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More Energy Supplies, Not More Taxes and Regulations, Are What We Need

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There are many energy bills currently pending before Congress, and they fall into two general categories: those that seek to increase domestic energy supplies and those that seek scapegoats and diversions instead. Last week, the President gave a speech in favor of the former, spelling out four useful ideas for expanding American energy:

1. Removing restrictions on oil drilling in American waters;
2. Opening up a small portion of Alaska's Arctic National Wildlife Refuge to drilling;
3. Streamlining the regulations that hamper refinery capacity expansions; and
4. Eliminating the federal barriers to development of oil shale.

All of these measures are embodied in one or more energy bills that deserve full consideration. Unfortunately, many in Congress would rather spend time on ideas more likely to increase prices than provide any relief at the pump, such as raising taxes and increasing regulations on companies exploring for oil in the U.S. These ideas are seriously misguided.

Drilling in America's Waters. Federal law currently prohibits energy exploration and drilling on 85 percent of America's Outer Continental Shelf (OCS)—virtually everywhere except the central and western Gulf of Mexico. The Department of the Interior (DOI) estimates there are 19 billion barrels of oil in these restricted areas, an amount equivalent to 30 years of imports from Saudi Arabia.

DOI has authority over energy production in the nation's territorial waters, but since 1982 Congress has denied the agency the funding to conduct energy leasing in new areas. Two current measures, the Deep Ocean Energy Resources Act (H.R. 6108) and the National Environment and Development Act (H.R. 2784), would remove the de facto offshore ban. Both measures would allow coastal states to decide whether to allow oil leases off their shores, and both also contain royalty-sharing agreements between the federal government and participating states. Either measure would lead to greater supplies of domestic oil as well as natural gas.

The Arctic National Wildlife Refuge. America's single greatest concentration of untapped oil—an estimated 10 billion barrels—lies near the edge of Alaska's 19.6 million acre Arctic National Wildlife Refuge (ANWR). As with deepwater drilling, advances in technology have greatly reduced the environmental impact and risk of spills, and drilling would be subject to the world's strictest standards. Nearby Alaskan drilling in Prudhoe Bay has had a minimal adverse impact on the environment and local wildlife, and was performed with decades-old technology far less environmentally safe than that which would be used in ANWR.

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Legislation enacted in 1980 left open the possibility of developing the oil-rich part of ANWR, subject to future congressional approval. That approval is long overdue. Several bills, such as the American Energy Independence and Security Act (S. 2758) and the American Energy Independence and Price Reduction Act (H.R. 6107) would allow ANWR leasing to commence.

Refinery Expansions. Although the high price of oil is far and away the biggest reason for the increases at the pump, unnecessarily high refining costs are also a contributor. No new refinery has been built in the U.S. in over 30 years, and expansions at existing refineries have at times struggled to keep pace with rising demand. Part of the reason refinery expansion has halted is the extremely costly, complicated, and time-consuming maze of federal regulatory requirements affecting refineries.

Reasonable efforts to streamline and expedite the refinery expansion process are included in such bills as the Refinery Permit Process Schedule Act (H.R. 6139) and the American Energy Production Act (S. 2973).

Oil Shale. Potentially hundreds of billions of barrels of oil lies trapped in layers of shale beneath parts of Colorado, Utah, and Wyoming. The most promising areas are under federal lands and are subject to DOI control. Attempts to extract this oil in the 1970s and early 1980s were a failure, but improvements in technology, combined with today's sky-high price of conventional oil, justify giving this alternative source a second look. Pursuant to provisions in the 2005 energy bill, several companies are conducting oil shale test projects.

Similar to the restrictions on offshore energy, Congress placed a moratorium on DOI spending on the regulatory activities necessary for these projects to continue. Several bills, such as The Oil Shale Opportunity Act (H.R. 6211) and the Oil Shale Regulatory Act (S. 3062) would repeal these restrictions and allow the oil shale research and development to move ahead.

Anti-Energy Legislation. Since 2007, bills like the recently defeated Consumer-First Energy Act (S. 3044) have become common. The problem with these bills is simple: the only energy they contain is in their titles. Their substance is actually anti-energy.

For example, rather than increasing domestic supplies, S. 3044 focused mostly on the tax code, including a repeal of certain tax deductions for costs associated with domestic drilling. These changes would have raised tax rates for companies trying to expand oil supplies. S. 3044 also contained a windfall profits tax on domestically produced oil. When last tried from 1980 to 1988, this tax, according to the Congressional Research Service, "reduced domestic oil production from between 3 and 6 percent, and increased oil imports from between 8 and 16 percent. This made the U.S. more dependent upon imported oil." The bill also contained price gouging provisions, a simplistic attempt to lower gasoline prices by making high prices illegal. This approach is similar to the price controls of the 1970s, which only served to reduce supplies and create shortages and long gas lines.

The provisions in S. 3044 are returning in other bills, such as the Federal Price Gouging Prevention Act (H.R. 6246).

Other bills propose similarly counterproductive measures. For example, some in Congress are saying that new energy leasing in currently restricted areas is not needed because companies are sitting on the leases they already have. These claims have no merit, yet bills like the Responsible Federal Oil and Gas Lease Act (H.R. 6251) seek to penalize oil companies with existing leases if, in the federal government's opinion, these leases are not producing oil soon enough.

In reality, the process of exploration and drilling takes many years, including a lengthy regulatory process, and many of these "idle" leases are being developed as expeditiously as possible. In other cases, the leased tracts have no wells because they have no oil. Indeed, the relatively few offshore and onshore areas where drilling is allowed are beginning to show evidence of being picked over, all the more reason to open up new areas. Overall, there is no evidence of companies paying for leases for the purpose of sitting on them, and, in any event, current law already provides that non-producing leases revert back to the federal government after a period of time.

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Energy on the Horizon. The President has rightly signaled his support for any and all of the above-mentioned pro-energy measures and his opposition to the anti-energy ones. Congress should take advantage of this opportunity and enact some useful steps in the fight against high oil and gasoline prices.

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