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Statement of
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before the
Committee on Banking, Housing and Urban Affairs
United States Senate
on
Developing and Commercializing Energy Technology

CAO 00105

Mr. Chairman and Members of the Committee, we welcome the opportunity to be here today to consider with you the difficult problems of developing and commercializing energy technology. I would like to lay out a perspective and then focus my comments on three things:

- an overview of the scope and variety of bills now before the Congress that would provide various combinations of Federal financial support for developing and commercializing energy technologies.
- our specific views on the bill under consideration by this Committee to create a \$100 billion Energy Independence Authority which would provide financial support for developing and commercializing energy technologies.
- a brief description of recent and ongoing GAO work bearing on the question of Federal financial assistance for developing and commercializing energy technologies.

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and choosing the funding levels for each will be difficult, but equally essential.

For each option we should pursue the question: When could the technology be commercialized? Also the energetics, or thermodynamic efficiencies, should be carefully weighed. Such a weighing of the net energy output for each technology, will enable us to make energy efficiency comparisons among competing technologies. Adverse environmental effects and social costs of development must be considered as part of the total cost of any energy development project. Also, external influences, such as dependence on foreign oil, must be considered in choosing among future options and short term security.

Even once a decision is made to pursue a given option, we are not home free. Deciding among the most desirable methods for encouraging development, including various forms of Government ownership, tax policy, import controls, loan guarantees, price supports, etc. all depend upon the technology and the energy strategy and goals.

ENERGY DEVELOPMENT LEGISLATION

With this perspective in mind, it is useful to recognize that there are three main types of legislative proposals to financially assist the development of new energy technologies. Only by looking at all three areas comprehensively can a true picture of the total costs of energy development emerge.

First, what is termed "front-end" assistance is proposed. This amounts to subsidies to states and local governments in

regions which are largely rural and unindustrialized to help them plan for development and to provide the public facilities necessary as a result of the development. Assistance could be in the form of loans, loan guarantees, and planning grants, as proposed in S. 3007 (H.R. 11792) the "Federal Energy Development Impact Assistance Act of 1976." Legislation now under consideration to aid coastal states impacted by OCS oil and gas development is another good example.

Second, since private investors are reluctant to build and operate new risky commercial or near-commercial facilities, incentives in the form of loan guarantees, interest subsidies and tax write-offs are proposed. S. 2532 (and H.R. 10267), the "Energy Independence Authority Act of 1975" includes many of these incentives.

Finally, even after commercial-sized plants are subsidized and operating, there is a potential that synthetic fuels will be too high priced to compete with alternatives such as domestic oil and coal or oil imports. Therefore, subsidies to producers in the form of price supports or to users in the form of tax incentives or low interest loans have been proposed to enable higher cost technologies to compete in the market place. The Energy Independence Authority Act includes authority for price supports. H.R. 10108, the "Permanent Tax Reduction Act of 1975," provides tax incentives to users and H.R. 8524 would provide low interest loans to users installing solar heating equipment.

Legislative proposals also have been submitted which would guarantee purchase of products. One (S. 973) would set up a board to purchase synthetic fuels and solar energy, and auction them off to the highest bidder. Some of these proposals cover more than one of the three financing categories discussed; but none is truly comprehensive.

The point is that no one piece of proposed legislation covers in any comprehensive way the entire range of financial support being considered. While legislation on energy development need not be comprehensive, it should seem obvious that a balanced and consistent energy strategy can provide a useful framework within which individual proposals can be evaluated.

ENERGY INDEPENDENCE AUTHORITY

The Administration's most comprehensive energy development proposal would establish an Energy Independence Authority (EIA). The bill, S. 2532, would encourage the development and commercial operation of domestic energy sources and to a lesser extent, encourage energy conservation. A total of \$100 billion would be available to the EIA. The proposal would authorize direct investment in energy technologies, loans, loan guarantees, and price guarantees.

Our detailed comments on this legislation are in Attachment II to this statement which I hope will be made part of the record. I will sketch some of the key points in our comments.

Our central concern lies in the proposal's lack of balance. The bill exhibits a clear preference for initiatives of the supply-increasing variety. According to one provision of the bill the conservation projects eligible for funding appear to be those not in widespread use. This would appear to preclude, for example, assistance to a utility-administered residential insulation project, since home insulation is already in "widespread domestic commercial use". No equivalent condition is attached to supply increasing projects.

The bill would hamper conservation efforts rather than simply fail to promote them. This is true because the bill would result primarily in the allocation, not creation of capital. The EIA's loan funds would, in large part, be raised in the private capital market. Its guarantees would make projects it assists financially more attractive to private capital than conservation projects not backed by Federal guarantees. Thus, both its loans and its guarantees will siphon private capital away from conservation projects which might have been able to obtain private financing in the absence of EIA operations.

The choice of projects to receive financial assistance, and the form of assistance, ought to be based upon reasonable forecasts of the degree to which each project will advance the goal of independence per dollar of assistance accorded it. We believe the bill should contain specific criteria for evaluating the relative merits of claims for financial assistance whether the initiatives are within either the conservation or supply category. An example of the kind of approach we are suggesting is the method for evaluating conservation techniques developed by the Office of Energy Conservation and Environment, *Energy Conservation and Environment*, p. 50.

Federal Energy Administration. Stated broadly, this approach divides the dollar investment required to obtain increased energy efficiency in a particular application by the barrel of oil equivalent which would be saved. Thus, it results in a dollar figure per equivalent barrel of oil which represents the real value of the initiative. Using this technique, conservation initiatives can be readily compared with each other and with supply-increasing options.

We believe that many initiatives in the direction of conservation hold the promise of moving the country farther down the road toward energy independence per dollar spent than do most supply increasing options.

Also, any criteria established by the legislation should recognize and prefer projects with energy gains which have a multiplier effect in a wider economic sector. For example, an energy savings in the manufacture of a particular paper product which causes it to become economically more attractive than some energy intensive plastic will multiply the original saving if there is substitution of the paper for the plastic over an entire sector of use.

In addition, the bill is underlaid by some assumptions regarding national policy which are by no means settled.

Its predilection toward nuclear power generation is the most obvious example. Another is seen in its willingness to give the Government a large quasi-commercial interest in energy supplies which would be in competition with imported crude oil. Since the bill does nothing to limit imports directly, the underlying assumption appears to be that world crude prices will stay high enough to insure the profitability of the EIA's investments in alternative domestic supplies. Thus, the Government would have a financial interest in keeping world crude prices artificially high when, in the opinion of many, the interest of the United States would be best served by an opposite policy.

A further concern is that the bill would create a Government corporation to undertake its stated purposes. Our Office has consistently taken the position that the public interest is best served when congressional control over activities is exercised through annual reviews and affirmative action on planned programs and financing requirements which attend the appropriation processes. We believe that departures from this standard should be permitted only on a clear showing that an activity cannot be successfully operated in the public interest within that framework.

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In this regard, we note that the Energy Research and Development Administration (ERDA) is not mentioned in the bill, although ERDA already has extensive responsibilities to plan, program and assist funding of demonstration energy projects and technologies. In view of this potential duplication between ERDA and the proposed Energy Independence Authority, we believe that S. 2532 should specifically address its intended effects on ERDA.

Finally, we are generally concerned that the bill seems to treat a number of established, statutory policies as obstacles to be overridden or avoided in pursuit of its goals. One provision would exclude EIA from the definition of "agency" within the meaning of the Administrative Procedures Act which, as one consequence, exempts it entirely from the provisions of the Freedom of Information Act. Another provision would exempt EIA from all Federal laws relating to public contracts and public buildings and works. In addition, the requirements for filing environmental impact statements pursuant to the National Environmental Policy Act are not clear.

RECENT GAO STUDIES

I will complete my testimony today by briefly describing recent and on-going GAO work. During the past year we have been extensively involved in the

Government's role in energy development and related methods of financing. Last October we completed an evaluation of the Administration's proposed Government assistance to private uranium enrichment groups and a related proposal submitted to ERDA by a private organization--the Uranium Enrichment Associates (RED-76-36, October 31, 1975). Last month, we commented on the Administration's proposed synthetic fuel commercialization program (RED-76-82, March 19, 1976). Copies of the full reports are available for Committee use.

Uranium Enrichment Report

All existing uranium enrichment technologies in the United States are owned by ERDA. Since 1971 the Executive Branch has encouraged private industry development in any expansion of uranium enrichment capacity. During June 1975, the President proposed legislation which would authorize ERDA to provide various forms of Government assistance and assurances to private firms that wish to build, own, and operate enrichment plants.

ERDA and private firms have determined that some form of Government assistance and assurances is needed in view of several major uncertainties: The technology is classified, licensing uncertainties exist, the processes had never

before been used in a commercial environment, and large capital requirements and long payback periods are required.

In evaluating the issues that emerged from these uncertainties we considered the following questions. What are the advantages and disadvantages of having private industry involvement in terms of cost, competition, and other factors? Should technology proven to be successful in Government plants be used or should the development of other promising, but untried, technologies be expedited? What type of competitive environment would exist to create a reasonable price with private involvement? What Government guarantees will be needed to involve private enterprise and what will be the related budgetary impact?

Our analysis showed that a basic difference exists between a decision on providing the next increment and further increments of uranium enrichment capacity. The next increment of capacity will be the last-of-kind using existing technology and, in our view, could best be built by adding onto the existing Government enrichment plants. Additional future capacity will use advanced technologies and, given the uncertainties, will need Government assistance and assurances.

Synthetic Fuels Report

Our March 1976 report discussed an Administration proposal to authorize ERDA to provide up to \$6 billion in loan guarantees for, among other things, commercial demonstration facilities for the production of synthetic fuels. To encourage industry to participate in synthetic fuels commercial demonstration programs the Administration recommended Government incentives consisting of loan guarantees, price supports, and construction grants.

Because of time constraints we did not evaluate the pros and cons of the various forms of Federal assistance considered by the Administration in arriving at its recommendations. We did note, however, that important policy and judgmental questions were involved in arriving at the recommendations. A different emphasis on certain considerations such as impact on the budget, degree to which an alternative preserves and enhances competition, ability to achieve program goals, and extent of Federal involvement in management of operations--could conceivably lead to a different choice of alternative forms of assistance.

We stated our view that the Congress should consider awaiting further studies which ERDA expects to complete in July 1976 before approving any legislation. The studies

should provide better information on the scope and magnitude of Federal assistance needed to carry out the programs, including better information on the type and number of plants needed.

ON-GOING GAO WORK

Finally, GAO is undertaking further work which will deal with alternative methods of financial support for synthetic fuels. It will address the tradeoffs involved in choosing among such alternatives and in allocating limited Federal dollars to synthetic fuel projects, as opposed to other competing energy projects. To the extent possible, we will address some of the pros and cons of implementing financial support programs on a piecemeal basis as opposed to a comprehensive umbrella approach. For purposes of illustration, let me describe some examples of tradeoffs which we believe should be considered.

Questions should be raised regarding the desirability of subsidizing high cost synthetic fuel output when the price of domestic oil is regulated at an average price, currently \$7.66 a barrel. In a typical oil reservoir, only something on the order of one-third of the total oil in the ground is recovered before abandonment because

there is a lack of economic incentive for further secondary and tertiary recovery. To indicate the potential here, a recent study prepared for the Federal Energy Administration stated that an increase in crude oil prices could increase recoverable reserves of crude oil by billions of barrels by extending well life and by enabling increased use of secondary and tertiary recovery operations. This indicates additional potential for oil and gas recovery if secondary and tertiary operations and technological research were given Government support. At the high price levels discussed for synthetic fuel production such recovery techniques may be a more attractive option than, say, synthetic fuel development.

Another question which should be looked at is the question of incremental versus average pricing of synthetics. Rolling in the price of synthetics could make them appear more cost competitive than they actually are. On the other hand, incremental pricing requires payment of the true product cost and, therefore, has a different impact on final consumption patterns. Incremental pricing would also require synthetic fuels to compete with other alternatives to imported oil, such as energy conservation and solar energy, where rolled in pricing is impossible or possible only on a more limited scale.

Consideration should be also given to optional uses of the fuel produced by synthetic fuel plants. For example, the Administration is now considering where oil for the recently authorized strategic petroleum reserve is going to come from, how much it will cost, and whether, in fact, the oil can be obtained at all. The possibility could be considered of using the output from a synthetic fuels program--particularly if costs and Government involvement are extensive.

As you can see, Mr. Chairman, there are many serious matters requiring closer examination. We hope our continuing study of these issues and tradeoffs can provide some useful insights. We hope to complete our study early this summer, in the same general time frame in which ERDA plans to complete its follow-up studies on synthetic fuels.

Thank you, Mr. Chairman.

A SAMPLER OF LEGISLATIVE INITIATIVES

<u>Bill number</u>	<u>Title or purpose</u>
S. 875	To authorize HUD to make direct low-interest loans to assist homeowners and builders in purchasing and installing solar heating equipment
S. 973	To amend Internal Revenue Code to provide incentives for efficient use of gasoline and increased use of coal and to encourage development of synthetic fuels and solar energy
S. 2066	To assure Federal support (through ERDA) of a joint Government and industry program capable of producing at least 1 million (equivalent) barrels of oil per day by 1985 and to provide loan guarantees for construction and operation of plants
S. 2087	To amend Small Business Act to establish a direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating equipment
S. 2109	To amend Internal Revenue Code to provide deductions for expenses for treatment processes to convert coal to low-pollutant synthetic fuels
S. 2532	To establish an Energy Independence Authority, a Government corporation to provide financing and economic assistance for development of domestic energy sources, conservation of energy, and attainment of energy independence
S. 2869	Similar in purpose to S. 2066
S. 3007	To provide assistance to states for extraordinary fiscal impacts resulting from development of Federal energy resources (through Department of the Interior)

<u>Bill number</u>	<u>Title or purpose</u>
H.R. 917	Similar to purpose to S. 2109
H.R. 3217	Identical to H.R. 917
H.R. 3849	Similar in purpose to S. 875
H.R. 4619	Similar in purpose to S. 875
H.R. 6598	To authorize ERDA to acquire sites, coal and oil shale reserves, and to construct synfuel plants for lease to private enterprise and for subsequent sale of such plants
H.R. 8524	Similar in purpose to S. 2087
H.R. 8704, 8705, 8920, and 9621	are identical to H.R. 8524
H.R. 9723	To authorize ERDA to provide loan guarantees for synthetic fuel conversion
H.R. 9749	Identical to H.R. 9723
H.R. 9906	As part of a National Coal Policy, provides for 1-year amortization of the cost of synthetic fuels facilities and authorizes Federal purchases of fuels produced from coal
H.R. 10108	To provide tax incentives for the expansion of electric power facilities other than petroleum-fueled
H.R. 10559	To amend the Federal Nonnuclear Energy Research and Development Act of 1974 to include loan guarantees for the construction of demonstration synthetic fuel plants
H.R. 11612	To promote through ERDA establishment of experimental projects utilizing synthetic fuels
H.R. 11792	Similar in purpose to S. 3007

Bill numberTitle or purpose

H.R. 11916

To amend the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a program of loan guarantees for commercial demonstration facilities for synthetic fuels and energy conversion technologies

H.R. 12112

To provide additional assistance to ERDA to advance nonnuclear energy by supporting commercial demonstration programs for synfuels and other desirable energy forms

GAO COMMENTS ON S. 2532
94TH CONGRESS

The bill would establish the Energy Independence Authority (EIA), a Government Corporation with authority to provide financial assistance for those sectors of the economy which are important to the attainment of energy independence for the United States, and would change Federal Government operations so as to assist in the expediting of regulatory procedures which affect energy development.

The main purposes of the bill, as stated in section 102, are to encourage the development of domestic energy sources or the conservation of energy, and to hasten the commercial operation of new energy technologies, with a goal of energy independence by 1985. Section 302 provides that, to the extent practicable, the form of the encouragement will be EIA loans or loan guarantees to private business concerns. However, the EIA is permitted to invest directly in energy-related enterprises and to guarantee prices. Only grants-in-aid are specifically precluded. (Sec. 301)

The bill authorizes an appropriation of \$25 billion to the Treasury for the purchase of EIA capital stock. (Sec. 401) In addition, the EIA is authorized to borrow and incur obligations totalling \$75 billion. (Sec. 402(a)) The aggregate amount of \$100 billion is fixed as the upper limit of the EIA's actual and potential liability stemming from direct investment, loans, and guarantees of loans and prices. (Sec. 307)

Our central concern with this bill lies in its lack of balance. The goal of energy independence can be furthered by increases in domestic supply, by reductions in domestic consumption, or a combination of both. This allows a larger fraction of our total energy use to be satisfied out of indigenous supplies. This bill exhibits a clear preference for initiatives of the supply-increasing variety and pays little attention to energy conservation. It states that conservation is among its purposes (sec. 102(b)), but its basic supply orientation is evident from the kinds of projects for which EIA financial assistance would be available. In the listing of eligible projects under subsection 303(b), only the first item mentions conservation and that category of energy projects is limited to those that "are not in widespread domestic commercial use." This last proviso would appear to preclude, for example, assistance to a utility-administered residential insulation project, since home insulation is widespread. No equivalent condition is

gains which multiply themselves in a wider economic sector. For example, an energy saving in the manufacture of a particular paper product which causes it to become economically more attractive than some energy intensive plastic will multiply the original saving, if there is substitution of the paper for the plastic.

A second primary concern is that the bill would create a Government corporation to undertake its stated purposes. Our Office has consistently taken the position that the public interest is best served when congressional control over activities is exercised through annual reviews and affirmative action on planned programs and financing requirements which attend the appropriation processes, and through the application of statutes and regulations which usually govern the operations of Government agencies. We believe that departures from the standard should be permitted only on a clear showing that an activity which is susceptible of operation through a new regular Government agency or through an expansion of similar programs in existing Government agencies cannot be successfully operated in the public interest within that framework.

In this regard, we note that the Energy Research and Development Administration (ERDA) is not mentioned in the bill, although ERDA already has extensive responsibilities to plan, program, and assist funding of demonstration energy projects and technologies under sections 4 through 7 of the Federal Nonnuclear Energy Research and Development Act of 1974, approved December 31, 1974, Pub. L. No. 93-577, 88 Stat. 1878, 1880, 42 U.S.C.A. §§ 5903-5906 (Pamphlet No. 1 Feb. 1975). The authorized forms of Federal assistance therein include: (1) joint Federal-industry experimental, demonstration, or commercial corporations; (2) Federal purchases or guaranteed price of the products of demonstration plants; and (3) Federal loans to non-Federal entities conducting demonstrations of new technologies. In addition, the report entitled "Recommendations for a Synthetic Fuels Commercialization Program," submitted by the Synfuels Interagency Task Force to the President's Energy Resources Council in June 1975, would place ERDA in the role of promoting commercial synthetic fuel plants. Moreover, we note that H.R. 10559, 94th Congress, which would authorize loan guarantees for the construction and operation of commercial demonstration facilities for the conversion of domestic coal and oil shale into synthetic fuels and for the construction and operation of facilities generating energy from renewable sources, would be administered by ERDA. In view of this potential duplication between ERDA and the

attached to the supply-increasing projects listed, such as those designed to stimulate coal or nuclear power generation.

We believe that many initiatives in the direction of conservation hold the promise of moving the country farther down the road toward energy independence per dollar spent than do most supply increasing options. Still, we recognize the merit of putting momentum behind utilization of domestic energy supplies, especially for the longer term. Accordingly, we believe a bill with the ambition of attaining energy independence ought, at least, to be even handed in its treatment and offer as express and unrestricted financial assistance to conservation efforts as it does to supply efforts.

In this connection we note that the bill is not neutral on conservation options. Actually, it would hamper conservation efforts rather than simply fail to promote them. This is true because the bill would result in allocation, not creation, of capital. The EIA's loan funds would, in large part, be raised in the private capital market. Its guarantees would make projects it assists financially more attractive to private capital than conservation projects not backed by Federal guarantees. Thus, both its loans and its guarantees will siphon private capital away from those conservation projects which might have been able to obtain private financing in the absence of EIA operations.

The choice of projects to receive financial assistance, and the form of assistance, ought to be based upon reasonable forecasts of the degree to which each project will advance the goal of independence per dollar of assistance accorded it. We believe the bill should contain specific criteria for evaluating the relative merits of claims for financial assistance whether the initiatives are within either the conservation or supply category. An example of the kind of approach we are suggesting is the method for evaluating conservation techniques developed by the Office of Energy Conservation and Environment, Federal Energy Administration. Stated broadly, this approach divides the dollar investment required to obtain increased energy efficiency in a particular application by the barrel equivalents which would be saved thereby, arriving at a dollar per barrel figure which represents the real value of the initiative. Such figures for different conservation techniques can be readily compared with each other and with cost figures for supply-increasing options.

It is also important for the criteria established by the bill to recognize and prefer those projects with energy

proposed Energy Independence Authority, we believe that S. 2532 should specifically address its intended effects on ERDA.

Nevertheless, if a corporation is considered best suited as the mechanism for achieving the purposes of the bill, we suggest that the corporation be made subject to the provisions of the Government Corporation Control Act, 31 U.S.C. § 841 et seq. (1970). Subsection 804(e) of the bill presently exempts EIA from coverage by the Government Corporation Control Act. We are particularly concerned that EIA would not be subject to the budgetary review process contemplated by sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. §§ 847-849 (1970).

The bill is underlaid by some assumptions regarding national policy which are by no means settled. Its predilection toward nuclear power generation is the most obvious example. Another is seen in its willingness to give the Government a large quasi-commercial interest in energy supplies which would be in competition with imported crude oil. Since the bill does nothing to limit imports directly, the underlying assumption appears to be that world crude prices will stay high enough to insure the profitability of the EIA's investments in alternative domestic supplies. Thus, the Government would have a financial interest in keeping world crude prices up when, in the opinion of many, the interest of the United States would be best served by an opposite policy.

In addition, we question the amount of the financial assistance this bill envisions. Depending on the extent to which conservation options are made eligible for assistance and on the treatment of supply options, the overall assistance could reasonably be smaller or considerably larger. Comprehensive cost and economic analyses are called for on this matter.

Notwithstanding these problems, the bill does exhibit an important recognition that unmodified market forces will be insufficient to achieve the goal of energy independence, however defined. Therefore, in commenting further we accept the basic premises of the bill and make some suggestions with respect to particular provisions.

As is indicated in subsection 101(d), an objective of the bill is to provide "additional" capital for energy projects, and it would not be in the national interest for energy projects to be financed by the Federal Government if they otherwise might receive private financing. However, the

bill is vague in its requirements and does not adequately insure that the projects eligible for assistance would not otherwise be built with private financing. The specific financial eligibility criterion established by subsection 303(a) is that the project "would not receive sufficient financing upon commercially reasonable terms from other sources to make the project commercially feasible." Subsection 303(b) describes five types of eligible projects. Subsection 303(b)(1) limits assistance to those energy technologies or processes not in widespread commercial use, and subsection 304(b) further limits eligibility to projects that are beyond the research and development phase. Some clarification would be helpful in the latter two subsections to better define "widespread commercial use" and better delineate when "research and development" ends and "commercialization" begins.

In addition, it is apparent from subsection 303(b) that electric utilities could receive significant amounts of assistance, since two of the five categories of eligible projects apply almost exclusively to utilities. We suggest that section 303 be revised to limit Federal assistance to electric utilities in only those specific instances where a utility would propose to employ a promising, innovative energy technology or process not currently in widespread commercial use, but could not, without Federal assistance, justify the additional cost or increased risk. The Federal Government would thus assume the risk from specific utilities employing unproven energy processes or technologies. Hopefully these new technologies will become proven as experience is gained in their application and widespread commercialization will occur, resulting in more effective use of the Nation's energy resources and reduced foreign dependence.

Subsection 304(c) requires that before any State or locally regulated firm (such as an electric or natural gas utility) could receive financial support, the regulatory body would be required to certify the need for the project and sign an agreement stating that it would allow, without public hearings, quarterly utility rate increases adequate to maintain a revenue requirement as determined by the Authority. This subsection appears to require State regulatory commissions to abdicate part of their responsibility of determining the revenue requirements of the utilities they regulate.

Section 307 limits the Authority's total financial assistance to the sum of its authorized borrowing. A more practical limit would be one based on paid-in capital, actual borrowings, and accumulated earnings or deficits.

Section 308 states that the EIA may not provide any financial assistance or make any further commitments for financial assistance if, after audit, it is required under generally accepted accounting principles to establish reserves. We believe that the words "after audit" on page 19, line 19, should be deleted since generally accepted accounting principles would dictate establishment of the types of reserves mentioned here.

In view of the formula for automatic reduction of authorized borrowing and authorized capital stock as contained in subsection 311(a) and the limitation on the amount of financial assistance contained in section 307, the reserves required by section 308 must be based on the outstanding capital stock and the net gains realized upon dispositions, which have not been previously applied to retirement of the EIA's obligations and capital stock. Accordingly, section 308, lines 1 to 7 on page 20 of the bill, should read:

"capital stock outstanding, (ii) its earned surplus, and (iii) net gains realized upon dispositions described in section 311 (which have not been previously applied to retirement of the Authority's obligations and capital stock), all of which shall be determined in accordance with generally accepted accounting principles."

Use of the phrase "in consideration for the extension of financial assistance" in subsection 311(a) raises the question whether the securities or assets acquired are (1) payment for extending financial assistance (such as points paid for mortgage loans), (2) collateral for loans made and/or guaranteed by EIA, (3) investment (bonds, notes, etc.) by EIA, or (4) any combination of the above. If the assets are acquired as collateral, EIA would obtain ownership only in the event of default, and its right to sell them outright may be limited accordingly.

The provision in section 401 (page 24, lines 21-25, and continued on page 25, lines 1 and 2) is not clear as to whether interest on deferred dividends is to be computed on the basis of compounded interest or simple interest (using the interest rate in effect at the beginning of each year).

Subsection 501(b) states that "Directors of the Authority, whether serving full time or part time, shall be compensated at an annual or daily rate to be determined by the President." Further, subsection 502(a) states that "The President shall fix the compensation of the Chairman of

the Board." These provisions would affect a total of six positions. We do not favor the setting of salaries in this manner and are not aware of any existing provision in law granting the President authority to fix pay without any restrictions. Generally, limits are placed on executive branch authority to fix pay which preserves internal alignment relative to the highest General Schedule grade or executive level positions. We would suggest the addition of specific language regarding compensation to be paid officers or employees; for example, "at a rate not to exceed level 1 of the executive schedule."

Section 503 makes the provisions of chapter 11 of title 18, United States Code, concerning conflicts of interest, applicable to the directors and all officers and employees of the Authority. The Board of Directors are also authorized to promulgate regulations thereunder. We believe greater protection against conflicts of interest would be provided if the bill were amended to include the following prohibitions:

"The directors, officers, and employees of the Authority, and members of their immediate family, shall not own any interest in any business concern to which financial assistance is provided under this act."

We also believe that the Board of Directors should be required to promulgate conflict of interest regulations, rather than be merely authorized to do so.

Subsection 505(c) of the bill authorizes the General Accounting Office to conduct audits of the accounts of the EIA. In lieu of the language contained therein which is applicable to GAO, we would suggest the following:

"The Comptroller General shall audit the programs, activities, and financial operations of the Authority for any period during which Federal funds are available to finance any portion of its operations and shall report to the Congress at such times and to such extent as he deems necessary to keep the Congress informed on the status of such programs, activities, and operations, and to make recommendations for achieving greater economy, efficiency and effectiveness. The audit shall be made under such rules and regulations as he may prescribe.

"For the purpose of such audits, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine all books, accounts, records, reports, files, and all other papers, things or property belonging to or in use by the Authority."

In conclusion, we are generally concerned that the bill seems to treat a number of established, statutory policies as obstacles to be overridden or avoided in pursuit of its goals. As a general matter, we believe it is wiser for new legislation to consider existing policies on their own merits and either modify them as required by new circumstances or follow them if they remain valid. Examples of such troublesome provisions are: (1) the provision in subsection 804(b) which excludes EIA from the definition of "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 501 (1970), which, as one consequence, exempts EIA entirely from the provisions of the Freedom of Information Act, 5 U.S.C. § 502 (1970); and (2) the provision in subsection 804(c) exempting EIA from all Federal laws relating to public contracts and public buildings and works. In addition, the impact of subsection 804(a)(ii), relating to the filing of environmental impact statements pursuant to subsection 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4332(2)(C) (1970), is not clear.