ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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July 27, 2005

The Honorable J. Dennis Hastert
Speaker
U.S. House of Representatives
H232 Capitol
Washington, DC 20515-6501

Dear Mr. Speaker:

I am writing to draw to your attention a provision in the Energy Conference Report that raises serious procedural and substantive concerns. At its essence, this provision is a $1.5 billion giveaway to the oil industry, Halliburton, and Sugar Land, Texas. The provision was inserted into the energy legislation after the conference was closed, so members of the conference committee had no opportunity to consider or reject this measure. Before the final energy legislation is brought to the House floor, this provision should be deleted.

The provision at issue is a 30-page subtitle called "Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources."[1] This subtitle, which was taken from the House-passed energy bill, was mysteriously inserted in the final energy legislation after the legislation was closed to further amendment. The conferees were told that they would have the opportunity to consider and vote on the provisions in the conference report. But the subtitle was not included in the base text circulated to conferees, and it was never offered as an amendment.

Instead, the new subtitle first appeared in the text of the energy legislation only after Chairman Barton had gaveled the conference over. Obviously, it would be a serious abuse to secretly slip such a costly and controversial provision into the energy legislation.

On the merits, the subtitle is an indefensible giveaway to one of the most profitable industries in America. The provision establishes a $1.5 billion fund, up to $550 million of which would be dedicated direct spending, which is not subject to the normal congressional appropriations process. Although the name of the subtitle refers to "ultra-deepwater and unconventional natural gas," it appears that the $1.5 billion fund created by the subtitle can in

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[1] H. Rept. No. 109-190, Conference Report on H.R. 6, §§ 999A – 999H (July 27, 2005) (hereinafter, "H.R. 6 (Conference Report)").

fact be used for many oil and gas projects. According to the language of the subtitle, oil and gas companies can apply for funds for a wide variety of activities, including activities involving "innovative exploration and production techniques" or "enhanced recovery techniques."[2] While oil and gas companies could be required to contribute to the costs of their projects, the subtitle expressly provides that the Department has discretion to reduce or eliminate any such contribution.[3]

The subtitle appears to steer the administration of 75% of the $1.5 billion fund to a private consortium located in the district of Majority Leader Tom DeLay.[4] Ordinarily, a large fund like this would be administered directly by the government. The subtitle, however, directs the Department to "contract with a corporation that is constructed as a consortium."[5] The leading contender for this contract appears to be the Research Partnership to Secure Energy for America (RPSEA) consortium, housed in the Texas Energy Center in Sugar Land, Texas.[6] Halliburton is a member of RPSEA and sits on the board, as does Marathon Oil Company.[7] The subtitle provides that the consortium can keep up to 10% of the funds — in this case, over $100 million — in administrative expenses.[8]

The subtitle further provides that members of the consortium, such as Halliburton and Marathon Oil, can receive awards from the over $1 billion fund administered by the consortium.[9]

In short, the subtitle provides that taxpayers will hire a private consortium controlled by the oil and gas industry to hand out over $1 billion to oil and gas companies. There is no conceivable rationale for this extraordinary largess. The oil and gas industry is reporting record income and profits. According to one analyst, the net income of the top oil companies will total

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[2] H.R. 6 (Conference Report) § 999B.

[3] H.R. 6 (Conference Report) § 999C(e).

[4] The remaining 25% of the fund would go to the National Energy Technology Laboratory of the Department of Energy. H.R. 6 (Conference Report) § 999H(d).

[5] H.R. 6 (Conference Report) § 999B(c)(1).

[6] *Measure May Bring Energy Money Home: Provision Backed By DeLay Called Needless Big Oil Subsidy*, Houston Chronicle (May 3, 2005).

[7] Research Partnership to Secure Energy for America, *About RPSEA: Leadership Board and Management* (online at: http://www.rpsea.org/webroot/app/xn/xd.aspx?it=enweb&xd=about/aboutboard.xml); About RPSEA: Member List (online at: http://www.rpsea.org/webroot/app/xn/xd.aspx?it=enweb&xd=about/aboutmembers.xml).

[8] H.R. 6 (Conference Report) § 999G(3).

[9] H.R. 6 (Conference Report) § 999B(f)(1).

$230 billion in 2005.[10] If Congress has an extra $1.5 billion to give away, the money should be used to help families struggling to pay for soaring gasoline prices — not to further enrich oil and gas companies that are rolling in profits.

In recent years, Congress has been repeatedly embarrassed by the mysterious insertion of provisions in omnibus legislation. Last year, for example, we learned only after House action that the 3,000 page, $388 billion omnibus spending bill allowed members and staff of the Appropriations Committee to examine the tax returns of ordinary Americans.[11] We should not allow this to happen again. The Energy Conference Report should not be brought to the House floor until this objectionable provision is deleted and there is ample opportunity for members to read the legislation and delete any other problematic provisions.

Thank you for your attention to this problem.

Sincerely,

Henry A. Waxman

Henry A. Waxman
Ranking Minority Member

cc: The Honorable Nancy Pelosi

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[10] *Analysts Say Oil Profits Likely to Peak This Year*, Greenwire (July 26, 2005).

[11] *See, e.g., Panel Chief Denies Knowing About Item on Inspecting Tax Returns*, New York Times (Nov. 23, 2004).