0.90
2023	0.90
2024	0.90
2025	0.90
2026 through 2050	4.05

USA

State Climate Change Response (SCCR) Accounts
Div. B Sec. 210

* Note: Only a portion of this allowance pool would be directed to local governments.

2012	1.34
2013	1.34
2014	0.50
2015	0.50
2016	0.50
2017	0.50
2018	0.50
2019	0.50
2020	0.50
2021	0.50
2022	1.06
2023	1.06
2024	1.06
2025	1.06
2026	1.06
2027 through 2050	2.18

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Transportation Greenhouse Gas Emission Reduction Programs

Div. A Sec. 113

* Note, only a portion of the funding from that allowances pool would be directed to MPOs or other local level recipients.

Initially, 1% is reserved for this program from 2012–2050; with an additional annual distribution to follow:

2012	2.21
2013	2.21
2014	1.35
2015	1.35
2016	1.05
2017	1.08
2018	0.98
2019	0.98
2020	0.95
2021	0.95
2022	0.94
2023	0.94
2024	0.94
2025	0.94
2026	1.64
2027	2.52
2028	2.52
2029	2.52
2030 through 2050	2.17

USA

State Natural Resources Climate Change Adaptation Account

Div. A Sec. 369 - 370

* Note: These allowance values are directed to the states, and these allowances might benefit but are not directed towards local governments.

Allocated	
2012	0.39
2013	0.39
2014	0.39
2015	0.39
2016	0.39
2017	0.39
2018	0.39
2019	0.39
2020	0.39
2021	0.39
2022	0.77
2023	0.77
2024	0.77
2025	0.77
2026	0.77
2027 through 2050	1.54

(continued on next page)

USA

State Natural Resources Climate Change Adaptation Account
Div. A Sec. 369 - 370 (continued)

Auctioned	
2012	0.62
2013	0.62
2014	0.62
2015	0.62
2016	0.62
2017	0.62
2018	0.62
2019	0.62
2020	0.62
2021	0.62
2022	1.23
2023	1.23
2024	1.23
2025	1.23
2026	1.23
2027 through 2050	2.46

USA