RSC Republican Study Committee

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Contents:

H.R. 2454—The American Clean Energy and Security Act
(Rep. Waxman, D-CA)
or more commonly
"Cap & Tax" or "National Energy Tax"

Key Conservative Concerns
Take Away Points

- ***National Energy Tax:*** This is a tax that will affect constituents in *every* aspect of their lives. From transportation, to food, to electricity, to income - this is the ultimate regressive consumption tax to the tune of nearly *$3,000 per year* according to the Heritage Foundation. The costs per family for the whole energy tax aggregated from 2012 to 2035 are estimated to be *$71,493.*

- ***Exacerbates the Economic Crisis:*** Studies from numerous independent research groups, including MIT, the Heritage Foundation, and CRA International, all agree that implementing a massive cap and tax scheme will *cost millions of jobs*, *reduce earnings* for the average U.S. worker, and *devastate GDP*.

- ***Massive Job Losses:*** According to the Heritage Foundation, employment will be lower by 1,105,000 jobs per year. In some years, the national energy tax will reduce employment by *nearly 2.5 million jobs*.

- ***Winners & Losers:*** The bill *transfers wealth* from rural areas to cities. States like California, Washington, and New Jersey would receive more emission credits than they need, enabling them to sell surplus credits to smaller facilities in states like Ohio that receive maybe half of the credits they need - making the rich, richer, and the poor, poorer.

- ***Little Environmental Impact:*** The bill will cost consumers trillions of dollars, while reducing, by a very small amount the carbon dioxide that is contained in our atmosphere. World-wide *emission reductions would be negligible* without the full participation of all nations. Additionally, just because the government requires a certain decrease in emissions within a certain timeframe, does not mean such decreases can occur in that time period.

- ***Green Jobs Are a Proven Failure:*** According to a recent study that reviewed the impact of "green jobs" in Spain, the U.S. can expect *2.2 jobs to be destroyed for every 1 renewable job* financed by the government. Only 1 in 10 of the jobs actually created through green investment is permanent, and since 2000, Spain has spent 753,778 U.S dollars to create each "green job," including subsidies of more than $1,319,783 per wind industry job.

- ***Free Money to Select Corporate Titans:*** Government-run "cap and trade" is, by definition, a central economic planning scheme in which the *government decides* which industries and companies deserve more or fewer credits and what business factors and economic outputs are "necessary." Small business and rural interests never had a seat at the table when discussions occurred on how to craft H.R. 2454.

- ***Creates a Derivatives Market for Companies like AIG:*** Companies like AIG and ENRON will be participating in a new derivatives market that is much more volatile than housing or natural gas. This *new unregulated derivates market* will be more perilous for companies like these than the traditional ones that got them into trouble in the first place. In addition, since the created artificial market contains no transparency, it is more likely to attract traders intent on imposing Ponzi schemes in the same spirit of Bernie Madoff and swindle thousands of Americans.

- ***Devastates Rural America***: According to the National Rural Electric Cooperative Association, the monthly residential electricity bills in 25 states will increase 15 to 28 percent for every $20/ton of carbon dioxide allowances. Rural households spend 58% more on fuel than urban residents as a percentage of their income. The Heritage foundation estimates *farm income will drop by $50 billion* by 2035.

- ***Concedes to the Competition:*** Currently, China accounts for 85% of global growth in coal each year and is the world's largest annual emitter of greenhouse gases. China's energy usage rose by 7.2% last year and they are *building approximately two coal fired power plants per week* to keep up with demand. Recently, at a U.N. conference, the Chinese government's advisory panel on climate change asserted that the cap and tax targets were too low by stating Given that, it is natural for China to have some increase in its emissions, so it is not possible for China in that context to accept a binding or compulsory target. In addition, India will not agree to any cap on their total energy production, and many believe India will double their coal-fired-capacity by 2030.

- ***Discriminates Against Developing Nations:*** The bill creates a new program under USAID to provide U.S. foreign aid to developing countries for their efforts to adapt to climate change. Essentially, the bill is sending taxpayer funds to encourage third world nations to not develop carbon emitting energy sources – keeping them at a *competitive disadvantage* from developed nations for even more decades to come.

- ***Establishes an Unrealistic Renewable Energy Standard (RES):*** "Cap and tax" *does not* take into account the fact that additional *hydropower*, *nuclear* and advanced *fossil coal* power plants cannot be deployed quickly enough to meet expected growth in electricity demand while also dramatically reducing greenhouse gas (GHG) emissions. Since renewable technology accounts for a small percentage of energy demand, consumers can expect not only higher rates, but more transmission problems during peak hours of demand. Additionally, the bill preempts at least 23 state renewable electricity standards.

- ***Davis-Bacon:*** "Cap and tax" expands Davis-Bacon prevailing wage requirements to many provisions of the bill. This policy ahs been shown to *increase public construction* costs by anywhere from 5 to 38 percent above projected costs for the same project in the private sector.

- ***Bloated Bureaucracy:*** The bill establishes a myriad of new federal agencies intertwined between at least 21established agencies with the mission of reallocating trillions of taxpayer dollars in a supposedly fair and efficient manor. According the U.S Chamber of Commerce, the bill will impose 397 new federal regulations that require traditional agency rulemakings.

- ***Countless Federal Mandates:*** The bill imposes over a thousand mandates and even mandates efficiency requirements on electric appliances like Jacuzzis.

For more details on these concerns, see below

Order of Business: The bill is scheduled to be considered on Friday, June 26, 2009 under a yet to be determined rule. Over two hundred amendments are being considered in the Rules Committee tonight.

Summary: At over twelve hundred pages long, the bill contains four titles that will according to supporters, "create millions of new clean energy jobs, save consumers hundreds of billions of dollars in energy costs, enhance America's energy independence, and cut global warming pollution." Click here to for a quick run-down on why Chairman Waxman's claims are wrong.

In general, the bill mandates that 15 percent of the nations' electricity to be generated by wind, solar and other renewable energy sources (*not nuclear*) and five percent from energy efficiency upgrades. The bill sets a 17 percent cut in U.S. greenhouse-gas emissions, compared with 2005 levels, by 2020. Ultimately, the emissions goal would require an 83% reduction below 2005 levels by 2050, returning to carbon-dioxide levels not seen in over a century.

In order to reach that goal, the bill would limit (or cap) the quantity of certain greenhouse gases emitted from facilities that generate electricity and from other industrial activities over the 2012-2050 period by having the Environmental Protection Agency establish a so-called "cap-and-trade" system, which sets a national emissions limit and requires companies to amass credits they could buy or sell for all the gases they emit. Most - possibly 85% - of these pollution allowances will be distributed at no charge to certain industries and companies by the federal government. Remaining allowances may be auctioned by the federal government. Ultimately, this energy plan amounts to a national energy tax.

In order to satisfy the demands of House Agriculture Chairman Peterson (D-MN), over the course of the past week, House Democrats have engaged in closed-door negotiations to appease his concerns. Late Monday night it was reported a deal was reached. Some of the major brokered provisions include the bill reportedly providing one half of one percent of the total allowances to small electricity distribution companies that deliver less than 4 million megawatt-hours of energy per year. In addition to the two percent of allocations already provided to large refiners, small refiners would receive a quarter of one percent of the allocations. States would be allowed to use up to ten percent of their allowances for "clean" transportation initiatives – including bike facilities.

What follows is an analysis of the legislative text of the bill highlighting significant provisions:

> * Note: Because of House Democrats' unwillingness to fully disclose major provisions of the bill before press time, some of the following provisions may be subject to changes.

Shadegg Amendment for Study:

- ***Report:*** The legislation includes an amendment attached in committee by Rep. Shadegg (R-AZ), requiring the U.S. Trade Representative to certify a congressional report regarding whether China and India have adopted greenhouse gas emissions standards at least as strict as those standards required under this Act. If the Administrator determines that China and India have not adopted greenhouse gas emissions standards at least as stringent as those set forth in this Act, the Administrator shall notify each Member of Congress of his determination, and shall release his determination to the media.

Title One – "Clean Energy"

Subtitle A-Renewable Energy & Electricty Standard (RES):

- ***RES:*** The bill establishes a combined efficiency and renewable electricity standard that mandates utilities to supply an increasing percentage of their demand from a combination of energy efficiency savings and renewable energy. By 2020, 15 percent of the nation's electricity would be required to be generated by wind, solar and other renewable fuel sources (RFS) - this does *not include nuclear* - and five percent from energy efficiency upgrades. The goal would be to reduce greenhouse gas emissions 17 percent by 2020. A state can request a reduction for electricity suppliers in their state, up to 40% of their RES compliance by demonstrating reductions in their customers' consumption through qualified energy projects initiated after the bill becomes law.

  In order to meet the RES requirements, producers would have to supply their own qualifying renewable power, purchase renewable energy credits (RECs) from other firms, or make alternative compliance payments to the state in which they operate. For each hour generated from a renewable energy resource, an REC would be issued which could be traded on a secondary market.

  The Peterson Amendment changes the definition of biomass to be conducive to how it is treated on private lands. However, the amendment does not make it a permanent addition to the RES and instead requires a five year study to determine if greenhouse gas emissions from international indirect land use changes be should be charged against biofuels' eligibility for the RES. A congressional determination would be made after the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the EPA evaluate the study.

Subtitle B-Carbon Capture & Sequestration (CCS):

- ***CCS:*** The bill will establish a new federal Carbon Storage Research Corporation to levy annual assessments on energy distribution and support research and development of technologies related to CCS. This new entity would cost between $1 and $1.1 billion annually according to CBO. The bill also applies performance standards to coal-fueled power plants.

The underlying bill prohibits the construction of new coal-fired plants after 2009, without CCS technology in place. Currently, CSS technology is not a viable technology that can produce clean and cheap electricity. In effect, this provision will cause "electricity prices to necessarily skyrocket," like President Obama promised.

Subtitle C-Clean Transportation:

- ***Plug-In Electrics:*** The bill contains several sections to supposedly boost the viability of plug-in electric vehicles in the market-place by establishing protocols to integrate the cars with a smart grid system. The bill also authorizes the DOE to facilitate the deployment of electric charging stations or battery exchange locations, and provides financial assistance for retooling existing factories for the manufacture of electric vehicles.

- ***Loan Guarantees:*** Doubles the Advanced Technology Vehicles Manufacturing Incentive Program established under the Energy Independence and Security Act of 2007 to $50 billion. Spending for the additional $25 billion in loans authorized in the bill would be subject to appropriation. The program directs loans to eligible applicants for the costs of reequipping, expanding, and establishing manufacturing facilities in the United States to produce advanced technology vehicles, and components for such vehicles. These vehicles must provide meaningful improvements in fuel economy performance. Some conservatives may view this provision as another "auto bailout" that will increase the federal role in the automobile industry.

- ***Flex Fuel:*** Authorizes the Secretary or EPA to determine that in order to qualify as an automobile after 2015, vehicles must be capable of operating with E85 or M85 or another biodiesel. Some conservatives have expressed concerns this provision picks winners and losers. Notably, only 2% of gas stations nationwide distribute these blends, and this mandate could cost the auto industry upwards of $1 billion dollars when it can least afford it.

Subtitle D-State Energy and Environmental Development (SEED):

- ***SEED Accounts:*** Establishes a state-level repository for managing and accounting for all emission allowances designated primarily for renewable energy and energy efficiency purposes and mandates at least 12.5% of the allowances be distributed to local governments for these purposes.

Subtitle E-Smart Grid Advancement:

- ***Smart Grid:*** Establishes a national program to reduce peak electric demand for load-serving electric utilities and an energy efficient appliance rebate program to include rebates for efficient appliances with smart grid features and capability. Some conservatives have expressed concerns that the implementation of national smart grid will lead to local right-of-way issues and ultimately eminent domain concerns.

Subtitle F-Transmission Planning:

- ***Transmission:*** Establishes a *federal* policy on electric grid-planning for new technology, demand-side management, and storage capacity, rather than relying on a regional planning process.

Subtitle H-Energy and Efficiency Research Centers:

- ***Energy Innovation Hubs:*** The bill allows the Sectary of Energy to select sites for these hubs to dedicate 40% of its funding to focus on research and development of a specific renewable technology. *Note:* Once again, this does not include nuclear or 'clean-coal.' The section also authorizes $50 million for "building assessment centers" to advance understanding of energy efficient buildings.

Subtitle I-Nuclear and Advanced Technologies:

- ***Nuclear & Advanced Technologies:*** This subtitle contains a number of provisions that touch on nuclear energy, including revisions to the loan guarantee program. Some conservatives may be concerned that this is a futile attempt to give this legislation a nuclear title, when in actuality it will likely do nothing to develop capacity – which would increase American energy supply and create thousands of jobs.

- ***Clean Energy Deployment Administration:*** Establishes a new bureaucracy to administer a Clean Energy Investment Fund tasked with distributing $7.5 billion in green bonds and direct loans.

Subtitle J-Miscellaneous:

- ***Misc:*** Establishes a national bio-energy partnership, provides for additional hydro-electricity at federal facilities, and creates an Office of Consumer Advocacy.

Title II-"Energy Efficiency"

Subtitle A-Building Efficiency Programs:

- ***National Building Standard:*** Instructs the Secretary to enact residential building codes that will achieve 30% and 50% higher energy efficiency by 2010 and 2014, respectively (2010 and 2015 for commercial buildings). States will receive federal funding to help comply with these goals, but if a state cannot comply, it will not receive emission allowances and federal funding will be reduced. Some conservatives may be concerned this creates new authority for the federal government to regulate building codes by holding developers and homeowners liable for not reaching federal energy efficient mandates, even if the buildings are in compliance with applicable local building codes.

- ***Retrofit Program:*** Provides funding to states to support the development of a standards and processes program called REEP for retrofitting existing residential and nonresidential buildings.

- ***Efficiency Grants:*** Allows states to provide rebates of up to $7,500 toward purchases of new Energy Star-rated manufactured homes for low-income families residing in pre-1976 manufactured homes.

Subtitle B-Lighting and Appliance Energy Efficiency Programs:

- ***Lighting Efficiency:*** Creates more stringent standards on the manufacturing of out-door light bulbs by limiting wattage output through 2015.

- ***Jacuzzi Standard:*** Places new energy standards for hot food holding cabinets, bottle-type drinking water dispensers, portable spas (hot tubs), and commercial-grade natural gas furnaces. Based on carbon-dioxide reductions, the EPA could mandate even stricter standards later on. The bill also contains mandates on other appliances, including televisions.

- ***Best in Class:*** The bill directs the Secretary to designate "Best-in-Class" product models for the most efficient 10 percent of the commercially available product models in a class that demonstrate greater energy efficiency than a similar class of appliances, equipment, or electronics. Additionally, the Secretary could provide rewards to retailers for successful marketing of high-efficiency appliances.

- ***Water Efficiency:*** Authorizes $88 million to establish a WaterSense program at the Department of Energy to identify and promote water efficient products, buildings, and landscapes.

Subtitle-C Transportation Efficiency:

- ***California Emission Standard:*** Directs federal entities to streamline federal fuel economy standards, emission standards promulgated by the EPA, and the California standards for light-duty vehicles. The section also requires states to submit to the EPA plans for reducing greenhouse gas emissions resulting from transportation. Some members have expressed concerns that this is a backdoor effort to codify even more ambitious emission goals than auto manufacturers can currently produce, and will further endanger the auto industry.

Subtitle D-Industrial Energy Efficiency Programs:

- ***Industrial Efficiency:*** Establishes standards for industrial energy efficiency and authorizes $250 million for an electric motor efficiency rebate program to improve horsepower.

Subtitle E –Improvements in Energy Savings Performance Contracting:

- ***Contracts:*** Establishes competition requirements for specific energy savings performance contract task orders.

Subtitle F-Public Institutions:

- ***Public Institutions:*** The bill removes limits on funds received by communities through the Energy Efficiency and Conservation Block Grant program that can be used to fund revolving loan accounts, and authorizes $50 million in grants to community development organizations to provide financing to improve energy efficiency.

Subtitle G-Miscellaneous:

- ***Misc:*** Establishes an Office of Management and Budget plan to purchase energy efficient communication devices and establishes a national program for measuring, reporting, publicly disclosing, and labeling products or materials sold in the United States for their carbon content.

Title III –"Global Warming Pollution Reduction Program"

A co-called "cap and trade" system sets a limit, or cap, on carbon dioxide emissions from fossil fuel use. The effect would amount to rationing emissions from fossil fuels that produce carbon dioxide. Essentially, the federal government would set some sort of *cap* on total carbon dioxide emissions and establish a yet-to-be-defined carbon allowance on each utility or company (also undefined what companies would be subject to an allowance). Those companies that emit less carbon dioxide than permitted by the allowance may *trade* credits to other companies that exceed the allowance. Because it is evident that the cost of these allowances will be passed on to the consumer, this proposal amounts to a "National Energy Tax."

Reduction Goals and Targets:

- The section contains a findings section outlining the still-disputed consequences of not reducing greenhouse gas emissions, and sets targets to reduce those emissions at 17 percent below 2005 levels by 2020, 42 percent below 2005 levels by 2030, and 83 percent below 2005 by 2050. The section also sets aside emission allowances to be used in developing countries with the goal of reducing deforestation. The bill expands the list of greenhouse gases (GHG) recognized by the U.S., adding gases previously not considered under the U.N. definition.

Program Rules:

- ***Entities & Allowances:*** This section defines entities subject to the law as a *covered entity*, simply any entity that consumes or distributes a specific amount of electricity from fossil fuels or that omit a greenhouse gas. The section separates this from a *stationary source*, essentially a statuary structure or stationary machine that emits a greenhouse gas. Once the Director of the EPA establishes allowances (how much the government determines an entity can pollute), a cap is established on how much greenhouse emissions an entity can emit, based on the number of emission allowances and offset credits they hold.

- ***Artificial Allowance Market:*** The legislation permits the trading and sale of allowances among emission allowance holders by not restricting who can hold an allowance, nor does it restrict the purchase, sale, or other transactions involving allowances. The bill allows covered entities to borrow an unlimited number of allowances from one year into the future. Additionally, the bill creates a strategic reserve of allowances to back the artificially created market by setting aside allowances each decade and adding unsold emission allowances from the regular auction.

Offsets:

- This section establishes an Offsets Integrity Advisory Board within the EPA to determine the what types of offset project types should be listed by EPA as eligible. The eligibility requirements and qualified projects discussed in this section are vague, but the bill does contain a detailed and restrictive list on participation requirements. One qualified offset project listed is participation in a newly established EPA/USAID program to reduce emissions from international deforestation.

Distribution of Allowances:

- The government would distribute a significant value of allowances to multiple industries for free, picking winners and losers. If this legislation were enacted, the value of all the allowances would amount to tens of billions of dollars annually for private-sector entities and about $1 billion annually for public entities. $50 billion in allowances would be provided to states over the 2012-2016 period for specific purposes, including programs for improving energy efficiency, implementing regulations, and supporting other climate change programs. What follows are highlights by industry of allowance percentages in the bill:
  - **Electricity:** 35.5%, phased out by 2030 (0.5% of which goes to companies that deliver less than 4 million megawatt-hours of energy per year).
  - **Natural Gas:** 9%, phased out by 2030.
  - **Oil & Propane:** 1.5% of allowances will go to consumers who rely on oil and propone for heat.
  - **Trade Vulnerable Industries:** 15% of allowances will go to industries that are energy intensive, like cement, phased out by 2025 without a Presidential decree.
  - **Carbon Sequestration:** Grows from 1.75% in 2014 to 5% in 2020, lasting through 2050.
  - **Renewable Energy Efficiency Program:** Starts at 9.5%, but declines to 1% by 2025. Grows to 4.5% though 2050. 1.5% of these allowances would go to fund research and development at "Energy Innovation Hubs."
  - **Clean Vehicles:** 3% through 2017, 1% phased out by 2025 for auto manufacturers.
  - **Domestic Fuel Production:** Refineries get 2% of allocations though 2025; small refiners will receive 0.25%.
  - **Workers Fund:** Deposits up to 1% of the allowances in a Climate Change Worker Adjustment Assistance Fund, to compensate workers displaced because of the Act.
  - **International Allocations:** By 2026, 8% of all allowances would be given to international funds for deforestation and energy efficiency.
  - **Unallocated Allowances:** After 2026, unallocated allowances would be sold by auction.

Additional Greenhouse Caps:

- Requires the Administrator to use existing Clean Air Act authority to set greenhouse gas emission performance standards for certain sources, with greenhouse gas emissions that are not subject to the annual tonnage limits. While the bill caps certain greenhouse gases, conservatives have expressed concerns that the legislation allows the EPA administrator to regulate uncapped gasses – granting the EPA unprecedented discretion to regulate air quality on a case by case basis.

Title IV -"Transitioning to A Clean Energy Economy"

International Agreements:

- This section prescribes a policy that the United States should enter into additional binding international agreements to combat climate changes. Some conservatives have expressed concerns that this further undermines our sovereignty.

- Establishes an international reserve allowance program to require *foreign* countries to purchase allowances to limit the impact on U.S. exports. However, this provision does not include countries who do not participate in a carbon reduction program, such as India and China.

Green Jobs:

- Establishes award grants to universities and colleges to develop programs of study that prepare students for careers in renewable energy, energy efficiency, and other forms of supposed global warming mitigation.

- Establishes a new program making workers displaced by this Act eligible to receive up to *156 weeks* of income supplement, at 70% of their wages, 80 percent of their monthly health care premium, up to $1,500 for job search assistance, up to $1,500 for moving assistance, and additional employment services for skills assessment, job counseling, training, and other services. Some conservatives may believe that it would be better to prevent these jobs from being lost in the first place.

Consumer Assistance:

- Establishes an Energy Refund program where eligible low-income households are provided monthly cash payments, distributed through the states to reimburse the households for the estimated loss in their purchasing power. An eligible household must be at or below 150% of the poverty level.

Adaptation to Climate Change:

- Establishes a National Climate Service within National Oceanic and Atmospheric Administration to develop climate information, data, forecasts, and *warnings* at national and regional scales.

- Permits allowances to be used in conjunction with a state resiliency plan to implement adaptation projects, programs, and measures in conjunction with climate change.

Public Health and Climate Change:

- Instructs the Secretary of Health and Human Services to establish a National Strategic Action Plan to assist health professionals in preparing for, and responding, to the impacts of climate change.

Natural Resource Adaptation:

- ***Natural Resources Climate Change Adaptation Fund:*** Establishes a new fund to give federal agencies additional dollars to deal with climate change. Some conservatives may feel it is duplicative to provide agencies like the Fish and Wildlife Service with an additional undefined funding stem to deal with climate change when its' mission is preservation.

- ***International Climate Change Adaptation Program:*** Establishes a new program in collaboration with USAID to distribute allocations to foreign nations to adapt to climate change.

Title V-"Agricultural and Forestry Related Offsets"

(Provisions likely to be added under the rule)

Agricultural Offset Program:

- ***Offset Program:*** This section creates an offset credit program that parallels the offset program in the base bill run by EPA. However, this offset program is administered by the Secretary of Agriculture and shields agriculture and forestry from being regulated as a capped industry. The bill includes a list of initial projects that would be eligible for offset credits, which will be reviewed every 2 years. However, some conservatives continue to express concerns the amendment will still not adequately protect commodities industries that emit high amounts of methane, such as livestock or rice production.

- ***CCS:*** In order to qualify as an eligible project, new projects must develop improved carbon sequestration techniques, and no project begun before 2001 could participate. Some conservatives have expressed concerns that this would disqualify many projects from eligibility, despite the fact many of them use widely accepted sequestration techniques. According the Agriculture Committee, this will not allow 80% of the corn acres in Iowa to participate in the program.

- ***Permanence:*** Since the legislation requires all offsets to be permanent, the Peterson language attempts to accomplish this through the creation of "term offset credits," under which the farmer's obligation ends when the period for which he receives credits ends. However, many conservatives have concerns that this is still inadequate because additional credits will be needed when the farmer's participation ends.

Democrat Inconsistency Alerts!

Broken Campaign Pledge - Transparency: According to proponents of this legislation, a national energy tax bill is one of the most significant pieces of legislation that Congress will ever consider. Only one of the nine committees of jurisdiction took time to review the bill. There was no Republican input in the drafting of the bill. Hastily bringing a measure of this magnitude to the floor, with inadequate time to review, violates the Democrats' campaign promise, that they would bring unprecedented transparency to the legislative process.

Broken Campaign Pledge - "No New Taxes": President Obama promised to not increase taxes on any family earning $250,000 or less, and many House Democrats embraced that concept. H.R. 2454 is a regressive tax increase on *every* American – even for those in tax brackets so low they do not qualify to pay income taxes.

***Paid Vacation*? Great, but How Will We Afford to Get There?** Over the past two months, gas prices have risen significantly. House Democrats believe implementing a massive new tax during record unemployment is the most appropriate way to bring our nation out of severe recession. The American Petroleum Institute estimates that H.R. 2454 could increase the cost of gas by as much as 77 cents a gallon, and the price of jet fuel by 83 cents. Even if House Democrats give us all two weeks of paid vacation, most of us will not be able to afford to go anywhere with the astronomical cost of gasoline.

More Bio-fuels? The Bill Undermines Their Development: Less than two years ago, Democrats in Congress asked our farmers to develop and make renewable sources of fuel, like bio-fuels, more affordable with the passage of the 2007 Energy Bill. Today, they are imposing a massive tax on rural America that will make it more difficult for this to become a reality because many of the crops will be too expensive to yield affordable bio-fuels.

Energy Independence? The Bill Cuts Americans Off From Its Most Bountiful Energy Supply: H.R. 2454 will prohibit any additional coal fired power plants without carbon sequestration technology from being built in the United States after 2009. That technology is not currently feasible, and banning the production of coal-fired power plants will reduce electricity generation across the country and increase rolling blackouts, energy shortages, energy prices, and unemployment.

Green Jobs? More like the Unemployment Line: The bill provides unemployment checks for displaced workers: Despite the fact Democrats tout this legislation as a creator of so-called "green jobs," the bill creates a new programs to administer unemployment insurance for workers displaced by for ***three years***.

Possible Conservative Concerns:

National Energy Tax: The new regulations would create higher prices on consumers for just about everything. Sectors include: transportation, chemicals, wood products, machinery, paper, plastics & rubber, electrical equipment & appliances, construction and manufacturing.

The hardest hit would be the 95% of working families the President has pledged not to raise taxes on because of the regressive nature of this tax. This plan will increase energy costs to low-income consumers who spend 26% of their income on energy (compared to 4% for the median family) and unintentionally have the effect of a discriminatory tax based on economic status. Independent study, after study after study, have all found that this will lead to massive tax increases on every sector of the American economy. By raising electricity rates by 90%, gasoline prices by 74%, and natural gas prices by 55%, every family will be forced to share in the burden of this bill.

Exacerbates the Economic Downfall: Moving into a "cap and tax" system would place the United States economy at a distinct competitive disadvantage because it would place additional costs on American manufacturers and cede market share to overseas competitors not subject to limits on greenhouse gas emissions. "Cap and tax" does not only apply to the traditional energy producers, domestic industries like paper, cement, fertilizer, steel, and glass manufacturers also worry that increased cost burdens imposed by climate-change laws will put them at a severe competitive disadvantage to their international peers. Even Energy Secretary Chu stated at a House hearing, “If other countries don't impose a cost on carbon, then we will be at a disadvantage.”

Since a carbon rationing scheme could potentially apply to thousands of different products, some conservatives fear that this would violate U.S. obligations under the World Trade Organization (W.T.O.). Any restriction or tariff that would have to be placed on the many products affected by a “cap and tax” program would cause other countries to place a tariff on U.S. products regardless of carbon content.

Placing tariffs on products to compensate for our cap and trade system would raise tensions, decrease trade, and violate international law. With more than a third of the world’s population, China and India have no intention of imposing cap and trade system especially during an economic crisis. A cap and tax plan would be the greatest outsourcing boon in history because many U.S. manufacturers will find it more appealing to do business in nations that have energy polices not designed to increase the cost of doing business.

The Heritage Foundation has estimated that under Waxman-Markey, 1.38 million manufacturing jobs would be lost in the United States by 2035. These jobs would be either eliminated or outsourced to China and India, who have made it abundantly clear that they will not put the same carbon-cap or environmental standards in place.

Devastates Rural America: 80 percent of the electricity that rural cooperatives generate comes from coal-fired power plants, which serve 40 million Americans, averaging around seven consumers per mile. Conversely, other utilities that serve more urban communities get larger return on investment serving 35 customers per mile. The bill does not provide enough free emissions allowances to regions of the country that are more reliant on coal.

At least 34 agriculture groups, including the American Farm Bureau Federation, American Farmers and Ranchers, and National Corn Growers Association, have publically urged Members of Congress to oppose the Waxman-Markey bill. Additionally, no large farm groups have endorsed the bill. On average, 65 percent of farmers’ variable input costs are fuel, electricity, fertilizer, and chemicals. Even a small increase in the operating costs for domestic producers will be devastating to American agriculture because rural households spend 58% more on fuel than urban residents (as a percentage of their income). Additionally, the bill does not provide a realistic way for farmers to participate in carbon credit programs and largely ignores how agriculture would qualify for credits. The Heritage Foundation estimates farm income will drop by $50 billion by 2035 if a “cap and tax” regime is enacted.

Most American farms have enormous operating costs, but extremely low profit margins. Even a modest price increase in energy can dramatically affect a farm’s bottom line, as proven in last summer’s record high gas prices. Additionally, our farmers will face a severe competitive disadvantage on the world market because U.S. production costs will skyrocket’ but our foreign competitors will not. Exports account for approximately 25% of farm cash receipts.

These price increases inevitably will be passed onto the consumer because producers will pay more for fertilizer, gas, and other supplies needed for their agriculture operations. Every American will have to pay more for food, placing a greater strain on families.

Established Artificial Derivates Market: In 2007 the former CEO of AIG stated his company “can help shape a broad-based cap-and-trade legislative proposal, bringing to this critical endeavor a unique business perspective on the business opportunities and risks that climate change poses for our industry." Unlike home prices and energy commodities, their prices will never go to zero because they will always have some sort value. Market bubbles come and go and market corrections happen, but emissions permits that have an intrinsic value of nothing, could cause a market crash. In addition, without appropriate measures in place, the market is more likely to attract traders intent on imposing ponzi schemes in the same spirit of Bernie Madoff.

Free Money & Allocation Problems: The legislation's emissions caps would require the establishment of a large and powerful new government bureaucracy. This could trigger the type of influence peddling and system "gaming" that has plagued European GHG mitigation regimes. The laws, regulations, and mandates would give bureaucrats authority over how private companies function. In addition, a "cap and tax" auction results in the cartelization and central planning of our economy, since it is a government administered rationing scheme. Even the Environmental Protection Agency's own Region 9 (California) lawyers admit it "can easily be subject to gaming and manipulation, creating artificial scarcity that is likely to result in disruptions and unfairness." Auctioning the allowances will create the problem of awarding them to favorites because the process is done through a political allocation, and not through the market. This leads to serious potential for corruption; since local officials would have political (and perhaps monetary) incentives to help their local businesses get more credits. And businesses in the aggregate may have powerful economic incentives to get more credits than their designated allotment in a given year. Finally, auctioning the allocations will lead to a poorly regulated derivatives market, where many of the same companies that led us into the financial collapse, will now be in the business of selling and controlling the allocations.

No Effect on Climate: The bill will impose significant new costs on consumers and devastate job creation in the U.S. over the coming decade, while delivering no scientifically measurable benefit in terms of reduced global climate temperatures as far out as the year 2100. According to Institute of Energy Research, which analyzed a similar proposal in the 110^{th} Congress, even if a Kyoto-like treaty is adopted, it would only bring down world global temperatures by eighteen one hundredths of one degree by 2050. Another independent study that analyzed the bill published in May confirms this conclusion

Additionally, only a small amount of carbon dioxide - the gas that is most commonly blamed for global warming - is contained in our atmosphere as shown in this chart. Ultimately, world wide emission reductions are negligible without full participation. This bill asks American families to bear a cost of trillions of dollars to remove what amounts to a very small amount of the "danger" that causes global warming.

Some States Will Win, Some States Will Lose: Some states are born to sing the blues because "Cap and tax" treats families differently depending on where they live. Those who live in the Midwest, Southeast, and the Plains states would be taxed far more disproportionately than those who live in California or New England. Many of these states primarily rely on coal for power production, and would face higher penalties on their electricity because they are using the most efficient and least costly fuel. 86% of Ohio's energy demand relies on coal. In Indiana, it is 94%, in Missouri 85%, in Pennsylvania 56%, and in Wyoming 95%. "Cap and tax" is a transfer of wealth from those in the industrial and coal-producing states to those in who reside in Silicon Valley or Cape Cod. Struggling families facing unemployment rates approaching 20%, in states like Ohio and Michigan will be asked to pay even more in order to satisfy the consciences of those who live in many places like Beverly Hills.

Committee Action: On June 23, 2009, H.R 2998was introduced and referred to *eleven* committees of jurisdiction, which took *no further* action. A mark-up of a similar bill (H.R. 2454) took place on May 21, 2009 at the House Energy Commerce Committee and passed by a vote of 33-25. On June 19th, the bill was discharged from all other committees of jurisdiction and placed on the Union Calendar.

Administration Position: As of press time a Statement of Administration Policy has not been issued. However, the President has publically voiced his strong support for the legislation.

Cost to Taxpayers: At press time, no CBO score is available for the version of the bill that the House will be considering tomorrow. However, a CBO score for the version reported out of the House Energy and Commerce Committee (H.R. 2454) on June 5, 2009 is available. According to CBO, that version of the legislation would increase entitlement spending by $821 billion over ten years, increase tax revenues by $846 billion over ten years, and also authorize approximately $50 billion of discretionary spending over the same period. CBO scores the value of the allowances created by the bill as revenue to the federal government, and scores the emission allocations freely given away as entitlement spending.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the legislation establishes a number of new programs within the EPA, authorizes the use of funds to administer a number of domestic and international environmental programs, and in general dramatically increases the role of the federal government in the economy.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes, the bill places many expensive mandates on all sectors of the American economy. According the U.S. Chamber of Commerce, there are over 1,000 mandates in the bill. According to CBO, the cost of mandates in the bill would *well exceed* the annual thresholds established in UMRA for intergovernmental and private-sector mandates (in 2009, $69 million and $139 million respectively, adjusted annually for inflation).

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The committee report for H.R 2454 states that the bill contains no earmarks or limited tax or tariff benefits.

Constitutional Authority: The committee report for H.R. 2454 cites Constitutional Authority in Article I, Section 8, Clause 18 (necessary and proper), but fails to cite a foregoing power to what this clause reflects.

Voice Outside the Beltway

A May poll conducted by Americans for Tax Reform Found:

- 26% of registered voters polled support so-called “Cap and Trade”, while 52% oppose the policy.

- 58% of voters polled say they are unwilling to pay any more than they currently pay for electricity to combat climate change.

- Over 70% of respondents stated that, under Cap and Trade, the poor and middle class will have trouble paying their electric bills.
- 78% of all respondents stated that a $50 increase on their electric bill would be a hardship.
- 68% of voters polled disagree with the idea that Congress should enact a carbon tax to encourage consumers to cut back on their electricity usage.
- Over half (50%) of the country opposes enacting a carbon tax to fund energy research.
- When asked of issue priorities, 73% of respondents placed the economy first; health care is a distant second at 17%.
- In addition, a recent Gallup Poll found that "a majority of Americans say economic growth should be given the priority, even if the environment suffers to some extent."

"Most fruit, potato and vegetable producers will not qualify for offsets. Western ranchers whose operations are heavily dependent on the use of federal lands for livestock forage also have limited offset opportunities. Many areas of the West in general that are coal-dependent are also the areas that have limited offset opportunities. Not all areas of the country are able to productively adopt conservation tillage practices, thus restricting their offset possibilities. Yet these producers will incur the same increased fuel, fertilizer and energy costs as their counterparts." **- American Farm Bureau Federation President Bob Stallman:**

The state Comptroller of Texas **Susan Combs** said on June 9, 2009, that if passed, this landmark climate change bill could cost the state 164,000 jobs and shave $25 billion per-year off the state's total economic output.

> "Texas is the kitchen of the country. We cook up all of the products that are used elsewhere,"…. "The recipe for disaster is being cooked up in Washington D.C."

Famed Investor **Warren Buffett** and President Obama supporter just ***this week*** on CNBC called the bill fairly regressive and a huge tax on the consumer.

This is not the first time Mr. Buffet has spoken out against the bill. On March 9, 2009, interviewed on CNBC (transcript), Mr. Buffett responded to a question about so-called "cap-and-trade" by saying that regulated utilities would pass the costs on to customers, effectively resulting in a carbon tax. "In the utility business, it's going to be borne by customers. And it's a tax like anything else," he said.

Mr. Buffett, the chief executive of the conglomerate holding company Berkshire Hathaway, also said that the "tax is probably going to be pretty regressive," and that public utility commissions in various states would determine "what customers it gets passed through to."

Groups Key Voting "NO":

60 Plus Association
Americans for Prosperity
Americans for Tax Reform **(Double-Rating)**
Associated Builders and Contractors (ABC)
The Brick Industry Association
Center for Fiscal Responsibility
Club for Growth
Citizens Against Government Waste
FreedomWorks

International Franchise Association
Independent Electrical Contractors, Inc
Independent Petroleum Association of America
National Association of Home Builders
National Association of Manufacturers (NAM)
National Association of Wholesaler-Distributors
National Cattleman Beef Association
National Federation of Independent Business (NFIB)
National Taxpayers Union (NTU)
Small Business & Entrepreneurship Council (SBE Council)

Groups Opposing:

American Civil Rights Union
American Conservative Union (ACU)
American Energy Alliance
American Farm Bureau Federation
American Feed Industry Association
American Iron and Steel Institute
Americans for Limited Government
American Meat Institute
American Petroleum Institute
American Shareholders Association
American Solutions
Citizens for Responsible Government
Coalition for Affordable American Energy
Congress of Racial Equality (CORE)
Concerned Women for America (CWA)
Eagle Forum
Focus on the Family
Hispanic Leadership Fund
Institute for Liberty
Institute for Shortening and Edible Oils
Let Freedom Ring
National Association of Convenience Stores (NACS)
National Chicken Council
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Mining Association
National Meat Association
National Oilseed Processors Association
National Petrochemical & Refiners Association
National Turkey Federation
North American Millers Association
Republican Jewish Coalition
U.S. Chamber of Commerce

Groups Expressing Concerns:

American Enterprise Institute
Competitive Enterprise Institute
Cornwall Alliance
Heritage Foundation

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