

ENERGY CONFERENCE TODAY

A DAILY REPORT ON THE ENERGY POLICY ACT CONFERENCE

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This edition of Energy Conference Today reports on yesterday's meeting of the energy conferees. It also highlights a second key theme of the current energy policy debate — whether to adopt an energy bill that shifts power over energy-related decisions from states and localities to the federal government.

MEETING OF THE ENERGY CONFEREES

On Tuesday, July 19, 2005, the energy conferees met to consider six titles of the energy bill. These titles were Energy Efficiency, Nuclear, Vehicles & Fuels, Hydrogen, DOE Management, and Personnel & Training, and Coal.

During the course of the markup, the conferees voted repeatedly not to address the nation's dependence on foreign oil. Specifically, the conferees took the following actions:

- Conferees adopted language to drop section 151 of the Senate-passed energy bill. This provision calls upon the President to develop and implement measures to reduce total demand for petroleum in the United States by 1,000,000 barrels per day by 2015. Senate conferees stated that they would like to revisit this decision in the future.
- Conferees dropped the meaningful portions of a provision to establish a tire efficiency program. This amendment had passed unanimously in the Senate, when offered on the floor by Senator Schumer.¹ If enacted, this provision would reduce oil consumption by 250,000 barrels per year.²
- Conferees stripped out provisions that would have promoted hybrids and plug-in hybrids for use in federal, state, and other vehicle fleets.
- Conferees adopted language to extend a loophole in the corporate average fuel economy (CAFE) law. This loophole allows automobile manufacturers to treat vehicles capable of operating on ethanol as if they achieve much better fuel economy performance than they actually do. This provision is estimated to increase U.S. oil consumption by 15 billion gallons during the next 10

¹ Amendment to H.R.6 offered by Sen. Charles Schumer (June 23, 2005) (agreed to by unanimous consent).

² American Council for an Energy-Efficient Economy, *Tire Standards Would Save Energy Without Adversely Affecting Safety* (July 14, 2005) (online at <http://aceee.org/transportation/tire.pdf>).

years. The U.S. will consume 140,000 more barrels of oil per day by 2014 as a result of this provision.³

- House conferees rejected an amendment offered by Rep. Ed Markey to increase fuel economy standards for automobiles by one mile per gallon per year for 10 years.⁴
- Senate conferees rejected an amendment offered by Sen. Wyden to increase fuel economy standards for automobiles by one mile per gallon per year for 5 years.⁵

ENERGY BILL PREEMPTS STATES AND LOCALITIES

The conferees also considered an amendment offered by Rep. Ralph Hall to the Energy Efficiency Title, which would preempt a critical element of state programs to conserve energy.⁶

The amendment bars any state from requiring appliance manufacturers to submit appliance data to the state. This would overturn a California law that has been in place since 1977 and was recently upheld by the 9th Circuit. California uses information generated by the manufacturers under federal regulations to maintain a computer database on appliance efficiency. California and other states rely on the database to implement energy efficiency programs such as appliance rebates and efficient building standards. These programs have saved consumers billions of dollars in energy costs over 30 years.

State energy officials say: “The Commission’s Appliance Database ... is the main source of the necessary information for State energy efficiency and conservation programs across the country. ... Without accurate and up-to-date information, States will be substantially hindered in their efforts to improve energy efficiency.”⁷

If adopted, this provision will join many other provisions in the energy bill that transfer fundamental powers from state and local governments to the federal government in Washington, D.C.

³ Letter from the Set America Free Coalition to Members of Congress (July 15, 2005).

⁴ Amendment offered in H.R. 6 conference by Rep. Ed Markey (July 19, 2005) (failed on a show of hands 3-11).

⁵ Amendment offered in the H.R. 6 conference by Sen. Wyden (July 19, 2005) (not agreed to on voice vote).

⁶ A second amendment offered by Rep. Hall would remove a provision in both the House and Senate versions of the energy bill that authorizes the Department of Energy to establish efficiency standards for furnace and duct fans. Such standards are estimated to save consumers \$8 billion by 2030. American Council for an Energy Efficient Economy and Alliance to Save Energy, *Furnace Fan Standards Authorization: An Important Provision in the Bipartisan Energy Bill* (undated).

⁷ Declaration of Charles D. Gray, Executive Director, National Association of Regulatory Utility Commissioners, and Jeff Genzer, General Counsel, National Association of State Energy Officials, Air-Conditioning and Refrigeration Institute v. Energy Resources Conservation and Development Commission (E. District of Cal.) (unpublished decision) (July 31, 2003).

A report released this morning highlights how the House energy bill, which the Administration has endorsed, contains provisions that preempt or limit state authority in 11 key areas. The Senate bill also transfers significant powers from the states to the federal government.

The report, which was conducted by the House Government Reform minority staff, at the request of Rep. Henry A. Waxman, analyzes the impact of the energy legislation on state and local authorities. It finds that the House-passed bill:

- Preempts state authority over the siting of energy transmission lines, Liquefied Natural Gas (LNG) terminals, and oil refineries.
- Limits state authority to require gasoline and other fuels to meet state “clean fuel” requirements.
- Restricts state authority to prevent leaks or dangerous conditions at underground fuel storage tanks.
- Preempts state energy efficiency standards.
- Erodes state authority over management of coastal areas.
- Limits state participation in federal decisions to license environmentally damaging hydroelectric dams.
- Blocks state lawsuits to clean up MTBE contamination of drinking water.
- Cuts state oil royalty revenues by hundreds of millions of dollars.

The report finds that the Senate-passed energy bill also preempts or restricts important state rights, such as state authority over the siting of energy transmission lines and LNG facilities.

As the report documents, the energy legislation — especially the House version — represents a triumph of federal authority over state and local autonomy. Multiple provisions in the legislation replace state and local control over energy policies that affect local communities with the judgment of a single federal agency or political appointee in Washington.

The full report can be reviewed at <http://www.democrats.reform.house.gov/>.