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Both Sides Gird for Bruising Senate Debate Over EPA Amendment

By **DARREN SAMUELSOHN** of [Greenwire](#)

Senate climate legislation advocates are bracing for a floor battle this month over a Republican campaign that they fear could drag down efforts to pass a major global warming bill before the real legislative debate can start.

Republican Lisa Murkowski of Alaska has the green light to offer an amendment on the Senate floor as soon as Jan. 20 that is aimed at halting U.S. EPA regulations on climate change. Democratic leaders agreed late last month to let Murkowski have the roll call during debate over separate legislation to raise the federal debt ceiling.

Murkowski spokesman Robert Dillon said yesterday that the senator is still mulling several different ideas for what her proposal will actually say, let alone if she will force a vote now or wait until later as other options ripen. Dillon also acknowledged that the chances of actually stopping EPA global warming rules are minimal, given large Democratic majorities on Capitol Hill and the need for President Obama's signature.

But the simple fact that the Senate could be forced into a challenging vote over climate change so soon into the new year means a full-blown whip operation is under way among environmentalists and their allies on Capitol Hill.

"Certainly, if it receives more than 50 votes, even if it doesn't pass, that will be spun by the opposition as a sign that things are stalling, so we are going to fight this hard," said David Moulton, director of climate policy at the Wilderness Society.

Floor debate over Murkowski's amendment will come at a critical stage in the broader campaign to enact legislation limiting greenhouse gas emissions across most major sectors of the U.S. economy. Prospects for that bill are in flux amid growing doubt that there are 60 Senate votes to pass such a sweeping new environmental initiative at the same time lawmakers work on other controversial Obama administration priorities, all the while campaigning for midterm elections in November.

"The mood for another big government initiative after doing the TARP, the stimulus program and health care is just not there," said Mark Helmke, a senior aide to Foreign Relations Committee ranking member Richard Lugar (R-Ind.). "It's not there among most Republicans. And it's not there among as many as a dozen Democrats."

Senate sponsors are pledging to work hard over the next few months to produce a compromise energy and climate package capable of winning 60 votes, but the choreography of being tested too soon on the EPA climate rules has many worried it could complicate their delicate task of building bipartisan coalitions.

Indeed, Murkowski aides have already starting reaching out to several of the moderate and conservative Senate Democrats who are seen as pivotal votes for the broader push to pass a climate and energy bill.

"It's definitely a pain in the ass," said a Democratic aide at the heart of the legislative battle.

Tactics face scrutiny

Murkowski's reasons for pushing the EPA amendment are being closely scrutinized.

The two-term Republican is still seen as a possible "aye" vote on a broader climate and energy package, given Alaska's firsthand experience in dealing with global warming. But Murkowski has been equally evasive in what type of legislation she would support, stepping well back from the bipartisan bill capping greenhouse gas emissions that she co-sponsored in 2007 during the George W. Bush administration.

These days, Murkowski is a member of the Senate Republican leadership team and the ranking member of the Energy and Natural Resources Committee. Both are important perches in the overall climate debate that require party-line discipline, something not lost on environmentalists.

"This has all the earmarks of the leadership trying to draw lines," said David Doniger, policy director of the Natural Resources Defense Council's Climate Center. "This is a move to obstruct."

Added Emily Figdor, federal global warming program director at Environment America: "It's incredibly disappointing that Alaska is seeing such profound effects from global warming already and yet the senior senator from Alaska is spearheading the effort to block federal action on global warming by striking at the heart of the Clean Air Act. It's really hard to make sense of that."

Dillon, the Murkowski spokesman, said the senator continues to think about what approach to take for this month's floor debate and possible vote.

Murkowski may offer an amendment that puts a one-year moratorium on EPA's ability to regulate for stationary sources of greenhouse gases, such as power plants. The senator also could hold back for now on a vote and wait until next month on a resolution that would retroactively veto EPA's finding released in December that greenhouse gases endanger public health and welfare.

A vote later this month would require 60 votes to gain passage, while the resolution would only need 51 votes. To make it to Obama's desk for signature, both would require a House majority.

Either way, Dillon said Murkwoski wants to send a message that she disagrees with what she sees as an unwieldy sequence of EPA climate rules that would hit the U.S. economy as it tries to pull itself out of a recession.

Murkowski is also upset that Obama's team is trying to use the threat of EPA climate regulations as a prod on lawmakers as they weigh their vote on the broader climate bill. Even Obama and EPA Administrator Lisa Jackson have said they would prefer that Congress handle the issue rather than the federal agency.

"The only reason to do it is it puts pressure on the Senate," Dillon said. "That's not how the Senate works."

Several industry officials are welcoming Murkowski's effort and see it as an independent rebuke on the EPA regulations, rather than some type of smackdown on the Senate climate bill effort.

"Her proposed amendment is not unreasonable to any fair-minded person," said Luke Popovich, a spokesman at the National Mining Association. "She's in effect saying, 'Look before you leap' -- i.e., proceed where you are more certain -- with the endangerment finding and regulation of mobile sources, but wait and think a bit more before regulating where you're less certain about abatement technology and the costs to the economy."

Lou Hayden, a policy analyst with the American Petroleum Institute, added, "We're worried that the political threats will run headlong into reality, which is, this is starting to affect real operations."

While API backs Murkowski's efforts, Hayden said the organization is concerned Democrats may offer a second-degree amendment during the debate that would codify EPA's efforts to tailor greenhouse gas regulations so they do not hit the smallest industrial sources in the country. API thinks such a move would be an illegal interpretation of the Clean Air Act.

'We're not trying to be symbolic'

Whatever happens this month on the Murkowski amendment, some advocates for climate legislation see a silver lining. In fact, they hope Murkowski's proposal spurs lawmakers together to find an overall remedy.

"The broadly felt anxiety about a regulatory approach to greenhouse gas emissions should compel broader engagement by members of both parties in an effective legislative approach," said Paul Bledsoe of the bipartisan National Commission on Energy Policy.

Mark MacLeod, from the Environmental Defense Fund's climate and air program, downplayed the significance of a Senate floor vote on a Murkowski amendment, saying it will be more parochial than symbolic of the broader legislative effort.

"How people come out on the vote is going to depend on particular issues for that member and what concerns they have," MacLeod said. "I don't think it should be seen as a vote of confidence in the EPA, on how they do their job. I also don't think it's a test vote or a vote of confidence on the issue of climate change. More than anything, it points to the need of Congress to come up with a comprehensive solution."

Several sources pushing for a climate bill noted that they lost little steam last year, even though the Senate voted 67-31 in April against allowing the climate measure to be moved via a fast-track budget reconciliation process. That vote even netted 26 Democrats.

"I think this amendment is sort of a double-edged sword," said Manik Roy, vice president for federal government outreach at the Pew Center on Global Climate Change. "On the one hand, it does highlight the fact that most people consider command-and-control regulation the less preferable approach in regulating greenhouse gases. On the other hand, if you're going to say you don't like this approach, the next reasonable question is OK, what approach should we use?"

Dillon said Murkowski's efforts emanate from a sincere desire to debate the push now for EPA regulations

when Congress is considering alternatives.

"We're not trying to be symbolic here," Dillon said.

For now, Murkowski would prefer that Congress move first to pass the bill adopted in her committee that includes a nationwide renewable electricity standard and a raft of other energy incentives, including a provision that could bring oil and gas rigs closer to Florida's Gulf Coast.

But if Democrats are going to pursue additional measures, Dillon said, Murkowski would support legislation "that doesn't harm the economy and actually leads to substantial cuts in emissions."

"So far," he said, "none of the proposals have done that."

Climate bill advocates note that any bill that makes it through Congress is likely to end the EPA regulatory process, at least to some considerable degree. For example, the House-passed legislation slows down the efforts of EPA and more than two-dozen states that have also been setting up climate regulations.

That is not enough, Dillon replied. "The House bill is a start, but if you look closely, it's not an ironclad pre-emption. It expires. That's the starting point."

Reporter Robin Bravender contributed.

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