COMMITTEE ON FINANCE
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Max Baucus, Chairman
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Contact: Dan Virkstis
202-224-4515

Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding Technology Neutrality in Energy Tax

Justice Oliver Wendell Holmes wrote: "[T]he best test of truth is the power of the thought to get itself accepted in the competition of the market . . . ."

Today we consider a new thought in the marketplace of ideas about tax incentives. The thought is that, in the creation of energy tax incentives, the government might not pick and choose among different technologies.

The thought is: The government might just set a performance standard, regardless of the technology employed. We could encourage things like reduction in greenhouse gas emissions, improvement in efficiency, or increased energy content. And then we would leave the job of picking the best technology to the competition of the market.

Folks call this sort of incentive structure "technology neutral."

There are several reasons why a tech-neutral approach to energy tax incentives might make sense.

First, it might well provide more bang for our energy-tax buck. By tying receipt of these credits to a common standard, we may be able to set the level of incentives more efficiently.

Second — and this may come as a surprise to many in the room — sometimes government gets it wrong.

Consider the credit that Congress enacted in 1980 to stimulate oil shale, tar sands, and synthetic fuels from coal. The idea sounded good at the time. But many companies exploited the credit. Some sprayed coal with chemicals for no reason other than to line their pockets.

Third, a technology-neutral approach might mean that we have to change the tax code less often. Technology is bound to change faster than Congress can act. So there's appeal to instituting a series of incentives that we don't have to update all the time.

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We've already taken some steps toward technology neutrality in recent legislation.

For example, as part of last year's farm bill, Congress enacted the first-ever credit for cellulosic biofuels. Now this might sound like credit that picks a specific technology. But in fact, we passed a technology-neutral credit for cellulosic biofuels.

Another example is the approach that we took on coal incentives in last year's energy-tax bill. We removed the bias toward integrated gasification combined cycle facilities. And we put in its place a requirement that all recipients of clean coal tax credits meet at least a 65 percent standard for capture and storage of carbon dioxide.

This approach sounds sensible. Congress should not pick winners and losers. We should set a level playing field of standards for energy tax incentives. And we should let the marketplace foster competition.

But we need to beware of pitfalls.

For example, a couple years ago, Congress modified the alternative fuels tax credit. That's a 50-cent-a-gallon credit for a range of alternative fuels, including liquefied petroleum gas, compressed natural gas, liquid coal, and biomass-based fuel.

In modifying the definition of biomass-based fuel, the credit was inadvertently opened to apply to what is called "black liquor." Black liquor is a byproduct of the pulp-making process that has been used to power paper mills since the 1930s.

Paper companies learned that they could benefit from the alternative fuels credit by mixing a small amount of diesel with their black liquor, and then registering with IRS.

Unless we plug this loophole, the Federal Government is liable for billions in credits for black liquor in 2009 alone, even though the credit was never intended for this fuel.

So in this case, a more technology-neutral approach led to a dramatic spike in the use of the credit for an unforeseen purpose.

We are working to undo that unintended consequence. But our experience with black liquor suggests that we should exercise caution as we consider a tech-neutral approach. We have to make sure that we write the incentives correctly.

This committee has done a lot on energy tax incentives in recent months. And I'm proud of what we've achieved. But as we prepare for the next energy debate, including climate-change legislation, it may be time to consider an alternative means of promoting alternative energy.

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And so, let us consider a new thought in the marketplace of ideas about tax incentives. Let us see if there is sense in getting the government out of the business of picking and choosing among different technologies. And let us see if technology-neutral incentives might just be a thought that gets accepted in the marketplace of ideas.

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