EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 6 – Energy Independence and Security Act of 2007
(Rep. Rahall (D) WV and 198 cosponsors)

In his 2007 State of the Union Address, President Bush announced the "Twenty in Ten" Initiative, a plan to reduce projected gasoline usage in the United States by 20 percent in 10 years. "Twenty in Ten" called on Congress to pass legislation that would: (1) establish an Alternative Fuel Standard requiring the equivalent of 35 billion gallons of alternative fuels by 2017; and (2) provide the Department of Transportation (DOT) authority to increase fuel economy standards for cars under a reformed structure (CAFE reform) based on sound science, safety, and cost-benefit analysis.

The Administration appreciates that Congress, in response to the President's call, has produced a bill including aspects of the "Twenty in Ten" initiative. Unfortunately, the bill contains several highly objectionable provisions that would impose higher costs on American taxpayers, electricity consumers, and businesses. Specifically, the bill raises taxes in a way that will increase energy costs facing consumers. It would also impose a national renewable electricity standard that would ignore the specific energy and economic needs of individual States. If H.R. 6 were presented to the President in its current form, his senior advisors would recommend that he veto the bill.

The Administration's principal objections to H.R. 6 are described below.

Fuel Economy Standards (CAFE): The Administration supports significant increases in fuel economy standards, and has proposed such increases in the "Twenty in Ten" initiative; it soon will propose such increases by administrative rulemaking. Unfortunately, H.R. 6 leaves ambiguous the role of the Environmental Protection Agency (EPA) in regulating vehicle fuel economy, and as a result would likely create substantial regulatory uncertainty, confusion, and duplication of efforts. The bill could also delay effective implementation of new fuel economy requirements due to inevitable litigation. The double regulation that would result from this failure to clearly identify the relative roles of EPA and DOT in national fuel economy regulations could greatly undermine our shared objective of rapidly reducing gasoline consumption. The bill needs to clarify one agency as the sole entity, after consultation with other affected agencies, to be responsible for a single national regulatory standard for both fuel economy and tailpipe greenhouse gas emissions from vehicles.

Alternative/Renewable Fuel Standards (AFS/RFS): The "Twenty in Ten" initiative contained an ambitious alternative fuel standard to displace 35 billion gallons of gasoline consumption by 2017. H.R. 6's prescriptions regarding the greenhouse gas content of approved fuels lack flexibility, and would interfere with the bill's ability to facilitate alternative fuel generation. The bill would fragment the market by picking and choosing among fuel types instead of relying on market forces to develop new, more advanced technologies and the next generation of fuels with lower greenhouse gas emissions. Additionally, a new alternative fuel standard should include an effective safety valve, should be technology neutral, and should rely on market innovation instead of excessive statutory prescription. The safety valve included in the bill is inadequate to its purpose. Whereas a properly functioning safety valve would limit price distortions arising from an alternative fuel mandate, the safety valve in H.R. 6 would be too limited to function effectively, being triggered only in the event that a single fuel (cellulosic ethanol) fails to meet prescribed production targets. Finally, the AFS/RFS programs established by this legislation must clearly be granted exclusivity over all other Federal, State, and local laws and regulations relating to alternative fuels.

Renewable Electricity Standards: The bill would impose a national renewable electricity standard (RES) for power generation, which the Administration previously has stated would be strongly opposed. A one-size-fits-all Federal RES would result in higher electricity costs for consumers in areas where renewable resources are less available and could place new strains on electricity reliability. Such a Federal RES mandate ignores the specific energy and economic needs of individual States. There are significant regional differences in availability, amount, and types of renewable energy resources, resulting in different regions of the country relying on different fuel mixes for their electric generation needs. As a result, standards are best left to the States' discretion. Efforts created by and tailored to individual States have led to a significant increase in lower-carbon power generation nationwide, including a four-fold increase in wind power from 2000 to 2006. The bill arbitrarily chooses certain technologies with low-carbon emission profiles, while excluding many existing and emerging technologies that perform similarly. Today, almost 30 States have portfolio standards. A Federal RES that is unfair in its applications and prescriptive in its definition will hurt consumers and undercut decisions States have made and are making.

Taxes: The Administration strongly opposes raising taxes in a way that will lead to higher energy costs to U.S. consumers and businesses. Furthermore, the Administration strongly opposes using the Federal tax code to single out specific industries for punitive treatment. For example, repealing the manufacturing deduction for certain oil and gas companies is a targeted tax increase that puts U.S. firms at a disadvantage relative to their foreign competitors. Changes to the foreign tax credit rules related to foreign oil and gas extraction income and foreign oil-related income will also disadvantage U.S.-based companies by reducing their ability to compete for investments in foreign energy-related projects.

As indicated in previous communications, the Administration supports an extension of the Secure Rural Schools program provided it is appropriately offset with spending reductions and that payments are phased out over time, which the provision in this bill does not achieve. The Administration also opposes shifting the Payment in Lieu of Taxes (PILT) program from discretionary to mandatory spending.

H.R. 6 also includes expensive and highly inefficient tax credit bonds for renewable energy production and conservation efforts. Current law already provides sufficient Federal assistance to encourage these efforts.

Davis-Bacon: H.R. 6 is contrary to the Administration's long-standing policy of opposing any statutory attempt to expand or contract the applicability of Davis-Bacon prevailing wage requirements. One example, among others, is Section 136, which would impose a new Davis-Bacon requirement for loans made under the Advanced Technology Vehicles Manufacturing Incentive Program.

High Performance Federal Buildings: The requirements of this subtitle are less flexible, more limiting, and inconsistent with the timelines of the High Performance Buildings goals of Presidential Executive Order 13423. E.O. 13423 includes additional building attributes beyond the energy efficiency and water consumption goals of the subtitle. These additional elements of the E.O., such as daylighting, building materials, and indoor air quality, are important to creating truly sustainable high performance buildings. E.O. 13423 also accounts for possible extenuating circumstances that keep an agency from meeting a goal in a particular year by allowing them to make it up in subsequent years to still achieve the overall goal of 30 percent reduction of energy intensity by 2015.

Additional Concerns: The Administration strongly opposes unnecessary and duplicative new Federal energy efficiency programs. These include provisions that would establish unnecessary new bureaucracies and impose unrealistic deadlines for promulgation of appliance standards, which conflict with existing court orders. Also highly objectionable are provisions that would establish unnecessary and duplicative workforce training programs and provisions that would unnecessarily increase taxpayer-funded subsidies for small business programs. Among the most problematic of these is a provision that would create a renewable fuel investment company program, providing subsidized venture capital where government assistance is not needed, in a manner that is likely to result in high taxpayer cost. The Administration strongly opposes provisions that are inconsistent with Federal credit policy, which would increase risk and displace private sector credit markets at the taxpayers' expense. Finally, the bill contains several provisions that would raise constitutional concerns.

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