

COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND



**WILLIAM J. HOWELL**  
SPEAKER

TWENTY-EIGHTH DISTRICT

COMMITTEE ASSIGNMENTS:  
RULES (CHAIRMAN)

December 16, 2009

The Honorable Jim Webb  
248 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Webb:

I am writing in reference to your letter to President Obama, dated November 27, 2009, seeking clarification from the President about his understanding of Executive Branch authority to bind the United States in connection with the United Nations Framework Convention on Climate Change Conference of Parties 15 in Copenhagen, Denmark. To date, I am unaware of any response you have received from the President regarding this important matter.

America's first President and first Secretary of State were both Virginians, as was the primary author of the U.S. Constitution, James Madison, who championed the "separation of powers" doctrine whereby powers and responsibilities are divided among the three branches of government through a system of checks and balances. Accordingly, I was pleased it was a U.S. Senator from our Commonwealth who took the time to clarify to our President this important principle of our republic spelled out in the U.S. Constitution. As you note in your letter, our Constitution provides that only legislation agreed upon in the United States Congress, or a treaty ratified by the Senate, could actually create a commitment on behalf of our country to an international emissions reduction program.

Since your November letter, the Environmental Protection Agency (EPA) has claimed the administrative power to regulate carbon dioxide under the Clean Air Act, an unprecedented action that has wide-reaching and potentially negative economic implications for our Commonwealth and Nation. In the wake of the EPA's action, it has been reported that U.S. diplomats in Copenhagen apparently are assuring the diplomats of other nations that an emissions reduction agreement signed by the U.S. President can be implemented by the EPA regardless of the fact that the U.S. Congress has not passed a cap and trade emissions program.

As the elected leader of the oldest legislative body in the United States, I find it deeply troubling that our federal government would entertain the idea of undertaking international commitments whose implementation depends on the dictate by an executive branch bureaucracy of potentially draconian and costly rules that the Congress is thus far itself unwilling to impose. If this were to happen, it would be an incredibly troubling erosion of our democratic values.

As you seek clarification from the President, I would very much appreciate if you also could reaffirm to him that, under the U.S. Constitution, the Executive Branch cannot just unilaterally circumvent the prerogatives of the U.S. Senate by asserting that one of its agencies simply can appropriate to itself law-making powers of a legislature. I look forward to reading your response and any communications you receive from the President.

Sincerely,

A handwritten signature in black ink that reads "W - J Howell".

William J. Howell