



Backgrounders

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THE SENATE-PASSED ENERGY BILL WILL HURT CONSUMERS AND TAXPAYERS WITHOUT SOLVING THE ENERGY PROBLEM

CHARLI E. COON, J.D.

The Department of Energy's Energy Information Administration predicts that if energy production continues to grow at a rate comparable to that of the last decade, the growth in energy demand will increasingly outpace U.S. production within the next two decades. This imbalance would threaten America's economy, national security, and standard of living.

With the United States at a crossroads in energy policy, Members of Congress who are meeting in conference on House and Senate energy bills have the responsibility to make a crucial decision. They have an opportunity to correct the imbalance of supply and demand, and ensure that consumers and businesses have reliable and affordable supplies of energy in the future, by adopting balanced, fuel-neutral, and market-based policies, similar to those in the House-passed version of a comprehensive energy bill (H.R. 4). On the other hand, they could yield to special-interest demands and endorse policies that suppress energy supplies, worsening the imbalance between supply and demand, as the Senate-passed version of H.R. 4 does.

The House and Senate conferees should strike the misguided energy-suppressing provisions in the

Senate-passed version of H.R. 4 and craft a bill that enhances the nation's energy security. Many measures in the Senate-passed version—including the mandatory renewable portfolio standard (RPS), Kyoto-like climate change titles, measures regarding the regulation of electricity, and a new "tax" that would be levied on consumers through a federal ethanol mandate—are inconsistent with this goal.

The Senate bill's provision regarding renewable energy resources, for example, ignores evidence that this option is unrealistic and counterproductive. Despite two decades of billion-dollar taxpayer subsidies, renewable energy sources have failed to capture a significant market because they are unreliable and

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economically inefficient. In the year 2000, non-hydroelectric renewable sources accounted for only 2 percent of total U.S. electricity generation. Production from these particular renewable energy sources is projected to increase only to 3 percent by 2020. Imposing a renewable energy initiative may be perceived as “politically correct,” but this is an irresponsible option since these sources will raise the cost of energy for consumers while failing to meet the nation’s growing demand for the energy that is essential for economic growth and national security. This energy-suppressing provision has no place in a balanced and comprehensive national energy plan.

The climate titles included in the current Senate version of the legislation likewise undermine a responsible energy plan for the nation. The Senate version of H.R. 4 calls for bureaucratic measures that would drastically reduce carbon emissions, harm the already weak economy, and raise the cost of energy for consumers. It imposes these counterproductive restrictions despite myriad uncertainties surrounding theories of climate change, and it dismisses the expert opinions of more than 17,000 climatologists, meteorologists, and other specialists who signed an Oregon Institute of Science and Medicine petition, stating that “There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gasses is causing or will, in the foreseeable future, cause catastrophic heating of the Earth’s atmosphere and disruption of the Earth’s climate.” National energy policy should be based on sound scientific evidence and not alarmist rhetoric. Titles X, XI, and XIII, should be stripped from this legislation.

In addition, although Title II of the Senate-passed version of H.R. 4 purports to promote competitive electric markets, in fact, it would re-regulate the energy sector. It expands the Federal Energy Regulatory Commission’s powers; authorizes new regulatory programs in the Department of Energy, the Federal Trade Commission, and other agencies; increases regulatory uncertainty; and fails to provide the incentive structure needed to maintain and expand the nation’s electricity infrastructure. The conferees should replace this title’s regulatory provisions and marketplace manipulation with measures that authentically promote competition and provide consumers with more reliable and less costly energy.

Title VIII of the Senate-passed version of H.R. 4 seeks to nearly triple the use of fuel-ethanol by the year 2012. The ethanol mandate that the Senate leadership endorses essentially provides a subsidy for a small number of ethanol producers at the expense of consumers. There are numerous shortcomings regarding the use of ethanol fuel: It is not environmentally safe, it is expensive to produce, and there is no national infrastructure that could transport ethanol to consumers throughout the country. Proponents of mandating the use of ethanol claim that it is a renewable fuel source. On the contrary, because gasoline is used in the production of ethanol, it cannot be categorized as a renewable energy source. While big business will benefit from this “corporate welfare” mandate and will be protected from liability under the bill’s “Renewable Fuels Safe Harbor” provision, consumers would bear the burden of what is essentially a new gas tax, in the form of higher prices. In addition, the federal Highway Trust Fund would be another loser in this scenario, given that the mandate would exacerbate the current loss of revenues to this fund by billions of dollars by 2012. In short, the ethanol mandate included in the Senate-passed version of H.R. 4 is irresponsible and counterproductive and will increase consumer costs at the pump. It should not be incorporated in the nation’s energy legislation.

Similarly, to the detriment of national security, the leadership of the Senate majority is pandering to environmental alarmists in its refusal to allow a fair up-or-down vote on opening a small sliver of the Arctic National Wildlife Refuge (ANWR) to oil and gas exploration. The conferees should follow the House’s sensible lead on this issue and authorize exploration in what is a comparatively minuscule portion of ANWR (2,000 acres out of a total of 19 million acres).

The Senate-passed version of H.R. 4 fails to enhance crucial energy supplies needed for economic growth and national security. On the contrary, it would harm an already weak U.S. economy and raise the cost of energy for consumers. The conferees should soundly reject the energy-suppressing provisions in the Senate-passed bill. If they do not, the President should veto this legislation.

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THE SENATE-PASSED ENERGY BILL WILL HURT CONSUMERS AND TAXPAYERS WITHOUT SOLVING THE ENERGY PROBLEM

CHARLI E. COON, J.D.

The Department of Energy's Energy Information Administration predicts that if energy production continues to grow at a rate comparable to that of the last decade, the growth in energy demand will increasingly outpace U.S. production within the next 20 years. Such an imbalance would threaten America's economy, national security, and standard of living. More than a year ago, President George W. Bush released a comprehensive energy plan to correct the imbalance of supply and demand.¹ Since then, the House and Senate have passed their respective, and different, versions of energy legislation.² As they meet in conference to reconcile the substantive differences between the two bills, it will be critical that Members of Congress promote free-market policies that will enhance—not suppress—energy supplies. Any compromise that fails to do so should be soundly rejected.

Responsible energy policy must be balanced, fuel-neutral, and market-based. Regrettably, a num-

ber of provisions in the energy bills as currently

written would interfere with free-market principles, discourage competition, and raise the cost of energy for the nation's families and businesses. Major provisions that are inconsistent with promoting a balanced, fuel-neutral, and market-based national energy policy include a mandatory renewable energy portfolio standard (RPS), a government subsidy for ethanol, energy-suppressing climate-change titles, and the expansion of the role of government in the elec-

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research/energy_and_environment/
bg1590.cfm](http://www.heritage.org/research/energy_and_environment/bg1590.cfm)

1. *National Energy Policy, Report of the National Energy Policy Development Group*, May 2001, at <http://www.whitehouse.gov/energy>.
2. On August 2, 2001, the House passed H. R. 4 (Securing America's Future Energy Act of 2001), and on April 25, 2002, the Senate incorporated S. 517 (Senate Amendment 2917) into H.R. 4 (Energy Policy Act of 2002).

tricity marketplace.³ To fulfill their responsibility to the nation, taxpayers, and consumers, the conferees should strike these measurers from the final bill. In addition, they should authorize a critical energy-producing provision, allowing oil and gas exploration in the Section 1002 area of the Arctic National Wildlife Refuge.

AN IRRESPONSIBLE AND INEFFICIENT RENEWABLE-ENERGY MANDATE

Since 1978, the U.S. Department of Energy has spent over \$11 billion of taxpayer money on research and development of renewable energy.⁴ In addition to these subsidies, renewable-energy sources receive generous taxpayer subsidies through tax credits and incentives. These subsidies represented over \$1 billion in federal government outlays in fiscal year 1999 alone.⁵ Yet, despite two decades of billion-dollar taxpayer subsidies, renewable energy accounted for only about 9 percent of total U.S. electricity generation in the year 2000.⁶ That percentage is substantially lower (just 2 percent) if only favored renewables (solar, wind, geothermal, and biomass) are represented for 2000.⁷ These particular non-hydroelectric renewable energy sources are projected to increase to no more than 3 percent of total generation and electricity sales in 2020.⁸ In fact, it is estimated that renewable fuels, including hydroelectric sources, will remain

minor contributors to the nation's electricity supply throughout the next 18 years, increasing from 367 billion kilowatt hours of generation in 2000 to only 464 billion in 2020.⁹ Renewable energy sources have failed and will continue to fail to capture a significant market share because they are not cost-efficient. The costs of generating electricity from renewable sources generally exceed the cost of generating electricity from traditional sources such as coal and natural gas, and hydropower.¹⁰ For example, on a tax-equalization basis, today's natural gas technology can produce electricity at half the cost (or less) and with more flexibility and reliability than power generated from well-sited wind farms.¹¹ The competitive gap between solar and natural gas is even greater, with the cost of solar power being triple, or more, the cost of well-sited wind.¹²

In addition to being more costly on a per-unit basis, wind and solar power have low capacity factors and are site-constrained and intermittent.¹³ To compensate for the unreliability of these renewables, back-up capacity is needed, adding to the cost of production.¹⁴

Another significant cost factor is transmission. The cost of transmission access is often not included in the levelized¹⁵ cost of energy from wind and other renewable sources because these

3. These provisions are included in the Senate passed version of H.R. 4.

4. U.S. Department of Energy, Energy Information Administration, *Federal Financial Interventions and Subsidies in Energy Markets 1999: Primary Energy*, SR/OIAF/99-03, September 1999, Table C1, pp. 114-115.

5. Fred Sissine, *Renewable Energy: Tax Credit, Budget, and Electricity Production Issues*, Congressional Research Service, Report IB10041, May 17, 2002. See also, Energy Information Administration, *Federal Financial Interventions and Subsidies in Energy Markets 1999*, Table ES1, p. ix.

6. U.S. Department of Energy, Energy Information Administration, *Annual Energy Outlook 2002*, DOE/EIA-0383 (2002), December 2001, p. 79.

7. *Ibid.*

8. *Ibid.*

9. *Ibid.*

10. Glenn R. Schleede, *Fact Sheet on "Renewable Portfolio Standards,"* Energy Market & Policy Analysis, Inc., September 25, 2001, p. 1.

11. Robert L. Bradley, Jr., "The Increasing Sustainability of Conventional Energy," Cato Institute *Policy Analysis*, No. 341, April 22, 1999, p. 19 (citing footnote 107).

12. *Ibid.*, p. 19.

13. *Ibid.*, p. 33.

14. Jerry Taylor and Peter VanDoren, "Evaluating the Case for Renewable Energy: Is Government Support Warranted?," Cato Institute, *Policy Analysis*, No. 422, January 10, 2002, p. 7.

costs are site-specific and hard to estimate.¹⁶ The cost of transmitting electricity produced by renewable energy, however, is often higher than that of transmitting electricity generated from fossil fuel because the best renewable energy sites are far from urban areas.¹⁷ The expense of installing dedicated lines to a single wind farm, for example, can be very high and can increase the effective cost of the installed plants by as much as 50 percent.¹⁸

Notwithstanding this dismal record of market penetration and high costs, the U.S. Senate recently voted to require retail electricity suppliers (utilities, excluding municipal and rural electric cooperatives) to obtain a specified portion of their power production from new renewable energy resources.¹⁹ The minimum percentage, or standard, would start at 1 percent in 2005 and increase about 1.2 percent every two years until it reaches 10 percent in 2020. This one-size-fits-all mandate, referred to as a renewable energy portfolio standard (RPS), applies regardless of market demand.

Electricity suppliers can meet this RPS in any one of the following ways:

- **Produce** the specified minimum with high-cost eligible renewables (solar, wind, biomass, geothermal, and incremental hydropower),²⁰
- **Purchase** “tradable credits” from entities that produced electricity from eligible renewable energy sources and are willing to sell the credits; or

- **Buy** credits from the Department of Energy (which does not produce energy) at 1.5 cents per kilowatt-hour (kWh).

Regardless of the way they choose to meet this mandate, electricity suppliers will pass the costs on to consumers in the form of a new “tax”—higher monthly electric bills. Taxpayers will effectively be forced to pay twice for the electricity they use: once as a government subsidy to favored renewable energy sources and, again, in the form of higher monthly electric bills. In fact, the Energy Information Administration, the independent statistical and analytical agency within the U.S. Department of Energy, estimates that in 2020 the RPS proposal will cost about \$12 billion a year.²¹

While consumers would be paying higher utility bills, developers could be enriching themselves with lucrative tax shelter schemes. As Senator Jon Kyl (R–AZ) noted during floor debate on this mandate, “[It] will favor the few to the cost of the many.”²² For example, developers can escape corporate income taxes by “writing off” their entire capital cost quickly under a five-year double declining balance accelerated-depreciation taxpayer-funded subsidy.²³

Similarly, certain developers currently receive preferential tax treatment with the federal production tax credit (PTC). Under this scheme, developers are given \$0.017 (adjusted for inflation) for each kWh of electricity produced during the first 10 years of a project’s operation for new facilities

15. This is the present value of the total cost of building and operating a generating plant over its economic life, converted to equal annual payments. Costs are leveled in real dollars (i.e., adjusted to remove the impact of inflation), as defined in U.S. Department of Energy, Energy Information Administration, *Renewable Energy 2000: Issues and Trends*, DOE/EIA-0628 (2000), February 2001, p. 110.

16. U.S. Department of Energy, Office of Utility Technologies, Energy Efficiency and Renewable Energy, and the Electric Power Research Institute, *Renewable Energy Technology Characterization*, TR-109-496, December 1997, p. 6-4.

17. Taylor and VanDoren, “Evaluating the Case for Renewable Energy,” p. 4.

18. *Renewable Energy Technology Characterizations*, p. 6-3.

19. Section 264 of the Senate version of H.R. 4, see footnote 2.

20. In the Senate-passed version of H.R. 4, the term “incremental hydropower” means additional generation that is achieved from increased efficiency or additions of capacity after the date of enactment of this section (Sec. 264) at a hydroelectric dam that was placed in service before that date.

21. U.S. Department of Energy, Energy Information Administration, *Impacts of a 10-Percent Renewable Portfolio Standard*, SR/OIAF/2002-03, February 2002, p. 3.

22. Statement of Senator Jon Kyl, floor debate, *Congressional Record*, Vol. 148, March 19, 2002, p. S2045.

23. Glenn R. Schleede, “Wind Energy Fact Sheet,” Energy Market & Policy Analysis, Inc., September 25, 2001, p. 2.

(wind and closed-loop biomass) placed in service by December 31, 2001.²⁴ (H.R. 4 extends this government subsidy for another five years to December 31, 2006.)

Some of the most ardent proponents of an RPS mandate, however, are delaying the construction of a wind farm in their own back yard, claiming that a two-year study by the National Academy of Sciences is needed before the Nantucket Sound project can go forward.²⁵ Senator Edward Kennedy (D-MA), whose family estate would be within view of the wind turbines, added an amendment to the Senate-passed version of the energy bill requiring this study.²⁶ Senator John Kerry (D-MA) supported the amendment contending, “The issues are not clarified, and it’s important for local communities to be assured something is not going to be jammed at them.”²⁷ Yet, these same senators saddled the states with a mandatory renewable energy standard and opposed amendments that would have given the states more flexibility regarding renewable energy programs for their citizens.²⁸

A “who’s-who” list of environmental organizations is also fighting the Nantucket Sound wind farm.²⁹ Ironically, groups such as the International Wildlife Coalition, the Humane Society, and the Ocean Conservancy (which have chosen wind energy as a pet cause)³⁰ are fighting against this project alongside the elites who flock to spend their summers in such resorts as Martha’s Vineyard and Hyannis Port.³¹ Clearly, there is a double standard

in play with regard to the Nantucket Sound wind farm project.

While the nation’s economy depends upon reliable, affordable supplies of energy, research has indicated that “[Renewables such as solar, wind, and biomass] cannot be counted on to provide the timely, reliable, inexpensive electricity resources the U.S. needs.”³² Given these practicalities—as well as the federal government’s dismal record in choosing fuel “winners and losers”—the conference committee should strike this mandate from the bill.

CLIMATE CHANGE TITLES INCONSISTENT WITH ECONOMIC AND ENERGY SECURITY

The consequences of climate change policies are too important and far-reaching to be based on distorted representations of the current state of knowledge in either climate science or climate-prediction ability.³³ Much more systematic research is needed to reduce current uncertainties in climate-change science.³⁴ Yet, regrettably, despite the significant gaps in the current scientific knowledge of climate change, some Members of Congress are treating this issue as if all of the relevant facts are known. Specifically, the Senate version of H.R. 4 calls for bureaucratic measures that would drastically reduce carbon emissions, harm the already weak economy, and raise the cost of energy for consumers. Given the adverse impact these provisions would have on the nation, and in light of the scientific uncertainties surrounding climate change, the conference

24. *Ibid.* See also, U.S. Department of Energy, Energy Information Administration, *Annual Energy Outlook 2002*, p. 14.

25. John Leaning, “Kennedy Aims to Clarify Federal Wind Farm Role,” *The Cape Cod Times*, May 15, 2002, p. 1, at <http://www.capecodonline.com/cctimes/archives/2002/may/15/kennedyaims15.htm> (August 26, 2002).

26. *Ibid.*

27. *Ibid.*, p.3.

28. U.S. Senate Roll Call Votes, 107th Congress, 2nd Session, 2002, S. Amendments 3038, 3052, 3057, at http://www.senate.gov/legislative/vote1072/vote_00055.html, [vote_00058.html](http://www.senate.gov/legislative/vote1072/vote_00058.html), [vote_00059.html](http://www.senate.gov/legislative/vote1072/vote_00059.html) (August 28, 2002).

29. Collin Levey, “Tilting at Windmills,” *The Wall Street Journal*, August 8, 2002.

30. *Ibid.*

31. *Ibid.*

32. Sallie Baliunas, “Renewable Realities,” TechCentralStation.com, April 23, 2002, p. 1.

33. Kenneth Green, “Newest IPCC Report on Global Warming Fails to Deliver Sound Policymaking Models,” Reason Public Policy Institute, *RPPI Rapid Response*, No. 101, February 27, 2001, p. 5, at <http://www.rppi.org/rr101.html> (August 21, 2002.)

34. Press release, “Leading Climate Scientists Advise White House on Global Warming,” The National Academies, National Research Council, Division on Earth and Life Studies, June 6, 2001.

committee should strip Titles X, XI, and XIII from the bill. National energy policy should be based on sound scientific evidence, not the alarmist rhetoric reflected in these titles.

- **Title X: National Climate Change Policy**

The Sense of Congress provisions included in the Senate-passed bill are not supported by scientific facts. For example, the “findings” in Section 1001 claim that the Intergovernmental Panel on Climate Change (IPCC) has “new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities” and that “the earth’s average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.”³⁵ The higher prediction is not based on new evidence or information of the relationship between greenhouse gases and climate change but on unwarranted assumptions regarding future population growth, economic growth, and the use of fossil fuels and sulfate aerosols.³⁶

Nor does this section’s reference to the National Academy of Science’s (NAS) conclusions about the IPCC’s findings provide a rationale for government action to reduce greenhouse gases.³⁷

In fact, Dr. Richard S. Lindzen, one of the 11 scientists who prepared the NAS report, noted that the report makes clear, “There is no consensus, unanimous or otherwise, about long-term climate trends and what causes them.”³⁸

He further stated, “The NAS panel essentially concluded that the IPCC’s Summary for Policy-makers does not provide suitable guidance for the U.S. government.”³⁹

In addition to embracing a series of unbalanced and misleading findings, Title X calls for the United States to participate in international negotiations for a new, binding climate change treaty. This provision would replace the Byrd–Hagel Resolution that is currently the congressional stance on such an agreement.⁴⁰ Given the myriad uncertainties within climate science, this principled position should not be changed. In fact, the United States should reject any accord that would suppress energy use and, hence, economic growth.

Title X also mandates the Bush Administration to develop a National Climate Change Strategy, based on specific criteria delineated in the bill, and to submit a report on the plan to Congress within one year. It dictates that the Administration’s strategy must incorporate “four key elements,” one of which calls for “interim emission mitigation levels” and “specific mitigation approaches” to stabilize greenhouse gas concentrations, making this plan more stringent than even the “fatally flawed” Kyoto Protocol.⁴¹ In fact, this provision could necessitate immediate actions to reduce greenhouse gas emissions, resulting in severe economic consequences associated with such reductions.⁴² American consumers deserve a more responsible policy than a disguised forced carbon-reduction mechanism that will increase the cost of energy.

Other measures in this title create various new climate offices and direct the NAS to assess the adequacy of the Administration’s strategy and to report its findings and recommendations to

35. Senate version of H.R. 4, “Energy Policy Act of 2002, Section 1001(a)(2),” April 25, 2002.

36. Paul J. Georgia, “Why the ‘Sense of Congress on Climate Change’ Provision Should Be Stripped From H.R. 4,” Op-Eds & Articles, Competitive Enterprise Institute, July 16, 2002, p. 1, at <http://www.cei.org/utills/printer.cfm?AID=3129> (July 16, 2002).

37. *Ibid.*, p. 2.

38. *Ibid.*

39. *Ibid.*, p. 2.

40. S. Res. 98, introduced by Senators Robert Byrd (D–WV) and Chuck Hagel (R–NE), was passed by a vote of 95–0 on July 25, 1997. This resolution states that the Senate would not ratify any global climate treaty that would seriously harm the U.S. economy or that failed to require developing countries to reduce their emissions within the same time frame as the developed countries.

41. On March 28, 2001, President George W. Bush announced that the United States would not implement the Kyoto Protocol because it would “harm our economy and hurt our workers.” See, “Bush Firm over Kyoto Stance,” *CNN.com*, March 29, 2001. See also, Letter from Michael E. Baroody, Executive Vice President, National Association of Manufacturers, to House Energy and Commerce Chairman W.J. “Billy” Tauzin, July 31, 2002, p. 1.

Congress within a prescribed time period. The federal government already funds multiple climate-change science activities including: the U.S. Climate Change Research Initiative (CCRI), established by President George W. Bush “to study areas of uncertainty and identify priority areas where investments can make a difference”;⁴³ a high-level Committee on Climate Change Science and Technology Integration (CCCSTI), also created by President Bush and representing 14 federal agencies,⁴⁴ to provide the President with recommendations on climate science and technology as well as funding and programs;⁴⁵ the National Science and Technology Council (NSTC) that coordinates research pursuant to the Global Change Research Act of 1990;⁴⁶ and the newly established Joint Climate Change Science Program Office to review all programs that contribute to climate-change science.⁴⁷ This is only a partial list of government entities addressing climate science.⁴⁸ Congress should be streamlining climate change programs for optimum efficiency rather than adding layers to an already complex and fragmented federal bureaucracy.

The goal of Title X is more than merely the “stabilization of greenhouse gas concentrations,” as posited. Rather than mandating capping greenhouse gas emissions at current levels, it would require dramatic *reductions* in the current level of the nation’s greenhouse gas emissions. An energy-suppressing provision such as this will impede, not enhance, energy security: It has no place in responsible energy policy and should be stricken from any bill sent to the President.

- **Title XI: National Greenhouse Gas Database**

Although it is purported to be merely a voluntary greenhouse gas (GHG) emissions reporting measure, Title XI of the Senate-passed version of H.R. 4 is nothing short of a domestic form of the Kyoto Protocol. The conferees should soundly reject this title.

This provision would force energy-using entities to submit to the Department of Energy and the Environmental Protection Agency annual reports documenting their “direct”⁴⁹ and “indirect”⁵⁰ GHG emissions or face fines of up to \$25,000 per day. Although participation in this reporting registry is initially voluntary, if the

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42. Sallie Baliunas, Ph.D., “Warming Up to the Truth: The Real Story About Climate Change,” Heritage Foundation *Lecture*, No. 758, June 19, 2002, p. 5 (noting a recent study from Yale University stating that over the next 10 years, Kyoto-type cuts would cost about \$2.7 trillion in lost gross domestic product). See also, Georgia, “Why the ‘Sense of Congress On Climate Change’ Provisions Should Be Stripped From H.R. 4,” p. 3. For additional information regarding the impact of the Kyoto Protocol on the U.S. economy, see, Margo Thorning, Ph.D., “A U.S. Perspective on the Economic Impact of Climate Change Policy,” American Council for Capital Formation Center for Policy Research, *Special Report*, December 2000.
43. U.S. Global Change Research Program, *Climate Change Science and Technology Research Management Structure*, Updated May 7, 2002, at <http://www.usgcrp.gov/usgcrp/ccst.htm> (August 23, 2002).
44. The Committee consists of the Secretaries of Commerce, Energy, State, Agriculture, Interior, Health and Human Services, Defense, and Transportation as well as the following government officials: Administrator of the Environmental Protection Agency, Director of the Office of Management and Budget, Director of the National Economic Council, the Administrator of NASA, the Director of the National Science Foundation, and the Chairman of the Council for Environmental Quality.
45. U.S. Global Change Research Program, *Climate Change Science and Technology Research Management Structure*, pp. 1–3.
46. *Ibid.* p.1.
47. *Ibid.* pp.1, 2.
48. *Ibid.* pp. 1–3. Other climate science activities are performed by the Committee on Environment and Natural Resources (CENR), the combined National Security Council, Domestic Policy Council and National Economic Council Climate Change Policy Panel, the Inter-Agency Working Group on Climate Change Science and Technology, the Joint Climate Change Science Program Office (CCSPO), the Climate Change Technology Program, and the Office of Science and Technology Policy (OSTP).
49. Title XI, Sec. 1102(5) of the Senate-passed version of H.R. 4 defines “direct emissions” as “greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.”
50. Title XI, Section 1102 (9) of the Senate-passed version of H.R. 4 defines “indirect emissions” as “greenhouse gas emissions that—(A) are a result of the activities of an entity; but (B)(i) are emitted from a facility owned or controlled by another entity; and (ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.”

registry represents less than 60 percent of the all of the nation's GHG emissions after a five-year period, reporting would become mandatory.

Proponents of this provision claim that widespread participation by the utility and auto industries, along with some industrial participation, would easily achieve the requisite reporting levels.⁵¹ However there are many who doubt this assumption and believe reaching the required level of reporting would necessitate widespread industrial and manufacturing reporting and the participation of commercial operations ranging from offices and apartment buildings to hospitals.⁵² Many small entities such as homeowners and commercial facilities most likely would not report their GHG emissions, thereby triggering the mandatory reporting scheme.

A mandatory registry would create regulatory uncertainty by raising the possibility that carbon dioxide emissions could be regulated in the future.⁵³ Such uncertainty could cause many major capital investments in the energy sector to be withdrawn, resulting in setbacks in rebuilding of the nation's energy infrastructure.⁵⁴

A mandatory registry would also impose burdensome reporting requirements on businesses that would, in turn, pass on the additional costs of measuring, recording, and reporting emissions to consumers through higher prices for energy, manufactured goods, and services.⁵⁵

To say the least, this provision is redundant. Established under section 1605(b) of the 1992 Energy Policy Act (P.L. 102-486), the U.S. Department of Energy's Energy Information Administration (EIA) already manages the Voluntary Reporting of Greenhouse Gases program. EIA's *Voluntary Reporting of Greenhouse Gases 2000* contains reports from 222 corporations, associations, and individuals.⁵⁶ Of these, about half are "entity" (corporate-wide) reports, in addition to 1,882 project-level greenhouse gas and sequestration reports.⁵⁷ On February 14, 2002, President Bush directed the Secretary of Energy, in consultation with other department and agency heads, to propose improvements in this program. This process will culminate in new guidelines by January 2003 (for reporting 2003 data).⁵⁸ Given that an emissions program already exists and that, at the direction of the President, it is being improved,⁵⁹ the arbitrary and costly congressionally-mandated reporting requirement in Title XI should be stricken from the bill.

- **Title XIII: Climate Change Science and Technology**

Title XIII of the Senate-passed version of H.R. 4 authorizes spending billions of additional taxpayer dollars throughout the next decade for a plethora of climate-related research and development activities.⁶⁰ To name only a few, the Senate-passed version of this bill authorizes \$755 million for fiscal years 2002–2006 for DOE climate change research programs, includ-

51. Myron Ebell, "The Hagel-Voinovich Amendment 3146 and the Brownback-Corzine Amendment 2017 to Title XI of S 517—GHG Reporting and Reductions," Competitive Enterprise Institute, April 22, 2002.

52. *Ibid.*

53. Myron Ebell, "Senate Should Drop Mandatory Greenhouse Gas Registry," *Press Release*, Competitive Enterprise Institute, April 16, 2002, at <http://www.cei.org/utills/printer.cfm?AID=2961> (August 24, 2002).

54. *Ibid.*

55. *Ibid.*

56. Letter to the President from the Secretaries of Energy, Commerce, Agriculture, and the Administrator of the Environmental Protection Agency, July 8, 2002, p. 2.

57. *Ibid.*

58. *Ibid.*, p. 5.

59. *Federal Register*, Vol. 67, No. 87, May 6, 2002, pp. 30370–30373.

60. Mark Holt and Carol Glover, "Omnibus Energy Legislation: H.R. 4 Side-by-Side Comparison," Congressional Research Service, *CRS Report for Congress*, No. RL31427, Updated June 7, 2002, pp. CRS-9, CRS-166.

ing climate modeling, carbon cycle research, and ecological processes research; \$240 million during the same years for Department of Agriculture carbon sequestration research; \$900 million over nine years for an international energy technology deployment program; and nearly \$1.4 billion over four years for coastal ocean observation systems.

Furthermore, in June 2001, President Bush announced the establishment of the U.S. Climate Change Research Initiative (CCRI) to “study areas of uncertainty and identify priority areas where investments can make a difference” in climate-change science and technology.⁶¹ The President’s fiscal year 2003 budget requests \$40 million for this initiative alone.⁶² In addition to this funding, the President requested \$1.7 billion for the U.S. Global Change Research Program (USGCRP) for fiscal year 2003.⁶³ These represent only two of the many climate change programs funded by the federal government.

Throughout the past 10 years, the United States has invested some \$45 billion in funding research on climate change.⁶⁴ Scientific facts gathered over the past decade do not support the notion of catastrophic human-made warming as a basis for drastic carbon dioxide emission cuts.⁶⁵ In fact, the best available scientific evidence shows that, without the drastic reductions in greenhouse gas emissions called for under the Kyoto Treaty, globally averaged tem-

peratures will rise by only about one degree Centigrade by the year 2050.⁶⁶ Implementing the Kyoto emissions reductions would result in just a slightly (but insignificantly) lower temperature trend.⁶⁷ The difference between the trends with and without mandated emissions reductions is merely *six-hundredths* of a degree.⁶⁸ In other words, the temperature rise expected to occur by 2050 (one degree Centigrade) is projected to occur by 2053 even if emission cuts are enacted.⁶⁹ Simply put, the amount of warming likely to occur over the next several decades will be trivial, if not beneficial, and it would not be significantly reduced by mandated emissions reductions.⁷⁰

As Danish statistician, Bjorn Lomborg has pointed out, “We should not spend vast amounts of money to cut a tiny slice of the global temperature increase when this constitutes a poor use of resources and when we could probably use these funds far more effectively in the developing world.”⁷¹ He continues, “Resources squandered to solve what the best science says is a small effect that may appear in the distant future has the certainty of increasing human suffering and environmental harm in the near present.”⁷² Given that “the most substantial authority—science—has weighed against the fear of potential human-made global warming,”⁷³ the conferees should stop excessive spending on climate change, strike Title XIII of

61. U.S. Global Change Research Program, *Climate Change Science and Technology Research Management Structure*, updated May 12, 2002, p. 1, at <http://www.usgcrp.gov/usgcrp/ccst.htm> (August 25, 2002).

62. *Ibid.*

63. *Ibid.*

64. Baliunas, “Warming Up To the Truth,” p. 1.

65. *Ibid.*

66. *Ibid.*, p. 6.

67. *Ibid.*

68. *Ibid.*

69. *Ibid.*

70. Georgia, “Why the ‘Sense of Congress on Climate Change’ Provision Should Be Stripped From H.R. 4,” p. 5.

71. *Ibid.*, quoting Bjorn Lomborg, *The Skeptical Environmentalist: Measuring the Real State of the World*, (Cambridge University Press, 2001), p. 322.

72. Sallie Baliunas, “Mr. Bush, Trust the Science,” Tech Central Station, February 18, 2002, p. 3, at <http://techcentralstation.com/1051/printer.jsp?CID=1051-021802A>.

the Senate-passed energy bill, and allocate taxpayer dollars more responsibly.

AN ATTEMPT TO RE-REGULATE—NOT DEREGULATE—ELECTRICITY

Technology improvements, changes in the economics for generating electricity, and new federal laws and regulations have changed the nature of electric generation and created markets for electricity.⁷⁴ As a result, widespread competition is occurring on the wholesale level and more than half of the states are moving toward retail competition.⁷⁵ The Senate-passed energy bill purports to further this trend toward competitive electric markets. However, deregulation involves more than substituting a new regulatory regime for the old one: It involves removing impediments to competition.⁷⁶ Clearly, deregulation does not mean expanding the role of regulatory agencies, dictating specific structures for important market institutions, or imposing burdens on incumbents solely for the purpose of “leveling the playing field.”⁷⁷ The role of the government should be reduced, not simply redirected.⁷⁸ Government should permit market institutions to evolve in response to market forces.⁷⁹

Regrettably, the Senate-passed energy bill fails on this important point. Not only does Title II expand the Federal Energy Regulatory Commission’s (FERC’s) authority over the bulk power market, it also authorizes new regulatory programs for the Department of Energy, the Federal Trade Commission, and a number of other agencies.⁸⁰ At the same time, it increases regulatory uncertainty, fails to pro-

vide the incentive structure needed to maintain and expand the nation’s electricity infrastructure, and makes it more difficult to provide reliable, low-cost electricity to consumers.⁸¹ In short, Title II does not deregulate the electricity market. The conferees should replace its re-regulatory provisions and marketplace manipulation with measures that promote competition and provide consumers with more reliable and less costly energy.

An example of the damage caused by government interference with the market is seen in the mandatory purchase requirement provisions of the Public Utilities Regulatory Policy Act of 1978 (PURPA, P.L. 95–617) that force utilities to enter contracts in which they pay high prices for power they do not need. These noncompetitive PURPA contracts have impeded the development of competitive electricity markets and should be repealed.⁸² The Senate version of H.R. 4 makes the repeal of this mandatory purchase requirement “conditional” on the satisfaction of specified market and regulatory conditions.⁸³ The bill does no more than incorporate additional regulations in an anti-competitive and anti-consumer law.

Likewise, the Senate bill fails to reduce the role of a number of regulatory agencies. Specifically, the bill expands FERC’s role in the review of mergers and other asset transfers, directs the Department of Energy to administer a renewable portfolio standard and implement a program of tradable renewable energy credits, and significantly increases the consumer protection role of the Federal Trade Commission.⁸⁴ The government should stop inter-

73. *Ibid.*

74. Mark Holt and Carol Glover, “Energy Policy Act of 2002: Summary of S. 1766 as Introduced,” Congressional Research Service, *CRS Report for Congress*, No. RL31276, February 8, 2002, p. 1.

75. *Ibid.*

76. Thomas M. Lenard, “The Senate’s Electricity Bill: A Regulatory Wolf In Free Market Clothing,” The Progress & Freedom Foundation, *Progress on Point*, Release 9.17, May, 2002, p. 1.

77. *Ibid.*

78. *Ibid.*

79. *Ibid.*

80. *Ibid.*

81. *Ibid.*, p. 2.

82. *Ibid.*, p. 5.

83. *Ibid.*, p. 3.

fering with the marketplace and allow it to evolve in response to market forces.⁸⁵

The Senate bill does not limit the subsidies and preferential treatment of municipal utilities and rural cooperatives. Nor does the bill privatize the federally owned utilities such as the Tennessee Valley Authority, whose favored status gives them an advantage over private competitors. If Congress is serious about deregulating the electricity industry, it should eliminate such anti-competitive advantages.

Regulation is an inadequate substitute for market forces. In the words of one of the chief proponents of deregulation, “Competition is not just better than bad regulation. Competition is better than good regulation. Regulation at its best cannot provide the incentives to efficiency, innovation, and economic progress that are inherent in competition.”⁸⁶ It is time for Congress to unleash these competitive forces in the electricity sector.

AN ENVIRONMENTALLY SOUND AND ENERGY-WISE PLAN TO TAP ANWR RESERVES

In August 2001 the U.S. House of Representatives wisely voted to enhance America’s energy security by authorizing oil and gas exploration in Section 1002 of the Arctic National Wildlife Refuge (ANWR), located in the upper northeast quadrant of Alaska. This area has been described as “the largest unexplored, potential productive onshore basin in the United States”⁸⁷ and could produce oil equivalent to half of all U.S. imports from Persian Gulf countries for 30 years.⁸⁸ Moreover, only a mere 2,000 acres would be needed to tap into this

source—leaving a full 99.99 percent of the 19 million acres of ANWR untouched by exploration.⁸⁹

The majority leadership in the Senate, however, applied its chamber’s arcane rules of procedure to deny its members a fair up-or-down vote on ANWR.⁹⁰ Fearing that there were enough votes to approve this measure in the Energy and Natural Resources Committee, the majority leadership yanked the bill from the committee and had it secretly crafted behind closed doors to exclude ANWR. This forced proponents of ANWR exploration to secure 60 votes on the floor to proceed to an actual vote on opening a small sliver of ANWR to oil and gas exploration. Given the majority leadership’s manipulation of Senate rules, it is not surprising that the proponents failed to obtain the requisite number of votes to proceed.

The hotly debated drilling in Section 1002 of ANWR would not entail the destruction of one of America’s national treasures. The Arctic’s magnificent mountains, beautiful lakes, and precious wildlife will not be disturbed. Nor should lawmakers be wary of enriching oil companies. Irresponsible federal policies and the indifference of policymakers to the growing domestic shortages of oil—not the actions of oil companies—have made the United States dependent on foreign oil sources for nearly 50 percent of its supplies, which are subject to price volatility. The issue at hand is whether or not to use a mere 2,000 acres of flat, treeless tundra out of 19 million acres in ANWR to enhance the nation’s energy security. The conferees should follow the House’s principled lead and include ANWR exploration in the final energy bill.

84. *Ibid.*, pp. 3, 8-11.

85. *Ibid.*, p.1.

86. Congressional Research Service, prepared for the House Committee on Energy and Commerce, “Electricity: A New Regulatory Order,” Committee Print 102-F, June 1991, p. CRS-246, quoting Berry, *The Case for Competition in the Electric Utility Industry*, 110 Public Utilities Fortnightly 13, September 16, 1982, p. 20.

87. U.S. Department of Energy, Energy Information Administration, “Potential Oil Production from the Coastal Plain of the Arctic National Wildlife Refuge” Updated Assessment, May 2000, p. vii.

88. National Center for Public Policy Research, “Ten-Second Response: Teamster Chief James Hoffa Warns Politicians in Both Parties Not to Stand in the Way of Oil Exploration in Alaska,” Fast Facts on the Environment, at <http://www.nationalcenter.org/TSR32902a.html> (April 5, 2002).

89. Charli E. Coon, J.D., “Domestic Energy Production: Vital For Economic and National Security,” Heritage Foundation *Executive Memorandum* No. 787, October 30, 2001.

90. Referred to as a cloture vote. It required proponents of the provision to secure 60 votes to get to a straight up-or-down vote on the ANWR amendment.

ETHANOL SUBSIDIES: A HIDDEN GAS TAX ON CONSUMERS

The Senate-passed version of H.R. 4 also calls for increased fuel-ethanol subsidies.⁹¹ Ethanol is a corn-based additive that serves as a fuel oxygenate.⁹² Fuel oxygenates are required in certain areas of the country under the Clean Air Act.⁹³

Ethanol is not environmentally safe, nor does it necessarily reduce poisonous emissions. While oxygenates such as ethanol do reduce emissions of carbon monoxide (CO) and other volatile organic compounds (VOCs), they could lead to increased emissions of nitrogen oxides (NOX)—a main source of smog pollution.⁹⁴ In addition, ethanol can increase the likelihood that toxins found in gasoline, such as benzene, could seep into groundwater.⁹⁵

The Senate ethanol mandate would nearly triple the use of ethanol by 2012.⁹⁶ Manufacturers of ethanol already enjoy a generous 5.3-cent-per-gallon exemption from the federal excise tax on motor fuels.⁹⁷ This represents an effective taxpayer subsidy of 53 cents per gallon of pure ethanol.⁹⁸ Currently, the use of ethanol costs states in excess of \$1 billion annually in highway funding.⁹⁹ Tripling the use of ethanol will only divert more funds from the Highway Trust Fund, thereby depriving states of funds for new roads, bridges, and other important infrastructure projects.¹⁰⁰

In addition, ethanol must be denatured by gasoline during the course of its production.¹⁰¹ This raises production costs, significantly devalues ethanol as a renewable resource, and contributes very little to enhancing the nation's energy security. Moreover, a recent study by Cornell University scientist David Pimentel shows that producing ethanol from corn actually requires more energy than the fuel produces, thereby making the United States more fossil-fuel dependent, not less.¹⁰²

Mandating the increased use of fuel ethanol is unnecessary and amounts to a new gas tax for consumers. It gives more taxpayer subsidies to a handful of companies that currently produce ethanol. Furthermore, the bill's Renewable Fuels Safe Harbor provision relieves these companies from any liability related to the ethanol they produce. In short, the Senate-passed version of H.R. 4 is nothing short of "corporate welfare" legislation, with big business emerging as the winners and consumers as the losers.

CONCLUSION

At a time when experts are predicting that current levels of energy production will fail to meet the nation's ever-growing demand for energy, the Senate chose to suppress energy production. The Senate-passed version of H.R. 4 (Energy Policy Act of 2002) would not enhance crucial supplies of energy. What it would do, however, is harm the U.S. economy and raise the cost of energy for con-

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91. For further discussion of ethanol subsidies see *Heritage Backgrounder* by Erin Hymel (forthcoming). The author wishes to acknowledge Erin Hymel for her contribution to this section of the paper.
92. Mark Holt and Carol Glover, "Omnibus Energy Legislation: H.R. 4 Side-by-side Comparison," *CRS Report for Congress*, No. RL31427, p. 7, June 7, 2002.
93. Brent D. Yacobucci and Jasper Womach, "Fuel Ethanol: Background and Public Policy Issues," *CRS Report for Congress*, No. RL30369, Summary, February 21, 2002.
94. *Ibid.*, p. 11.
95. Marlo Lewis, Jr, "Heed Hillary's Herald," Op-ed in TechCentralStation.com, Competitive Enterprise Institute, May 8 2002.
96. Floor statement of Senator Diane Feinstein, *Congressional Record*, April 11, 2002, p. S 2508.
97. Yacobucci and Womach, "Fuel Ethanol: Background and Public Policy Issues," p. 9.
98. *Ibid.*
99. Letter to Speaker Hastert from Bipartisan House Transportation Committee Leadership, March 8, 2002, p. 2.
100. Lewis, "Heed Hillary's Herald."
101. Yacobucci and Womach, "Fuel Ethanol: Background and Public Policy Issues," pp. 3, 4.
102. "Highway Robbery—Corn Is for Eating, Not for Driving," *Sacramento Bee*, April 8, 2002, as noted in the *Congressional Record*, p. S2515, April 11, 2002.

sumers. These results are unacceptable and reckless. As Members of the House and Senate meet in conference to craft their final energy legislation, they should soundly reject a bill that would cause such consequences. If they fail to do so and do not present an energy policy that is balanced, fuel-neutral, and market-based to President Bush, the President should veto the bill. It is better to have no energy bill than to be burdened with one that sup-

presses vital energy supplies and denies consumers reliable, affordable, and sufficient supplies of energy.

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