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CREATOR:Marlo Lewis <mlewis@cei.org> (Marlo Lewis <mlewis@cei.org> [UNKNOWN])

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TO:Marlo Lewis <mlewis@cei.org> (Marlo Lewis <mlewis@cei.org> [UNKNOWN])

READ:UNKNOWN

BCC:Debbie S. Fiddelke (CN=Debbie S. Fiddelke/OU=CEQ/O=EOP [CEQ])

READ:UNKNOWN

TEXT:

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Killing Energy: Beware the ŸSoft KyotoŸ8 Strategy

By Marlo Lewis, Jr.

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Determined to pass energy legislation before Congress adjourned for its August recess, Senate leaders brokered a deal replacing this yearŸ,s Republican-drafted bill (S. 14) with last yearŸ,s Democrat-drafted bill (S. 517). Both bills are laden with pork, but S. 517 actually qualifies as an anti-energy bill.

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To begin with, S. 517 affirms the Kyoto ProtocolŸ,s pseudo-scientific vision of an impending climate catastrophe caused by man-made emissions of carbon dioxide (CO2), the inescapable byproduct of fossil fuel energy generation. If Congress puts its seal of approval on this kind of alarmism, it would mobilize pro-Kyoto lobbying both inside and outside the U.S. government. Not coincidentally, S. 517 would create a White House climate czar charged with the tasks of developing and presenting to Congress a national carbon reduction strategy. In other words, the bill would establish a permanent institutional base within the Executive Branch for anti-energy advocacy.

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In addition, S. 517 would set up a national registry to track companiesŸ, carbon emissions. If after five years companies producing at least 60 percent of estimated U.S. emissions decline to ŸvolunteerŸ8 for the program, participation becomes mandatory, enforceable by fines of up to \$25,000 per day. In other words, the bill would build the monitoring and enforcement framework for a future Kyoto-style emissions cap-and-trade program.

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Finally, S. 517 would institute the first nationwide renewable portfolio standard (RPS) for the electric power sector. An RPS is a regulatory scheme requiring a specified percentage of electricity to come from solar, wind, and other politically correct technologies. Under S. 517, 10 percent of the nation's electricity would have to come from renewable sources by 2020.

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The Republicans who will control the House-Senate conference committee on energy legislation in September are no fans of S. 517. Senator Pete Domenici (R-N.M.) has even suggested that S. 517 is irrelevant, stating: "We're the majority. We write the bill in conference." However, the outcome is far from certain.

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As part of the deal, Senate leaders agreed to schedule debate on the Climate Stewardship Act (S. 139), sponsored by presidential wannabes Senators John McCain (R-Ariz.) and Joe Lieberman (D-Conn.). Like the Kyoto Protocol, S. 139 would impose caps on carbon dioxide emissions from the U.S. power, manufacturing, and transportation sectors.

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McCain says he does not expect Congress to enact his bill. However, opponents may feel they have to accept an RPS as a top priority of Senate Energy and Natural Resources Committee ranking member Jeff Bingaman (D-N.M.) in order to look green and produce a bill that Democratic leaders can support. But an energy bill with an RPS would not be worth having, for several reasons.

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First, an RPS is fundamentally a set-aside program—a corporate welfare entitlement for industries that would not exist in a free market. Whatever level it is initially set at, the RPS will function as a floor, not a ceiling. Once enacted, it will strengthen the renewable-energy lobby and grow like other entitlements. The potential to exploit consumers, misdirect capital investment, and undermine the productivity of electric-intensive industries is vast. In March 2002, John Kerry (D-Mass.), Joe Lieberman, and 27 other senators voted for a 20-percent RPS twice the size of S. 517's mandate. Enacting a 10-percent RPS would encourage those worthies to keep pushing, year after year, until Congress ratchets up the RPS to 20 percent or higher.

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Second, a nationwide RPS is an unfunded, one-size-fits-all federal mandate. What is the point of requiring states to devise implementation plans to meet federal clean air standards if Congress is going to dictate the details of those plans? States are already free to subsidize and mandate the use of renewables if they wish, and many do. A nationwide RPS tosses federalism out the window.

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Third, if Congress forces the power sector to use more non-fossil energy, utilities will have less reason to resist Kyoto or McCain-Lieberman, since

they will already effectively comply with a carbon cap. Indeed, some may even lobby for McCain-Lieberman, calculating that their renewable portfolios will make them net sellers of carbon credits under a cap-and-trade program. Instead of mollifying the Kyoto crowd, enacting an RPS will simply tee up McCain-Lieberman for the next round.

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Compromises that advance your opponent's agenda and build his power base are seldom stable and never smart. Better no energy bill than a bill with a renewable-portfolio standard.

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C | E | I * 1001 Connecticut Avenue, N.W., #1250* Washington, D.C., 20036ÿ
* (202) 331-1010 * www.cei.org

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