

Colleague Jonathan Zasloff recently opined on this site that Scott Brown's election to the open U.S. Senate seat from Massachusetts could actually be good news when it comes to prospects for passage of federal climate change legislation. Let me file a congenial dissent to Jonathan's prediction, though one that-like his-contains some seeds of optimism.

I adhere to the much more conventional view that Tuesday's special election results from the Bay State make it even less likely that Congress will pass meaningful climate change legislation in 2010 than was the case a mere week ago.

This time last year, flush with President Obama's inauguration and his ambitious policy agenda, many observers fully expected that federal climate change legislation would be enacted in 2009. But as concern over the national economy, failing financial markets and the national debate over health care reform sucked all the political oxygen out of the room, climate legislation proponents reluctantly conceded that a bill wouldn't reach the President's desk until 2010.

Now, even that prognosis seems unlikely. Tuesday's special election results have sent both parties back to the drawing boards and-to mix metaphors-climate change legislation seems to have been one of the first things to hit the cutting room floor. Congressional Republicans remain largely hostile to the concept, and Democrats are shifting their policy focus from climate change to jobs, the economy, and increasingly-frantic efforts to retain control of the House and Senate in an election year. That doesn't sound like a promising environment for significant climate change legislation.

And, with all due respect, Jonathan Zasloff's recent prediction that a carbon tax proposal could gain Congressional traction seems (and I'm being polite here) unfounded. The idea that Congressional Democrats have the political courage-or votes-to enact a carbon tax proposal in the current political environment, in an election year, is wildly improbable. To put it bluntly: it ain't happenin', Professor.

So, is there any good news to come out of these latest political developments? Yes, of a sort. One of the most daunting aspects of proposed Congressional climate change legislation has always been how a federal program would-or would not-accommodate state and regional greenhouse gas reduction programs that are already underway. With federal climate change legislation pretty much off the table for the foreseeable future, state and regional climate change regulators retain pretty much of a clear field. California environmental officials, for example, are busy implementing AB 32, including an ambitious cap-and-trade program designed to encompass 85% of that state's GHG emissions. In the absence of comprehensive federal climate change legislation, California and other states and regions remain free to

serve, in Justice Brandeis' famous term, as "social laboratories" for effective GHG reduction strategies.

Not nearly as good as a nationwide, effective federal climate change agenda, to be sure. But, in the wake of Tuesday's sobering election results and the political reverberations that have followed, better than nothing.