

EXTENSIONS OF REMARKS

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2007

Mr. DINGELL. Madam Speaker, as we are well aware, the bill before us, H.R. 6, is not the product of a formal conference, but rather the result of amendments being passed between the House and Senate as a means of resolving the differences between their respective bills. I have noted in the past, and will continue to note, that I find this manner of legislating to be unsatisfactory and unwise. Given the difficulty experienced by the Senate in going to conference on any bill this year, however, this process is the best that we can hope for under the circumstances.

One of the reasons this process is inferior to that of a formal conference is the lack of a conference report and, thus, the lack of a written legislative history detailing why certain policies were adopted and others excluded. When the House passed its version of the energy bill currently before us (H.R. 3221) on August 4, 2007, the Committee on Energy and Commerce had contributed more to this legislation than any other committee in the House of Representatives and is the Committee of primary jurisdiction over the entire legislation.

The Committee's contribution was the result of six bills that were ultimately engrossed in H.R. 3221: H.R. 3236, the Energy Efficiency Improvement Act of 2007; H.R. 3237, the Smart Grid Facilitation Act of 2007; H.R. 3238, the Renewable Fuels Infrastructure Act; H.R. 3239, to promote advanced plug-in hybrid vehicles and vehicle components; H.R. 3240, the Energy Information Availability Act; and H.R. 3241, an act dealing with energy loan guarantee amounts. With the exception of H.R. 3241 (which was dropped in its entirety), the majority of the Committee's work was preserved in the bill before us today and the committee reports filed on August 3, 2007, remain relevant.

Therefore my remarks today will deal primarily with policies adopted in the bill before us on which the House initially had no position, such as the changes in Corporate Average Fuel Economy (CAFE) found in Title I, and the Renewable Fuel Standard (RFS) found in Title II. Both policies are within the jurisdiction of the Committee on Energy and Commerce and represent a substantial change in current law.

Title I of H.R. 6, as amended by the Senate and now under consideration by the House, increases energy security and reduces emissions of greenhouse gases by improving vehicle fuel economy standards. This legislation represents a comprehensive overhaul and expansion of the Corporate Average Fuel Economy (CAFE) program, administered by the U.S. Department of Transportation, DOT. The specific objectives and targets reflect

Congress's determination of the maximum feasible increases in fuel economy that would permit the development and application of technology, giving appropriate consideration to the cost of compliance.

The CAFE program, administered by DOT, had been the sole means for regulating the fuel economy and carbon dioxide emissions of new motor vehicles made for sale in the United States since the 1970s. Congress specifically prescribed how DOT should determine the maximum feasible levels for fuel economy standards under the Energy Policy and Conservation Act, carefully balancing technological feasibility, economic practicability, the effect of other regulations on fuel economy, and the need of the United States to conserve oil.

Approximately 30 years after Congress enacted the Clean Air Act to regulate air pollutants, however, the United States Supreme Court recognized the obligation of the Environmental Protection Agency, EPA, to regulate greenhouse gas emissions from new motor vehicles under that Act. Carbon dioxide is widely recognized as one of the greenhouse gases that are emitted from motor vehicles, and one way to regulate the emissions of carbon dioxide from motor vehicles is to improve the fuel economy of those vehicles. As such, there is potential for EPA's authority under the Clean Air Act to overlap and conflict with that of the Department of Transportation.

H.R. 6, as initially passed by the Senate, included a section 519 expressly addressing the ability of EPA to regulate carbon dioxide emissions from new motor vehicles and its authority to grant preemption waivers to California to regulate the same. Section 519 stated that "[n]othing in this title shall be construed to conflict with the authority provided by sections 202 and 209 of the Clean Air Act (42 U.S.C. 7521 and 7543, respectively)." The House of Representatives later amended the Senate amendments to H.R. 6 without including the Senate language in Section 519. Although the Senate further amended the House amendments to the Senate amendments of H.R. 6, the language of section 519 was not reinserted.

Subsequent to the Court's decision, but prior to consideration of this legislation, the President of the United States issued Executive Order 13432 requiring EPA and the Department of Transportation to coordinate their efforts when addressing emissions of carbon dioxide from new motor vehicles. The Supreme Court interpreted section 202(a) of the Clean Air Act as providing EPA authority to regulate greenhouse gas emissions from motor vehicles. That grant of authority provides the EPA Administrator sufficient discretion to promulgate EPA regulations that conform to corresponding regulations issued by the Secretary of Transportation under this legislation. The Secretary, however, does not have corresponding flexibility to conform her regulations to those issued by the Administrator. The Secretary of Transportation is constrained by statutory guidelines contained in this legislation and the statutes it amends.

For example, to ensure the economic practicability of the fuel economy standards it establishes, section 102 of this legislation prohibits DOT from issuing standards for more than 5 model years at a time. The Department should issue standards only for those model years for which it can obtain reasonably-developed confidential product plans from vehicle manufacturers, and it is the determination of Congress that the amount of time should not exceed 5 years. This timeframe allows for reasonable and realistic estimates of market conditions, the availability of new and developing technologies, and other considerations of technological and economical practicability. Likewise, any other regulations issued or enforced regulating emissions of carbon dioxide that affect motor vehicle fuel economy should correspond to the timeframe and relevant limits placed on the Department of Transportation by Congress under this legislation.

This legislation provides clear and comprehensive direction to the Executive Branch regarding any and all regulations and enforcement actions with respect to increased motor vehicle fuel economy standards. Pursuant to this legislation, Congress intends for any regulations issued or enforced by the Environmental Protection Agency regulating emissions of carbon dioxide from motor vehicles under the Clean Air Act that affect vehicle fuel economy, be consistent with the provisions of this legislation, the CAFE program, and any regulations issued or enforced by Department of Transportation.

Title II of H.R. 6, as amended by the Senate and now under consideration by the House, pertains to the Renewable Fuels Standard or RFS. It was first created by the Energy Policy Act of 2005 (P.L. 109-58) for both environmental and energy security reasons. Since its inception, the RFS has been administered by EPA under the authority of the Clean Air Act. The RFS has experienced initial success in helping wean the Nation from its dependence on foreign petroleum. In 2007, our passenger vehicles used approximately 6 billion gallons of ethanol, thereby burning 4 billion fewer gallons of gasoline. This is well ahead of the schedule adopted in 2005. Several factors have converged that cause us to scale the program up to the levels in the bill before us today. First, with the price of a barrel of oil hovering in the \$100 range for several weeks now, the need to continue to decrease our dependence on foreign petroleum is more apparent than ever and to do so will require increased amounts of renewable fuel. Second, the need to reduce greenhouse gas emissions from the transportation sector is also more apparent, and renewable fuels hold great promise in helping meet this challenge. Conversely, several concerns have been raised with the viability of relying on corn-based ethanol as our primary renewable fuel: making ethanol from corn competes with other uses of corn as a food commodity and food-making feedstock; requires heavier use of pesticides and fertilizers; and also requires an increasing amount of farm acreage devoted to its cultivation.

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