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Sens. Pitch Resolution To Block EPA Carbon Rule

By **Ryan Davis**

Law360, New York (January 21, 2010) -- Sen. Lisa Murkowski, R-Alaska, has introduced a disapproval resolution, co-sponsored by 35 Republicans and three Democrats, aimed at stopping the U.S. Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act.

Murkowski, the ranking Republican member of the Senate Energy and Natural Resources Committee, introduced the legislation Thursday. She said on the Senate floor that Congress, not the EPA, should have the power to impose climate change regulations.

The three Democrats who crossed party lines to co-sponsor the resolution were Sens. Blanche Lincoln, D-Ark., Ben Nelson, D-Neb., and Mary Landrieu, D-La. One of the Republican co-sponsors is Sen. Lindsey Graham, R-S.C., one of the only Republicans to endorse climate change legislation.

In her remarks, Murkowski described the prospect of the EPA regulating greenhouse gases emitted by businesses and some vehicles, as it is expected to in the wake of an endangerment finding on carbon dioxide, as an "economic train wreck" that would cost jobs, restrict energy production and increase the cost of consumer goods.

"The Clean Air Act was written by Congress to regulate criteria pollutants, not greenhouse gases, and its implementation remains subject to oversight and guidance from elected representatives," Murkowski said. "As the EPA moves closer and closer to issuing these regulations, I continue to believe that this command-and-control approach is our worst option for reducing the emissions blamed for climate change."

Murkowski said that while she supported clean energy and believes Congress should pass climate change legislation, she opposed the EPA's move to "impose backdoor climate regulations with no input from Congress."

The rarely invoked disapproval resolution provision enables Congress to overturn regulations set by the executive branch and requires only 51 votes to pass the Senate.

Even if Murkowski's resolution were to succeed in the upper chamber, it still would need to be approved by the House and signed into law by President Barack Obama. Energy Secretary Steven Chu told reporters Thursday that President Obama would veto the measure.

Still, the resolution is seen as a test case that could illustrate how willing Congress is to tackle broader climate change legislation.

The resolution, which has been referred to the Senate Committee on Environment and Public Works, states that "Congress disapproves of the rule submitted by the EPA relating to the endangerment finding ... and such rule shall have no force or effect."

On the Senate floor Thursday, Sen. Barbara Boxer, D-Calif., co-sponsor of a Senate climate change bill, criticized the resolution, calling it "radical" and arguing that Congress should not be in the business of reversing science and health determinations by federal agencies. She compared the EPA ruling to earlier government findings on the dangers of lead and tobacco.

Environmental groups echoed Boxer's comments, with the Center for Biological Diversity's executive director Kierán Suckling saying in a statement that "a vote for the Murkowski resolution is a vote to gut the Clean Air Act and do nothing about global warming."

Nelson, the Democratic co-sponsor, said in a statement that he signed onto the resolution to fight overreaching by the EPA. Carbon emissions instead should be addressed through an energy bill that promotes efficiency and renewable energy, he said.

"Controlling the levels of carbon emissions is the job of Congress," he said. "We don't need EPA looking over Congress' shoulder telling us we're not moving fast enough."

Likewise, his colleague Lincoln said in a statement that "heavy-handed EPA regulation" would cost American jobs and put the country at a competitive disadvantage with China and India.

The EPA could finalize proposed greenhouse gas rules by March. EPA Administrator Lisa P. Jackson has said she would prefer the EPA's findings to go hand-in-hand with a legislative solution to climate change but that the agency would be poised to act even if Congress were not.

--Additional reporting by Jessica Dye