The original documents are located in Box 53, folder "8/14/76 HR12169 Energy Conservation and Production Act (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
AUG 14 1976

signed 8/14/76

ACTION

Last Day: August 23

THE WHITE HOUSE

WASHINGTON

August 13, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON Jim

SUBJECT: H.R. 12169 - Energy Conservation and Production Act

Posted 8/14/76

Archives 8/16/76

Attached for your consideration is H.R. 12169, sponsored by Representatives Staggers and Dingell.

The enrolled bill would:

-- extend the Federal Energy Administration until December 31 1977;

-- exempt stripper wells from price controls;

-- increase domestic petroleum production price incentive from 3% to about 4-1/2% for 1977;

-- authorize a number of new energy conservation programs including $2.0 billion in loan guarantees, $200 million in weatherization assistance for low-income families, $200 million demonstration program to provide assistance to homeowners, and $105 million for State conservation grants.

A detailed description of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

FEA's analysis is at Tab B.

OMB, NSC, Max Friedersdorf, Counsel's Office (Roth), Bill Seidman and I recommend approval of the enrolled bill.

A proposed signing statement has been cleared by the White House Editorial Office (Smith). (Tab D)

However, Dick Cheney feels strongly that the bill should be signed without a statement. Jack Marsh and I concur.

RECOMMENDATION

That you sign H.R. 12169 at Tab C.

Approve GRF   Disapprove ____________

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12169 - Energy Conservation and Production Act
Sponsors - Rep. Staggers (D) West Virginia and Rep. Dingell (D) Michigan

Last Day for Action

August 23, 1976 - Monday

Purpose

Extends the Federal Energy Administration until December 31, 1977; exempts stripper wells from price controls; increases domestic petroleum production price incentive from 3% to about 4½% for 1977; authorizes a number of new energy conservation programs including $2.0 billion in loan guarantees, $200 million in weatherization assistance for low-income families, $200 million demonstration program to provide assistance to homeowners, and $105 million for State conservation grants.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Federal Energy Office	Approval
Department of Commerce	Approval
Energy Research and Development Administration	Approval
Civil Service Commission	Approval
Council on Environmental Quality	Approval (Informally)
Tennessee Valley Authority	Approval
Department of the Interior	No objection (Informally)
Department of the Treasury	No objection (Informally)
Department of Housing and Urban Development	No objection
Department of Health, Education, and Welfare	No objection
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
Environmental Protection Agency	No objection (Informally)
Federal Power Commission	No objection

General Services Administration	No objection (Informally)
Council of Economic Advisers	No comment
Council on Wage and Price Stability	No comment (Informally)

Discussion

Last January Administrator Zarb sent to the Congress a proposal to extend FEA's life for 39 months. After considerable delay, both the House and Senate passed extension bills but in very different form. The House bill was mainly a simple extension, while the Senate bill went well beyond a simple extension and included domestic petroleum pricing changes as well as a comprehensive package of Federal assistance programs to encourage energy conservation. The scope of the Senate bill caused difficulties for the House conferees resulting in delays in completing conference action. FEA's statute expired before the conferees were able to agree on a bill, even though a 30-day extension to July 30, 1976 had been passed. As a result, you established a Federal Energy Office by Executive Order to ensure that FEA programs would be continued. Your Executive Order is in effect at this time and legally can be continued until July 30, 1977.

During this process, the Administration urged the Congress to enact simple extension legislation without creating any new, controversial programs. The Administration opposed the new conservation programs sponsored by Senator Kennedy as inefficient, of questionable effectiveness and excessively costly. Even though considerable time and effort was spent in trying to eliminate the new conservation programs, the conferees retained them, scaling back somewhat the funding authorizations.

The conference bill was passed by voice vote in the Senate and by 293 to 88 in the House.

H.R. 12169 includes the following significant provisions:

- Federal Energy Administration - Organization

  - extends the Federal Energy Administration until December 31, 1977.

  - establishes a statutory office within FEA for energy information and analysis headed by an Executive Level IV appointed by the President and subject to confirmation by the Senate.

- requires the ERC to complete a study and prepare a plan for the reorganization of Executive Branch activities for energy and natural resources; the plan is to be submitted to Congress by 12/31/76.

The FEA and ERC extensions are acceptable. We believe the statutory energy information office is undesirable because it would decrease the Administrator's flexibility in deciding how to organize the FEA.

o <u>Domestic Oil Regulation</u>

  - exempts first sale of domestic stripper well crude oil from price and allocation controls; this will remove about 70% of domestic wells from controls accounting for 13% of total U.S. production.

  - provides for a one-time price increase of about 1 1/2% over the production incentive increase of 3% in exchange for a FEA commitment not to submit price increase proposals to Congress this year; the additional revenue would go first to provide incentives for tertiary recovery and to raise prices for low gravity California crude.

o <u>Conservation Programs - Originally Proposed by Administration</u>

  - requires HUD to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings; this provision is less stringent than proposed in your original legislation in that the sanctions cannot be implemented until a proposal to do so has been approved through a concurrent resolution of Congress.

  - authorizes $200 million in grants to States or local governments over a three-year period for the insulation of dwellings for particularly the low-income elderly and handicapped; this differs from your weatherization proposal in the following respects:

. authorizes $35 million more than your proposal.

. expands eligibility by lowering elderly age limit from 65 to 60.

. sets limit of up to $400 of assistance per dwelling instead of no limitation.

. permits up to $50 of the $400 to be used for equipment which was excluded from your proposal.

. authorizes local Community Action Agencies to participate in the program under certain circumstances instead of exclusive FEA-State administration.

o <u>Conservation Programs -- Originated by Congress</u>

- requires HUD to undertake a <u>demonstration program</u> to test various forms of Federal financial assistance (grants, low-interest loans, interest subsidies) to homeowners for encouraging energy conservation improvements (e.g., insulation) or use of renewable resources (e.g., solar heating and cooling) in existing residential buildings with a limit of $400 for conservation and $2000 for renewable sources (can be increased by HUD under certain conditions such as low family income).

- authorizes FEA to guarantee up to $2 billion for industry, State/local government, small business and nonprofit institution borrowing for conservation measures; FEA is authorized to charge a fee for administrative costs.

- supplements the existing 3-year State energy conservation grant program* by authorizing an additional $105 million in next three years, mainly for States to provide energy audits to homeowners at no cost.

- authorizes additional $13 million for FEA's existing electric utility rate demonstration programs to test innovative rate structures and load management techniques and to intervene in State utility commission rate making proceedings; requires FEA to submit to Congress utility rate design models.

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* Authorization is $50 million per year; 1976 appropriation is $5 million ($7 million request), 1977 appropriation is $25 million ($50 million request).

- authorizes $2 million in State grants to fund public interest consumer offices to assist consumers in their presentations before State utility commissions.

o Other Provisions

- requires the ERC to prepare an annual report on national energy conservation beginning July 1, 1977.

- authorizes $3 million for FEA to promote commercialization of solar energy.

Assessment - Petroleum Pricing Provisions

The pricing provisions of the bill are desirable and should result in:

o raising the domestic petroleum price by about 3½% or 40¢ per barrel.

o increased domestic production mainly from fields employing the more expensive tertiary recovery techniques; FEA estimates that production increase could be 450,000 bbls/day by 1979.

o increased revenues to oil producers of about $1 billion in 1977 and $1.5 billion in 1978; companies could reinvest this revenue in oil development activities.

o only slightly increased costs to consumers of about 1/3¢ per gallon.

Assessment - Conservation Programs

We believe the provisions for weatherization assistance and building standards are acceptable and, if properly implemented, will result in significant energy savings.

The additional conservation programs initiated by Congress -- the $200 million HUD demonstration program, the $2 billion FEA guarantee program, the $105 million increase in the State conservation grant program -- present the following problems.

The HUD demonstration program is inefficient and possibly inequitable compared to your proposal for providing homeowners with a tax credit of up to $150 if conservation measures are installed.* The tax credit approach does not require additional Federal personnel nor does it rely on HUD personnel to decide which homeowners get assistance.

The FEA guarantee program is not an incentive that will encourage energy savings since it only assures that capital is available to permit installing conservation measures. It does not appreciably change the economics of making a given investment since a subsidy is not included. At present the capital markets appear able to provide capital to worthy borrowers with investments that are economically sound.

The supplemental State grant program is also of doubtful effectiveness. Preliminary evaluations of the effectiveness of providing a free energy audit to homeowners using a questionnaire shows no appreciable difference in subsequent homeowner decisions to install conservation measures.

In addition, aggregate data on energy consumption for the industrial residential and commercial sectors show a decline in total consumption of energy between 1973 and 1975. This indicates that these sectors have already taken action to conserve energy and raises a fundamental question about whether any Federal incentives are needed.

Budgetary Impact

The attached table sets forth estimates of the budgetary impact of the bill.

Agency Views

As noted at the beginning of this memorandum, all agencies take positions of either approval, no objection or no comment. FEO's comments and the significant concerns of the agencies, as set forth in their enrolled bill letters or in informal comments made to OMB, are briefly summarized below:

FEO strongly recommends approval because it believes that the enrolled bill would increase domestic oil production, thus reducing imports by 100,000 barrels per day in 1977 and

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* The tax bill passed by the Senate includes a series of tax credits for conservation and renewable resources to homeowners and businesses including: homeowner tax credit of up to $225 for insulation measures; up to $1,000 for heat pumps; business tax credit of 10% of cost of conservation measures.

500,000 barrels per day in 1979. FEO also believes that the bill is desirable because it contains two programs originally proposed by the Administration -- weatherization assistance for low-income families and energy conservation standards for new buildings. On the other hand, FEO expresses concern about the conservation programs that were initiated by Congress.

<u>HUD</u> does not recommend a veto because its concerns are limited to two provisions of the bill. First, it questions the necessity and level of authorization ($200 million) for the energy conservation demonstration program, but believes that both the scope and funding for this program can be controlled through the appropriations process. Second, it notes that because Congress must approve by concurrent resolution energy conservation standards for new buildings before non-compliance sanctions become effective, the chances of enforcing such sanctions become more remote. Furthermore, <u>Justice</u> informally advises us that this latter provision represents a congressional encroachment similar to those which the Executive Branch has consistently opposed.

<u>Treasury</u> informally advises us that it has no objection to approval; however, the Department expresses three basic concerns. First, it reiterates its long standing opposition to the Federal guarantee of tax-exempt State and local government bond issues.* Second, it questions the advisability of funding electric utility rate demonstrations. Third, it dislikes the growth in Federal regulation and bureaucracy that would result primarily from the energy conservation provisions of this bill.

<u>Recommendation</u>

In sum, the enrolled bill

- removes a significant portion of crude oil production from price controls;
- provides a material increase in the composite price;

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* Conference report advises FEA not to guarantee tax-exempt obligations and notes. It notes that this limitation could not be written into the legislation because it involved the jurisdiction of committees not a part of the conference.

o contains two programs -- weatherization and building standards -- proposed by you last year; and

o extends FEA for an acceptable period of time.

These advantages, however, must be weighed against significant disadvantages. In particular, the congressionally initiated conservation programs are likely to be inefficient, if not altogether ineffective, and costly. They will result in more Federal employees, more paperwork, more Government intervention in the credit markets and recognition that credit allocation and income redistribution by means of categorical programs are appropriate Federal Government policies.

We do not believe that the pricing and other advantages of the bill would be available without its disadvantages. Further, we believe it is important to maintain momentum in moving toward complete decontrol of petroleum prices. While we are hopeful that the cost and the attendant bureaucracy of the congressionally initiated conservation programs can be controlled, we believe, on balance, that the risk of their growth is outweighed by the advantages of the bill. Accordingly, we recommend that you sign H.R. 12169. A draft signing message is attached.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Program	FY 1977	FY 1978	FY 1979	Total	
	Anticipated Outlays (in millions)				
Administration Proposed					
. Weatherization assistance[1]	$ 55	$ 55	$ 55	$165	($200 authorized in bill)
. Conservation standards for buildings	5			5	
. Administrative -- Funds	1	1	1	3	
(Personnel)	(30)	(30)	(30)		
Total -- Administration Proposals	$ 61	$ 56	$ 56	$173	
Originated by Congress					
. State conservation grants[2]	$ 25	$ 40	$ 40	$105	
. HUD demonstration program grants/ loans to homeowners[3]	10			10	($200 authorized in bill)
. $2 billion-obligation guarantees -- companies, State/local government, non-profit organizations[4]	60	-	-	60	
. Other	15	-	-	15	
. Administrative -- Funds	10	10	7	27	
(Personnel)	(245-435)	(245-435)	(170-360)		
Total -- Congressional Proposals	$120	$ 50	$ 47	$217	
Total Administration and Congress	181	106	103	390	
Potential increases (footnotes 1-4)	-	260	195	455	
Total with potential increases	$181	$366	$298	$845	

[1] The Administration proposal for $165 million was based on providing $125 of assistance to an estimated 1.2 million dwellings with 10% added for administrative costs. The bill contains more liberal criteria which could result in future pressures to increase the funding to the $350 million range.

[2] For the EPCA authorized program the Administration requested funding for the full authorization of $50 million/year but the Congress appropriated only $25 million. We are assuming FEA will request funds at the authorized levels.

[3] Secretary Hills proposes to request only $10 million the first year even though $200 million is authorized. Subsequent year appropriation requests would not be made if the homeowner tax credit for insulation is enacted. If this strategy fails there could be pressure to fund the program.

[4] The bill authorizes $60 million assuming a 3% default rate. SBA experience in this area indicates a 6%-8% default rate. Accordingly, the $60 million will support only $900 million in guarantees. There will be pressure to increase the funds to permit the full authorization.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

August 11, 1976

ASSISTANT SECRETARY FOR
POLICY DEVELOPMENT AND RESEARCH

IN REPLY REFER TO:

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Ms. Ramsey

Dear Mr. Frey:

Subject: H. R. 12169, 94th Congress Enrolled Enactment

This is in response to your request for the views of this Department on the enrolled enactment of H. R. 12169, the proposed "Energy Conservation and Production Act."

Among the numerous proposals contained in H. R. 12169, two directly concern this Department.

Title IV, Part C of the enactment would direct the Secretary of this Department to undertake a national demonstration program to test various forms of financial assistance to encourage the installation or implementation of energy conservation and renewable resource measures in existing dwellings, and would authorize for this purpose appropriations of not to exceed $200 million. Although we question the need for any statutorily required demonstration in this area, the "demonstration" approach taken in the enrolled bill is much less objectionable than an on-going program which would have been required in the version of H. R. 12169 passed by the Senate. However, the statutory framework for the contemplated demonstration is clearly more extensive than necessary and the $200 million authorization is far in excess of what should be needed. Nevertheless, we believe that it should be possible in the appropriation process to hold funding to a more reasonable level.

Title III of the enrolled bill would make the energy conservation standards promulgated by this Department mandatory only upon approval by both Houses of Congress.

When the standards have not been incorporated into State or local codes, or an exemption does not otherwise apply, the Secretary of this Department would have overall responsibility for the effective application of local or State approval processes to determine whether any proposed new building would be in compliance with the standards. While the requirement regarding Congressional approval makes the potential for enforcement of these standards more remote than that originally contemplated by the Administration, we believe that, in view of its legislative history, the proposal contained in Title III of the enactment is probably the best result obtainable.

In view of the above consideration, and since our own interest in the enactment is limited to only two provisions, we would not recommend a veto of the bill. With respect to the other provisions of the bill, we would defer to other Federal agencies as their interests may appear.

Sincerely,

Charles J. Orlebeke

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

August 12, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

THRU: ELLIOT RICHARDSON

FROM: FRANK ZARB

SUBJECT: H. R. 12169/S. 2872: ENERGY CONSERVATION AND PRODUCTION ACT (FEA EXTENSION)

BACKGROUND

The House and Senate conferees have now completed action on the FEA extension and a bill has been sent to you.

As you recall, you proposed a simple 39-month extension of FEA in January. The Senate and House initially passed bills which extended FEA for a shorter period of time (15-18 months, respectively) and contained numerous amendments, many of which were extremely objectionable. The bill ultimately reported by the conferees, however:

- contains some highly desirable changes, sponsored by Senator Bartlett, to the EPCA pricing provisions for crude oil;

- authorizes two more of the original 13 titles of your own energy program;

- includes several questionable or undesirable conservation programs, albeit considerably improved from versions originally passed by the Senate.

This memorandum provides a description of the major provisions of the bill, provides an analysis of its various impacts (on oil production, the economy and the budget), states the reasons for signing and vetoing the bill, and records the recommendations of your various advisors.

MAJOR PROVISIONS IN THE BILL

The major provisions of the bill are outlined below:

- Federal Energy Organization
  - Extends the Federal Energy Administration until December 31, 1977.
  - Extends the Energy Resources Council until September 30, 1977.
  - Requires the ERC to prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources by December 31, 1976 and revised plan by April 15, 1977.
  - Establishes an Office of Energy Information and Analysis in FEA with certain authorities independent from the Administrator. While such an Office now exists in FEA, it is not required by statute and will have some additional responsibilities.
- Domestic Oil Pricing
  - Exempts first sale of domestic stripper well crude oil from price controls.
  - Changes the 3% production incentive factor for crude oil mandated in the Energy Policy and Conservation Act to the difference between the 10% rate and the rate of inflation; thus, the crude price escalator would be 10% regardless of the inflation rate. In 1976, the escalator would be approximately 1 1/2% greater than is currently the case. Requires that tertiary recovery and California gravity crude differential problem be given first priority in utilizing added pricing flexibility. To obtain this provision, the FEA agreed to provide no more production incentive factor adjustments until March, 1977.

o Conservation

- Requires HUD to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings. This provision is less stringent than proposed in your original legislation in that the sanctions cannot be implemented until a proposal to do so has been approved through a concurrent resolution of Congress.

- Authorizes FEA to provide $200 million in grants over a three year period for the insulation of homes of low-income and elderly persons, and Indian tribes. This measure is similar to your own weatherization program, but with the following major differences:

  -- Increases authorization levels by a total of $35 million over the three year period.

  -- Expands eligibility by lowering age minimum to people over 60 years old.

  -- Sets $400 maximum grant per dwelling, which is considerably higher than Administration's concept.

- Establishes a $200 million demonstration program, administered by HUD, to test various mechanisms (grants, low interest loans, interest subsidies, etc.) for encouraging energy conservation improvements or use of renewable resources, such as solar heating and cooling, in existing residential buildings. The amount of the grants cannot exceed $400 for any energy conservation measure or $2000 for any renewable resource measure. It requires a report to Congress before implementation of any program, and a final report within two years.

- Authorizes up to $2 billion in obligation guarantees for conservation investments by industry, small businesses, and non-profit institutions (including State and local governments). The bill requires that applicants satisfy a credit elsewhere test and show that conservation investments would be repaid. The bill has no requirements for Treasury approval of the issuance of obligations guaranteed under the proposal, although such approval is not precluded and consultation with Treasury is required.

- Supplements the State energy conservation program contained in the EPCA by authorizing $105 million in the next three years; allows States to make energy audits available to homeowners at no cost.

- Provides a statutory authorization of $13 million for FEA's existing electric utility rate demonstration programs to test innovative rate structures and load management techniques, to intervene in State utility commission rate making proceedings, and requires FEA to submit a report to Congress on utility rate designs.

- Authorizes up to $2 million in State grants to help establish or fund consumer offices to assist consumers in their presentations before State commissions.

o Other Provisions

- Requires the ERC to prepare an annual report on national energy conservation beginning July 1, 1977.

- Authorizes $3 million for a solar commercialization and utilization program.

SUMMARY IMPACTS OF THE BILL

The bill will affect the domestic energy situation, consumer prices, oil industry revenues, and the budget. The major impacts are summarized below.

o Impacts on Domestic Energy Situation

The pricing amendments, which exempt stripper well oil from price controls and increase production incentives will have a beneficial impact. It is anticipated that these provisions will stimulate application of expensive enhanced oil recovery techniques. The effect of the stripper well provision is to allow oil from stripper wells to sell at the free market price, thus freeing 70% of the nation's wells (10-13% of production) from crude oil price controls.

The pricing and conservation provisions could reduce oil imports by about 150,000 barrels per day in 1977 and about 500,000 barrels per day in 1979. Most of this reduction is due to the stimulation of tertiary recovery projects by removing price controls and by reducing uncertainties caused by government regulation. In the long-term, the increased incentives for tertiary recovery could be an important factor in expanding domestic production (potential of over one million barrels per day by 1985).

The conservation measures in the bill are expected to have a small impact initially on energy demand in buildings, utilities, and industry, but could save over 250,000 barrels per day in the early 1980's.

o <u>Impacts on Prices and the Economy</u>

The effects of this bill on domestic prices will be minimal and will take some time to be felt in the marketplace. All domestic crude oil prices will increase about 3% a year above EPCA levels for the remainder of the 40-month price control program. This increase would affect petroleum product prices initially by about one-third of a penny per gallon. If the entire increase were passed through to the consumer, average household expenditures for petroleum would go up about $10 next year. However, past experience indicates that full pass-throughs will not likely occur.

Oil industry revenues are likely to increase by about $1 billion in 1977 and $1.5 billion in 1978. Some of these increased revenues will stimulate production and exploration and provide greater tax revenues.

The macroeconomic effects of the bill will be very small. Real GNP would be virtually unchanged, as any increase in price could be offset by the multiplier effects of greater investments in domestic production. Unemployment rates would not be measurably affected and inflation would increase, after two years, by about 0.3%.

- Potential Budget Impacts

  The total expenditures authorized in this bill amount to about $600 million over a three year period, excluding FEA authorization and assuming no more than the $60 million default limitation occurs (see Table 1 for authorizations). FEA is authorized to charge a fee of up to 1% of the loan guarantees. In addition, there would be costs associated with the personnel needed to administer these programs (estimated number of additional people is 300-800 in FY 1977 and 400-900 in 1979). The wide range in the personnel figures is due to uncertainty about the level of funding, if any, of some of these programs. Actual appropriations could, and likely would be considerably below these authorized amounts.

REASONS TO ACCEPT THE CONFERENCE BILL

- The pricing provisions will accomplish a number of objectives:

  -- remove controls from all stripper wells (about 70% of all U.S. wells and 10-13% of crude production); thus relieving over 350,000 operators of substantial regulatory burdens and reversing the rollback in prices they experienced after last December's energy act.

  -- provide increased revenues to industry of about $1 billion in 1977 and $1.5 billion in 1978 which can be used to increase production and exploration.

  -- give FEA the flexibility to provide incentives for high cost production (such as tertiary recovery) and to fix some inequities in current systems (such as California heavy oil problem).

  -- will move domestic price closer to world oil prices at the end of price controls, increasing the chance for decontrol.

-- pricing provisions could reduce imports by as much as 150,000 barrels per day in 1977 and a half million barrels per day in 1979.

-- achieve price increases and production incentives without a significant economic impact (prices would rise by less than half a cent per gallon).

-- puts Congress on record for approving 10% price escalator, just six months before it has to vote on whether to let the production component of the escalator continue throughout the period of controls.

- The conservation measures contained in the bill include two components of your original energy program -- building standards and weatherization -- in largely the same form you sent them to Congress. With enactment of these provisions, 7 of the 13 titles of your original Energy Independence Act will be law.

- The conservation provisions, would demonstrate action on a popular issue, even though several have a variety of problems.

- The bill has considerable bipartisan support and is supported by many oil state Congressmen as well as Northern Congressmen.

- Achieves an extension of FEA and removes the temporary FEO from the Executive Office of the President.

REASONS TO REJECT THE CONFERENCE BILL

Major reasons for rejecting the conference bill include the following:

- Some of the conservation measures in the bill add further bureaucracy and regulations, while achieving fairly small energy savings. The HUD demonstration program, in particular, will be difficult to administer if funded at authorized levels and could overlap with pending tax legislation.

- The budget implications of the bill's conservation measures are several hundred million dollars in funds and up to $2 billion in guarantees. Further, the Treasury is not required to approve issuance of obligations.

- The pricing provisions (other than stripper well exemption) mean little if the GNP deflator rises above 7%.

- In addition to several questionable or marginal conservation programs, the bill includes other undesirable measures, such as the $2.0 million authorization to provide States with grants to fund consumer groups to intervene in State regulatory commission hearings (could result in Federal funds being used to subsidize actions against State agencies and contrary to objectives of Administration's utility programs); and a statutorily separate Information and Analysis Office in FEA.

- Some members of the public will review the extension of FEA as an example of temporary agencies staying in existence forever.

RECOMMENDATIONS OF ADVISORS

The views of your advisors are indicated below:

Advisors Favoring Signing

(1) Richardson
(2) Zarb
(3) Seidman
(4) Kissinger
(5) Kleppe
(6) Cannon
(7) Train
(8) Scowcroft
(9) Marsh
(10) Friedersdorf

Advisors Favoring a Veto

Other Opinions

While recognizing that there may be good reasons for signature, Secretary Simon has reservations concerning a number of aspects of the bill -- i.e., the conservation provisions will be ineffective and, from a technical standpoint, are not consistent with normal USG loan guarantee programs; the provisions dealing with public utility rates may make it more difficult to introduce rate structures reflecting the actual cost of producing energy; and additional regulations and personnel will be needed at both the state and federal level to administer the Bill.

Secretary Hills has been unavailable; her vote will be forwarded when received.

TABLE 1
EXPENDITURES AUTHORIZED IN THIS BILL
(Millions of Dollars)

Category	FY77	FY78	FY79	No Year
Electric utility rate design initiatives	13	--	--	
Grants for consumer services offices	2	--	--	
Grants for energy conservation standards for new buildings	5	--	--	
Weatherization assistance 1/	55	65	80	
State conservation plans	25	40	40	
Homeowners incentives demonstration program	--	--	--	200
Industrial obligation guarantee (defaults) 2/	--	--	--	60
Administrative costs				
____$	10-22	11-25	11-25 3/	
____(personnel)	(350-800)	(400-900)	(400-900)	
Total	110-122	116-130	131-145	260

1/ An additional $100-200 million may be necessary to carry out this program fully because of liberalized eligibility and $400 of assistance per dwelling permitted by statute.

2/ If the $2 billion guarantee program is fully committed and default rates resemble those of comparable Small Business Administration guarantee programs, costs could increase by $60-100 million. Costs could be offset partially by charging a fee.

3/ The higher personnel level assumes full funding of the HUD demonstration program and industrial loan guarantee program.

FEDERAL ENERGY ~~ADMINISTRATION~~ OFFICE
WASHINGTON, D.C. 20461

August 12, 1976

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM FOR: James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget

ATTN: Mark Arnold

FROM: Michael F. Butler Michael F. Butler
General Counsel

SUBJECT: Enrolled Bill Report on H.R. 12169 - Energy Conservation and Production Act

This is in response to your request for the views of the Federal Energy Administration on the subject enrolled bill.

FEA strongly recommends that the President sign the enrolled bill into law.

The Act would extend the Federal Energy Administration Act until December 31, 1977 and the Energy Resources Council until September 30, 1977. The ERC would be directed to prepare a plan for the reorganization of the Federal government's activities in energy and natural resources by December 31, 1976 and a revised plan by April 15, 1977.

Also provided for in the Act is the establishment of a distinct Office of Energy Information and Analysis within FEA to be headed by a Director appointed by the President and confirmed by the Senate.

The enrolled bill contains provisions which modify the oil pricing provisions of the Energy Policy and Conservation Act. The Act would exempt the first sale of stripper well crude oil from price controls. The actual volume of stripper well oil would be initially imputed into the national composite price; it may then increase along with the average per barrel increase of all oil remaining in the composite. The

Act would also change the 3% production incentive factor for crude oil mandated in the Energy Policy and Conservation Act to the difference between the 10% rate and the rate of inflation; thus, the crude price escalator, which would be 10% regardless of the inflation rate, could be approximately 1-1/2% greater than is currently the case.

Several energy conservation provisions would be authorized. The Department of Housing and Urban Development (HUD) would be required to develop and promulgate mandatory thermal efficiency standards for all new buildings within three years. No sanctions would be imposed unless Congress approved them. If sanctions were imposed, certain Federal financial assistance would be withheld from a locality unless it were to implement standards which meet or exceed Federal standards or follow those standards.

In addition, included is a $200 million FEA grant program for the weatherization of homes of low income persons. This program would, for the most part, be administered at the State level.

The enrolled bill also provides for a $200 million national demonstration program to be administered by HUD to test various mechanisms (grants, low interest loans, interest subsidies, etc.) for encouraging energy conservation improvements or the use of renewable-resource energy measures in homes.

Also provided for is an obligation guarantee program for energy conservation investments in industry, small business, and non-profit institutions (including State and local governments). It would allow up to $2 billion in obligation guarantees over a three year period.

The bill would supplement the State energy conservation program contained in the Energy Policy and Conservation Act by authorizing $105 million over three years.

Lastly, the enrolled bill authorizes $13 million to be appropriated for FEA's existing electric utility rate demonstration program to test innovative rate structures and load management techniques. The Administration may intervene in State Utility Commission rate-making proceedings upon request. The bill also authorizes a limited program ($2 million) of grants to States to help establish or fund consumer offices to assist consumers in their presentations before State commissions.

The pricing provisions of the enrolled bill would assist in achieving our desired energy goals. The removal of price controls on crude oil derived from stripper wells (about 70% of all U.S. wells) would lessen substantially the regulatory burden on over 350,000 operators and would restore their prices to a free market level from the rollback experienced after the passage of the Energy Policy and Conservation Act. The enhanced recovery provision would give FEA the ability to provide incentives for high cost production (such as tertiary recovery) and to remedy some inequities in the current system (such as the California heavy oil problem). These provisions could reduce imports by as much as 100,000 barrels per day in 1977 and a half million barrels per day in 1979.

While the measure still contains conservation provisions that may in part remain troublesome, these provisions have been substantially reduced in scope and dollar amount; and, at the same time, the bill does contain the highly desirable provision decontrolling stripper oil. Also extremely desirable is the provision allowing added incentives for enhanced recovery techniques.

On balance, the desirability of the pricing provisions and the two elements of the President's energy program (Weatherization and Building Standards) outweigh the remaining objections to the current conservation provisions. Consequently, FEA strongly recommends that the President sign the enrolled bill.

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

AUG 12 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the views of the Department of Commerce concerning H.R. 12169, an enrolled enactment,

> "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

Title I of H.R. 12169 would extend FEA through 1977 and provide authorizations for the agency's programs. It would establish an Office of Energy Information and Analysis as a separate entity within FEA and make certain adjustments concerning oil price controls. The Energy Resources Council would be extended until September 1977 and charged with making various reports to Congress, including one concerning reorganization of energy functions.

Title II would direct FEA to develop proposals to improve electric utility rate structures in order to encourage conservation and minimize costs of electric energy.

Title III would require the development of energy conservation standards for new buildings, assist in funding state and local adoption of the standards and prohibit Federal financial assistance for construction not meeting the standards.

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

Title IV would provide for grants to states or local bodies for housing programs for low-income persons. Other funding would be provided for the development of state energy conservation plans. A demonstration program would be authorized to test the efficacy of various financial incentives for energy conservation in housing. Loan guarantees would be provided to encourage energy conservation in commercial and non-profit institution buildings.

The Department of Commerce recommends approval by the President of H.R. 12169. The enrolled bill has many desirable features. It would remove controls from all stripper wells and thus relieve a large number of operators of substantial regulatory burdens. It would also provide for an increased production incentive factor for crude oil, insuring that the crude price escalator in the Energy Policy and Conservation Act will be 10% regardless of the inflation rate. These provisions would have negligible macro-economic effects, but would constitute an important step forward in reducing the regulatory burden of controls.

The bill would also provide for building standards and a low income housing weatherization program in a form substantially similar to that the President proposed as a part of his Energy Independence Act. Finally, the bill would extend the FEA and ERC. We believe this is important if the Executive Branch is to be able to continue to develop energy policy and implement energy programs in a reasonably coherent fashion.

While two of the conservation provisions are unlikely to produce energy conservation commensurate with their expense, they have been considerably limited over the initial versions proposed by Congress. The housing demonstration program (Title IV-C), could be administered by HUD to confine testing to limited specific incentives on a small scale. The bill would provide for a $2 billion loan guarantee program to encourage energy conservation technology in buildings. While ill conceived, the full guarantee authorization will probably not be used and guarantees could be limited to credit-worthy applicants, thus limiting potential outlays.

Enactment of this legislation is not expected to involve any increase in the Budgetary requirements of this Department.

Sincerely,

General Counsel

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

AUG 12 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget

Dear Mr. Frey:

The Energy Research and Development Administration (ERDA) is pleased to respond to your invitation to comment on the enrolled bill, H.R. 12169 which is the Act to extend the duration of the Federal Energy Administration (FEA).

We note that in addition to extending FEA until December 31, 1977, the bill includes a number of other concepts relating for the most part to energy conservation programs. ERDA is already on record as supporting the extension of FEA and while this agency does have some reservations about the import of some of the programs described in H.R. 12169, we do not on balance feel that they constitute sufficient cause for opposing the entire bill. Therefore, it is our recommendation that the President sign into law the bill, H.R. 12169.

Sincerely,

Robert C. Seamans, Jr.
Administrator

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

CHAIRMAN

August 12, 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in answer to your request for the comments of the Civil Service Commission on enrolled H.R. 12169, a bill "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes." Our comments concern the personnel aspects of the legislation.

By extending the life of the Federal Energy Administration (FEA) until December 31, 1977, the bill would also continue the broad, undefined reemployment rights authority in section 28 of the Federal Energy Administration Act. In reporting on earlier FEA bills, we pointed out the problems such authority causes agencies and employees because it is independent of the Commission's reemployment rights program. While we would have preferred an amendment limiting that provision, we do not believe this should stand in the way of the President's approving the bill.

The bill would also establish a new FEA component, the Office of Energy Information and Analysis. Section 142 provides that the Director of that office shall be compensated at level IV of the Executive Schedule. We consider this level compatible with levels established by statute for comparable FEA positions.

This section also authorizes the Director to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to 10 of the GS-16 through 18 employees already authorized by the FEA Act. In the absence of express excepting language, we consider the appointing and pay-fixing authority in the section as subject to the competitive appointment and compensation provisions of title 5, United States Code.

The Civil Service Commission recommends that the President sign enrolled H.R. 12169.

By direction of the Commission:

Sincerely yours,

Acting Chairman

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE 37902

August 12, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in reply to the Office of Management and Budget's request for our views on enrolled bill H.R. 12169, the Federal Energy Administration extension act.

We believe that H.R. 12169 is basically good legislation and the President should approve the bill, although a number of its individual provisions may in practice prove troublesome to implement. We particularly support the energy conservation programs established under Title III and Title IV. These programs should greatly enhance national energy conservation efforts and result in reducing energy bills for consumers. TVA has itself begun a similar demonstration program involving energy audits and insulation assistance for low-income families in the Tennessee Valley area.

We are also encouraged to see the concern which Title II of the bill places on the need for further research into the operation of new utility rate structures. A great deal of legislation which would mandate a variety of new utility rate structures has been proposed recently, in spite of the fact that little is known about what the actual impact of these new rate structures would be. Further research, like that TVA is doing in cooperation with the Chattanooga, Tennessee, Electric Power Board, should provide badly needed answers in this complex area.

Finally, we have no objection to the provision of Title II which would authorize TVA to create and FEA to fund an office of consumer services for the TVA power system. We do not believe that such a provision is necessary, however, since it would merely duplicate the several mechanisms already available for electric power consumers to make their views known to TVA and to its distributors.

We appreciate the opportunity to provide these comments.

Sincerely yours,

Aubrey J. Wagner
Chairman of the Board

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

AUG 12 1976

Dear Mr. Lynn:

This is in response to your request for a report on certain provisions of H.R. 12169, an enrolled bill "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

Our comments are limited to those sections of the enrolled bill which pertain directly to this Department. In short, we have no objection to the enactment of the proposed new section 58 of the Federal Energy Administration Act of 1974 (which would be added by section 142 of the enrolled bill), title III of the enrolled bill, or part A of title IV of the enrolled bill. We defer to the Federal Energy Administration on the desirability of the bill in its entirety.

The proposed section 58 of the Federal Energy Administration Act of 1974, which would be added to that Act by section 142 of the enrolled bill, would require each Federal agency to provide to the Director of the Office of Energy Information and Analysis of the Federal Energy Administration access to energy information (with certain exceptions) in possession of that agency. We have no objection to the enactment of this provision.

Title III of the enrolled bill would, among other things, require the Secretary of Housing and Urban Development to establish, within three years after enactment of the bill, energy conservation performance standards for all new commercial and residential buildings. After the performance standards become effective, no Federal financial assistance for the construction of new commercial or residential buildings would be made available within any area of any State unless certain conditions, designed to assure adherence to the Federal standards, are met. Section 306 of the enrolled bill would require the head of each Federal agency responsible for the construction of any Federal building to adopt procedures to assure that such construction meets or exceeds the title III performance standards. We favor the concept of Federal energy conservation standards as a means of limiting the unnecessary waste of scarce energy resources. We therefore have no objection to enactment of title III.

Part A of title IV of the enrolled bill would establish a program of Federal grants to States and Indian tribal organizations to assist in weatherizing, through insulation or other appropriate techniques, dwelling units for low-income persons. If any State does not apply for such grants, units of local government and community action agencies in the State would be permitted to apply. The program would be administered by the Federal Energy Administration, but the regulations to carry out the program would be developed only after consultation with, among others, the Secretary of Health, Education, and Welfare.

We support the intent of this program--to assist low-income individuals to better insulate their homes, thereby conserving energy and reducing the utility bills of those least able to afford them. We therefore have no objection to enactment of this provision.

With regard to the specific operational details of the programs which would be established by titles III and IV-A of the enrolled bill, we defer to the Department of Housing and Urban Development and the Federal Energy Administration, the agencies more directly involved.

With regard to the desirability of approving the enrolled bill, we defer to the views of the Federal Energy Administration.

Sincerely,

Marjorie Lynch

Under Secretary

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
OFFICE OF CONSUMER AFFAIRS
WASHINGTON, D.C. 20201

August 12, 1976

MEMORANDUM

TO: Thomas H. Countee, Jr.
Office of Management & Budget

FROM: Robert F. Steeves
General Counsel
Office of Consumer Affairs

Robert F. Steeves

SUBJECT: H.R. 12169, the Federal Energy Administration Extension Act.

This is in response to your telephonic request for written comments on H.R. 12169, the Federal Energy Administration Extension Act. The proposed legislation is in fact a series of non-germane amendments, which have as their common thread energy related matters. Taken as a whole, the Office of Consumer Affairs supports this legislation because it is consistent with the energy philosophy we believe is to the ultimate advantage of the American consumer.

We are aware that some of the provisions contained in H.R. 12169 will immediately result in higher prices to consumers. But the long range economic beneficial consequences will overshadow this short term disadvantage. We feel that there should be no artificial constraints on the price of energy for we have learned that this system results in energy shortages and discourages energy conservation measures. By allowing the cost of energy to rise to its natural level, we anticipate that American ingenuity will awaken to the challenge and will develop numerous ways to insure an abundance of energy sources and at the same time invent new ways of conserving energy consumption.

We defer to the Federal Energy Administration (FEA) on the merits of Title I, but we would like to note that part B which would establish the Office of Energy Information and Analysis appears to solve a critical void that currently exists in the information gathering processes of the Federal Government. This part provides that the Office shall be subject to a thorough annual performance audit review. Title II, the Electric Utilities Rate

Design Initiatives, particularly pleases us on two accounts. Section 203 recognizes the fertile area that exists for the improvement in electric utility rate design by mandating the FEA Administrator to develop proposals that would encourage energy conservation and minimize the costs of electric energy to consumers. Section 205 provides for a grant program to States whereby they can establish offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Title III and IV, Energy Conservation Standards for New Buildings and Energy Conservation Assistance for Existing Buildings, likewise reflect foresight on the part of the federal government. It is fulfilling its informational obligation to consumers by taking the initiative in promoting incentives for energy conservation standards.

On balance, we feel that this bill represents an important step in the complex development of a national energy policy. Therefore, we recommend that the President approve H.R. 12169.

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

ENROLLED BILL, H.R. 12169 - 94th Congress
Energy Conservation and Production Act

AUG 18 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Miss Martha Ramsey
Legislative Reference Division
Room 7201, New Executive Office Building

Dear Mr. Lynn:

This is in response to Mr. Frey's request of August 11, 1976, for the Commission's views on H.R. 12169, an Enrolled Bill "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

H.R. 12169 would authorize appropriations to the Federal Energy Administration, thereby extending the duration of its existence until December 31, 1977. Additionally, the bill amends the Federal Energy Administration Act of 1974 by providing for the enhancement of production of domestic crude oil, by creating an Office of Energy Information and Analysis, by extending the Energy Resources Council, by providing electric utilities rate design initiatives - especially in regard to State energy conservation plans, by mandating the creation of energy conservation standards for new buildings, and by mandating energy conservation and renewable resource assistance for existing buildings.

Title I, Part C of the bill creates the Office of Energy Information and Analysis with oversight provided by the Audit Review Team (Title I, Part C, Section 142). One of the seven professionally qualified members of this Audit Review Team is to be designated by the Chairman of the Federal Power

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Commission. The Office of Energy Information and Analysis will become operative 150 days following enactment of H.R. 12169 (Part C, section 143). This Office is created for the gathering and evaluating of energy information, which is defined by reference as including:

> "(A) All information in whatever form on (i) fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located; (ii) production, distribution, and consumption of energy and fuels where carried on; and (B) matters relating to energy and fuels, such as corporate structure and proprietary relationships, costs, prices, capital investment, and assets and other matters directly related thereto, wherever they exist."

However, the Office of Energy Information and Analysis, in coordinating energy information, is authorized, through its Director, to review the energy information gathering activities of Federal agencies. This review is specifically to avoid duplication of energy information activities of other agencies and to complement these activities of other agencies, rather than supercede them. This Commission has a highly developed computerized Regulatory Information System which will be used in cooperation with the Office of Energy Information and Analysis of the FEA as created by this bill. (Amendment to Section 56 of the Federal Energy Administration Act of 1974).

The Federal Power Commission has the immediate responsibility, under Section 142 and Section 143, for providing the Administrator of the FEA with a report delineating our authority for energy information gathering activities, a list of our energy information needs and requirements, and a list of our categories, definitions, levels of detail, and frequency of collection of energy information. (Amendment to Section 56 of the Federal Energy Administration Act of 1974). This Commission is further mandated to cooperate in the future with the Administrator (of the FEA) in the interagency gathering of energy information.

Despite this desire for cooperation in the exchange of energy information among Federal agencies as expressed in the bill, the autonomy of each agency is recognized by the amendment to Section 58 of the Federal Energy Administration Act of 1974. This amendment provides the Administrator of the FEA with access to energy information in the possession of any Federal agency with the exception of any information, the disclosure of which is prohibited by Federal law or the disclosure of which would significantly impair the authority and responsibility delegated to that agency.

Section 52 contains the mandate to the Office of Energy Information System and the areas of inquiry to be contained within that System. These areas should complement rather than conflict with those areas of inquiry for which the Federal Power Commission has responsibility under its ongoing Regulatory Information System.

The Energy Resources Council is extended until September 30, 1977, by Section 163 of H.R. 12169. The Chairman of the Federal Power Commission, as a member of this Council, incurs additional responsibilities in regard to the reorganization of the Federal Government's activities in energy and natural resources. A report on this subject by the President to the Congress is requested no later than December 31, 1976. The Energy Resources Council is instructed to prepare this report and include any revisions pursuant to its adoption. The enrolled bill thus amends §108 of the Energy Reorganization Act of 1974 (Public Law 93-438) to give the Council this added responsibility.

The Commission has no objection to approval of the enrolled bill H.R. 12169.

Sincerely yours,

Richard L. Dunham

Richard L. Dunham
Chairman

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 12, 1976

Dear Mr. Frey:

The Council of Economic Advisers has decided to take no position with respect to the enrolled bill, "Federal Energy Administration Act and Related Matters".

Sincerely,

Alan Greenspan

Mr. James Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

DRAFT

I have today signed H.R. 12169, the "Energy Conservation and Production Act."

In January, 1975, I proposed to the American people a comprehensive national energy program. This program would ~~was then, and still is today, a plan designed to~~ minimize the Nation's dependence on imported oil and vulnerability to another embargo.

With the signing of this and previous energy bills, seven of my legislative proposals are now in law. We are making progress, but have a long way to go.

H.R. 12169 removes the output of a significant portion of the Nation's oil wells -- those producing less than 10 barrels a day -- from Federal price controls. In addition, by materially increasing the composite price of petroleum still subject to controls, the bill would provide significantly increased incentives for domestic production. Both of these measures will help in achieving energy independence.

To encourage conservation of energy, the bill authorizes two programs -- assistance for lower income families to improve the heating and cooling efficiencey of their homes and development of energy conserving building standards -- which I proposed over a year and one-half ago. These measure will achieve significant savings

To: J. Cavanaugh
8-13-76
12:15 p

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12169 - Energy Conservation and Production Act
Sponsors - Rep. Staggers (D) West Virginia and Rep. Dingell (D) Michigan

Last Day for Action

August 23, 1976 - Monday

Purpose

Extends the Federal Energy Administration until December 31, 1977; exempts stripper wells from price controls; increases domestic petroleum production price incentive from 3% to about 4½% for 1977; authorizes a number of new energy conservation programs including $2.0 billion in loan guarantees, $200 million in weatherization assistance for low-income families, $200 million demonstration program to provide assistance to homeowners, and $105 million for State conservation grants.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Federal Energy Office	Approval
Department of Commerce	Approval
Energy Research and Development Administration	Approval
Civil Service Commission	Approval
Council on Environmental Quality	Approval (Informally)
Tennessee Valley Authority	Approval
Department of the Interior	No objection (Informally)
Department of the Treasury	No objection (Informally)
Department of Housing and Urban Development	No objection
Department of Health, Education, and Welfare	No objection
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
Environmental Protection Agency	No objection (Informally)
Federal Power Commission	No objection

General Services Administration	No objection (Informally)
Council of Economic Advisers	No comment
Council on Wage and Price Stability	No comment (Informally)

Discussion

Last January Administrator Zarb sent to the Congress a proposal to extend FEA's life for 39 months. After considerable delay, both the House and Senate passed extension bills but in very different form. The House bill was mainly a simple extension, while the Senate bill went well beyond a simple extension and included domestic petroleum pricing changes as well as a comprehensive package of Federal assistance programs to encourage energy conservation. The scope of the Senate bill caused difficulties for the House conferees resulting in delays in completing conference action. FEA's statute expired before the conferees were able to agree on a bill, even though a 30-day extension to July 30, 1976 had been passed. As a result, you established a Federal Energy Office by Executive Order to ensure that FEA programs would be continued. Your Executive Order is in effect at this time and legally can be continued until July 30, 1977.

During this process, the Administration urged the Congress to enact simple extension legislation without creating any new, controversial programs. The Administration opposed the new conservation programs sponsored by Senator Kennedy as inefficient, of questionable effectiveness and excessively costly. Even though considerable time and effort was spent in trying to eliminate the new conservation programs, the conferees retained them, scaling back somewhat the funding authorizations.

The conference bill was passed by voice vote in the Senate and by 293 to 88 in the House.

H.R. 12169 includes the following significant provisions:

- Federal Energy Administration - Organization
  - extends the Federal Energy Administration until December 31, 1977.
  - establishes a statutory office within FEA for energy information and analysis headed by an Executive Level IV appointed by the President and subject to confirmation by the Senate.

- requires the ERC to complete a study and prepare a plan for the reorganization of Executive Branch activities for energy and natural resources; the plan is to be submitted to Congress by 12/31/76.

The FEA and ERC extensions are acceptable. We believe the statutory energy information office is undesirable because it would decrease the Administrator's flexibility in deciding how to organize the FEA.

o <u>Domestic Oil Regulation</u>

- exempts first sale of domestic stripper well crude oil from price and allocation controls; this will remove about 70% of domestic wells from controls accounting for 13% of total U.S. production.

- provides for a one-time price increase of about 1 1/2% over the production incentive increase of 3% in exchange for a FEA commitment not to submit price increase proposals to Congress this year; the additional revenue would go first to provide incentives for tertiary recovery and to raise prices for low gravity California crude.

o <u>Conservation Programs - Originally Proposed by Administration</u>

- requires HUD to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings; this provision is less stringent than proposed in your original legislation in that the sanctions cannot be implemented until a proposal to do so has been approved through a concurrent resolution of Congress.

- authorizes $200 million in grants to States or local governments over a three-year period for the insulation of dwellings for particularly the low-income elderly and handicapped; this differs from your weatherization proposal in the following respects:

- authorizes $35 million more than your proposal.
- expands eligibility by lowering elderly age limit from 65 to 60.
- sets limit of up to $400 of assistance per dwelling instead of no limitation.
- permits up to $50 of the $400 to be used for equipment which was excluded from your proposal.
- authorizes local Community Action Agencies to participate in the program under certain circumstances instead of exclusive FEA-State administration.

o <u>Conservation Programs -- Originated by Congress</u>

- requires HUD to undertake a <u>demonstration program</u> to test various forms of Federal financial assistance (grants, low-interest loans, interest subsidies) to homeowners for encouraging energy conservation improvements (e.g., insulation) or use of renewable resources (e.g., solar heating and cooling) in existing residential buildings with a limit of $400 for conservation and $2000 for renewable sources (can be increased by HUD under certain conditions such as low family income).
- authorizes FEA to guarantee up to $2 billion for industry, State/local government, small business and nonprofit institution borrowing for conservation measures; FEA is authorized to charge a fee for administrative costs.
- supplements the existing 3-year State energy conservation grant program* by authorizing an additional $105 million in next three years, mainly for States to provide energy audits to homeowners at no cost.
- authorizes additional $13 million for FEA's existing electric utility rate demonstration programs to test innovative rate structures and load management techniques and to intervene in State utility commission rate making proceedings; requires FEA to submit to Congress utility rate design models.

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* Authorization is $50 million per year; 1976 appropriation is $5 million ($7 million request), 1977 appropriation is $25 million ($50 million request).

- authorizes \$2 million in State grants to fund public interest consumer offices to assist consumers in their presentations before State utility commissions.

o Other Provisions

- requires the ERC to prepare an annual report on national energy conservation beginning July 1, 1977.

- authorizes \$3 million for FEA to promote commercialization of solar energy.

Assessment - Petroleum Pricing Provisions

The pricing provisions of the bill are desirable and should result in:

o raising the domestic petroleum price by about 3½% or 40¢ per barrel.

o increased domestic production mainly from fields employing the more expensive tertiary recovery techniques; FEA estimates that production increase could be 450,000 bbls/day by 1979.

o increased revenues to oil producers of about \$1 billion in 1977 and \$1.5 billion in 1978; companies could reinvest this revenue in oil development activities.

o only slightly increased costs to consumers of about 1/3¢ per gallon.

Assessment - Conservation Programs

We believe the provisions for weatherization assistance and building standards are acceptable and, if properly implemented, will result in significant energy savings.

The additional conservation programs initiated by Congress -- the \$200 million HUD demonstration program, the \$2 billion FEA guarantee program, the \$105 million increase in the State conservation grant program -- present the following problems.

The HUD demonstration program is inefficient and possibly inequitable compared to your proposal for providing homeowners with a tax credit of up to $150 if conservation measures are installed.* The tax credit approach does not require additional Federal personnel nor does it rely on HUD personnel to decide which homeowners get assistance.

The FEA guarantee program is not an incentive that will encourage energy savings since it only assures that capital is available to permit installing conservation measures. It does not appreciably change the economics of making a given investment since a subsidy is not included. At present the capital markets appear able to provide capital to worthy borrowers with investments that are economically sound.

The supplemental State grant program is also of doubtful effectiveness. Preliminary evaluations of the effectiveness of providing a free energy audit to homeowners using a questionnaire shows no appreciable difference in subsequent homeowner decisions to install conservation measures.

In addition, aggregate data on energy consumption for the industrial residential and commercial sectors show a decline in total consumption of energy between 1973 and 1975. This indicates that these sectors have already taken action to conserve energy and raises a fundamental question about whether any Federal incentives are needed.

Budgetary Impact

The attached table sets forth estimates of the budgetary impact of the bill.

Agency Views

As noted at the beginning of this memorandum, all agencies take positions of either approval, no objection or no comment. FEO's comments and the significant concerns of the agencies, as set forth in their enrolled bill letters or in informal comments made to OMB, are briefly summarized below:

FEO strongly recommends approval because it believes that the enrolled bill would increase domestic oil production, thus reducing imports by 100,000 barrels per day in 1977 and

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* The tax bill passed by the Senate includes a series of tax credits for conservation and renewable resources to homeowners and businesses including: homeowner tax credit of up to $225 for insulation measures; up to $1,000 for heat pumps; business tax credit of 10% of cost of conservation measures.

500,000 barrels per day in 1979. FEO also believes that the bill is desirable because it contains two programs originally proposed by the Administration -- weatherization assistance for low-income families and energy conservation standards for new buildings. On the other hand, FEO expresses concern about the conservation programs that were initiated by Congress.

HUD does not recommend a veto because its concerns are limited to two provisions of the bill. First, it questions the necessity and level of authorization ($200 million) for the energy conservation demonstration program, but believes that both the scope and funding for this program can be controlled through the appropriations process. Second, it notes that because Congress must approve by concurrent resolution energy conservation standards for new buildings before noncompliance sanctions become effective, the chances of enforcing such sanctions become more remote. Furthermore, Justice informally advises us that this latter provision represents a congressional encroachment similar to those which the Executive Branch has consistently opposed.

Treasury informally advises us that it has no objection to approval; however, the Department expresses three basic concerns. First, it reiterates its long standing opposition to the Federal guarantee of tax-exempt State and local government bond issues.* Second, it questions the advisability of funding electric utility rate demonstrations. Third, it dislikes the growth in Federal regulation and bureaucracy that would result primarily from the energy conservation provisions of this bill.

Recommendation

In sum, the enrolled bill

- removes a significant portion of crude oil production from price controls;
- provides a material increase in the composite price;

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* Conference report advises FEA not to guarantee tax-exempt obligations and notes. It notes that this limitation could not be written into the legislation because it involved the jurisdiction of committees not a part of the conference.

- o contains two programs -- weatherization and building standards -- proposed by you last year; and

- o extends FEA for an acceptable period of time.

These advantages, however, must be weighed against significant disadvantages. In particular, the congressionally initiated conservation programs are likely to be inefficient, if not altogether ineffective, and costly. They will result in more Federal employees, more paperwork, more Government intervention in the credit markets and recognition that credit allocation and income redistribution by means of categorical programs are appropriate Federal Government policies.

We do not believe that the pricing and other advantages of the bill would be available without its disadvantages. Further, we believe it is important to maintain momentum in moving toward complete decontrol of petroleum prices. While we are hopeful that the cost and the attendant bureaucracy of the congressionally initiated conservation programs can be controlled, we believe, on balance, that the risk of their growth is outweighed by the advantages of the bill. Accordingly, we recommend that you sign H.R. 12169. A draft signing message is attached.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Anticipated Outlays

(in millions)

Program	FY 1977	FY 1978	FY 1979	Total	
Administration Proposed					
. Weatherization assistance[1]	$ 55	$ 55	$ 55	$165	($200 authorized in bill)
. Conservation standards for buildings	5			5	
. Administrative -- Funds	1	1	1	3	
(Personnel)	(30)	(30)	(30)		
Total -- Administration Proposals	$ 61	$ 56	$ 56	$173	
Originated by Congress					
. State conservation grants[2]	$ 25	$ 40	$ 40	$105	
. HUD demonstration program grants/ loans to homeowners[3]	10			10	($200 authorized in bill)
. $2 billion-obligation guarantees -- companies, State/local government, non-profit organizations[4]	60	-	-	60	
. Other	15	-	-	15	
. Administrative -- Funds	10	10	7	27	
(Personnel)	(245-435)	(245-435)	(170-360)		
Total -- Congressional Proposals	$120	$ 50	$ 47	$217	
Total Administration and Congress	181	106	103	390	
Potential increases (footnotes 1-4)	-	260	195	455	
Total with potential increases	$181	$366	$298	$845	

The Administration proposal for $165 million was based on providing $125 of assistance to an estimated 1.2 million dwellings with 10% added for administrative costs. The bill contains more liberal criteria which could result in future pressures to increase the funding to the $350 million range.

For the EPCA authorized program the Administration requested funding for the full authorization of $50 million/year but the Congress appropriated only $25 million. We are assuming FEA will request funds at the authorized levels.

Secretary Hills proposes to request only $10 million the first year even though $200 million is authorized. Subsequent year appropriation requests would not be made if the homeowner tax credit for insulation is enacted. If this strategy fails there could be pressure to fund the program.

The bill authorizes $60 million assuming a 3% default rate. SBA experience in this area indicates a 6%-8% default rate. Accordingly, the $60 million will support only $900 million in guarantees. There will be pressure to increase

STATEMENT BY THE PRESIDENT

I have today signed H.R. 12169, the "Energy Conservation and Production Act."

H.R. 12169 removes the output of a significant portion of the Nation's oil wells -- those producing less than 10 barrels a day -- from Federal price controls. In addition, by materially increasing the composite price of petroleum still subject to controls, the bill would provide significantly increased incentive for domestic production. Both of these measures will help in achieving energy independence.

To encourage conservation of energy, the bill authorizes two programs -- assistance for lower income families to improve the heating and cooling efficiency of their homes and development of energy conserving building standards -- which I proposed over a year and one-half ago. These measures will achieve significant savings of energy. The bill also contains other conservation measures which, in my view, are less certain to achieve energy savings at acceptable costs. Careful implementation will be required to ensure that the results intended by the Congress in fact occur.

Finally, the bill contains a number of miscellaneous provisions including the extension of the Federal Energy Administration until December 31, 1977.

Although I have reservations about the effectiveness, efficiency and cost of several features of H.R. 12169, on balance, I find that the merits of this legislation outweigh its inadequacies.

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 13 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 12169, the "Energy Conservation and Production Act."

The enrolled bill would extend the duration of the authorities under the Federal Energy Administration Act of 1974, provide for an incentive for domestic production and for electric utility rate design initiative, and authorize the development of energy conservation standards and the provision of conservation assistance.

The Department believes that the conservation measures in the bill may not have the desired impact and that they will be difficult to administer and control due to the large numbers of agencies involved at both the Federal and local level.

In our view, the loan guarantees have technical problems, as well as being contrary to overall Administration Federal credit policy. Amendatory language will be submitted to correct these problems if the bill is approved.

The provision authorizing $2 million for assistance to consumer groups in the presentation of their case to State utility commissions could be counterproductive. It is likely that the funds will be used in an effort to hold down consumer prices in the utility area, whereas the Administration's goal has been to pass on the real cost of energy to the consumer as a true conservation incentive. Further, FEA's intervention in rate structures may be viewed as an encroachment on the traditional State and local jurisdiction over utility ratemaking.

A significant number of new regulations and a greater bureaucratic structure would be necessary to implement the provisions of the bill. Primarily, the administrative framework at both Federal and State levels would need to be enlarged to implement the conservation program, the information data requirements and the loan guarantee program.

In summary, while recognizing that there may be good reasons for signature, Secretary Simon has reservations concerning a number of aspects of the bill -- i.e., the conservation provisions will be ineffective and, from a technical standpoint, are not consistent with normal Government loan guarantee programs; the provisions dealing with public utility rates may make it more difficult to introduce rate structures reflecting the actual cost of producing energy; and additional regulations and personnel will be needed at both the State and Federal level to administer the bill.

Despite our reservations, we would not object to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,

Richard R. Albrecht

General Counsel

Richard R. Albrecht

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.:

Date: August 13

Time:

FOR ACTION: Glenn Schleede
Max Friedersdorf
Alan Greenspan
NSC/S Scowcroft
Bill Seidman
Ken Lazarus
Robert Hartmann

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time:

SUBJECT:

H.R. 12169 - Federal Energy Administration Act Amendments

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

_X_ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, groudd floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

L W S copy

ACTION MEMORANDUM

LOG NO.:

Date: August 13

Time:

FOR ACTION: Glenn Schleede
Max Friedersdorf
Alan Greenspan
Brent Scowcroft
Bill Seidman
Ken Lazarus
Robert Hartmann (signing statement)

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13 Time: asap today

SUBJECT:

H.R. 12169 - Federal Energy Administration Act Amendments

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

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REMARKS:

please return to judy johnston, ground floor west wing

Approval

RBP for LWS

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

Rec. 1:25 pm

ACTION MEMORANDUM

LOG NO.:

ok/jl

Date: August 13

Time:

FOR ACTION: Glenn Schleede
Max Friedersdorf
Alan Greenspan
Brent Scowcroft
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults
Ken Lazarus
Robert Hartmann (signing statement)

FROM THE STAFF SECRETARY

to Res 8/13 2:14 GAm

to DJS 8/13 2:52 GAm

DUE: Date: August 13

Time: asap today

SUBJECT:

H.R. 12169 - Federal Energy Administration Act Amendments

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___ For Your Recommendations

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_X_ For Your Comments

___ Draft Remarks

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THE WHITE HOUSE

WASHINGTON

Rec. 8/13 - 1:25 pm

ACTION MEMORANDUM

LOG NO.:

Date: August 13

Time:

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Max Friedersdorf
Alan Greenspan
Brent Scowcroft
Bill Seidman
Ken Lazarus
Robert Hartmann (signing statement)

cc (for information): Jack Marsh
Jim Cavanaugh
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FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: asap today

SUBJECT:

H.R. 12169 - Federal Energy Administration Act Amendments

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

_x_ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

8/13 - copy sent for researching. nnn

Ed ... [signature]

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

8/16

Ron –

To add to the bill

files, fls. Thanks

Katie

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

August 13, 1976

MEMORANDUM FOR JAMES M. FREY
ASSISTANT DIRECTOR FOR LEGISLATIVE REFERENCE

ATT: MS. RAMSEY

SUBJECT: H.R. 12169 -- Enrolled, "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

The Council on Environmental Quality recommends that the President sign the subject bill into law.

Gary L. Widman

Gary L. Widman
General Counsel

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 16 1976

Dear Mr. Lynn:

This will respond to your request for the views of this Department on enrolled bill H.R. 12169, "To amend the Federal Energy Administration Act of 1974 to extend the duration pf authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

We would not object to Presidential approval of enrolled bill H.R. 12169.

Enrolled bill H.R. 12169 would extend the Federal Energy Administration (FEA) until December 31, 1977, and the Energy Resources Council (ERC) until September 30, 1977. It would establish an Office of Energy Information and Analysis within FEA to be headed by a Director appointed by the President and confirmed by the Senate. It would also require the ERC to prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources by December 31, 1976, and a revised plan by April 15, 1977, and to prepare an annual report on national energy conservation beginning July 1, 1977.

The enrolled bill would exempt first sale of domestic stripper well crude oil from price and allocation controls. Actual volume of stripper well oil would be initially imputed into the national composite price at $11.63; it could then increase along with the average per barrel increase of all oil remaining in the composite. The 3 percent production incentive factor for crude oil mandated in the Energy Policy and Conservation Act could be increased up to the difference between the 10 percent rate and the rate of inflation. Any increase in the 3 percent production incentive factor could be specifically utilized for increasing enhanced recovery, adjusting heavy crude gravity differentials and for other purposes which would increase domestic production.

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

The enrolled bill would require the Department of Housing and Urban Development to develop and promulgate mandatory thermal efficiency standards for all new residential and commercial buildings; and would provide $200 million in grants to States over a 3-year period for the insulation of homes of low-income, elderly persons, and Indian tribes. It would also establish a $200 million demonstration program to test various mechanisms (grants, low interest loans, interest subsidies, etc.) for encouraging energy conservation improvements or use of renewable resources, such as solar heating and cooling, in existing residential buildings. The amount of the incentive could not exceed $400 for any energy conservation measure or $2,000 for any renewable resource measure.

The enrolled bill would also: authorize up to $2 billion in obligation guarantees to provide conservation investments for industry, small businesses, and non-profit institutions; supplement the State energy conservation program contained in the EPCA by authorizing $105 million in the next 3 years, and provides greater flexibility to the States than allowed in the EPCA; provides a statutory authorization of $13 million for FEA's existing electric utility and load management techniques and to intervene in State utility commission rate making proceedings; authorize up to $2 million in State grants to help establish or fund consumer offices to assist consumers in their presentations before State commissions; and authorize $3 million for a solar commercialization and utilization program.

With respect to section 142 of enrolled bill H.R. 12169 it must be noted that the Secretary of the Interior has been delegated broad responsibilities in the area of energy resources. Basic to discharging his responsibilities under the Organic Acts of the Bureau of Mines and the Geological Survey, the Mineral Leasing Law, the Stock Piling Act, the Defense Production Act, the Mining and Minerals Policy Act, and many other laws, is the collection of related and supporting information, including information on mineral fuels. Accordingly, maintenance of an in-house information capability in the fuels area is essential to the Department's mission.

The Department's recommendation that the President approve this enrolled bill assumes the provision in section 142, part B, subsection 56(a)(b) and (c) to mean that existing energy data gathering facilities will be retained in their respective departments bnd Bureaus. It is further understood that such existing bureaus and agencies will obtain and report the data to the Office of Energy Information and Analysis in the form and at such periods as may be prescribed by that Office. Only by some Executive office coordinating action will current agency skills and experience be preserved and assure that costly duplication would be avoided.

Within the Department, the Bureau of Mines is a primary source for much of this information. In that Bureau, the Assistant Director - Fuels and the present computerized Fuels Availability System rely to varying degrees on many other parts of the Bureau, including: the Denver Computer Center, the Pittsburgh Printing Plant, State Liaison Officers, four Field Offices, five Mining Research Centers, International Data and Analysis, Interindustry and Economic Analysis, Statistics and Technical Data Services, and eight Metallurgy Laboratories. In administering section 142, we would hope that the existing capabilities of the Bureau could be utilized along with advanced computer tie-ins and other cooperative measures with other agencies, similar to those already operative with FEA, USGS, and Infonet. This latter course of action was endorsed by the 1976 study of the House of Appropriations Committee.

Sincerely yours,

William L. Fisher

Assistant Secretary of the Interior

William L. Fisher

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

August 16, 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the Enrolled Bill H.R. 12169, the Energy Conservation and Production Act.

The enrolled bill is the product of a conference committee of the House and Senate. The House bill had been largely confined to simple extension of the Federal Energy Administration Act of 1974, plus amendments to improve Congressional oversight of the Federal Energy Administration. The Senate bill had contained a number of additional provisions addressing both procedural and substantive energy matters. This conference substitute, like the Senate bill, is a broad energy bill.

Title I would extend the life of the Federal Energy Administration Act through December 31, 1977, and would add a number of provisions affecting operations of the Federal Energy Administration. These would include exemption of oil production from stripper wells from price controls, authorization of a greater flexibility to provide price incentives for high-cost enhanced recovery techniques, and establishment within FEA of an Office of Energy Information and Analysis which would establish a National Energy Information System. Title II would provide for electric utilities rate design initiatives, while Title III would establish energy conservation standards for new buildings. Title IV would deal with energy conservation and renewable-resource assistance for existing buildings, including a program of loan guarantees to aid in implementing such conservation activities.

As to much of this legislation, we would defer to the Federal Energy Administration and other agencies more directly concerned with the subject matter. However, we have been more closely concerned in the past with legislative proposals to establish a National Energy Information System. The present provisions are much more modest in scope than those to which we previously had expressed objection. Placing responsibility for this effort within the Federal Energy Administration also eliminates many of the difficulties we had envisioned in previous proposals for an independent agency to collect and analyze energy data. While some questions do remain with respect to the organization and operation of the proposed Office of Energy Information and Analysis, these concerns are not of such direct and substantial a nature as to warrant a recommendation of disapproval for this legislation.

You are aware of our constitutional objections to Section 305 of Title III, this Section being in violation of the provisions of Article I, Section 7 of the Constitution. We have also suggested that, in the event of Executive approval, the President may wish to note the unconstitutionality of the provision and either express his intention to treat Section 305 as a notice provision and disregard the approval procedures, or state his intention not to issue standards as required by Section 304 of the Act and his intention not to enforce Sections 304 and 305 in view of their unconstitutionality.

Subject to your consideration of these observations, the Department of Justice defers to the Federal Energy Administration as to whether this legislation should receive Executive approval.

Sincerely,

Michael M. Uhlmann

Michael M. Uhlmann
Assistant Attorney General

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 17 1976

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Lynn:

This letter is in response to your request of August 11, 1976, for the views of the Environmental Protection Agency on H.R. 12169, an enrolled bill "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

The major provisions of the enrolled bill include the following. First, the bill would extend the Federal Energy Administration until December 31, 1977. Second, it exempts the first sale of domestic stripper well crude oil from price and allocation controls. Third, the bill requires the Department of Housing and Urban Development to establish mandatory thermal efficiency standards for all new residential and commercial buildings. Fourth, the bill provides grants to States for the insulation of homes of low income, elderly persons, and Indian tribes. Finally, the bill establishes a $200 million demonstration program for encouraging energy conservation improvements or use of renewable resources in existing residential buildings.

The Environmental Protection Agency recommends that the President sign this enrolled bill. We believe that the energy conservation measures and the incentives for increased production of domestic crude oil will help offset the Nation's reliance on imported oil. The demonstration program to test renewable resources, such as residential solar heating and cooling, will not only help reduce the demand for foreign oil, but will help improve the environment by reducing the need for electric energy produced by burning fossil fuels.

We appreciate the opportunity to comment on this important piece of legislation.

Sincerely yours,

Russell E. Train
Administrator

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20530

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 8-20-76

TO: Bob Linder

FROM: Jim Frey

Attached is the GSA views letter on H.R. 12169. Please have it included in the enrolled bill file. Thanks.

OMB FORM 38
REV AUG 73

UNITED STATES OF AMERICA

GENERAL SERVICES ADMINISTRATION

WASHINGTON, DC 20405

August 18, 1976

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, DC 20503

Dear Mr. Lynn:

Your letter of August 11, 1976, requested the views of the General Services Administration (GSA) on enrolled bill H.R. 12169, "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

Title II of the bill which provides for development and advocacy by the Federal Government of various rate design proposals appears to be in potential conflict with authority previously granted to GSA under section 201(a)(4) of the Federal Property Act. Under this law, GSA represents the consumer interests of the Federal executive agencies with regard to transportation, communication, and other public utilities services (40 U.S.C. 481(a)(4)).

In the view of GSA, the Federal rate design initiatives called for by the bill should be developed with full participation by GSA and other concerned agencies. This interagency clearance process should take place before any such initiatives are forwarded to the Congress for review under section 203(b), and prior to their being urged upon the state regulatory commission for adoption.

It is essential that the projected cost impact of various rate design proposals upon the operating budgets of the executive agencies be given due consideration as the relative merits of the various rate proposals are weighed.

This legislation does not relieve GSA of its representational responsibility under the Federal Property Act. Barring statutory change, GSA will continue to represent the consumer interests of the executive agencies. Those interests may or may not coincide with the several rate design theories FEA would be directed by this bill to evaluate. It is essential, therefore, that prior to entering the adversary process of the regulatory arena, that maximum congruity of Federal view be obtained. This can only be accomplished by a balancing of concerns. GSA strongly urges that this be made to happen in the administration of this title of the bill should it become law.

GSA also recommends that this agency's experience and expertise in energy efficient building design and operation be fully utilized in implementation of title III of the bill, which calls for development of conservation standards for commercial buildings.

If the two matters outlined above are effectively dealt with in the administration of the bill, there should be no serious difficulty with its operation should it become law in terms of GSA authorities or programs. Under these circumstances, GSA would have no objection to the legislation and would not, therefore, recommend that the President veto this bill.

Sincerely,

Terry Chambers

TERRY CHAMBERS
Deputy Adminstrator

STATEMENT BY THE PRESIDENT

I have today signed H.R. 12169, the "Energy Conservation and Production Act."

In January, 1975, I proposed to the American people a comprehensive national energy program. This program would minimize the Nation's dependence on imported oil and vulnerability to another embargo.

With the signing of this and previous energy bills, seven of my legislative proposals are now in law. We are making progress, but have a long way to go.

H.R. 12169 removes the output of a significant portion of the Nation's oil wells -- those producing less than 10 barrels a day -- from Federal price controls. In addition, by materially increasing the composite price of petroleum still subject to controls, the bill would provide significantly increased incentives for domestic production. Both of these measures will help in achieving energy independence.

To encourage conservation of energy the bill authorizes two programs, assistance for lower-income families to improve the heating and cooling efficiency of their homes, and development of energy conserving building standards. Both of these programs I proposed over a year and one-half ago. These measures will achieve significant savings of energy. I must again express my opinion that the provision of this bill which requires the approval by concurrent resolution of the Congress of regulations promulgated by an executive agency to enforce these energy conservation standards is unconstitutional. I also have reservations about the effectiveness of the other conservation measures in the bill, since they are less certain to achieve energy savings at acceptable costs. Careful implementation will be required to ensure that the results intended by the Congress actually occur.

The bill also extends the Federal Energy Administration until December 31, 1977.

I call upon the Congress, once again, to pass the other bills that I have proposed. We have talked and debated long enough. There is time for action before the October adjournment and I ask the Congress to act now.

DRAFT

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OK as Edited by

8/13/76

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INSERT

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OK as Edited by
[illegible] 8/23/76

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Insert:

INSERT

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OK as Edited by [signature] 8/13/76

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Ok/jC

DRAFT

Jan. 13, 1975
P. 40 - weekly comp.

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Dennis from Barnes from Glenn Schleede's office

attached background

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attached backup

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In January, 1975, I proposed to the American people a comprehensive national energy program. This program would minimize the Nation's dependence on imported oil and vulnerability to another embargo.

With the signing of this and previous energy bills, seven of my legislative proposals are now in law. We are making progress, but have a long way to go.

H.R. 12169 removes the output of a significant portion of the Nation's oil wells -- those producing less than 10 barrels a day -- from Federal price controls. In addition, by materially increasing the composite price of petroleum still subject to controls, the bill would provide significantly increased incentives for domestic production. Both of these measures will help in achieving energy independence.

To encourage conservation of energy the bill authorizes two programs, assistance for lower-income families to improve the heating and cooling efficiency of their homes, and development of energy conserving building standards. Both of these programs I proposed over a year and one-half ago. These measures will achieve significant savings of energy. I must again express my opinion that the provision of this bill which requires the approval by concurrent resolution of the Congress of regulations promulgated by an executive agency to enforce these energy conservation standards is unconstitutional. I also have reservations about the effectiveness of the other conservation measures in the bill, since they are less certain to achieve energy savings at acceptable costs. Careful implementation will be required to ensure that the results intended by the Congress actually occur.

The bill also extends the Federal Energy Administration until December 31, 1977.

I call upon the Congress, once again, to pass the other bills that I have proposed. We have talked and debated long enough. There is time for action before the October adjournment and I ask the Congress to act now.