

STATEMENT OF
FORMER SPEAKER OF THE HOUSE NEWT GINGRICH
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SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT

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In the end the Party would announce that two and two made five, and you would have to believe it. It was inevitable that they should make that claim sooner or later: the logic of their position demanded it. Not merely the validity of experience, but the very existence of external reality, was tacitly denied by their philosophy. The heresy of heresies was common sense. And what was terrifying was not that they would kill you for thinking otherwise, but that they might be right. For, after all, how do we know that two and two make four? Or that the force of gravity works? Or that the past is unchangeable? If both the past and the external world exist only in the mind, and if the mind itself is controllable—what then?

- George Orwell, 1984 (1947)

They began with an ancient conviction—they would be radically realistic about the world and about the human capacity to know it. If our thinking and choosing lacks a tether to reality, the KUL [Catholic University of Lublin] philosophers believed, raw force takes over the world and truth becomes a function of power, not an expression of things-as-they-are. A communist-era joke in Poland expressed this realist imperative in a way that everyone could grasp: “Party boss: ‘How much is 2+2?’ Polish worker: ‘How much would you like it to be?’” The political meaning of the realist assumption of the KUL philosophers was later expressed in this famous Solidarity election poster that read, “For Poland to be Poland, 2+2 must always = 4.” Human beings can only be free in the truth, and the measure of truth is reality.

- George Weigel, Witness to Hope (1999)

(This testimony is adapted in several places from my recent book “Drill Here, Drill Now, Pay Less: A Handbook for Solving Our Energy Crisis” (Regnery 2008).

Chairman Markey, Ranking Member Upton, and members of the subcommittee:

I appreciate the opportunity to testify today about the American Clean Energy and Security Act of 2009.

Last year some were surprised that I appeared in a commercial next to Nancy Pelosi agreeing that our country must take action to address climate change, that we need cleaner forms of energy, and that we should spark the innovation we need to move quickly.

Others were surprised when I wrote, along with Terry Maple, *A Contract with the Earth*, which outlines "green conservatism," and made the case that we can protect the environment better with incentives and encouraging innovation rather than through taxes and punishment. I continued to make the case for protecting the environment while producing more American energy in my book *Drill Here, Drill Now, Pay Less: A Handbook for Solving Our Energy Crisis*.

But as a former environmental studies professor who lectured on the second Earth Day, and as someone who was named Legislative Conservationist of the Year in 1998 by the Georgia Wildlife Federation, it should be no surprise that I care deeply about and am committed to the protection of our environment.

In this commitment, I echo the conviction of two great American leaders. The first is President Theodore Roosevelt, who said that "the nation behaves well if it treats the natural resources as assets, which it must turn over to the next generation increased, and not impaired, in value." The other was then-Governor Ronald Reagan who, upon the occasion of the first Earth Day, affirmed the "absolute necessity of waging all-out war against the debauching of the environment."

It was in this spirit that I read the bill that is being discussed before this committee and it is in this spirit that I report to you today my conclusion that this is the wrong bill.

This bill is wrong for our national security.

This bill is wrong for our economy.

This bill is wrong for government of, by, and for the people.

The framework in which I have analyzed this bill can be captured in a very simple phrase: $2+2=4$, which was a prominent rallying cry in the late 1980s when the Solidarity free trade union movement was campaigning in Poland's first free elections.

The core idea behind $2+2=4$ is that citizens must tell the truth even when governments lie. $2+2=4$ forces you back to reality.

As matter of reality, the United States faces three enormous threats: threats to our national security, a threat of further economic decline, and a threat of government for the government (and not government for the people), which leads to corruption, political favoritism, and the fundamental breakdown of the rule of law. On all three of these bases of reality, this is the wrong bill.

THIS BILL IS WRONG FOR NATIONAL SECURITY

For over 30 years we've proclaimed the need for energy independence, but bad policies have forced us to become more and more reliant on dictators and kings for our energy. Instead of being independent, we are now bowing to kings and shaking hands with dictators to get our energy.

Vice President Gore was right today when he said "Our national security remains at risk so long as we remain dangerously dependent on flows of foreign oil reserves owned by sovereign states that are vulnerable to disruption. The rate of new discoveries, as you know, is falling even as demand elsewhere in the world is rising."

However Vice President Gore's analysis was wrong. Our current energy import strategy is entirely a function of our own government's anti-domestic energy policies. The United States government blocks the development of new energy sources and inhibits the use of existing energy and then explains that we will have a shortage of energy. It is an artificial, government imposed shortage not a naturally occurring phenomenon.

Put simply, the government's decision to make us more dependent upon foreign sources of energy means that we often fund the behavior and

activities abroad of dictators who compromise our own national security.

Iran exports 2.3 million barrels of oil per day, meaning they make billions a year from exporting their oil' This means more money to allow Hezbollah and Hamas to buy more rockets, more money to finance their terrorist operations throughout the Middle East, and more money for propaganda to convince that part of the world to hate America. This is a path to eventual destruction of our freedoms.

What this bill will do is continue to push us along that path to destruction. Instead of rewarding innovation, this bill punishes Americans into living lives that the government wants them to live. Instead of recognizing that the energy crisis was and is purely politician-driven, this bill punishes Americans for the faults of politicians and bureaucrats. Instead of opening up America's vast resources of oil, natural gas, and coal, this bill guarantees that we will remain reliant upon OPEC if we want to continue to drive cars, heat our homes, and run our appliances.

The fact is we have more energy resources than any other country in the world. Our estimated shale oil resources in the Rocky Mountains alone are three times the size of the Saudi Arabian oil reserves. We have 27 percent of the world's coal. We have huge potential in wind power. We have enormous opportunities in solar power. We have the largest number of scientists, engineers, and entrepreneurs of any country in the world.

If we adopt the right strategies and implement the right policies we can finally ignore the dictators of the world and never again have to beg any country for our energy.

AN ENERGY TAX IS WRONG FOR THE ECONOMY

When you consider President Obama's budget, this proposed legislation has a price tag for the American people of at least \$646 billion. We know from news reports that senior Obama administration officials have indicated that \$646 billion is a conservative amount and that the overall figure may be as much as three times that amount or \$1.9 trillion in new taxes.

This is currently a 648 page bill, or, put another way, \$1-3 billion per page. This is quite a costly bill, even for the standards of this Congress. It would be two and a half times the size of the giant stimulus package passed

earlier this year. And it would be a tax burden not a spending stimulus so it would deeply burden the American people and the economy.

While our economy is in deep recession and Americans are losing jobs by the thousands each month, this bill would worsen both. Make no mistake about it: This bill amounts to a \$1-2 trillion energy tax levied on a struggling economy, which is destructive and wrong. With this glorified \$1-2 trillion new energy tax, expect utility bill increases up to \$3,128 per year per household. Filling up your gas tank will cost anywhere from 60 percent to 144 percent more, your electricity bill will increase by 77 to 129 percent, and the cost of home heating oil and natural gas could nearly double.

If enacted, this energy tax will increase the electricity bill of every American, increase the cost to drive a car, and increase the cost of doing business. This will punish every retired American, every rural American, and every person who drives to work, uses heating oil, or has electricity in their home. This will kill jobs and lead American jobs and investment being shipped to China and India, two countries that have made it quite clear that they will not levy such an enormous tax on their own economies.

But this is not my own opinion. Independent research, the Congressional Budget Office (CBO), and the President all agree that the costs of a cap-and-trade energy tax will be passed onto consumers.

President Obama, whose energy tax plan formed the foundation for this bill, said that under his plan “electricity rates would necessarily skyrocket.” Director Peter Orszag, former CBO director and now Obama’s director of the Office of Management and Budget (OMB), has said that consumer price increases “would be essential to the success of a cap-and-trade program.”

According to the Heritage Foundation, the cost of cap-and-trade, with even only a small percentage of allocations being auctioned, would be \$1.9 trillion. To put that in perspective the Vietnam War cost only \$698 billion, the New Deal cost \$500 billion, and NASA since its inception has only cost \$851 billion, all amounts adjusted for inflation.

And these costs will be unfairly distributed.

In a recent paper for the Tax Foundation, Andrew Chamberlain concludes

that the costs of this energy tax would be “disproportionately borne by low-income households, those under age 25 and over 75 years, those in Southern states, and single parents with dependent children.”

Imposing stunningly high taxes on an economy in the middle of a recession is fundamentally wrong, and guarantees that our economic competitors in the global market will be in a dramatically better economic position. They recognize that artificially capping their economy is the wrong approach for developing their societies.

A member of the Indian delegation to the recent U.N. conference in Bonn, Germany, said the following: “If the question is whether India will take on binding emission reduction commitments, the answer is no.”

India is saying no to crippling its economy, no to stunting its growth, and no to punishing its citizens for using energy. This particular member actually described implementing this sort of energy tax as “morally wrong” for the country.

China, too, believes emissions caps are the wrong answer. The lead climate negotiator for China said the following regarding who should pay to cut emissions: “As one of the developing countries, we are at the low end of the production line for the global economy. We produce products and these products are consumed by other countries... This share of emissions should be taken by the consumers, but not the producers.” China sees no fault of its own in emitting carbon dioxide, and thus they, like India, are not going to impose on themselves an economically destructive energy tax.

We are told by advocates of this energy tax that if the United States leads the way with energy taxes, countries like China and India will follow. This is fantasy. India refuses to pass a cap on emissions because it does not want to stifle its own economic growth. China believes that Americans and all other nations who purchase Chinese products should bear the costs of emissions reductions.

Energy Secretary Steven Chu has said “If other countries don’t impose a cost on carbon, then we will be at a disadvantage.” How much more evidence is necessary, then, to show that this bill will put America at a distinct economic disadvantage?

And why should other nations pass emissions caps when the United States is going to give them a handout in the form of investment and employment? A recent estimate from the Tax Foundation shows that cap-and-trade could cost America 965,000 jobs, and reduce economic output by \$136 billion per year. Last summer, the Congress tried and failed to pass a similar energy tax which would also have cost America up to 4 million jobs by 2030 and would have ultimately cost America over \$1 trillion, while also increasing electricity prices 44% and causing gasoline prices to nearly double.

These jobs and dollars will go somewhere, and this bill guarantees that they will not stay here in America.

If we increase the cost of doing business in America, our chief economic competitors around the world will be the ones who gain. This bill paves the way for fewer jobs in America, fewer opportunities for investment, and a reduced overall competitiveness in the global market.

THIS BILL IS WRONG FOR GOVERNMENT OF, BY, AND FOR THE PEOPLE

If we have learned any lesson out of the decay of government over the last twenty years, it ought to be that the scale of bureaucracy and the scale of micromanagement as laid out in this bill are an invitation to corruption and an invitation to more politicians playing games. The idea that the Secretary of Energy is now going to be the czar of Jacuzzis is just absurd. (If you don't believe me, check page 230 of the draft discussion bill.)

The kind of centralization that is needed to implement a government-run, government-manipulated marketplace for carbon such as this bill proposes will inevitably lead to fraud and corruption.

In a 2007 study, economist Robert J. Shapiro noted that “when a company fraudulently understates its energy production and emissions so it can sell some of [its permits], the buyer on the other side of that transaction has no incentive to uncover or reveal the fraud.” Later he said, “Even in the most transparent and democratic society, distributing a scarce and valuable benefit through the normal political process invites enormous pressures that produce typically special preferences for influential interests and companies.” Shapiro continued by saying that “political favoritism and

corruption may largely determine how the permits are distributed.”

When it comes to increasing the power of government to influence the economy, have we learned nothing during the past six months?

Consider:

The United States government failed to regulate Wall Street correctly, and the result has been trillions of dollars of taxpayer money to clean up the mess that politicians and bureaucrats created.

Fannie Mae and Freddie Mac were charged with managing mortgages, and in 2008 we saw a collapse of the United States housing market. In response, Washington politicians determined that the best course of action was to force the American taxpayer to foot the bill for their mistakes.

And now the bill before you would create a multi-billion dollar artificial market for carbon, regulated and managed by the United States government, paid for by taxing every American who uses energy.

With the prospect of up to \$2 trillion dollars being collected by the federal government under this massive new tax proposal and ready for redistribution, are we surprised that so many companies are lining up like panting dogs, vying for their cut of the green spoils? With \$2 trillion up for grabs, the environmental pieties begin to be a little difficult to take seriously. Lobbyists have not been hired for good citizenship and idealism. Lobbyists have been hired to ensure their clients get rich off this new government managed flow of cash.

Our politicians have reversed Abraham Lincoln’s understanding of America. In a free society governments should serve the people. But bills like this are the opposite of Lincoln’s call at Gettysburg. It’s not government of the people, by the people, for the people; it’s government over the people, punishing the people, and telling the people how they can and cannot live their lives.

GETTING TO THE RIGHT BILL

There are a few points of hope in this bill, but nothing to encourage the dramatic scale of change we need to address our energy needs.

The first good thing in it is a provision that restricts the Environmental Protection Agency (EPA) from regulating carbon, which the EPA is currently positioning itself to do. This would be a power grab of staggering proportions and completely antithetical to historic American rallying cries of “no taxation without representation”. We didn’t win a revolution to replace taxation by an unaccountable King for taxation by unaccountable bureaucrats.

The Congress should immediately pass a stand alone bill that cuts off any appropriations funding to the EPA that would be used to regulate carbon dioxide. Then Congress should reform EPA to eliminate the bureaucratic arrogance which led to this power grab.

This bill also supports technologies that will allow coal to grow in importance, while reducing any possible harmful effects on the environments. Since over 50% of America’s electricity comes from coal, the most abundant and affordable source of energy in this country, it is important to develop technologies that will make it clean and affordable. The bill supports a carbon capture and sequestration (CCS) demonstration program to jumpstart innovation, reversing the utterly irrational 2008 decision by the Department of Energy to postpone the development of the FutureGen Clean Coal plan.

Before anyone gives the Department of Energy sweeping new powers they should consider the absolute failure of the Department of Energy to keep its 2003 commitment to build an innovative “green coal” pilot project by 2008. In 2008 the failing energy bureaucracy announced it would try to get it done by 2016.

Similarly, before giving the Department of Energy new powers Congress should review the stunning failure of the nuclear waste cleanup program, its failed schedules and its ballooning costs. There is no evidence the Department o Energy bureaucracy could manage any large program and every evidence it would make a total mess out of the assignment.

On the positive side this bill also provides incentives for the wide-scale commercial deployment of CCS.

The decisive requirement for “green coal technology” (enabling very high

percentage of carbon recapture) is driven by the fact that by some estimates China will be adding one new coal plant every week from now to 2020. Without the development of an affordable green coal capability it is inevitable that carbon loading of the atmosphere will expand. The highest value for reducing carbon in the atmosphere is a Manhattan project type effort to develop affordable green coal technologies for use worldwide. Anything short of that is a strategy for crushing the American economy while exporting jobs overseas.

The bill also promotes the development of a smart electric grid that will help prevent blackouts like the ones that happened in 2000 and 2001 in California and in the Northeast in 2003, while helping to reduce peak loads on the system. This is an important step toward being able to transport variable wind and solar power across the country.

The right bill, as Secretary Chu said, would have a section on nuclear power, which this bill does not.

But so much more needs to be done to create the dramatic breakthroughs we need, in efficiency, in new energy sources, in cleaner fuels.

But this is a bill that punishes way more than incentivizes. Strangely, we are in a cycle where politicians have decided that they can punish their fellow Americans and they can do it when they can't get the bureaucracy to deliver. It is a fundamental violation of faith with the American people.

And even if you accept that we are going to ignore national security, ignore the economy, and ignore the risk of bigger bureaucracy, more politicians, and greater corruption, the underlying reality is that this bill will not solve the problem of carbon emissions.

It won't solve it because it is ridiculous to believe that we are going to eliminate 83% of carbon use with current technologies. This is the strategy imposed in the bill and it is a fantasy. Nothing in this bill leads to the level of breakthrough that you need to reduce carbon not only here at home but also reduce carbon generated by China and India.

Remember, by some estimates, China is building a new coal fired power plant every week. Chinese and Indian leaders have made it quite clear that their countries have no plans to go along with any carbon regulation scheme. That means any carbon reductions achieved under this plan

by the United States would be overwhelmed by the net new carbon China, India, and the rest of the developing world will produce.

Innovation is necessary to cut carbon, not regulation. But the policies to spur innovation and utilize the creativity of America's scientists and engineers are not in this bill.

The policies needed to expand all of America's energy resources, from oil to natural gas to the use of coal to nuclear to renewables such as ethanol, solar and wind to new breakthroughs such as hydrogen, are not in this bill.

The policies necessary to achieve energy independence are not in this bill.

Yet we are told that this bill will harness the imagination of America and lead to breakthroughs in new technologies. We are told that we will have more energy resources at our disposal. We are told that we will become energy independent.

Here, 2+2 does not equal four; this is simply an intellectually dishonest bill. It promises what it cannot deliver and then punishes what currently exists.

CONCLUSION

For the last thirty-six years, I have watched the anti-energy, pro-regulation, pro-litigation, pro-taxation environmental extremists label themselves as the only Americans who care about the environment.

These extremists would have you believe that to protect clean air and water, biodiversity, and the future of the earth, we have to buy into their catastrophic scenarios and sign onto their command-and-control, anti-energy, big-bureaucracy agenda, including dramatic increases in government power and draconian policies that will devastate our economy.

But this is just extremism. The truth is that we can produce more American energy and do it responsibly. We will not – and cannot – eliminate all risk of harm to the environment as we produce more energy. All energy sources have risks, but the key is to take measures to minimize the risks. More important, it's vital that we understand and appreciate what we've been able to accomplish in minimizing risks to the environment as we've developed more American energy.

The truth is that there is a pro-American energy and pro-environment approach that is a better choice for our economy and our environment than the bureaucratic, litigation-focused approach of environmental extremism. (See **Appendix 1** for a roadmap of solutions for addressing our energy needs that I originally proposed in *Drill Here, Drill Now, Pay Less.*)

It is possible to be totally committed to American principles -- to individual liberty, a market economy, entrepreneurship, and lower taxes -- and still be pro-environment. It is possible that with the sound use of science and technology and the right incentives to encourage entrepreneurs, American principles can provide a better solution for the health of our planet than can environmental extremism.

A ROADMAP FOR MORE AMERICAN ENERGY NOW

The best way for us to get started on solving our energy needs is with the same Manhattan Project like urgency that we displayed during World War II. We need a program to foster bold scientific innovations and transform them into engineering achievements in record time. Once we acknowledge that we can, in fact, address our energy needs through American ingenuity, we see that specific solutions are all within our grasp. What follows is a point-by-point plan for lowering energy costs and creating cleaner, more abundant energy, a plan that does not rely on a crippling regulatory regime and a devastating energy tax. After all, a new Manhattan Project for energy can only work if it depends on the unparalleled innovation and resourcefulness of the American people.

We can do it all. We can do it now. We can do it for America. This is the American way. We have stuck to this belief for 400 years, and it has made us the most prosperous and freest country in the world.

Let's apply American ingenuity to solving an American problem by developing more American energy now.

Solutions for more oil and natural gas development

- 1. Provide the leases and the necessary permitting to allow expanded offshore drilling for oil and natural gas to occur more rapidly.** Expanded offshore drilling is a necessary first step that will help lower oil and natural gas prices in the short and long term.
- 2. Change federal law to allow drilling for oil and natural gas in the Alaskan National Wildlife Refuge (ANWR).** This is a necessary first step that will allow for the development of the most easily accessible known oil reserves in the United States.
- 3. Change federal law to allow for development of oil shale in Utah, Wyoming and Colorado.** Right now, Congress prohibits the Department of Interior (DOI) from using any funding to finish writing regulations for issuing leases to companies for oil shale exploration.

The ban also stops the DOI from finalizing an environmental impact statement that must be completed before any oil shale development can begin. Lifting this moratorium will allow the DOI to finalize the regulations and complete the environmental study so we can expand oil shale development.

4. **Change federal law to incentivize those states that want to permit exploration to do so with appropriate safeguards**

5. **Change federal law to give all states with offshore oil and gas the same share of federal royalties as most states get for land-based resources (48 percent).** Today most states get zero royalties from offshore oil and gas development, while states like Wyoming earn 48 percent of federal royalties for its land-based oil and gas. If Richmond, Tallahassee, and Sacramento suddenly had the potential to find billions of dollars a year in new revenues for their state budgets, their willingness to embrace new oil and gas development with appropriate environmental safeguards might increase dramatically.

A share of the state and federal revenues from new offshore development could be set aside to finance biodiversity investments and national park infrastructure projects. Additional revenues could be set aside to fund infrastructure projects like new roads, bridges, inland waterways, environment-enhancing water projects, public transit and a new and more efficient satellite-based air traffic control system.

6. **Create public/private partnerships in coastal states to fast track the ability of oil and natural gas companies to develop offshore oil and gas resources.** If Congress were to lift the ban on offshore oil and gas development (or at least grant coastal states the right to develop the resources with a plan to share revenue with them), states would move swiftly to set up partnerships that will maximize the best use of oil and gas revenues.

Efforts in Virginia provide a good example. In 2004, two Virginia legislators, Delegate Chris Saxman and Senator Frank Wagner,

learned that Virginia manufacturers were warning of the rising costs of energy because of tightening energy supplies. Once they discovered that oil and gas resources exist off Virginia's shores, and that the state could experience rapid economic development from the actual business of energy exploration and development, Saxman and Wagner immediately designed legislation that would have Virginia petition the federal government for permits to drill offshore. In addition, the legislation specified that a significant portion of oil and gas royalties, state fees, and licenses collected by the state would go to improve Virginia's transportation infrastructure, clean up the Chesapeake Bay, and invest in technologies related to new energy production.

The economic potential for Virginia is significant. The oil and natural gas revenue estimated to accrue to Virginia is \$13.53 billion dollars over thirty years, or \$451 million annually. This is a conservative estimate that could increase with technological advances.

But these are not all the economic benefits that Virginia would reap. In just the Hampton Roads area near Norfolk, it is estimated -- based on experience with the oil and gas industry in Nova Scotia and Louisiana -- that oil and natural gas development would result in around \$8 billion in capital investment and 2,600 new, high paying jobs. These new jobs would have an estimated payroll close to \$650 million annually. Virginia would thus see \$271 million more flow into the state treasury in the form of state and local taxes as a result of this increased economic activity.

This new tax revenue could then be used to fund transportation projects in the Hampton Roads area and throughout the state.

Imagine funding new roads, cleaning up the environment, and making investments in basic research and development science to promote new energy sources – all without raising taxes. How many coastal states besides Virginia would like to achieve that combination of benefits? Coastal states could lower energy costs for their residents as well as the energy costs of fellow citizens across the country, while relieving congestion and cleaning up the environment.

- 7. Consider ways to distribute the benefits of drilling to each individual and citizen.** One major reason Alaskan residents support drilling is that the benefits of it reach their own pockets. Alaskans receive a check every year from a dividend fund established in 1976 to distribute state revenues from drilling leases (as long as there is interest on the principal). As of 2007, the state had \$37.8 billion in the fund. This allows residents to reap the financial benefits of drilling even beyond lower gas prices.

Other states should consider adopting similar programs to benefit their own residents.

Just imagine a flood of checks and tax cuts across the nation as states with offshore, onshore, and oil shale drilling share their new wealth with their residents. This would be a remarkable way to boost economic growth.

- 8. Allow companies engaged in oil and gas exploration and development to write off their investments in one year by expensing all of it against their tax liabilities.** This will lead to an explosion of new exploration and development.
- 9. Restore the oil shale provisions of the Energy Policy Act of 2005.** This would ensure that anything that was affected by the Congressional moratorium continues as though the moratorium were never approved.
- 10. Until drilling in ANWR is permitted, allow participating oil companies to do seismic surveys to find out how much oil is in the 10-02 area of ANWR's Coastal Plain.** Oil companies should be allowed to discover how much oil is in this area, which is the section thought to contain the most oil. This could be done in one winter season with minimal impact on the environment, and it would be funded by the oil companies, which would make the information public. If the American people discovered how much oil there really was in this area of ANWR, Congress would face renewed pressure to

lift the moratorium, while oil companies would get an even bigger incentive to begin drilling as soon as possible.

Solutions for Refineries

- 11. Give companies an incentive to build refineries and increase capacity by shortening the depreciation schedule.** Right now, it's so expensive and time-consuming to build a refinery or increase capacity at existing refineries that most companies don't even try. When companies build refineries or expand old ones, they are allowed to write off the cost of the equipment over a 10-year period, meaning a company has to wait ten years to recover the cost of that equipment. This is called depreciation. We should immediately change the tax code so that a company that builds a refinery can receive the benefits of depreciation within five years. This will give companies a big incentive to start building.
- 12. Allow companies to write off 100 percent of their expenses in the first year if their new refineries or additions significantly expand America's total refining capacity.** The 2005 Energy Act had a provision that let companies write off 50 percent in the first year if the refineries increased capacity, but it took the IRS three years before it came up with the rules to enact this law. For three years companies were scared to build refineries because they didn't know if they were ever going to get the benefit of this provision. We should make this provision retroactive so that companies that began building during the last three years can receive the benefits and not be punished by the IRS's incompetence. Then, we should further enlarge the incentive to build refineries and expand existing capacity by increasing the amount companies can write off in their first year to cover the entire cost of the equipment.
- 13. Enact real litigation reform for companies building refineries or expanding capacity.** A loser-pays rule in litigation would help cut down on frivolous lawsuits dramatically. In the case of Arizona Clean Fuels, this kind of reform could have prevented a lawsuit that cost it some \$500,000 in legal expenses, forcing it to change locations to escape the debilitating financial and time delays. The case was later

dismissed by a district court judge who called the lawsuit “frivolous” and lacking in merit. Lawsuits are a huge problem for refinery projects, and we can’t expect more to be built as long as lawsuits can hold up projects for years at a time and frustrate efforts to finance new refineries.

- 14. Make the permitting process for building a refinery or expanding capacity easier and faster.** The current permitting process involves submitting multiple permits to multiple agencies and takes years to complete. A new proposal should force regulators to act on applications for new refineries within a year, with a 120-day limit for deciding on applications to expand old ones.
- 15. Keep the tax credit for enhanced oil recovery (EOR).** Enhanced oil recovery could increase domestic oil production by as much as 3 million barrels per day by 2030, while capturing and storing billions of tons of carbon emissions. President Obama’s FY2010 budget would remove the tax credit for this technique, even though it is a proven oil recovery method that has been safely utilized for 30 years, most notably in the Permian Basin of West Texas.

EOR consists of capturing CO₂ at the source, compressing it, and transporting it to a declining oil field through pipelines. It is injected into wells where it acts as a solvent, reducing oil viscosity and surface tension, thus freeing the oil to be “swept” to production wells. The CO₂ is trapped within the formation in dead-end pores and channels. The wells are plugged with cement and the CO₂ is permanently sequestered underground.

Solutions for more, cleaner coal

- 16. Immediately renegotiate the FutureGen clean coal project for Illinois to get it built as rapidly as possible.** It is utterly irrational for the Department of Energy to postpone the most advanced clean coal project in America.
- 17. Launch three more competitive clean coal plants on a competitive bid, incentivized fast track basis with specific**

metrics of achievements to be rewarded. Clean coal would be such an important breakthrough for the environment, and coal is such an enormous American resource, that it is worth launching four parallel pilot projects immediately. This was precisely the Manhattan Project approach in World War II.

18. **Save time by allowing construction of experimental clean coal plants on brownfields in already industrialized areas without complex environmental regulations.** Ohio Congressman Mike Turner's proposed legislation to protect green areas by encouraging redevelopment of existing industrial areas is the right approach.
19. **Congress should approve a series of tax-free prizes to accelerate innovation in developing new technologies for using coal.** The result will be a better environment, more energy independence, and more energy at lower cost. Eliminate half the Department of Energy bureaucracy and use the savings to fund the prizes. America will get a much bigger, faster return on its investment.
20. **Develop a tax credit for refitting existing coal plants.** A lot of existing coal plants are going to be around for a long time. The most efficient way to make them more environmentally acceptable is to create a tax credit for retrofitting them with new methods and new technologies.

Solutions for more nuclear power

21. **Pass a streamlined regulatory regime and a favorable tax regime for building a new generation of safe nuclear reactors.** Nuclear power can help create a dramatically better future for the environment and for domestic energy production. Nuclear power has an additional bonus in that nuclear power plants produce the same amount of energy twenty-four hours a day and therefore can produce hydrogen for a hydrogen-powered automobile system at night when the electricity grid doesn't need the power. Thus, a significant increase in nuclear technology is also a helpful step toward a hydrogen economy.

22. **Accelerate research and development in Generation IV nuclear power plants.** We must do all we can to make sure this project is completed as soon as possible by offering the right prizes and incentives for development.
23. **Provide a prize for safe disposal or reuse of nuclear waste products.** If the government refuses to propose a viable alternative location for nuclear waste disposal, Congress should approve a prize to allow the creativity and innovation of the private sector to solve this dilemma. Reprocessing technology is currently a more than 20 year research and development investment, so discovering ways to accelerate that process would benefit both the nuclear industry and the environment.

Solutions for More Alternative Power

24. **Make the solar power and wind power tax credits permanent to create a large-scale industry dedicated to domestically produced renewable electricity.** We have enormous opportunities in solar, wind, and other renewable electricity sources that can be developed with a stable tax policy.
25. **Develop long distance transmission lines to move wind power from the Great Plains wind belt to Chicago and other urban centers.** The potential exists for an enormous amount of electricity generation from wind, but it is locked up geographically because the neighboring states have no incentive to be helpful. The Dakotas can generate the power and Chicago can use the power. West Texas can generate electricity East Texas needs. The federal government may have to help make the connections possible.

Solutions in transportation

26. **Allow auto companies to use refundable tax credits for the cost of flex-fuels cars, hybrids, plug-in hybrids, and the development of hydrogen cars, including necessary retooling for manufacturing.** U.S. auto companies get billions in tax credits. However, they aren't making any profits, and thus they can't turn the

tax credits into useful money. The federal government could solve this problem by making the tax credits refundable if they're spent on helping to solve the energy problem. This would be a win-win strategy of much greater importance than the ongoing fight over CAFÉ rules, which set fuel efficiency standards for new cars without any incentives to achieve them.

- 27. Create an Open Fuel Standard for 95 percent of the new cars sold in the United States.** An Open Fuel Standard would ensure that most new cars sold in America are flex-fuel vehicles (FFVs) that can use a variety of fuel types. It costs less than \$100 extra to build a car as an FFV as compared to gasoline-only, and this will provide Americans fuel choice and price competition at the pump. Furthermore, the federal government needs to provide tax credits to help auto companies cope with the transition costs to flex fuel, and Congress needs to streamline the regulations and certification requirements for the transition.
- 28. Approve tax incentives for new fuel distribution stations.** There should be a substantial tax break for investing in both ethanol and hydrogen supply stations as well as hydrogen pipelines so the fuel can be delivered at a reasonable cost when flex-fuel cars come on the market. If combined with expanding the amount of allowable ethanol to go to 15% of liquid fuel there would be a substantial contribution to carbon reduction and cleaner air and more American jobs with energy money kept here in America.
- 29. Approve tax incentives for composite manufacturing.** There ought to be a tax credit for car companies to retool in favor of composite materials manufacturing, which will radically lower the weight of cars and improve gas mileage. UPS has ordered experimental composite delivery vans that reduce weight by 2,000 pounds and increase mileage by 30 percent. Some have estimated that composite materials combined with a hybrid E-85 engine could produce a vehicle that could run for 500 to 1,000 miles on one gallon of petroleum.

30. **Approve tax incentives for turning in old, polluting cars.** This would help the poor, the environment, and the ailing American auto industry.
31. **Approve a billion-dollar tax-free prize for the first hydrogen car that can be mass-produced for a reasonable price.** A successful America focuses on inventing a better future and knows that customers will rapidly switch to new, superior products. The same is true for creating a new energy strategy. We need very large prizes for fundamental breakthroughs. Hydrogen has to be the ultimate basis for a truly bold energy prize because it has no environmental impact and is universally available as a natural resource. Therefore, a mass-produced hydrogen car would have huge appeal to China and India if it were reasonably priced. American technologies for hydrogen vehicles might be one of the biggest economic winners of the next generation.
32. **Dramatically increase funding to develop hydrogen fuel cells.** A National Research Council report found that if the government is willing to invest an average of \$11 billion per year on hydrogen technology and infrastructure between now and 2050, 100 percent of all cars and light trucks in the U.S. could be hydrogen-powered with zero emissions by 2050. This might seem like a lot of money at first, but it is nothing compared to the incredible advantages of hydrogen economy or to the \$700 billion a year we are sending to foreign countries for oil. By increasing funding we could have 25 million hydrogen-powered cars on the road by 2030 and be well on our way to a revolution in our energy and environmental policy that will give Americans more energy at lower costs.

Solutions for bureaucratic roadblocks

33. **Streamline agency reviews of drilling projects.** The delay and confusion caused by bureaucracies often stems from a lack of coordination among the huge number of government agencies.

For onshore drilling projects, there are at least eight agencies spread across four departments that are all involved in the approval process.

The problem is that every agency only focuses on doing its own job without considering the big picture. For example, the Environmental Protection Agency only cares about making sure the Clean Air Act or the Clean Water Act is being enforced. As long as it meets that responsibility, it's simply not concerned that it may be causing massive delays throughout the rest of the system because other agencies are waiting for it to finish its job before they can do theirs.

We need a fundamental restructuring of the bureaucracy at the local branch level so that all the agencies involved in approving drill leases and permits work in one office together and report to one boss who oversees and coordinates all their efforts.

This reform has already been tested with incredible success. The 2005 Energy Act created a pilot program to consolidate a few local branches of these agencies in various locations. Two years later, the results speak for themselves. In 2006, the offices that participated in the program processed 73 percent of the applications for drilling permits, compared to just 27 percent handled by the offices that retained the old bureaucratic structure.

As efficiency went up, so did environmental oversight – in 2007, the pilot offices conducted 100 percent of the inspections they had planned on completing by the end of the year. While it isn't unusual for offices to conduct all their planned inspections, what makes the pilot office numbers so impressive is that their inspections were much more in-depth and wide-ranging than the non-pilot inspections. They met their inspection goals while improving the quality of their inspections.

This reform leads to dramatically fewer delays, less cost to energy companies, better relationships between agencies, and better environmental protection. It is a commonsense solution that we should implement immediately for both onshore and offshore drilling.

- 34. Dramatically increase the funding and staff levels of these offices.** Often suffering from severe shortages of personnel and

money, these government office must be given the resources to do their jobs.

- 35. Save one year in duplicative paperwork in processing drilling applications.** When an oil company goes through the process of trying to drill offshore, the Minerals Management Service (MMS), which oversees offshore drilling regulations, has to create a 5-year plan that includes a host of different steps and environmental analyses and takes two to three years to finish.

There are three very long steps in this process in which the MMS publishes its proposal for the methods and location of the drilling. The first step is called the “draft proposed program,” which is followed by the “proposed program,” and eventually leads to the publication of the “final proposed program.”

Here’s what this really means: the MMS first says what it plans to do, then what it really plans to do, and finally, what it really, really plans to do.

This inefficient process has led the Outer Continental Shelf policy committee to suggest eliminating the “draft proposed program” step. It is possible that this simple reform will save energy companies and federal agencies *one year* in paperwork and planning time. We should immediately enact this recommendation.

- 36. Make agency behavior transparent and accountable.** If every agency had to publish information every week on how many applications it was processing, how long they had been in process, and other key indicators, there would be dramatic pressure not to be the most inefficient and least effective agency. Congress would also know how to evaluate which agencies required more oversight or resources.

There are several other important bureaucratic reforms that should be enacted and even more radical steps to consider, but these examples highlight how small, commonsense solutions can lead to dramatically fewer delays and costs which will create more energy and lower

prices. Untangling the web of bureaucracy that chokes off oil development is difficult, but we can't hope to address our energy needs if we don't commit to real change to a bureaucratic system that is clearly broken.

Solutions to reduce litigation

37. Empower government agencies to fight off frivolous lawsuits.

The likelihood that any drilling permit given to a company will be challenged in court is enough to have a real impact on our nation's energy needs. An environment where hostile interest groups frequently challenge drilling permits for ridiculous reasons is one in which there is less drilling and less energy for the American people.

Our government is a highly complex organization that is impossible for Congress to fully manage. So when Congress passes a law setting certain goals or requiring different procedures to be used by an agency, it usually leaves it up to that agency to decide how best to implement the law. For complicated historical reasons, this is not the case with the agencies that regulate drilling.

In 1969, Congress passed the National Environmental Policy Act (NEPA) requiring that agencies follow certain procedures when deciding the methods and locations for oil drilling. The bill is purposefully vague and doesn't define a lot of important phrases and words, which is not unusual for legislation.

Typically, Congress writes somewhere in a new law that the agencies responsible for implementing it can interpret the law's language based on their own expertise and experience with these issues. Unfortunately, NEPA didn't do that. As a result, anti-drilling environmental extremist groups often challenge whether a government agency followed NEPA regulations by arguing that the agency's actions are inconsistent with the law's language. When the agencies tell a court that they define some phrase in a certain way based on the recommendations of their own experts, activist courts often side with the environmentalist extremists and rule that the

agencies don't have the authority to define the law's language. Instead, the courts decide that only they can define these words.

The result is a system of regulations that have been largely written by the courts—which have no experience or expertise in energy at all—in ways that hinder the activities of both energy-related agencies and energy companies.

This has led agencies to try to create “appeal-proof” environmental assessments in which they far exceed the necessary environmental protections in order to make it harder for environmental extremists to win lawsuits. Unfortunately, even these costly and time-consuming “appeal-proof” assessments frequently lose in court. In 2006, out of 108 lawsuits filed under NEPA against government agencies, courts ordered injunctions or ordered the case to be remanded in two-thirds of cases. All this means less drilling, more delays, and more ridiculous regulations and lawsuits.

The way to fix this crucial problem and stop a lot of frivolous lawsuits is to pass a law that gives the agencies in charge of implementing NEPA regulations the authority to define important words and phrases that Congress left vague. This would be no different than what Congress does for almost every other piece of legislation it passes, and it would stop the courts from being able to overrule the decisions these agencies make based on their own considerable expertise.

- 38. Implement a loser-pays law for lawsuits challenging drilling permits.** Even if we make it harder for environmental extremists to win lawsuits, they'll probably keep filing one suit after another in hopes of slowing the process down and, ultimately, winning in some liberal activist courts.

To really stop these baseless lawsuits we have to design a system where there is a significant incentive not to file them. The best way to do that is to implement a loser-pays law for these lawsuits. This means that whichever side loses a lawsuit challenging a drilling permit has to pay all the legal costs for the other side. If an extreme

environmentalist group wants to stop all drilling in Alaska by filing ridiculous lawsuits challenging permits, and then loses those suits, it should have to pay the legal costs that the government and the private company spent defending the permit in court. You would see a dramatic decline in the number of frivolous lawsuits, as there would finally be a disincentive against filing suits that have little chance of success.

This reform would not cause harm to the environment. The vast majority of these lawsuits are frivolous, geared more toward shutting down drilling altogether than ensuring that regulations are followed. In most cases, the environment is being adequately protected by existing regulations, which are rigorously enforced. A loser-pays law would simply encourage activists to stop filing lawsuits unless they have strong evidence of real environmental or regulatory problems. This would actually increase accountability because the courts and the government would take the few lawsuits that were filed much more seriously.

We can protect the environment and cut down on wasteful litigation at the same time. If we want more energy and lower prices, we need real change in our legal system to stop frivolous lawsuits that cause unnecessary delays and cost billions of dollars to energy companies and to taxpayers. It must be a priority in any solution to our energy needs.