BUSINESS AS USUAL IN WASHINGTON:
H.R. 1380, CRONY CAPITALISM & CORPORATE WELFARE

June 7, 2011

BACKGROUND

On April 6, 2011, Reps. John Sullivan (R-OK), Dan Boren (D-OK), John Larson (D-CT) and Kevin Brady (R-TX) introduced legislation to create a host of special interest tax breaks and corporate welfare incentives for the natural gas industry. The supporters of this legislation are joined by 187 of their fellow House colleagues in support of the bill.

Their bill, with a painfully contrived name of the "New Alternative Transportation to Give Americans Solutions Act" or "NAT GAS Act," will distort the energy market by creating incentivizes to use natural gas as a vehicle fuel.[1] By incentivizing the use of natural gas in cars, trucks and other vehicles, the bill will lead to market distortion, creating increased demand for natural gas. This will drive up prices for businesses and consumers, increasing utility costs and, for example, making it more expensive for American families to heat their homes.

Government should not continue to distort the energy market or otherwise interfere with the operation of the free market. Government should not be in the business of picking winners and losers. Unfortunately, that is exactly what the "NAT GAS Act" does. Make no mistake, NAT GAS is not based on free market principles but rather on the idea that central planners are better capable of allocating capital than the free market and that the federal government should be able to tax and spend to decide which fuel sources can succeed and which will fail.

The idea of central planning is not a new approach for at least one of the lead sponsors of the NAT GAS Act. Rep. John Larson is no fan of the free market when it comes to energy. In the past, he introduced legislation to impose a "carbon tax" on

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[1] Legislative text of H.R. 1380, 112th Congress.

users of energy[2] – a tax that will also interfere with the free market and empower bureaucrats in ways that will further allow the government to pick winners and losers. It is that same mindset that is behind the NAT GAS Act.

KEY SECTION ANALYSIS:

101, 106. Vehicle Fuel: Picking Winners & Losers. This section creates a $0.50 per gallon tax credit for natural gas vehicle fuel through the end of 2016. The credit is given to businesses, individuals and tax-exempt entities that sell, or in limited cases, use the fuel.

> **COMMENTARY:** The provision will allow organizations that are tax-exempt to "immediately apply for a payment"[3] which means even persons and organizations who pay no taxes can still get a tax "refund" for selling or using this fuel. For the first time, Indian tribes, as a group that pays no taxes, will be able to collect these rebates.
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> This subsidy operates just like the inefficient ethanol subsidies. **Instead of creating subsidies for various kinds of fuels, Congress should level the playing field by eliminating subsidies that determine winners and losers, eliminate costly government regulations that act as a barrier to entry into the market, and lower taxes to benefit energy producers equally – not create more special interest giveaways.**

102, 103, 104. Tax Giveaways. This section resurrects an expired taxpayer-financed subsidy (it had expired on 12/31/2010) that gives tax dollars to buyers of alternative vehicles like hybrids or those that run on natural gas.[4] This program gives a tax credit ranging "from $7,500 for a light-duty passenger vehicle to $64,000 for the heaviest trucks."[5]

> **COMMENTARY:** As evidence that this program selected winners and losers in the past, this provision created perverse incentives for consumers by capping the availability of the credit for more advanced, better priced hybrid vehicles (made by Toyota, Honda and Lexus), forcing consumers to buy less developed cars made by Ford and GM.[6]

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[2] See America's Energy Security Trust Fund Act (H.R. 1337, 111th Congress).
[3] Natural Gas Vehicles for America, "Fact Sheet: Federal Incentive for Alternative Fuel Use/Sale," January 18, 2011.
[4] Internal Revenue Service (IRS), "Alternative Motor Vehicle Credit." Available here.
[5] NGVAmerica, April 8, 2011. Available here.
[6] National Auto Dealers Association (NADA), "Alternative Motor Vehicle Credit." Available here.

201, 202. Corporate Welfare: Another Auto Bailout? The bill gives makers of natural gas vehicles a tax credit for making these vehicles. The amount of the credit is equal to the lesser of 10% of the manufacturing cost of the vehicle ("basis") or $4,000. Each maker can claim a credit up to $200 million each year for 5 years for a total of $1 billion per manufacturer.

> **COMMENTARY: This is the latest in a long line of corporate welfare programs for automakers**. Supporters say that this will encourage manufacturers to build cars that are "more efficient" but if that were true, manufacturers would already be producing these vehicles because consumers in a free market would be demanding these vehicles.[7]

301, 302. Crony Capitalism. These sections are the epitome of crony capitalism. The create another tax credit, this one for "refueling property" that ranges "from 30% or $30,000 to 50% or $100,000 per station (whichever is less)" and also creates another incentive for homeowners to install home refueling stations with a tax credit worth up to $2,000.

> **COMMENTARY:** This is another targeted special interest tax break for sellers of natural gas. **Instead of creating refundable tax credits, Congress should allow these sellers to depreciate the cost of the equipment like other businesses do**. We don't have Shell, Exxon and Chevron stations all across the country because taxpayers paid to have gas stations built. We are America and if there is demand for natural gas filling stations American entrepreneurs will build it, without government intervention.

401, 404. More Bureaucracy. Additional provisions direct the Department of Energy "to improve the performance and efficiency and integration of natural gas powered motor vehicles and heavy-duty on-road vehicles" through its current grant programs.

WHAT CONSERVATIVES ARE SAYING:

Americans For Prosperity: "In November, the American people sent a wave of lawmakers to Washington to end government handouts, not to create new ones. It is simply disingenuous for lawmakers to pay lip service to limiting government and ending corporate welfare only to turn around and support new subsidies and giveaways to particular industries. We need to be cutting inefficient tax breaks that distort economic activity, not adding more to the IRS arsenal. The NAT GAS Act violates this very premise: increasing and expanding subsidies that favor natural gas over other sources of fuel, resulting in preferable treatment for an industry with

[7] Rep. John Sullivan, "H.R. 1380 NAT GAS Act of 2011Fact Sheet." Available here.

deep pockets and expensive lobbyists."[8]

GlobalWarming.org: "This stampede by conservatives, including several freshmen who identify with the Tea Party, to support the T. Boone Pickens Earmark Bill makes a mockery of their claims to want to cut federal spending, eliminate subsidies to special interests, and get government out of people's lives. We're very close to returning to business as usual in Washington."[9]

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Americans For Prosperity: "Government should not be in the position of choosing winners and losers in the marketplace. If a technology truly has worthwhile benefits for American consumers (lower cost, higher efficiency, environmental benefits, or otherwise) then that technology should demonstrate its value by competing for consumers' dollars in the open market."[10]

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Heritage Action for America/RedState.com: "H.R. 1380 is nothing more than good old-fashioned corporate welfare. Members should oppose its passage… And overall, conservatives in Congress should be very clear that when they support an 'all-of-the-above' energy policy, they mean to allow all-of-the-above energy to be tapped—not subsidized."[11]

RedState.com (reader comment): "Many of the supporters are co-sponsoring the bill under the erroneous premise of supporting an effective energy resource; natural gas. They need to understand that we support opening our lands to natural gas drilling, but not subsidization…."[12]

GlobalWarming.org: "What the bill will do is increase demand for natural gas, which will tend to increase prices for natural gas, which means a big payoff for T. Boone Pickens, who has invested heavily in–you'll never guess–natural gas."[13]

RedState.com (reader comment)**:** "It is also important to preclude any comparison to the oil tax credits that the dems are targeting. Those are real tax credits that are enjoyed by all manufactures, i.e. deductions for depreciation. This bill, on the other hand, is nothing more than the market distorting, social engineering interventions that are so endemic in the green energy sector. We cannot extend the corporate cronyism of the ineffective green energy sector even to the more effective fossil fuels."[14]

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[8] Americans For Prosperity (AFP), *Letter of Opposition: AFP Rejects NAST GAS Act*, May 10, 2011. Available here.
[9] Id.
[10] AFP Letter.
[11] Comments: Russ Vought, "Stop the Natural Gas Streaker!" Heritage Action for America, May 11, 2011. Cross-posted at RedState.com,
[12] Comments: Russ Vought at RedState.com.
[13] Myron Ebell, "The T. Boone Pickens Earmark Bill," GlobalWarming.org May Cooler Heads Prevail, May 5, 2011. Available here.
[14] Id.

Americans for Tax Reform: "Conservatives must begin peeling back the numerous duplicative regulations and laws that facilitate or impeded certain types of energy. Unfortunately, HR 1380 takes the opposite approach instead piling more rules, grants, and tax policies onto America's already encumbered energy sector. Congresspersons with a desire to cut taxes, a sentiment all Republicans should have, should not feel compelled to support HR 1380. There are any number of tax cuts which would reduce the government's burden on Americans while not distorting our energy markets."[15]

TALKING POINTS:

- America can best achieve energy independence through innovation and free market competition.

- This bill violates both of those principles by encouraging dependence, not independence, and intervention instead of innovation.

- By rewarding the politically connected, this bill relies on government intervention to pick winners and losers, without regard to the free market.

- This bill is about crony capitalism, corporate welfare and rent seeking.

- Like federal ethanol policies, this bill distorts the market by artificially elevating one energy source above others. This bill will do to home energy prices what ethanol has done to the family grocery bill: increase prices dramatically!

- The bill centralizes the benefits while socializing the cost. Who gets the benefit? People like T. Boone Pickens, who can afford to hire a cadre of lobbyists. Who gets the bill? The American taxpayers who will be forced to give billions of taxpayer dollars to special interests.

- The American taxpayers could pay up to $5 billions in initial benefits. T. Boone Pickens will gain financially because:

    - He is the largest shareholder of Clean Energy Fuels, a company that owns 200 natural gas refueling stations in the United States;

    - Clean Energy also owns BAF Technologies, one of the largest

[15] Americans For Tax Reform (ATR), Letter of Opposition to HR 1380, May 11, 2011. Available here.

companies that converts vehicles to run on natural gas; and

  - He also owns mineral rights in 156,000 acres in Pennsylvania and another 30,000 acres in Oklahoma and Kansas.

- Individuals and businesses that believe natural gas is the future of America's energy markets should commit their own capital, not ask the taxpayers to assume these risks.

- This bill is pure market manipulation by Washington, DC. If natural gas is "the answer," we don't need government intervention. Instead, consumers will demand these vehicles and manufacturers will respond to the demand.

- The free market can allocate capital resources in the energy markets better than any central planners in Washington.

- The free market system is built on entrepreneurship and ingenuity. H.R. 1380 is not. The bill is based on political connections and special favors.

- The solution to America's high energy prices is less, not more, government intervention. The principles of the tea party movement are about less government intervention, not more. H.R. 1380 betrays those very principles.

CONCLUSION

H.R. 1380 represents misguided energy policy. It amounts to crony capitalism, corporate welfare, and special interest giveaways. While supporters may argue that it will reduce America's dependence on foreign oil and will cut taxes, the truth is that this bill will increase the price of natural gas, thus hurting consumers, and the bill funnels tax credits to favored groups so that government will be picking winners and losers. This bill is not good energy policy and will not promote good government.

Conservatives should instead champion three solutions to lower energy costs, foster competition, and reduce America's dependence on foreign oil. These include: (1) expanding domestic exploration for all sources of energy; (2) lowering taxes for all energy producers, regardless of source; and (3) eliminating all taxpayer subsidies to level the playing field among energy producers.