ATTORNEYS GENERAL OF THE STATES OF RHODE ISLAND, ARIZONA, CALIFORNIA, CONNECTICUT, DELAWARE, IOWA, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW MEXICO, VERMONT, AND THE CORPORATION COUNSEL OF THE CITY OF NEW YORK

June 9, 2010

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitchell McConnell
Minority Leader
United States Senate
Washington, DC 20510

RE: Letter in Opposition to S.J.Res.26: Senator Murkowski's Congressional Review Act Resolution Relating to EPA's Endangerment Finding.

Dear Senators Reid and McConnell:

As Attorneys General of our respective states and Corporation Counsel for the City of New York, we are writing to urge you to **oppose** a Congressional over-ride of the Environmental Protection Agency's (EPA) action to address climate change, and in particular, the so-called Murkowski Resolution (S.J.Res.26).

The simple thrust of the Resolution is well expressed by its sponsor: "to stop the Environmental Protection Agency (EPA) from regulating greenhouse gas emissions under the Clean Air Act."[1] The Resolution would specifically override EPA'S Endangerment Finding, 74 Fed. Reg. 66496 (December 15, 2009)

At the outset, it must be explained that the Endangerment Finding was *not* a form of bureaucratic over-reach by EPA but, rather, was the fulfillment of a United States Supreme Court decision, Massachusetts v. EPA, 549 U.S. 497 (2007), in which many of the undersigned states participated, and of specifically-delegated authority granted by Congress. EPA was required to evaluate, under Section 202 of the Clean Air Act, whether emissions of carbon dioxide endangered public health or welfare. EPA did what the Supreme Court and statute required it to do.

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[1] *See* Press release at: http://energy.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=1aae649c-1682-4aab-b5fc-9421f8a7c625&Month=1&Year=2010&Party=1.

It is also important to mention that the Endangerment Finding was based on exhaustive scientific study:

> The Administrator has determined that the body of scientific evidence compellingly supports this finding. The major assessments by the U.S. Global Climate Research Program (USGCRP), the Intergovernmental Panel on Climate Change (IPCC), and the National Research Council (NRC) serve as the primary scientific basis supporting the Administrator's endangerment finding. The Administrator reached her determination by considering both observed and projected effects of greenhouse gases in the atmosphere, their effect on climate, and the public health and welfare risks and impacts associated with such climate change.

74 Fed. Reg. at 66497. These findings were strongly affirmed in May of 2010 in reports on climate change by the National Academy of Sciences (NAS), which conclude that "there is a strong, credible body of evidence, based on multiple lines of research, documenting that Earth is warming . . . and that [s]trong evidence also indicates that recent warming is largely caused by human activities . . . ," and "that there is an urgent need for U.S. action to reduce greenhouse gas emissions."[2]

There would be major negative consequences if that resolution were to pass:

- It would retroactively undo an historic agreement among the states, the City of New York, automakers and the federal government, leaving the automobile industry without the nationwide uniformity that it claims is important to its business. At this point in time, the manufacturers and the states alike have come to rely on the agreed standard.

- There is no certainty that Congress will enact new legislation to address the problem of global warming, and time is of the essence in restraining predicted temperature rise. It is unwise to rescind the EPA's power under the Clean Air Act until there is some other mechanism at least equally or more stringent in place.

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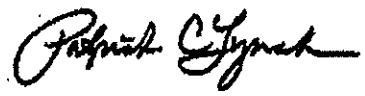
[2] National Academy of Sciences, *America's Climate Choices, Advancing the Science of Climate Change, Report in Brief*, May 19, 2010, p. 1, available at http://americasclimatechoices.org and National Academy of Sciences, *Limiting the Magnitude of Future Climate Change, Report in Brief*, May 19, 2010, p. 2-4, available at http://americasclimatechoices.org.

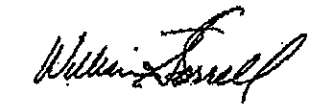
- It would inhibit EPA from even studying a vast array of effects of climate change in the several states, including, for example, impacts on Gulf Coast habitats, the Sierra Mountain snow-pack and the locations of native Alaskan communities.

The Murkowski Resolution would be a step backwards, undoing the settled expectations of states, industry and environmentalists alike. Thus, we repeat our request that you oppose the resolution.

Very truly yours,



Patrick C. Lynch
Rhode Island Attorney General



William H. Sorrell
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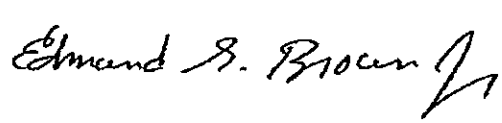
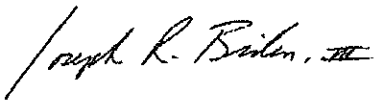
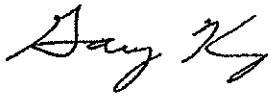


Edmund G. Brown Jr.
California Attorney General

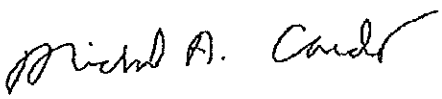
Richard Blumenthal
Connecticut Attorney General



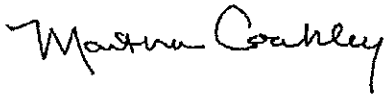
Joseph R. Biden, III
Delaware Attorney General



Gary King
New Mexico Attorney General



Corporation Counsel of the
City of New York



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