



United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

March 18, 2010

The Honorable John Kerry
218 Russell Senate Office Building
Washington, DC 20510

Dear John:

Thank you for your leadership developing bipartisan legislation to address the pressing problem of climate change. This is extremely important legislation, and I would like to provide you with my feedback on the legislative outline you provided at our recent meeting. My goal is to be able to support the legislation you put forward, so I want to make sure you are aware of my views.

- **Electricity First**: I strongly support starting with the utility sector in order to establish a price on carbon, and adding heavy industry and other more trade exposed industries at a later date.
- **State Preemption**: I understand you may preempt state action on climate change. While I appreciate the need for a single national price on carbon emissions, I strongly oppose any effort that would strip the State of California of its historic role as the leader for tailpipe emissions standards. California has set more aggressive standards than the federal government for vehicles since the 1960s, and the automobile industry has asked Congress to preempt California repeatedly. In 2007, the Michigan delegation pushed strongly for this preemption during final negotiations on the legislation to increase CAFE standards. After thorough evaluation, I concluded that such a preemption would lead to weak future standards, and it should not be negotiated. California is drafting vehicle emissions standards for 2017 to 2020, and the state will not meet the greenhouse gas emissions reduction goals established in its landmark climate change statute (AB 32) unless it sets these standards.

- **50/50 Allocation Deal**: I know some have asked you to abandon the agreement negotiated by Edison Electric Institute to distribute the utility sector's free allowances based 50 percent on historic emissions and 50 percent on power sales. I believe it would be a mistake to abandon this agreement, as it could prompt Clean Energy Group utilities to oppose this legislation as unfair to their customers.

As you know, Senator Carper and I introduced legislation in 2008 that would have distributed **all** utility sector allowances based on power sales, because this approach rewards efficiency, innovation, early action, and returns value to all consumers equally.

Dirty utilities that failed to modernize their power plants are now arguing for more free allowances. But consumers in my region of the country already shoulder higher electric rates as a result of deeper investments in renewable resources and energy conservation. As the attached chart shows, under the 50-50 agreement, California consumers are projected to pay \$84 per household, per month for electricity in 2012. In contrast, consumers in Midwestern and Great Plains states are projected to pay less than \$84 per household, even though the average household in these regions consumes almost twice as much electricity annually.

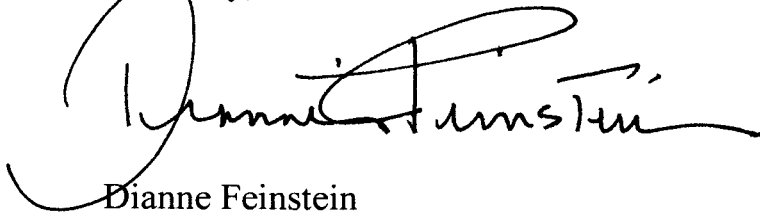
Abandoning the 50-50 agreement to shift more assistance to consumers in the Midwest and Great Plains would put the needs of one set of consumers ahead of the needs of others, which would undermine the over-arching goal of mitigating consumer impact.

- **Offshore Drilling**: I understand you are considering permitting oil and gas drilling off the shores of states that want it. I ask you to require that a state pass legislation affirming that it desires to open the shores off its coast. On such a substantial decision about the future of a state, a decision should be made by both the legislature and the governor. The state should also have the power to review its decision on a regular basis.
- **Transportation Carbon Fee**: In your talks with the oil industry, I encourage you to consider an adjustable carbon emissions fee, which goes up a set amount each year when emissions exceed the transportation sector's target, and goes down if emissions outperform the target. This provides greater price certainty than any other option, removes concerns with regard to the impact of market manipulation on price, and keeps the transportation sector's emissions subject to an emissions target.

- **Carbon Market Oversight**: I greatly appreciate your commitment to include my Carbon Market Oversight Act, which I have worked on with Senator Snowe for three years. We believe our proposal would create the most robust regulatory regime for carbon markets possible.
- **Congressional Oversight**: As the Chairman of the Appropriations Committee's Subcommittee on the Interior, Environment, and Related Agencies, I am concerned that directing billions of dollars into off-budget funds controlled by the Administration would significantly diminish Congress' ability to ensure that these funds were well spent or even spent for the purposes outlined in the legislation. It is impossible to know today how much money should be spent on each low-carbon technology 15 years from now. If we need greater certainty with regard to spending than the Appropriations process can provide, I would recommend that the legislation's spending authorizations expire no later than ten years after enactment. This approach – modeled on the Farm Bill and the Highway Bill – would ensure that Congress revisits spending levels and oversees how Federal dollars are spent.

Again, thank you for your work to craft a bipartisan bill that will promote new technologies, reduce emissions, stimulate employment, and set our nation on a more sustainable future economic path. I look forward to working with you closely to ensure that the legislation obtains its goals and becomes law. Best regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

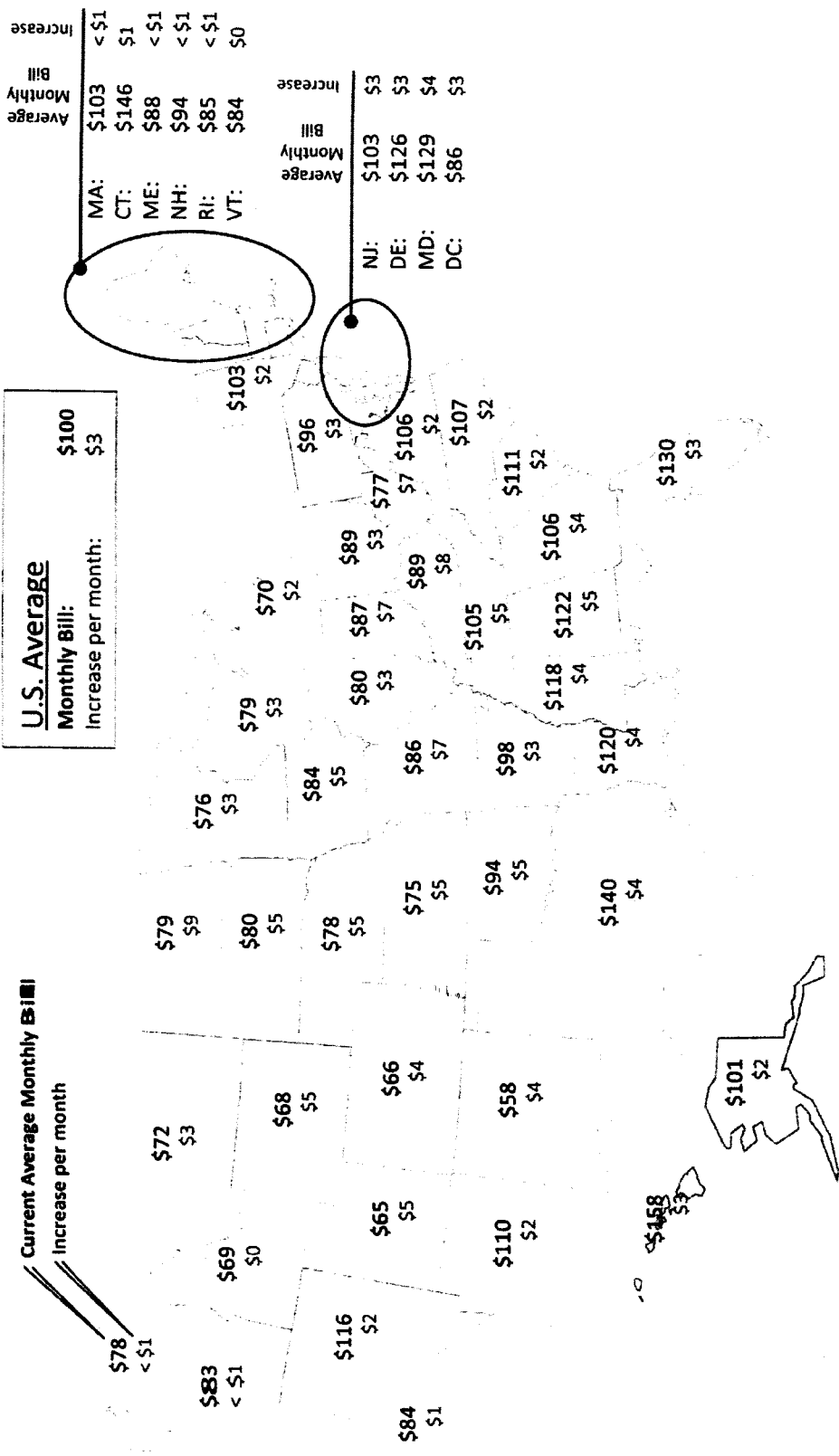
Dianne Feinstein
United States Senate

CC: Senator Lieberman
Senator Graham

DF/mbn

Change in Monthly Average Residential Electricity Bills in 2012

Allocation based on H.R. 2454 (passed June 26, 2009) Formula for Electric Local Distribution Companies



Average monthly bills are based on average electricity consumption per month per residential customer in each state as reported by EIA. Analysis assumes 2007 emission levels and \$15/metric ton CO₂ price.
 Sources: EIA, EPA, MJB&A Analysis