



H.R. 6899 – Comprehensive American Energy Security and Consumer Protection Act

EXECUTIVE SUMMARY

H.R. 6899 was introduced on September 15, 2008, and was not considered by any House committee. The bill is expected to be considered on the House floor under a closed rule on September 16, 2008.

The bill would allow states to “opt-in” to drill in the Outer Continental Shelf 50 to 100 miles off of their coast, as well as explore for oil shale on federal lands. The bill excludes the eastern Gulf of Mexico as well as Georges Bank, and does not include any revenue sharing provisions for States. States therefore have little incentive to “opt-in”. It also allows for lease sales in the National Petroleum Reserve in Alaska (NPR-A), but does not include any provisions regarding the Arctic National Wildlife Refuge (ANWR). In addition, it would prohibit 48 companies from competing in future OCS oil and gas lease sales.

H.R. 6899 requires the sale of at least 20 million barrels of oil from the Strategic Petroleum Reserve within sixty days of enactment. It imposes a new 15 percent renewable energy requirement on private utilities. The bill also includes several green housing initiatives for the Department of Housing and Urban Development and creates a new \$2.5 billion Residential Energy Efficient Block Grant Program, as well as a \$5 billion Alternative Energy Sources State Loan Fund.

H.R. 6899 extends current and creates new tax credits and other incentives with the stated goal of promoting energy efficiency and conservation. Many of the tax credits that are being extended by this bill are set to expire December 31, 2008. The bill includes \$17.744 billion in tax increases on oil companies by denying them manufacturing deductions and limiting the ability of U.S. companies to utilize foreign tax credits with respect to foreign oil and gas extraction.

The bill does not include lawsuit reform, nuclear energy, clean coal, or refinery provisions.

FLOOR SITUATION

This legislation was introduced by Representative Nick Rahall (D-WV) on September 15, 2008. H.R. 6899 is being considered on the floor under a closed rule. The rule:

- Provides three hours of debate equally divided and controlled by the Chairman and Ranking Member of the Committee on Natural Resources;
- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of rule XXI;
- Provides that the bill shall be considered as read;
- Waives all points of order against the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (earmarks);
- Provides one motion to recommit with or without instructions; and
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.



H.R. 6899 is expected to be considered on the floor of the House on September 16, 2008.

BACKGROUND

During the 110th Congress, the Democratic majority has taken a piecemeal approach to energy legislation. In a time of record high gas prices and when oil has consistently been more than \$100 a barrel, Congress has not taken a vote to increase domestic oil production. Instead, the Democratic leadership has brought legislation to the floor that puts restrictions on oil speculators, fuel price gouging, and the “use-it-or-lose-it” bill that is already in current law.

Prior to adjourning for the month of August, Republicans repeatedly called for a vote on the comprehensive Republican energy bill, the American Energy Act (H.R. 6566), but the Democratic leadership refused to allow the bill to come to the floor. For the entire month of August, House Republicans brought their energy message directly to the American people by inviting them to come to the House floor as they protested Democratic energy policies and offered the Republican alternative.

Republican members remained in Washington ready to address this critical issue, while their Democrat counterparts would not.

On August 12, 2008, Speaker Nancy Pelosi (D-CA) went on national television and said that a vote on offshore drilling would happen when Congress came back into session in September, this after months of her declaring Republican calls for increased offshore drilling a “hoax” and a “decoy.” However, the Democrats energy plan was not introduced until September 15, 2008, less than 24-hours prior to it being considered on the House floor.

SUMMARY

Title I - Federal Oil and Gas Leasing

OCS Oil and Gas Leasing: The bill permanently prohibits oil and gas leasing within 50 miles of the Atlantic and Pacific states' coastlines. This legislation allows the Secretary of Energy to lease any moratorium area in the Atlantic or Pacific Outer Continental Shelf that is between 50 and 100 miles from its coast, if approved by the adjacent State. Areas more than 100 miles offshore are open to exploration. This legislation does not provide for any revenue sharing with States, thus depriving States incentive to “opt-in” for leasing.

H.R. 6899 permanently closes Georges Bank, located off the North Atlantic States and Canada.

The bill additionally requires the Department of Interior to track all leases and report to Congress annually. This program will be known as the Resources Estimates and Leasing Program Management Indicators.

Diligent Development of Leases (“Use It or Lose It”): The bill states that Federal oil and natural gas leases shall be “diligently developed”. Within 180 days of enactment, the Secretary of the Interior must issue regulations defining what constitutes “diligently developing.”

Note: The “Use It or Lose It” provisions included in H.R. 6899 are less arduous than those previously considered in the House under H.R. 6515, which failed by a vote of 244-173 (2/3 required) on July 17, 2008. H.R. 6899 removes the prohibition on issuance of new leases to people who currently hold leases. [Legislative Digest for H.R. 6515](#)

Offshore Oil and Gas Royalties: These provisions would prohibit 48 companies from competing in future OCS oil and gas lease sales. This leasing ban violates existing lease contracts and international treaties, exposing the government to litigation hindering domestic oil and gas production. The bill would require



companies holding deep water oil and gas leases issued in 1998 and 1999 to retroactively rewrite those leases to include price threshold limitation not originally contained in those leases.

**Note: According to the Republican staff from the Committee on Natural Resources, the ambassadors of Australia, Canada, France, Norway, and Spain have all written the Congress or Administration to express their governments' concern with proposed legislation that would breach existing lease contracts with their nationals."*

Accountability and Integrity in the Federal Energy Program: The bill directs the Secretary of Interior to take all steps necessary to ensure prompt, transparent, and accurate royalty payments on all onshore and offshore oil and gas leases. The Secretary of Interior is also required to make legislative recommendations to Congress for how to improve accurate collection of Federal oil and gas royalties. This provision also establishes new ethics standards, training, drug testing and punishments for employees of the Minerals Management Services. The bill also allows the Department of Interior Inspector General to subpoena information regarding leases from the Minerals Management Services.

National Petroleum Reserve – Alaska: The bill directs the Secretary of Transportation to expedite environmentally responsible oil and gas leases in the National Petroleum Reserve in Alaska (NPR-A). Lease sales must be conducted at least once a year over the 2009-2013 time period. The bill also bans the export of Alaskan oil. The bill directs the Secretary of Transportation (in coordination with the Secretary of Interior) to facilitate environmentally friendly construction of an oil and gas pipeline from NPR-A to transportation and processing infrastructure on the Alaskan North Slope. The bill requires the President to coordinate with oil and gas companies, Federal agencies, Alaskan State officials, Canadian authorities, and other interested parties to facilitate construction of a natural gas pipeline from Alaska to U.S. markets. The bill requires pipeline developers to negotiate Project Labor Agreements (PLAs) with unions for the production, maintenance, and construction of these pipelines. The bill requires pipeline operators transporting oil and gas from the Alaskan North Slope to annually certify their pipelines are efficiently maintained and operated, with civil penalties imposed on violators.

Note: The NPR-A is located on the North Slope in Alaska, west of the Arctic National Wildlife Refuge (ANWR). NPR-A is owned by the Federal government and covers 23.5 million acres of land, of which approximately 3.8 million acres is already leased for oil and gas production. ANWR boasts a production capability of 5,475 barrels of oil per acre, whereas the NPR-A has only 440 barrels per acre.

Oil Shale: The bill permanently prohibits oil shale leasing, research, and development unless a State authorizes it.

Title II – Consumer Energy Supply

Sale and Replacement of Oil from the Strategic Petroleum Reserve: H.R. 6899 requires the Secretary of Energy, within fifteen days of this bill's enactment, to publish a plan for the sale of 70 million barrels of light grade petroleum held in the Strategic Petroleum Reserve (SPR) and to replace it with an equivalent amount of heavy grade petroleum. The legislation prohibits sales provided for by this bill if the if they would result in the SPR containing less than 90 percent of the amount that it held prior to the initial date of sale.

The bill requires the sale to commence, regardless of whether the Secretary has published a sale plan, no later than thirty days after this bills enactment and completed within six months. At least 20 million barrels of oil must be available for sale within the first sixty days. Replacement of the higher quality light crude with lesser quality heavy crude could not begin until at least six months following enactment and could take up to five years. Under the bill, all funds collected from the sale of SPR light petroleum are to



be deposited into the SPR Petroleum Account and used to cover any costs related to the sale and later acquisition.

Additionally, the Secretary is to grant requests deferring scheduled deliveries of petroleum to the SPR when doing so would be economically beneficial to the overall market.

Note: The Sale and Replacement of Oil from the Strategic Petroleum Reserve provision failed to pass the House as H.R. 6578 by a vote of 268-157 (2/3 required) on July 24, 2008. However, on May 13, 2008, 'H.R. 6022 - Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008' passed the House under suspension by a vote of 385-25. The bill was signed into law as P.L. 110-232, on May 19, 2008. This bill temporarily suspends filling the SPR, but did not allow drawing it down. ([Click here for the Legislative Digest for H.R. 6022](#))

Title III - Public Transportation Grants

Public Transportation: H.R. 6899 authorizes appropriations for grants for public transit systems to improve transportation services. The legislation authorizes \$750 million each for fiscal years 2008 and 2009 for grants in urban areas. In addition, \$100 million is authorized for both fiscal years 2008 and 2009 for public transportation grants in non-urban areas. These funds will be apportioned according to existing guidelines in Federal law. Under this provision, the Secretary of Transportation may only make such grants if the recipient is in the process of reducing fares charged for public transportation, or if the recipient is in the process of expanding public transportation service. These grants are funded 100 percent by the Federal government, and will remain available for a period of two years.

Clean Air Act Grants: H.R. 6899 requires that public transportation grants which involve acquiring clean fuel or alternative fuel equipment or facilities will be funded at 100 percent by the Federal government, unless the grant recipient requests less. The existing federal share for these types of projects in 90 percent.

Transportation Fringe Benefits: This legislation amends the Safe, Accountable, Flexible, Efficient Transportation Equity Act (P.L. 109-59) to require all federal agencies in areas that have fixed route public transportation to offer employees subsidies to take such public transportation to and from work. The Secretary is required within 60 days of enactment to issue guidance to federal agencies on implementation of this transportation fringe benefits program. The Secretary must report to Congress during the year of enactment, and every three years thereafter, on the nationwide implementation of the program.

Vanpool Pilot Program: H.R. 6899 directs the Secretary of Transportation to establish and implement a vanpool pilot program in up to three urban areas and two non-urban areas in fiscal years 2008 and 2009. The pilot program allows for vanpools to expand vanpool service by allowing private vanpool operators to count van acquisition costs toward the local match and to require excess revenues to be used to by additional vans. The Secretary must report to Congress within a year on the costs, benefits, and efficiencies of the vanpool demonstration projects.

Note: The Public Transportation Grants, Clean Air Act Grants, Transportation Fringe Benefits, and Vanpool Pilot Program provisions were included in H.R. 6052, which passed the House on June 26, 2008, by a vote of 322-98. ([Legislative Digest for H.R. 6052](#))

Title IV - Energy Efficiency in Buildings

Energy Codes: H.R. 6899 requires the Secretary of Energy to support updating the national model building energy codes and standards at least every three years. When compared to 2006 edition model



codes, the 2010 edition must achieve overall energy savings of at least 30 percent and the 2020 edition must achieve at least 50 percent in energy savings.

State Certification of Building Energy Code Updates: No later than two years after enactment, each State must certify to the Secretary that it has reviewed and updated the energy efficiency provisions of its residential and commercial building codes to meet current code efficiency standards. Any State who fails to meet efficiency standards then has two years to certify to the Secretary that it has met or exceeded current standards.

Technical Assistance: The Secretary is to provide model code-setting and standard development organizations with any necessary technical assistance. Also, the Secretary may provide States with any technical assistance needed to achieve energy code compliance.

Incentive Funding: The Secretary is to provide incentive funding to States to comply with energy efficiency code requirements. The Secretary is to consider actions proposed by a State to implement and improve residential and commercial building code standards when determining whether to provide incentive funding, and what amount to provide. No amount greater than \$500,000 per State may be used by the Secretary for training State and local officials to implement updated energy codes.

To carry out the provisions contained in Title IV, H.R. 6899 authorizes \$70 million for fiscal years 2009-2013 and such sums as may be necessary for fiscal year 2014 and each thereafter.

Title V - Federal Renewable Electricity Standard

H.R. 6889 requires electric utilities to provide an increasing annual percentage of their electricity using renewable energy resources. The required percentage would start at 2.75 percent in 2010 and increase to 15 percent by the year 2020. It would remain at 15 percent through 2039. Under the bill, The Secretary of Energy must establish a renewable energy credits system that allows energy producers the ability to trade credits in order to meet the mandated standards. The bill establishes civil penalties for electric utilities that fail to meet the requirements. The bill directs the Department of Energy to contract with the National Academy of Sciences to conduct an evaluation study of the program within 8 years.

Title VI – Green Resources for Energy Efficient Neighborhoods

HUD Energy Efficiency Participation Incentives: Requires the Secretary of HUD to establish annual energy efficiency participation incentives to encourage HUD program participants to make improvements in energy efficiency. The bill establishes minimum HUD energy efficiency standards for the additional credit.

Demonstration Program: Establishes an energy efficiency and conservation demonstration program for multifamily housing projects that are assisted with project-based rental assistance. The Secretary is required to carry out this program in no fewer than 50,000 dwelling units within four years after 12-months of the enactment of the Act. The bill authorizes \$50 million for each fiscal year in which the demonstration project is carried out.

FHA Energy Efficient Mortgages: The bill requires the Secretary to consider the impact that savings on utility costs has on the income of the mortgager in its underwriting standards for mortgages on single-family housing, with a goal of insuring mortgages of at least 50,000 homes that meet energy efficiency standards.

GSE Duty to Serve Underserved Markets for Energy Efficient and Location-Efficient Mortgages: Requires Fannie Mae and Freddie Mac to develop loan products and flexible underwriting guidelines to facilitate a secondary market for energy efficient and location efficient mortgages on housing for very low-, low-, and moderate income families.



Energy Efficient Mortgages Education and Outreach Campaign: The bill requires the Secretary to establish a commission to develop and recommend model mortgage products and underwriting guidelines that provide market-based incentives to prospective home buyers, lenders, and seller to incorporate energy efficiency upgrades in new mortgage loan transactions and report the results of their work to Congress within two years. After submission of the report, the Secretary is required to carry out a public awareness, education, and outreach campaign based on its findings. The bill authorizes \$5 million for each of fiscal years 2009 through 2012.

Mortgage Incentives for Energy Efficient Multifamily Housing: Allows the Secretary of HUD to establish mortgage incentives for housing that complies with energy efficiency and conservation, and the green building standard.

Residential Energy Efficiency Block Grant Program: The bill authorizes \$2.5 billion for the Secretary to establish a block grant program to carry out energy efficiency improvements in new and existing single-family and multifamily housing, which may include such activities that provide energy from renewable sources, such as wind, waves, solar, biomass, and geothermal sources.

Grant Program to Increase Sustainable Low-Income Community Development Capacity: The bill allows the Secretary to make grants, with a matching requirement, to nonprofit organizations to use for training, educating, supporting, or advising an eligible community development organization in improving energy efficiency and resource conservation or providing loans, grants, or predevelopment assistance to eligible organizations to carry out energy efficiency improvements. The bill authorizes \$10 million for each of fiscal years 2008 through 2012.

HOPE VI Green Developments Requirement: This legislation requires the proposed revitalization plan to comply with the mandatory and non-mandatory items of the National Green Community checklist for residential construction and the mandatory and non-mandatory components of version 2.2 of the Leadership in Energy and Environmental Design (LEED) green building system for New Construction and Major Renovations.

**Note: This provision was also included in the HOPE VI Improvement and Reauthorization Act (H.R. 3524) which passed the House by a vote of 271-130 January 17, 2008. ([Legislative Digest for H.R. 3524](#)).*

Alternative Energy Sources State Loan Fund: The bill establishes this Fund to provide loans to states and Indian tribes to provide incentives to owners of housing, commercial properties, and public buildings to provide renewable energy sources for such structures, to provide energy efficiency improvements, or infrastructure related to the delivery of electricity and hot water for structures lacking such amenities. The aggregate amount from loans to any single State or Indian tribe may not exceed \$500 million. The bill authorizes \$5 billion to appropriated to the fund.

Green Banking Centers: The bill requires the Federal banking to prescribe guidelines for the establishment and maintenance of green banking centers by insured depository institutions to provide consumers who are seeking mortgages home improvement loans, or home equity loans with additional information on obtaining a home energy rating or audit, for financing cost-effective energy-saving improvements, and for obtaining beneficial terms or qualifying for a larger mortgage or loan secured by a residence which meets or will meet energy-efficiency standards.

Title VII – Miscellaneous Provisions

Alternative Fuel Pumps: The bill requires each retail automotive fueling station owned by a major integrated oil company to have at least one alternative fuel pump for natural gas, such as 85 percent volume ethanol, biodiesel, or hydrogen, available by January 1, 2018. If the oil company has failed to



comply by that date they shall be liable for a civil penalty in the amount of \$100,000 per fueling station that is not in compliance.

National Energy Center of Excellence: The bill requires the Secretary of Energy to award a competitive grant to one consortium of institutions of higher education for the establishment of a National Energy Center of Excellence to conduct research and education activities with an emphasis on environmentally safe energy. The bill authorizes \$25 million for each of the fiscal year 2009 through 2013.

Sense of Congress Regarding Renewable Biomass: The bill states that it is the sense of Congress that the definition of renewable biomass in the Renewable Fuel Standard could be improved; that in order to meet the United States' energy challenges in an environmentally responsible way, the RFS should encourage investment to help meet the congressional mandate for advanced biofuels; that Congress recognizes that renewable fuels are important to our climate and energy security strategy, as well as the rural communities they support; and cellulosic biofuels can and should be produced from a highly diverse array of feedstocks, allowing every region in the country to be a potential producer of this fuel.

Title VIII – Energy Tax Incentives

Renewable Energy Tax Credit: The bill extends the placed in service date of the production tax credit for one year (through the end of 2009) for generating electricity from wind; the credit is modified and extended through the end of 2011, for generating electricity from other qualifying sources, including geothermal; closed-loop biomass; hydropower; landfill gas; and trash combustion facilities. It also creates a tax credit for a new energy production category – marine renewables, which is energy derived from waves and tides. The bill creates a new limitation on the amount of credits that can be claimed with respect to property placed in service after 2009. This provision is estimated to decrease revenues by \$6.6 billion over ten years.

Solar Energy and Fuel Cell Investment Tax Credit: The bill extends and modifies the tax credit for commercial solar energy and fuel cells through the end of 2016. It increases the credit limitation for fuel cell property from \$500 to \$1,500 per half kilowatt of capacity. Additionally, the bill expands eligibility so that public electric utilities will qualify for the tax credit. This provision is estimated to decrease revenues by \$621 million over ten years.

Clean Renewable Energy Bonds: Expands and modifies a current program of tax-exempt bond financing for public power providers and cooperative electric companies to assist in financing qualified renewable energy facilities (including wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, and qualified hydropower production). These bonds would be “strippable” and “tradable.” Davis-Bacon standards would apply to projects funded through these bonds.

Sale of Electric Transmission Property: Extends for two years a tax deferral that allows gains in property sales of electric transmission property to be spread over eight years.

Carbon Capture and Sequestration Demonstration Program: The bill provides \$1.1 billion in tax credits for advanced coal electricity projects. It requires the Secretary to give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.

Coal Excise Tax: The bill extends the coal excise taxes for five years. The excise tax on coal is \$1.10 per ton from underground mines and 55 cents per ton from surface mines.

**Note: The rates were scheduled to be reduced to 50 cents and 25 cents respectively after 2013. This legislation delays the reduction until 2018.*



Carbon Audit of the Tax Code: The bill requires the Secretary of the Treasury to work with the National Academy of Sciences to undertake a comprehensive review of the tax code to identify specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those affects.

Energy Tax Credits: The bill modifies and/or extends a number of energy-related tax incentives including:

- Residential energy-efficient property credit (decrease revenues by \$907 million over 10 years)
- Tax credit for alternative refueling stations (decrease revenues by \$226 million over 10 years)
- Biodiesel production and renewable diesel tax credits (decrease revenues by \$401 million over 10 years)
- Tax credits for energy-efficient upgrades to existing homes (decrease revenues by \$1.067 billion over 10 years)
- Enhanced tax deduction for energy-efficient commercial buildings (decrease revenues by \$891 million over 10 years)
- Tax credit to manufacturers of energy-efficient appliances (decrease revenues by \$45 million over 10 years)

New Energy Tax Provisions

- Plug-in electric vehicle tax credit (decrease revenues by \$1.056 billion over 10 years)
- New York Liberty Zone tax benefits (decrease revenues by \$1.129 billion over 10 years)
- Extending tax-free treatment of transportation fringe benefits to those who commute to work by bicycle (decrease revenues by \$10 million over 10 years)
- Five-year depreciation of "smart meters" (decrease revenues by \$921 billion over 10 years)
- Tax credit for production of cellulosic ethanol (revenue neutral over 10 years)
- Exempts idling reduction units from the heavy vehicle excise tax (decrease revenues by \$95 million over 10 years)
- Allows employers to provide a bicycle commuter fringe benefit (decrease revenues by \$10 million over 10 years)
- Creates new tax credit bonds to subsidize ill-defined state and local "green" programs.
- Tax credits for certain energy efficient wood-burning stoves.

Revenue Provisions

Denial of Manufacturing Deductions for Certain Oil Companies: The bill would limit aspects of the manufacturing deduction (section 199 of the tax code) for exploration, production and refining of oil and natural gas, which was created in 2004 to help encourage the preservation and expansion of manufacturing jobs in the United States. Specifically, the provision would repeal the ability of major oil companies and state-owned foreign oil companies to claim the deduction and prevent smaller oil and gas companies from getting the full benefit of the deduction. The provision is estimated to increase taxes by \$13.904 billion over 10 years.

Note: The House voted on similar versions of this provision multiple times this Congress during consideration of H.R. 6, H.R. 2776, and H.R. 5351.

Clarification of foreign oil and gas extraction income: The bill limits the ability of U.S. companies to utilize foreign tax credits with respect to foreign oil and gas extraction income, which could subject American companies to double-taxation on income earned from foreign oil and gas production. The provision is estimated to increase taxes by \$3.84 billion over 10 years.

Note: Variations of this provision were included in H.R. 6, H.R. 2776, and H.R. 5351. Ways and Means Republicans have expressed concerns that this double-taxation of American companies will make it more difficult for them to compete in the development of oil and gas fields abroad.



ADDITIONAL VIEWS

Natural Resources Committee Ranking Member Don Young (R-AK):

"Unfortunately, Speaker Pelosi's bill is cleverly written to appease the national environmental organizations to essentially prohibit any OCS oil and natural gas production. This is unbelievable because we have the potential of earning more than \$800 billion from OCS production while providing almost 18 billion barrels of oil for the American public. But this will all be moot because Speaker Pelosi's bill will permanently prohibit the production of 88 percent of this OCS oil. This Democratic bill will impose irreparable harm to the economy and our domestic energy production." ([Press Release, 9/15/08](#))

"This is ingenious. The Democratic Leadership can say they tried to open some OCS areas for production, but by eliminating the revenue sharing provision none of the states will want to have production off their shores. The Democrats can claim credit for 'trying' to boost oil production while at the same time prevent any new energy production from occurring. It's the best of both worlds for them - but it's the worst outcome for the American taxpayers and consumers, whose energy bills will only go up under this high-tax, low-energy legislation." ([Press Release, 9/12/08](#))

COST

The Congressional Budget Office (CBO) has not produced a cost estimate for this legislation as of September 16, 2008.

STAFF CONTACT

For questions or further information contact the Policy Shop at 6-2302.