CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas Holtz-Eakin, Director

April 19, 2005

Honorable David Dreier
Chairman
Committee on Rules
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Based on a preliminary review of H.R. 6, the Energy Policy Act of 2005, as introduced in the House of Representatives on April 18, 2005, CBO estimates that enacting this legislation would reduce direct spending by $1.1 billion over the 2006-2010 period and by $0.4 billion over the 2006-2015 period. CBO and the Joint Committee on Taxation estimate that the legislation would reduce revenues by $4.0 billion over the 2006-2010 period and by $7.9 billion over the 2006-2015 period. The estimated direct spending and revenue effects are summarized below. A table with additional details is attached.

	By Fiscal Year, in Millions of Dollars										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Estimated Budget Authority	0	221	509	-1,640	211	-331	146	139	141	139	62
Estimated Outlays	0	196	424	-1,605	221	-311	166	139	141	139	62
Estimated Revenues [a]	163	-272	-1,175	-1,227	-707	-655	-673	-714	-761	-820	-865

Sources: CBO and Joint Committee on Taxation (JCT).

a. The JCT estimate assumes the bill will be enacted by July 1, 2005. CBO's estimate assumes enactment near the end of fiscal year 2005.

Implementing this legislation also would affect spending subject to appropriation action, but CBO has not completed an estimate of the potential discretionary costs.

H.R. 6 contains numerous mandates as defined in the Unfunded Mandates Reform Act (UMRA) that would affect both intergovernmental and private-sector entities. Based on our review of the bill, CBO expects that the mandates (new requirements, limits on existing rights, and preemptions) contained in the bill's titles on motor fuels (title XV), nuclear energy (title VI), electricity (title XII) and energy efficiency (title I) would have the greatest impact on state and local governments and private-sector entities.

CBO estimates that the cost of complying with intergovernmental mandates, in aggregate, could be significant and likely would exceed the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation) at some point over the next five years because we expect that future damage awards for state and local governments under the bill's safe harbor provision (title XI) would likely be reduced. As explained below, that provision would shield the motor fuels industry from liability under certain conditions.

Section 1502 would shield manufacturers of motor fuels and other persons from liability for claims based on defective product relating to motor vehicle fuel containing methyl tertiary butyl ether or renewable fuel. That protection would be in effect as long as the fuel is in compliance with other applicable federal requirements. The provision would impose both an intergovernmental and private-sector mandate as it would limit existing rights to seek compensation under current law. (The provision would not affect other causes of action such as nuisance or negligence.)

Under current law, plaintiffs in existing and future cases may stand to receive significant amounts in damage awards, based, at least in part, on claims of defective product. Because section 1502 would apply to all such claims filed on or after September 5, 2003, it would affect more than 100 existing claims filed by local communities, states, and some private companies against oil companies. Individual judgments and settlements for similar lawsuits over the past several years have ranged from several million dollars to well over $100 million. Based on the size of damages already awarded and on information from industry experts, CBO anticipates that precluding existing and future claims based on defective product would reduce the size of judgments in favor of state and local governments over the next five years. CBO estimates that those reductions would exceed the threshold established in UMRA in at least one of those years. Because significantly fewer such cases are pending for private-sector claimants, CBO does not have a sufficient basis for estimating expected reductions in damage awards for the private sector.

CBO cannot determine whether the aggregate cost of the private-sector mandates in the bill would exceed the threshold established in UMRA primarily for two reasons. First, some of the requirements established by the bill would hinge on future regulatory action for which information is not available. Second, UMRA does not specify whether CBO should measure the cost of extending a mandate relative to the mandate's current costs or assume that the mandate will expire and measure the costs of the mandate's extension as if the requirement were new. The bill would extend the existing mandate that requires licensees to pay fees to offset roughly 90 percent of the Nuclear Regulatory Commission's annual appropriation. Measured against the costs that would be incurred if current law remains in place, the cost to the private sector of extending this mandate would exceed the annual threshold established in UMRA ($123 million in 2005, adjusted annually for inflation).

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lisa Cash Driskill, (for federal costs), Theresa Gullo (for intergovernmental mandates), and Patrice Gordon (for private-sector mandates).

Sincerely,

Douglas Holtz-Eakin
Director

Attachment

cc: Honorable Louise M. Slaughter
Ranking Minority Member

ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR H.R. 6

	By Fiscal Year, in Millions of Dollars										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING											
Title I - Energy Efficiency											
Estimated Budget Authority	0	0	300	200	0	0	0	0	0	0	0
Estimated Outlays	0	0	255	215	30	0	0	0	0	0	0
Title VI - Nuclear Matters											
Estimated Budget Authority	0	64	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	64	0	0	0	0	0	0	0	0	0
Title IX - Research and Development											
Estimated Budget Authority	0	50	50	50	50	50	50	50	50	50	50
Estimated Outlays	0	25	50	50	50	50	50	50	50	50	50
Title XII - Electricity											
Estimated Budget Authority	0	50	100	50	100	50	50	50	50	50	50
Estimated Outlays	0	50	60	70	80	70	70	50	50	50	50
Title XVIII - Geothermal Energy											
Estimated Budget Authority	0	2	2	2	2	2	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2	2	2	2	2	2
Title XX - Oil and Gas											
Estimated Budget Authority	0	54	56	57	59	66	44	37	39	37	34
Estimated Outlays	0	54	56	57	59	66	44	37	39	37	34
Title XXI - Coal											
Estimated Budget Authority	0	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1
Title XXII - Arctic National Wildlife Refuge											
Estimated Budget Authority	0	0	0	-2,000	-1	-500	-1	-1	-1	-1	-75
Estimated Outlays	0	0	0	-2,000	-1	-500	-1	-1	-1	-1	-75
Total											
Estimated Budget Authority	0	221	509	-1,640	211	-331	146	139	141	139	62
Estimated Outlays	0	196	424	-1,605	221	-311	166	139	141	139	62
NET CHANGES IN REVENUES											
Title XII - Electricity	0	38	38	38	38	38	38	38	38	38	38
Title XIII - Energy Tax Incentives [a]	163	-310	-1,213	-1,265	-745	-693	-711	-752	-799	-858	-903
Total	163	-272	-1,175	-1,227	-707	-655	-673	-714	-761	-820	-865

Source: Joint Committee on Taxation and CBO.

a. The JCT estimates the bill will be enacted by July 1, 2005. CBO's estimates assume enactment near the end of fiscal year 2005.