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Congress of the United States
 House of Representatives
 Committee on Interstate and Foreign Commerce
 Room 2125, Rayburn House Office Building
 Washington, D.C. 20515

February 25, 1974

FEB 26 1974

All Members
 U. S. House of Representatives
 Washington, D. C.

Dear Colleague:

As you know, floor action has been scheduled for this week on the Conference Report on S. 2589, the Energy Emergency Act. I am enclosing for your consideration a summary of the major provisions of this bill.

There is much in this legislation which is needed now if we as a government are to respond positively to the energy crisis. For example, standby authority is provided to permit end-use rationing of petroleum products should the President determine that he is unable otherwise to preserve public health, safety, and welfare of this nation. Authority has been given to the President to compel the allocation of materials for energy production which are in short supply such as pipes and drill bits to prevent the hoarding of these supplies which is reportedly now going on. The Administration is given authority -- tempered by Congressional veto -- to prevent wasteful and unnecessary energy consumption. The consumer is provided with pricing protection in the petroleum market. Steps are authorized to be taken to begin to make fuller and more efficient use of this nation's abundant coal supplies. And the states are to be granted assistance in providing compensation for those whose unemployment is attributable to energy shortages. And perhaps most importantly, provision has been made to obtain complete and accurate data reflecting this nation's energy supply so that both the Administration and this Congress can measure the extent of the problem and fashion additional means to deal with it.

Most certainly this is a most complex and controversial bill. Objection to its terms is principally focused on section 110 -- the so-called price rollback provisions.

Let me take a moment to describe how these provisions will affect the current prices of domestically produced crude oil. As you undoubtedly know, the President has imposed ceiling prices for so-called "flowing oil" produced in the United States. The formula that he has employed for doing this is identical to that contained in section 110 of the Conference Substitute (i.e., producers are permitted to charge the field price in effect on May 1, 1973, plus an additional \$1.35). Thus the pricing provisions of the Conference Substitute will not force a change in the current price levels for flowing crude production. There are, at present, no price ceilings for new oil production nor for production from stripper wells which produce 10 barrels or less per day. According to recent testimony given by officials of the Federal Energy Office, on a national average, the price of new crude and stripper well production has risen to about \$9.51 per barrel. In many cases, the price is well over \$10 -- approximating the international market prices set by the cartel of Mideastern oil producing countries. The provisions of section 110 would require a rollback of these prices to an average range of between \$5.25 and \$7.09. Your Conferees believe that this price range is sufficiently broad to permit the President to establish prices which are adequate to induce production of additional crude supply while providing pricing protection to industrial and individual consumers at a time when the market mechanism of supply and demand is not working so obviously.

For example, in December, 1972, the National Petroleum Council reported to this Congress that, in order to achieve the greatest feasible level of domestic self-sufficiency, the domestic price of crude oil would have to rise from \$3.18 per barrel in 1970 to \$3.65 per barrel in 1975. In August, 1972, the Independent Petroleum Association of America testified that a domestic price of \$4.10 per barrel would be adequate to assure the United States 100 percent self-sufficiency by 1980. While these projections were stated in "constant dollars", after adjustment, the National Petroleum Council's price would be projected at \$4.35 and the Independent Petroleum Association of America's price would be increased to \$4.55. It is to be emphasized that these price estimates are well within the national average ceiling price of \$5.25 called for in section 110 of the Energy Emergency Act. Moreover, it should be kept in mind that this section permits the President to increase the ceiling price to levels which would result in a national average price of \$7.09. This is well above the most recent projection of the Independent Petroleum Association of America calling for an average price of approximately \$6.65 per barrel for crude oil in order to maximize domestic production by 1980. Let me point out also, that as recently as January 23 of this year Deputy Secretary Simon stated that the long term supply

of crude oil -- i.e., the level needed to bring supply and demand into balance and to eliminate the shortage -- would be "in the neighborhood of \$7 per barrel within the next few years". In Secretary Simon's words, any price higher than that creates "a windfall -- a price to producers which is more than producers could have anticipated when investments were made and more than that required to produce all that we can in fact expect to be supplied".

I believe that you share my concern and the concern expressed by the Conference Committee with the inflationary spiral which confronts this nation. Because fuel is so basic to every industry and every homeowner, the continued acquiescence of the Administration in permitting market prices of petroleum products to increase by as much as 300 to 350 percent in the last year could well have a multiple inflationary impact which could threaten our nation's ability to remain economically viable. It is patently clear that the Congress must act to restore rationality to the market in petroleum products.

Over the course of this last year, the people of this nation voluntarily have made considerable sacrifices. As your constituent mail clearly indicates, their patience has been exhausted, and frustration with long lines at the gas pump coupled with significantly increasing prices has markedly increased. It is incumbent on us in the Congress to respond to their needs and to act forthrightly to equip the Executive with full powers to deal with this situation. This legislation is an important and necessary step in that direction. It is one we must take now without further delay.

I wish to emphasize that this bill contemplates temporary measures to extend only for the next 14 months until May 15, 1975. As we gain further experience and acquire additional information, amendments in its provisions may become necessary. But we cannot and should not defer action awaiting a more perfect solution to our problems. I respectfully urge your support of this current legislative effort.

Sincerely,

Harley O. Stagers

HARLEY O. STAGGERS, M.C.
CHAIRMAN

HOS:bf
Enclosure

SUMMARY OF MAJOR PROVISIONS
OF
CONFERENCE AGREEMENT
ON
ENERGY EMERGENCY ACT (S. 2589)

PREPARED BY THE STAFF
COMMITTEE ON INTERSTATE AND
FOREIGN COMMERCE
U.S. HOUSE OF REPRESENTATIVES



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SUMMARY OF MAJOR PROVISIONS OF CONFERENCE AGREEMENT ON ENERGY EMERGENCY ACT (S. 2589)

Title I

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

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(II)

1. Federal Energy Emergency Administration.—Creates a Federal Energy Emergency Administration to carry out authorities under this Act and the Emergency Petroleum Allocation Act of 1973. The Administrator is to be appointed with consent of the Senate. His term ends on May 15, 1975. [Sec. 103]

2. End-use Rationing.—The bill gives standby rationing authority to the President. It may only be exercised on a finding that all other actions are not sufficient to preserve public health, safety and welfare and accomplish the national goals listed in the Emergency Petroleum Allocation Act. No rationing program may impose a tax or fee. [Sec. 104]

3. Energy Conservation Plans.—The Administrator of the FEEA created under this Act is authorized to issue regulations restricting public and private consumption of energy (such as limitations on business hours, bans on ornamental lighting, etc.). All such regulations are subject to Congressional veto. (Regulations submitted to the Congress prior to March 15 and proposed to take effect before that date, may take effect immediately but may be ordered rescinded by simple resolution of either House. Regulations submitted to the Congress after March 15 and proposed to take effect before September 1 would be delayed for fifteen days to permit the Congress an opportunity to veto the regulation by simple resolution in either House. Any regulation proposed to take effect on or after September 1 of this year, must be submitted to the Congress as proposed legislation.) [Sec. 105]

4. Coal Conversion and Allocation.—The Administrator is required, where practicable, to order major fuel burning installations to convert to coal, if they have the capability and necessary plant equipment to do so. The Administrator also is directed to require that fossil-fuel-fired electric power plants in the early planning process be designed and constructed so as to be capable of using coal. The Administrator is authorized to prescribe a system for allocation of coal to users in order to carry out this Act. [Sec. 106]

5. Materials Allocation.—The Administrator is required to develop a contingency plan for the allocation of supplies of materials and equipment necessary for energy production. This contingency plan may be placed into effect at any time following submission to the Congress and an opportunity for Congressional veto by simple resolution of either House. Also the Emergency Petroleum Allocation Act is amended to give priority in the allocation program for the production of minerals which are essential to the requirements of the United States. [Sec. 107]

6. Actions to Increase Available Domestic Petroleum Supplies.—

The Administrator is authorized to require designated domestic oil fields to be produced at their maximum efficient rate of production (that is, the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles). In certain instances the Administrator may require designated fields to be produced in excess of their maximum efficient rate. The Administrator may also order refineries to adjust their operations to produce greater amounts of specified refined products. [Sec. 108]

7. Additional Amendments to the Emergency Petroleum Allocation Act of 1973.—The Petroleum Allocation Act is amended to require adjustments in the allocation program to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions). [Sec. 109]

8. Prohibition on Inequitable Prices.—This section rewrites the Windfall Profits provisions of the House bill to redefine the controls to be placed on the exercise of the President's authority to set prices for petroleum products. A ceiling price is placed on domestic oil production under a formula which would result in an average price of \$5.25 per barrel. The President could raise the ceiling for classifications of crude production to prices which are 35% over the ceiling. Resulting cost reductions in the price of crude mandated by this section must be passed through to lower the prices of residual fuel oil and refined petroleum products (including propane). [Sec. 110]

9. Protection of Franchised Dealers.—Major oil companies are prevented from unreasonably canceling, failing to renew, or otherwise terminating their franchise agreement with retailers of petroleum products. Wronged retailers may apply to Federal court for damages or injunctive relief. [Sec. 111]

10. Prohibitions on Unreasonable Actions.—Actions taken under this Act and under the Emergency Petroleum Allocation Act are held to a standard of reasonableness. Inequitable discriminations among users are expressly prohibited. Also the Administrator is cautioned to assure that his regulations do not impose unreasonably disproportionate burdens on any sector of industry. Regulatory actions are required to be supported by economic analysis. [Sec. 112; Sec. 105(d)]

11. Regulated Carriers.—Within 45 days of enactment, the CAB, the FMC, and the ICC are required to report to the appropriate committees of Congress on the need for additional regulatory authority in order to conserve fuel during the emergency period. Also the ICC is directed to initiate expedited proceedings to eliminate the so-called "Gateway" requirements which cause excessive travel by certificated motor common carriers. [Sec. 113]

12. Antitrust Provisions.—A limited exemption from the antitrust laws is created for those engaged in voluntary action undertaken to achieve the purposes of this Act. Detailed provisions control the availability of this antitrust defense. The Conferees have agreed to the provisions which were contained in the House-passed bill. [Sec. 114]

13. Exports.—The Administrator is authorized to restrict exports of coal, petroleum products, and petrochemical feedstocks. Restrictions on the export of such products are required if either the Secretary of

Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. Also the Secretary of Commerce's authority to control exports of these products is expanded in certain respects. [Sec. 115]

14. Unemployment Assistance.—The President is required to minimize adverse impacts of actions taken pursuant to this Act upon employment. The President is authorized to make grants to states to provide unemployment assistance for those whose unemployment results from the administration and enforcement of this Act. Such benefits would extend from six months to two years. [Sec. 116]

15. Use of Carpools.—The Secretary of Transportation is directed to establish an office to assist in carpool promotion throughout the nation. The Secretary is to lend technical assistance to state and local agencies and is authorized to provide grants for the development and conduct of carpool promotion programs. As an example to the rest of the nation, the President is directed to require agencies of government to use economy model motor vehicles. Moreover, with certain exceptions, the use of limousines by members of the Executive Branch below the level of cabinet officer is expressly prohibited. [Sec. 117]

16. Administrative Procedure and Judicial Review.—Special administrative procedure and judicial review sections have been included to meet the special purposes of this Act. Under their terms, proposed rules or orders must be issued so as to provide a minimum of ten days for comment by interested persons. In emergency circumstances this ten-day period may be waived. However, if any rule or order is likely to have a substantial impact on the nation's economy, a public hearing must be held no later than 45 days after implementation of the rule or order. Provisions must be made to provide procedures for making special hardship or other adjustments in the Administrator's regulations. Judicial review is to be obtained in the Circuit Courts of Appeal. [Sec. 118]

17. Prohibited Acts.—It is a prohibited act for any person to violate a provision of Title I of this Act or a rule, regulation or order issued thereunder. [Sec. 119]

18. Enforcement.—Violators may be subject to a civil penalty of \$2,500 for each violation and a criminal penalty for willful violations of up to \$5,000. Repeated violators who have already been subjected to a civil penalty may, if they continue to violate the Act, be fined up to \$50,000 or imprisoned not more than six months, or both. Private injunctive actions are authorized. [Sec. 120]

19. Use of Federal Facilities.—Federal agencies and departments are authorized to make available facilities for use in transportation and storage of fuel during the emergency period. Use of such equipment or facilities must be compensated for at fair market value. [Sec. 121]

20. Delegation of Authority and Effect on State Law.—The Administrator is given broad authority to delegate his functions within the Federal Energy Emergency Administration and to officers of a state and local boards. State laws or programs which are inconsistent with provisions of this Act or any regulation, order or rule thereunder are preempted. [Sec. 122]

21. Grants to States.—The Administrator is authorized to make grants to state to implement and enforce various provisions of this Act. Also, he may issue grants to states for the purpose of assisting them in the development and enforcement of state or local energy conservation programs which are the basis of an exemption from Federal programs. [Sec. 123]

22. Reports on National Energy Resources.—The Administrator is directed to issue regulations calling for full energy information from those engaged in the exploration, development, processing, refining, or transporting of any petroleum product, natural gas, or coal. These reports are required to be made every 60 days. A summary analysis of the data shall be available to the Congress or any committee of Congress upon request of its chairman and may be revealed to the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities. [Sec. 124]

23. Expiration.—Title I authority is terminated at midnight May 15, 1975. [Sec. 126]

24. Authorization of Appropriations.—There are authorized to be appropriated to the Federal Energy Emergency Administration \$75 million for the remaining portion of fiscal year 1974 and \$75 million for fiscal year 1975. For the purpose of making grants to states, there are authorized to be appropriated \$50 million for the remainder of fiscal year 1974 and \$75 million for fiscal year 1975. To provide unemployment assistance authorized under section 116 of the bill, there is authorized to be appropriated \$500 million for the remainder of fiscal year 1974. A \$5 million authorization has been included to permit the funding of the carpool promotion program. [Sec. 127; Sec. 117(f)]

25. Importation of Liquefied Natural Gas.—Notwithstanding the provisions of section 3 of the Natural Gas Act, the President is permitted to authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country. [Sec. 129]

26. SBA and HUD Loans.—The Small Business Administration and the Department of Housing and Urban Development are authorized to make loans to homeowners and small businesses to permit the installation of insulation and other energy-savings equipment. [Sec. 130]

Title II

1. Suspension Authority.—The EPA Administrator is authorized to suspend air pollution requirements for stationary sources until November 1, 1974, if sources cannot obtain clean fuels. [Sec. 201]

2. Coal Conversion.—Sources which convert to the burning of coal are exempted from any pollution requirement which would prevent burning of coal. Exemption is effective until January 1, 1979, and may be extended for one more year. Exemption may be overridden if conversion to coal results in significant threat to health. [Sec. 201]

3. Plan Revision.—The EPA is required to review and consider revision of state air pollution control plans for any area in which coal conversion takes place. [Sec. 202(a)]

4. Transportation Controls.—All EPA parking surcharges are banned. A one-year delay of all EPA parking management regulations is authorized. EPA is required to study the necessity and cost of these requirements and exclusive carpool/bus lanes. [Sec. 202(b)]

5. Motor Vehicle Emissions.—The Conference bill postpones new car emission standards one year and authorizes a second year of postponement if the Administrator finds that it is necessary to prevent a significant increase in fuel use. [Sec. 203]

6. Protection of Public Health and Environment.—The Federal Energy Emergency Administrator is required to the maximum extent feasible to allocate low sulfur fuels to areas designated by the Administrator of EPA as having the greatest need. A \$3.5-million study of the health effects of sulfur oxides is authorized. A one-year delay in the requirement for filing "environmental impact" statements under NEPA is authorized for actions taken under this Act. [Sec. 205]

7. Energy Conservation Study.—The Administrator of the FEEA is required to report to Congress within six months on methods of energy conservation. The Secretary of Transportation must submit to Congress within 90 days an "Energy Mass Transportation Assistance Plan". By December 31, 1974, the Secretary of DOT is also required to report on the possibility of developing a high speed ground transportation system between Canada and Mexico in the West. [Sec. 206]

8. Reports.—The Administrator of EPA is required to report to Congress on the implementation of the Clean Air Act Amendments by January 1, 1975. [Sec. 207]

9. Fuel Economy Study.—The Administrator of EPA and the Secretary of DOT are required to report to Congress within four months on the feasibility of improving fuel economy of new cars by 20 percent between 1974 and 1980. [Sec. 208]

Title III

1. Studies and Reports.—The Conferees have consolidated in a separate title a number of the studies which were contained in both the Senate and House bills. There are three categories. The first set of studies and reports [Sec. 301(1)] calls for immediate recommendations on means for developing near-term increases in energy supply or reductions in energy consumption. The second set [Sec. 301(2)] deals with longer term methods for achieving these same objectives. The third class of reports [Sec. 302] essentially reserves to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby. A list of the studies follows:

1. Effect of rulings and regulations issued pursuant to the Economic Stabilization Act on production (FEEA)
2. Development of incentives to increase energy supply and reduce consumption (Secretary of the Treasury and Director of the Cost of Living Council)
3. The impact of energy shortages on employment (FEEA)

4. Comprehensive review of U.S. exports and foreign investment policies (Secretaries of the Interior and Commerce)
5. A plan to provide Federally sponsored incentives for increased use of mass transit—to be submitted to the Congress for approval (FEEA)
6. The potential for further development of hydroelectric power resources (FEEA)
7. Methods for accelerated leasing of energy resources on public lands (Secretary of the Interior)
8. Energy facility siting problem (FEEA)
9. The potential for conversion of coal to synthetic oil or gas (FEEA)

