



REP. HENRY A. WAXMAN
RANKING MINORITY MEMBER
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
MARCH 2005

Fact Sheet

California and the Energy Bill Issue No. 1

The U.S. Congress is currently considering energy legislation that could profoundly impact California and the nation. The legislation is expensive, handing out tens of billions of dollars in industry subsidies. It rewrites longstanding energy policies, leaving virtually no aspect of the nation's energy policy untouched. And the bill redraws the balance of power between the states and the federal government.

This fact sheet provides background on the recent history of the energy bill currently pending before Congress. Future fact sheets will examine specific provisions of the bill and focus on their impacts on the state of California.

The White House Energy Plan

During the 2000 presidential campaign, President Bush campaigned on the need for a comprehensive energy policy. He released a draft energy proposal in September 2000.¹

On January 29, 2001, nine days after being inaugurated, President Bush announced that Vice President Cheney would chair a task force to develop his national energy policy.² Over the next three and a half months, the task force developed an energy policy largely in secret.

This secret process raised concerns among members of Congress and the public. The congressional watchdog agency, the Government Accountability Office (GAO), found that the task force met with "petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists."³ However, due to the Vice President's office's unwillingness to provide information, GAO was unable to learn the identities of the industry representatives and lobbyists

¹ Texas Governor George W. Bush, *A Comprehensive National Energy Policy* (Sept. 29, 2000).

² White House, *Remarks by the President at Energy Policy Meeting* (Jan. 29, 2001) (online at <http://www.whitehouse.gov/news/releases/20010129-1.html>).

³ U.S. General Accounting Office, *Energy Task Force: Process Used to Develop the National Energy Policy* (Aug. 2003) (GAO/03-894).

or the information and recommendations they provided to the task force.⁴ Although GAO filed suit to obtain information, the case was dismissed on jurisdictional grounds, without reaching the merits of the case.⁵ The Sierra Club and Judicial Watch also filed suit under government sunshine laws. After being remanded by the Supreme Court, this litigation is still pending.⁶

In May 2001, the Vice President presented President Bush with a proposed energy policy.⁷ The proposed energy policy included 105 recommendations.⁸ While some of the recommendations required legislative action by Congress, much of the energy policy could be implemented by the Administration through regulatory or other action. In fact, by December 2004, according to Energy Secretary Samuel Bodman, “nearly 75 percent of the recommendations put forward in [the Administration’s] energy plan have been implemented.”⁹ On March 9, 2005, Secretary Bodman stated, “we have implemented 95 percent of those recommendations.”¹⁰

Many of the remaining recommendations require congressional action.

Congressional Consideration

In the 107th Congress, the U.S. House of Representatives passed the President’s policy as H.R. 4, and the Democratically-controlled U.S. Senate passed substantially different companion legislation. However, the gulf between the bills proved too wide and a final bill never emerged from the House-Senate conference committee.

In the 108th Congress, the U.S. House of Representatives again passed the energy policy, this time numbered H.R. 6, on April 11, 2003.¹¹ The Senate had switched to Republican control, and the Chairman of the Energy Committee Pete Domenici (R-NM) attempted to pass the President’s energy policy. Finding that the Senate was unwilling to pass the draft energy bill, Senator

⁴ *Id.*

⁵ *Id.*

⁶ CBS News, *Court Sidesteps Cheney Ruling* (June 24, 2004) (online at <http://www.cbsnews.com/stories/2004/02/05/politics/main598159.shtml>).

⁷ White House, *Remarks by the President to Capital City Partnership* (May 17, 2001) (online at <http://www.whitehouse.gov/news/releases/2001/05/20010517-2.html>).

⁸ CRS, *Bush Energy Policy: Overview of Major Proposals and Legislative Action*, 2 (Aug. 22, 2001) (online at <http://www.fas.org/spp/civil/crs/RL31096.pdf>).

⁹ White House, *President Nominates Sam Bodman as Secretary of Energy* (Dec. 10, 2004) (online at <http://www.whitehouse.gov/news/releases/2004/12/20041210-3.html>).

¹⁰ White House, *Ask the White House Interactive Forum with Samuel Bodman* (Mar. 9, 2005) (online at <http://www.whitehouse.gov/ask/20050309.html>).

¹¹ U.S. House of Representatives, Roll Call Vote on Passage of H.R. 6 (Apr. 11, 2003) (247 ayes, 175 nos).

Domenici (R-NM) abandoned his draft and brought up for a vote the energy bill that had passed the Senate during the 107th Congress.¹² The Senate passed this legislation on July 31, 2003.¹³

This was a highly unusual move, and the press explained Senator Domenici's strategy at the time:

Once in conference, [Senator Domenici] and Rep. W. J. "Billy" Tauzin (R) of Louisiana, the energy chairman on the House side, could rewrite it from top to bottom, Mr. Domenici said. The result would be a "Bush-Domenici-Tauzin bill."¹⁴

This was in fact exactly what happened. In conference committee, the bill was rewritten without Democratic participation.¹⁵ The ranking Democrat of the Senate Energy Committee noted that the provisions which had allowed the bill to pass on a strong bipartisan basis had "been deleted in conference and an array of irrelevant and objectionable provisions [had] been added" through a process that "seemed excessively partisan and closed to us and to the public."¹⁶ In the House of Representatives, the ranking Democrat on the Energy and Commerce committee called the rewritten bill a "partisan product" that resulted from "a secret, one-sided process."¹⁷

In November 2003, the House-Senate conference committee produced a conference report to H.R. 6. The House passed the conference report on November 18, 2003.¹⁸ However, the bill died when the Senate voted not to end debate on the legislation.¹⁹

¹² Christian Science Monitor, *Critical US Energy Bill Crafted in Secrecy* (Oct. 2, 2003) (online at <http://www.csmonitor.com/2003/1002/p01s02-uspo.html>).

¹³ U.S. Senate, Roll Call Vote on Passage of H.R. 6 with an Amendment (July 31, 2003) (84 ayes, 14 nos).

¹⁴ Christian Science Monitor, *In Congress, All Roads Lead to a Conference Room* (Aug. 4, 2003).

¹⁵ Christian Science Monitor, *supra* note 12.

¹⁶ *Statement of Senator Jeff Bingaman, Ranking Member, Committee on Energy and Natural Resources, the Conference Report on H.R. 6, the "Energy Policy Act of 2003,"* Congressional Record, S15333 (Nov. 21, 2003).

¹⁷ House Committee on Energy and Commerce, *Statement of Representative John D. Dingell, Ranking Member, Committee on Energy and Commerce, the Conference Report on H.R. 6, the "Energy Policy Act of 2003"* (Nov. 18, 2003) (online at http://www.house.gov/commerce_democrats/press/108st80.shtml).

¹⁸ U.S. House of Representatives, Roll Call Vote on Agreeing to H.Rept. 108-375, the Conference Report on H.R. 6 (Nov. 18, 2003) (246 ayes, 180 nos).

¹⁹ U.S. Senate, Roll Call Vote on Invoking Cloture on H.Rept. 108-375, the Conference Report on H.R. 6 (Nov. 21, 2003) (57 yeas, 40 nos).

In the 109th Congress, House Energy and Commerce Chairman Joe Barton (R-Texas) announced that the House would pass an energy bill “basically identical” to the H.R. 6 conference report from the 108th Congress.²⁰ While he has held two hearings on the legislation, Chairman Barton has not committed to regular Committee process, in which the bill is examined in public and amendments are offered and debated in the relevant subcommittees and in full committee.

The text of this legislation will have sweeping impacts on the state of California and the nation. Future fact sheets will examine some of these provisions.

²⁰ House Committee on Energy and Commerce, *Barton Outlines Ambitious Hearing Schedule As Energy Legislation Is Prepared for Action* (Feb. 9, 2005) (online at http://energycommerce.house.gov/108/News/02092005_1434.htm). For the text of the legislation, see House Committee on Energy and Commerce, *The Energy Policy Act of 2005 Discussion Draft* (online at http://energycommerce.house.gov/108/energy_pdfs.htm).