

110TH CONGRESS
1ST SESSION

S. 1874

To provide for efficient containment and management of climate change costs.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2007

Ms. LANDRIEU (for herself, Mr. GRAHAM, Mrs. LINCOLN, and Mr. WARNER)
introduced the following bill; which was read twice and referred to the
Committee on Environment and Public Works

A BILL

To provide for efficient containment and management of
climate change costs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Containing and Man-
5 aging Climate Change Costs Efficiently Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to ensure that the imposition of limits on
9 greenhouse gas emissions will not significantly harm
10 the economy of the United States; and

1 (2) to establish a Carbon Market Efficiency
2 Board to ensure the implementation and mainte-
3 nance of a stable, functioning, and efficient market
4 in tradeable permits to emit greenhouse gases.

5 **SEC. 3. ESTABLISHMENT OF CARBON MARKET EFFICIENCY**
6 **BOARD.**

7 (a) ESTABLISHMENT.—There is established a board,
8 to be known as the “Carbon Market Efficiency Board”
9 (referred to in this Act as the “Board”).

10 (b) PURPOSES.—The purposes of the Board are—

11 (1) to promote the achievement of the environ-
12 mental objectives (including any national mandatory
13 greenhouse gas emissions cap and reduction targets)
14 of the United States;

15 (2) to observe the national greenhouse gas
16 emission market and evaluate periods during which
17 the cost of permits provided under Federal law
18 might pose significant harm to the economy;

19 (3) to conduct observation during the 2-year pe-
20 riod following the establishment of a market pro-
21 gram for permits under Federal law, and to provide
22 temporary, short-term relief at any time at which
23 the program is determined to pose a significant
24 harm to the economy using the cost relief measures
25 prescribed under section 5; and

1 (4) to submit to the President and Congress
2 quarterly reports—

3 (A) describing the status of each green-
4 house gas emission market established under
5 Federal law, the economic effects of the mar-
6 kets, regional, industrial, and consumer re-
7 sponses to the markets, any corrective measures
8 that should be carried out to relieve excessive
9 costs of the markets, and plans to compensate
10 for those measures;

11 (B) that are timely and succinct to ensure
12 regular monitoring of market trends; and

13 (C) that are prepared independently by the
14 Board.

15 (c) MEMBERSHIP.—

16 (1) COMPOSITION.—The Board shall be com-
17 posed of 7 members, to be appointed by the Presi-
18 dent, by and with the advice and consent of the Sen-
19 ate.

20 (2) REQUIREMENTS.—In appointing members
21 of the Board under paragraph (1), the President
22 shall—

23 (A) ensure fair representation of the finan-
24 cial, agricultural, industrial, and commercial

1 sectors, and the geographical regions, of the
2 United States; and

3 (B) appoint not more than 1 member from
4 each such geographical region.

5 (3) COMPENSATION.—

6 (A) IN GENERAL.—A member of the Board
7 shall be compensated at a rate equal to the
8 daily equivalent of the annual rate of basic pay
9 prescribed for level II of the Executive Schedule
10 under section 5313 of title 5, United States
11 Code, for each day (including travel time) dur-
12 ing which the member is engaged in the per-
13 formance of the duties of the Board.

14 (B) CHAIRPERSON.—The Chairperson of
15 the Board shall be compensated at a rate equal
16 to the daily equivalent of the annual rate of
17 basic pay prescribed for level I of the Executive
18 Schedule under section 5312 of title 5, United
19 States Code, for each day (including travel
20 time) during which the member is engaged in
21 the performance of the duties of the Board.

22 (4) PROHIBITIONS.—

23 (A) CONFLICTS OF INTEREST.—An indi-
24 vidual employed by, or holding any official rela-
25 tionship (including any shareholder) with, any

entity engaged in the generation, transmission, distribution, or sale of energy, or an individual who has any pecuniary interest in the generation, transmission, distribution, or sale of energy, shall not be appointed to the Board under this subsection.

(B) NO OTHER EMPLOYMENT.—A member of the Board shall not hold any other employment during the term of service of the member.

(d) TERM; VACANCIES.—

(1) TERM.—

(A) IN GENERAL.—The term of a member of the Board shall be 14 years, except that the members first appointed to the Board shall be appointed for terms in a manner that ensures that—

(i) the term of not more than 1 member shall expire during any 2-year period; and

(ii) no member serves a term of more than 14 years.

(B) OATH OF OFFICE.—A member shall take the oath of office of the Board by not later than 15 days after the date on which the member is appointed under subsection (c)(1).

1 (C) REMOVAL.—

2 (i) IN GENERAL.—A member may be
3 removed from the Board on determination
4 of the President for cause.

5 (ii) NOTIFICATION.—The President
6 shall submit to Congress a notification of
7 any determination by the President to re-
8 move a member of the Board for cause
9 under clause (i).

10 (2) VACANCIES.—

11 (A) IN GENERAL.—A vacancy on the
12 Board—

13 (i) shall not affect the powers of the
14 Board; and

15 (ii) shall be filled in the same manner
16 as the original appointment was made.

17 (B) SERVICE UNTIL NEW APPOINTMENT.—

18 A member of the Board the term of whom has
19 expired or otherwise been terminated shall con-
20 tinue to serve until the date on which a replace-
21 ment is appointed under subparagraph (A)(ii),
22 as the President determines to be appropriate.

23 (e) CHAIRPERSON AND VICE-CHAIRPERSON.—Of
24 members of the Board, the President shall appoint—

1 (1) 1 member to serve as Chairperson of the
2 Board for a term of 4 years; and

3 (2) 1 member to serve as Vice-Chairperson of
4 the Board for a term of 4 years.

5 (f) MEETINGS.—

6 (1) INITIAL MEETING.—The Board shall hold
7 the initial meeting of the Board as soon as prac-
8 ticable after the date on which all members have
9 been appointed to the Board under subsection
10 (c)(1).

11 (2) PRESIDING OFFICER.—A meeting of the
12 Board shall be presided over by—

13 (A) the Chairperson;

14 (B) in any case in which the Chairperson
15 is absent, the Vice-Chairperson; or

16 (C) in any case in which the Chairperson
17 and Vice-Chairperson are absent, a chairperson
18 pro tempore, to be elected by the members of
19 the Board.

20 **SEC. 4. DUTIES.**

21 (a) INFORMATION GATHERING.—

22 (1) AUTHORITY.—The Board shall collect and
23 analyze relevant market information to promote a
24 full understanding of the dynamics of each green-

1 house gas emission market established under Fed-
2 eral law.

3 (2) INFORMATION.—The Board shall gather
4 such information as the Board determines to be ap-
5 propriate regarding the status of the markets, in-
6 cluding information relating to—

7 (A) permit allocation and availability;

8 (B) the price of permits;

9 (C) macro- and micro- economic effects of
10 the markets; and

11 (D) the success of the markets in achieving
12 the environmental objectives of the markets.

13 (b) TREATMENT AS PRIMARY ACTIVITY.—

14 (1) IN GENERAL.—During the initial 2-year pe-
15 riod of operation of the Board, information gath-
16 ering under subsection (a) shall be the primary ac-
17 tivity of the Board.

18 (2) SUBSEQUENT AUTHORITY.—After the 2-
19 year period described in paragraph (1), the Board
20 shall assume authority to implement the cost-relief
21 measures described in section 5(a).

22 (c) STUDY.—During the 2-year period beginning on
23 the date on which the initial greenhouse gas emission mar-
24 ket established under Federal law begins operation, the
25 Board shall—

1 (1) conduct a study of other markets for
 2 tradeable permits to emit covered greenhouse gases
 3 in the United States; and

4 (2) not later than 180 days after that date,
 5 submit to Congress a report describing the status of
 6 the initial market, specifically with respect to vola-
 7 tility within the market and the average price of
 8 greenhouse gas permits during that 180-day period.

9 (d) EMPLOYMENT OF COST RELIEF MEASURES.—

10 (1) IN GENERAL.—If the Board determines
 11 that a greenhouse gas emission market established
 12 under Federal law poses a significant harm to the
 13 economy of the United States, the Board shall carry
 14 out such cost relief measures relating to that market
 15 as the Board determines to be appropriate under
 16 section 5(a).

17 (2) INITIAL PERIOD.—During the 2-year period
 18 beginning on the date on which the initial green-
 19 house gas emission market established under Fed-
 20 eral law begins operation, if the Board determines
 21 that the average daily closing price of greenhouse
 22 gas permits during a 180-day period exceeds the
 23 upper range of the estimate provided under section
 24 6, the Board shall—

1 (A) increase the quantity of permits that
2 covered entities may borrow from the prescribed
3 allocations of the covered entities for future
4 years; and

5 (B) take subsequent action as described in
6 section 5(a)(2).

7 (3) REQUIREMENTS.—Any action carried out
8 pursuant to this subsection shall be subject to the
9 requirements of section 5(a)(3)(B).

10 (e) REPORTS.—The Board shall submit to the Presi-
11 dent and Congress quarterly reports—

12 (1) describing the status of each greenhouse
13 gas emission market established under Federal law,
14 the economic effects of the markets, regional, indus-
15 trial, and consumer responses to the markets, any
16 corrective measures that should be carried out to re-
17 lieve excessive costs of the markets, and plans to
18 compensate for those measures; and

19 (2) that are prepared independently by the
20 Board, and not in partnership with Federal agen-
21 cies.

22 **SEC. 5. POWERS.**

23 (a) COST RELIEF MEASURES.—

24 (1) IN GENERAL.—Beginning on the day after
25 the date of expiration of the 2-year period described

1 in section 4(b), the Board may carry out 1 or more
2 of the following cost relief measures to ensure func-
3 tioning, stable, and efficient markets for tradeable
4 permits to emit greenhouse gases:

5 (A) Increase the quantity of permits that
6 covered entities may borrow from the prescribed
7 allocations of the covered entities for future
8 years.

9 (B) Expand the period during which a cov-
10 ered entity may repay the allocating agency for
11 a permit borrowed as described in subpara-
12 graph (A).

13 (C) Lower the interest rate at which a per-
14 mit may be borrowed as described in subpara-
15 graph (A).

16 (D) Expand the total quantity of permits
17 made available to all covered entities at any
18 given time by borrowing against the total allow-
19 able quantity of permits to be provided for fu-
20 ture years.

21 (2) SUBSEQUENT ACTIONS.—On determination
22 by the Board to carry out a cost relief measure pur-
23 suant to paragraph (1), the Board shall—

24 (A) allow the cost relief measure to be
25 used only during the applicable allocation year;

1 (B) exercise the cost relief measure incre-
2 mentally, and only as needed to avoid signifi-
3 cant economic harm during the applicable allo-
4 cation year;

5 (C) specify the terms of the relief to be
6 achieved using the cost relief measure, includ-
7 ing requirements for entity-level or national
8 market-level compensation to be achieved by a
9 specific date or within a specific time period;

10 (D) in accordance with section 4(e), submit
11 to the President and Congress a report describ-
12 ing the actions carried out by the Board and
13 recommendations for the terms under which the
14 cost relief measure should be authorized by
15 Congress and carried out by Federal entities;
16 and

17 (E) evaluate, at the end of the applicable
18 allocation year, actions that need to be carried
19 out during subsequent years to compensate for
20 any cost relief measure carried out during the
21 applicable allocation year.

22 (3) ACTION ON EXPANSION OF BORROWING.—

23 (A) IN GENERAL.—If the Board carries
24 out a cost relief measure pursuant to paragraph
25 (1) that results in the expansion of borrowing

1 of permits under Federal law, and if the aver-
2 age daily closing price of permits for the 180-
3 day period beginning on the date on which bor-
4 rowing is so expanded exceeds the upper range
5 of the estimate provided under section 6, the
6 Board shall increase the quantity of permits
7 available for the applicable allocation year in
8 accordance with this paragraph.

9 (B) REQUIREMENTS.—An increase in the
10 quantity of permits under subparagraph (A)
11 shall—

12 (i) apply to all covered entities;

13 (ii) be allocated in accordance with
14 the applicable formulas and procedures es-
15 tablished under this Act;

16 (iii) be equal to not more than 5 per-
17 cent of the total quantity of permits other-
18 wise available for the applicable allocation
19 year under this Act;

20 (iv) remain in effect only for the ap-
21 plicable allocation year;

22 (v) specify the date by which the in-
23 crease shall be repaid by covered entities
24 through a proportionate reduction of per-

1 mits available for subsequent allocation
2 years; and

3 (vi) require the repayment under
4 clause (v) to be made by not later than the
5 later of—

6 (I) the date that is 15 years after
7 the date on which the increase is pro-
8 vided; and

9 (II) the date on which the subse-
10 quent applicable phase of greenhouse
11 gas reductions takes effect under this
12 Act.

13 (b) ASSESSMENTS.—Not more frequently than semi-
14 annually, the Board may levy on participants in any per-
15 mit trading system established under Federal law, in pro-
16 portion to the capital stock and surplus of the partici-
17 pants, an assessment sufficient to pay the estimated ex-
18 penses of the Board and the salaries of members of and
19 employees of the Board during the 180-day period begin-
20 ning on the date on which the assessment is levied, taking
21 into account any deficit carried forward from the pre-
22 ceding 180-day period.

23 (c) LIMITATIONS.—Nothing in this section gives the
24 Board the authority—

1 (1) to consider or prescribe entity-level petitions
2 for relief from the costs of a permit allocation or
3 trading program established under Federal law;

4 (2) to carry out any investigative or punitive
5 process under the jurisdiction of any Federal or
6 State court;

7 (3) to interfere with, modify, or adjust any per-
8 mit allocation scheme established under Federal law;
9 or

10 (4) to modify the goals of any limit on green-
11 house gas emissions.

12 **SEC. 6. ESTIMATE OF COSTS TO ECONOMY OF LIMITING**
13 **GREENHOUSE GAS EMISSIONS.**

14 The Director of the Congressional Budget Office,
15 using economic and scientific analyses, shall submit to
16 Congress a report that describes the projected price range
17 at which greenhouse gas permits are expected to trade
18 during the initial 2-year period of the initial greenhouse
19 gas emission market established under Federal law.

20 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated such sums
22 as are necessary to carry out this Act.

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