CEI PLANET

ADVANCING LIBERTY FROM THE ECONOMY TO ECOLOGY

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Liberate to Stimulate!

BY IAIN MURRAY

When the financial industry imploded two years ago, grandstanding politicians on both sides of the Atlantic wasted no time in suggesting alleged reforms to ensure that "history does not repeat itself." Of course, these fixes—whether tax increases or new regulations—hinged upon the same misguided worldview that got us into this mess in the first place.

The first thing to remember is that this was not a crisis of capitalism. My good friend Martin Hutchinson and his co-author Kevin Dowd, in their recent book *Alchemists of Loss*, surveyed all the major financial crises from the South Sea Bubble onwards and determined five factors that contributed to them. They are:

- Government involvement, which in many cases precipitated and in most cases deepened problems they sought to alleviate;
- Misguided monetary policy, the true driver of the Great Depression, causing price instability and an orgy of speculation;
- Rampant speculation, normally caused by loose monetary policy but normally self-correcting;
- Misguided regulation or legislation, which played a key role in the S&L debacle and the Japanese crisis; and
- New financial technology, often imperfectly understood or misapplied.

All five of these circumstances applied in the recent crisis. To these factors we can add a vicious cycle comprised of three pernicious phenomena: short-term incentive structures, "rocket science" models, and mark-to-market accounting. Models were made to produce appropriate values that justified huge bonuses, all without any basis in reality. Bankers became mathematicians, proved with equations that black was white, and, as the late satirical science fiction writer Douglas Adams put it, got run over at the next zebra crossing.

So the question is: Would any tax or regulation help to alleviate any of these problems? I think the answer is a very clear no. If the problem is in large part government-inspired, another tax or regulation will very likely exacerbate the problem, not reduce it. If the problem is excessive speculation or too many transactions, then, yes, a tax could help reduce the volume of speculation, but only up to a point. At some point all taxes intended to alter behavior create a paradox: Government revenue is dependent on the behavior continuing.

We see this in situations as diverse as the

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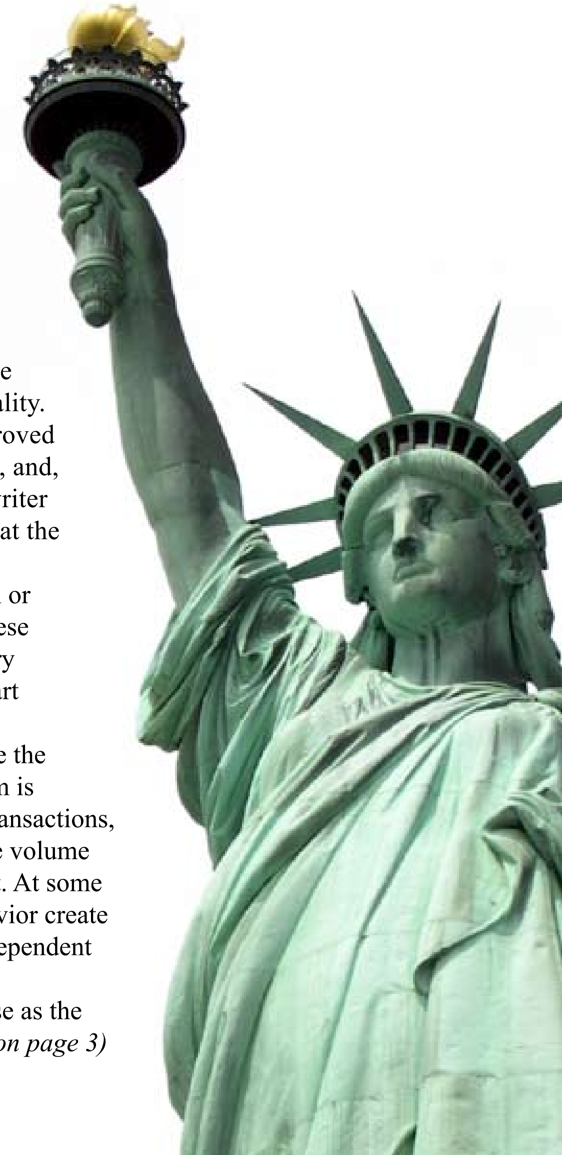

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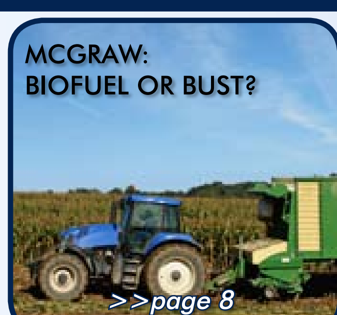

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>>FROM THE VICE PRESIDENT FOR POLICY

A Better 'Pledge': Congress Shall Make No Law

By Wayne Crews

When I think of a "pledge," I am reminded of my fraternity days and being hazed and lightly humiliated. House Republicans offered their "Pledge to America" in the run-up to the 2010 midterm elections. The country has been hazed enough by politicians, so a pledge from the political class to back off is welcome.

I am happy to see Republicans offer a "Pledge to America," but we need to carefully examine these promises. Every program must be challenged. It's not enough to cut "entitlements" back to 2008 levels; today's situation is too serious to warrant accepting a two-year-old status quo.

> *"Lawmakers need to ask fundamental questions about everything the federal government is doing. The Pledge needs to go further and ask about every program, "How is this 'necessary and proper' to carry out an enumerated constitutional power?""*

Lawmakers need to ask fundamental questions about everything the federal government is doing. The Pledge needs to go further and ask about every program, "How is this 'necessary and proper' to carry out an enumerated constitutional power?" Indeed, as CEI's Fred Smith often jokes, "The Constitution isn't perfect, but it's better than what we have now!" The doctrine of separation of powers was supposed to have protected us, but it too often means is there is no specific "tyrant" on which you can put your finger.

We know the original intent of the Framers. The development of the Constitution was a battle between those favoring a central power to tax and those favoring a looser confederation of states. It was a battle between the doctrine of discretionary power and the doctrine of strict construction. There is not a mystery about intent—some favored control, others favored liberty. Unfortunately, in many respects, those favoring discretionary power won in the two decades after the revolution. We are reaping the fruits of their victories now.

We need to think well beyond this political pledge. What kind of society is sustainable over centuries— or even over millennia? Whatever the requirements, we have to make sure that America is the kind that can survive. A few centuries are enough to wipe out precious freedoms if government is not restrained. So we want to see packages like this pledge, but also serious, fundamental extensions from it that ask questions not driven merely by responses to the opposing party.

Our descendants must wall off the future. They must protect tomorrow's American citizens from the opportunistic, transitory politicians of any given era—such as the ones that further collectivized health care, bogged down the financial sector, and seek to push new destructive regulation in energy markets and frontier areas like telecommunications.

Most people have not yet been born, and should not be forced to draw their first breaths in a stifling nanny/welfare state. I am glad to see this Pledge to America, but it is important we recognize the full slate of challenges we currently face—and those that future generations will be forced to face.

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Stimulate, *continued from page 1*

Tobacco Master Settlement Agreement, whereby state funding is dependent on continued sales of cigarettes, and the proposed cap-and-trade scheme for carbon emissions, for which the Obama budget contains $800 billion in revenue projections from auctioned permits—an amount that will help pay for Obamacare. So a tax aimed at reducing speculation will lead to government encouraging speculation. And when you consider government's past role in encouraging speculation in the housing market, this is not something to look forward to.

So how about a tax on bonuses? That would be treating the symptom, not the cause. Excessive bonuses were underpinned by modern financial theory. When Harry Markowitz defended his dissertation that laid the groundwork for modern portfolio theory at the University of Chicago, Milton Friedman correctly observed, "It's not mathematics; it's not economics; it's not finance." Without such a theory, modern banking loses its short-termist nature. Bonuses will be reined in, not by a tax, but by a flight to quality.

So what should we do? I could go on and on, and CEI will soon propose a package of reforms we would like to see enacted, but here is a short list:

1. No more bailouts—realign capital to the wise by allowing proper bankruptcy.
2. Return to historical cost accounting, away from mark-to-market, which is the third leg of the short-termist stool.
3. Abolish deposit insurance that not only perpetuates the fiction that investments in banks are deposits, but encourages excessive risk-taking. Consider an arrangement like that proposed by Policy Exchange for genuine deposit accounts backed by low-risk investments.
4. End the closed shop in rating agencies in the U.S., where the SEC has delegated the rating of securities to an accredited duopoly—Moody's and Standard & Poors—which regulators have embedded into solvency requirements. Without these requirements, each of the rating agencies will become just one of many competing ways to pursue due diligence, instead of a crutch.
5. Abolish the World Bank and IMF, which are, quite simply, in the business of making excessively risky loans, usually to fiscally irresponsible governments.
6. End the revolving door between Wall Street and Washington.
7. Lift the Obama administration's moratorium on retailer-associated limited-purpose banks, which would allow real, vibrant competition for basic banking services. Wal-Mart can already supply most of America's domestic retail needs. Why shouldn't it supply domestic banking?

These are just a handful of the reforms we should take. Above all, given government's role in the whole history of financial crises, we need to keep government out of the banks as much as we can.

After the South Sea Bubble, a proposal was introduced in the British Parliament to have the financiers tied into sacks filled with snakes and thrown into the Thames. If similar sternness accompanied the punishment for misguided regulation, perhaps we would see some genuine progress.

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The Free Checking Restoration Act

BY JOHN BERLAU

Having sustained huge losses in the recent midterm elections, President Obama and his allies are now warning that opponents will repeal new financial regulations, including those enacted this July in the Wall Street Reform and Consumer Protection Act—known as Dodd-Frank, after its sponsors, Rep. Barney Frank (D-Mass.) and Sen. Chris Dodd (D-Conn.).

"Top Republicans in Congress are now beating the drum to repeal all of these reforms and consumer protections," the president thundered in his October 23 weekly address. He said "the passage of Wall Street reform" was "one of the most important victories" in his administration's "battles to defend the interests of the middle class."

Yet over the past few months, the middle class has seen a beneficial feature of modern banking—free checking—begin to vanish because of these "reforms" and the substantial loss of bank revenues that they have caused.

There are two main culprits in free checking's demise: the Federal Reserve's new rules, in effect since July, that restrict banks from charging overdraft fees when customers overdraw their checking accounts, and the amendment from Sen. Dick Durbin (D-Ill.) in Dodd-Frank that puts price controls on the interchange fees that merchants pay to banks and credit unions to process debit cards.

The decline of free checking is the first of many middle-class perks likely to vanish in the rush to regulate. As one of its first orders of business, the 112th Congress should introduce legislation to repeal these policies. I suggest they title the bill the Free Checking Restoration Act of 2011.

Some have argued that free checking was never "free" because its costs were subsidized by account holders incurring overdraft charges and by merchant fees. In June, left-leaning *Mother Jones* magazine blogger Kevin Drum called both these fees "basically surreptitious ways for the poor to subsidize the rich."

Yet the data tell a different story. While it is true that overdraft fees hit the poor disproportionately, the vast majority of even the lowest-income account holders have never been hit with these fees because they have never made purchases with more funds than they had in their accounts.

Data from the 2008 Federal Deposit Insurance Corporation's (FDIC) Study of Bank Overdraft Programs, which surveyed 462 FDIC-supervised banks, show that more than 60 percent of low-income consumers with checking accounts never incurred a fee for overdrawing those accounts. The same was true for 74 percent of middle-income account holders.

So overdraft charges were not so much a subsidy from the poor to the rich as they were from the imprudent, who had overdrawn their accounts, to the prudent account holders of all income levels. And what is wrong with that? Compared to the penalties for bounced checks—including possible jail time—in the days before debit cards, the typical $35 overdraft fee seems reasonable.

If the overdraft rule ill-serves the middle class, the Durbin Amendment makes a mockery of Obama's characterization of Dodd-Frank as a victory for consumers over special interests. This provision requires the Federal Reserve to limit debit card interchange fees that retailers are charged to what is "reasonable and proportional" to cost—basically outlawing profit for card-issuing banks and credit unions in their transactions with retailers.

Major retail chains—including Home Depot and 7-Eleven—fought hard for these price controls on financial institutions. Mr. Durbin even invoked lobbying efforts by the nation's largest drugstore chain—which happens to be based in his own state of Illinois—when he introduced his amendment in May. "I had the CEO of Walgreens contact me last week," he said on the Senate floor, "and he told me the fees that Walgreens pays to credit card companies is the fourth largest item of cost for their business."

Now, thanks to "financial reform," these costs will be reduced for large retailers at the expense of middle-class checking account holders paying new fees. If the experience of Australia is any guide, very little of the retailers' savings will be passed on in lower prices. In a November 2009 study looking at that country's cap on credit-card interchange fees, the U.S. Government Accountability Office found that Australian consumers faced "reduced rewards and raised annual fees," and that there was no "conclusive evidence" that any of the retailers' $1.1 billion in savings had been passed on to consumers.

Interchange and overdraft controls serve as impediments to free checking. Removing both would be one promise of a freebie that is good politics and good policy.

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Court Should REJECT Video Game Censorship

BY RYAN RADIA

Free expression in the digital age faces a major test before the U.S. Supreme Court. The Court recently heard oral arguments debating the constitutionality of a 2005 California law banning the sale of violent video games to minors. If the nation's high court allows California's law to stand, it would pave the way for future laws curtailing all kinds of interactive expression.

In recent years, several states have passed laws barring the sale of violent video games to minors, but courts have found all such laws to violate the First Amendment's free speech guarantee. As one federal judge put it, video games are "just as entitled to First Amendment protection as is the finest literature." Indeed, the Framers enshrined freedom of speech in the Constitution because they believed that individuals, not government, should be responsible for deciding whether a form of expression has value.

California's law covers violent video games that appeal to a "deviant" interest and are "patently offensive" by the standards of what is commonly considered suitable for minors. But whenever government discriminates against supposedly "deviant" speech, it chills expression that some people value. Likewise, regulating violent video games would harm the millions of American adults who enjoy mature-themed games.

Making it illegal to sell violent video games to minors will cause many retailers to avoid stocking such games altogether. Some game developers, fearing a government-issued black mark, may stop creating violent video games entirely.

How much violence causes a video game to be considered "patently offensive" to minors? No one really knows. In arguing before the Supreme Court, California Deputy Attorney General Zackery Morazzini could name only a single video game that California's law would cover, but he guessed it might apply to several other games. Perhaps, quipped Justice Antonin Scalia, California might simply create an "office of censorship" to decide which games should be off-limits to minors. How else could a game publisher or retailer determine in advance whether a particular video game is too violent for kids?

Backers of California's law claim that violent video games cause children to suffer harmful psychological effects. The evidence suggests otherwise. A comprehensive survey of the major scientific literature by psychologist Jonathan Freedman found no established link between exposure to media violence and aggressive feelings in children. According to research by cyber-policy scholar Adam Thierer, juvenile violent crime fell by 36 percent from 1995 to 2008, even as the popularity of video games skyrocketed.

Even if some video games may be harmful to some kids, however, the responsibility for making that determination is an individual judgment that should rest with parents, not with government.

Parents who wish to shield their children from certain kinds of video games already have many options to do so, from parental controls to content ratings. In 1994, the video game industry established the Entertainment Software Rating Board, a voluntary organization that rates video games and provides detailed information about their content. Nearly 90 percent of parents whose kids play video games are aware of these ratings.

Not long ago, video games were a niche product. Today, the average American household spends more on video games than on print media, movie rentals, and music purchases, according to The Nielsen Company.

Violent video games are today's favorite bogeyman of pandering politicians who want to appear "strong on family values." In the 1950s, politicians targeted comic books; in another generation, a new form of expression will likely face a similar assault. The U.S. Supreme Court now has a rare opportunity to stand up for free speech and voluntary institutions by striking down California's misguided legislation.

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Big Labor May Still Reap Benefits Despite Election Losses

BY IVAN OSORIO AND
F. VINCENT VERNUCCIO

Organized labor's fears were realized on November 2 when Republicans won a decisive majority in the House of Representatives, almost eviscerated the Democrats' majority in the Senate, and picked up 11 governorships. Was this a triumph of corporate interests, as some on the left might suggest? Hardly.

Ironically, the same Democrats who railed against the Supreme Court's *Citizens United* decision—which struck down the parts of the McCain-Feingold campaign finance legislation that limited how much unions and corporations could spend on political campaigns—are the ones receiving the greatest benefit. The biggest spenders this election cycle were public sector unions, giving almost exclusively to Democrats.

The American Federation of State, County and Municipal Employees (AFSCME) alone spent $91 million on the 2010 midterm elections, making it the largest single campaign donor this cycle. As *The Wall Street Journal* reported, "Freed to spend their own funds, AFSCME, the SEIU, and the National Education Association have spent $171.5 million, compared to political outlays of $140 million by the U.S. Chamber of Commerce, American Crossroads and Crossroads GOP." Big Labor helped Democrats narrowly hold on to the Senate and bail out Senate Majority Leader Harry Reid. As Matt Patterson, senior editor at the Capital Research Center notes, "SEIU alone … allocated $725,000 to help ensure Reid's return to the United States Senate."

However, for Big Labor, the legislative damage is done. The makeup of the new Congress will make it much more difficult for its agenda to make any headway. This is good news for the American economy, especially struggling businesses and workers who do not wish to join unions. Yet that does not mean that unions are about to go quietly into the night. Democrats can still pay back their union supporters, both through non-legislative means and last-ditch lame duck legislation.

The deceptively named Employee Free Choice Act (EFCA) remains at the top of the union agenda. It failed to become law when Democrats controlled both houses of Congress and the White House, so its chances of gaining any traction in its current form are nil. Yet President Obama may still enact some of EFCA's key provisions through the National Labor Relations Board (NLRB). Obama NLRB recess-appointee Craig Becker, a former SEIU associate counsel, has written that employers should have no say in the organizing process, so it's very likely he would support such changes.

One possibility is enacting EFCA's card check provision through regulation. Card check would in effect eliminate secret ballots in union organizing elections. The NLRB is now considering allowing remote electronic voting (E-Voting), which would allow voting in union organizing elections to be done via phone or the Internet. The NLRB says it wants to keep the voting secret but it would not be hard for a union organizer using a laptop or iPad to pressure an individual worker to vote for the union. Allegations of mail fraud and voter intimidation were rampant in a recent inter-union remote mail election fight in California last month. E-Voting could lead to similar intimidation.

The NLRB is also considering expedited elections, which essentially would function as ambush elections. Employers would have very little time to respond to union organizing campaigns, which gives the union a significant advantage.

In addition, the NLRB recently decided to revisit its 2007 *Dana Corp.* decision, which affirmed employees' right to call for a secret-ballot decertification election in instances where a union has been certified through card check.

During the lame duck session, the main Big Labor priority to watch out for is a union pension bailout. Introduced in the House by Rep. Earl Pomeroy (D-N.D.) and in the Senate by Sen. Robert Casey (D-Penn.), this legislation would create a new fund within the Pension Benefit Guaranty Corporation (PBGC), through which it would direct taxpayer dollars to shore up some underfunded union pension plans. The use of public funds to insure private pension plans is a first for PBGC and stark departure from the way it has operated since its creation in 1974.

Earl Pomeroy lost his reelection bid, which makes the prospects for his legislation dim. However, just because unions lost one champion of this legislation does not mean they cannot find another. Pomeroy was an odd sponsor of such legislation anyway; unions are not exactly political powerhouses in North Dakota, which is a right-to-work state.

Still, given enough support from the national Big Labor establishment, another unlikely lawmaker could take this up. In addition, Pomeroy himself could try to push this legislation during the lame duck session, which could gain him favor with the Obama administration—and its major labor supporters—and improve his chances for an executive appointment. Like Pomeroy, Big Labor may be down, but it is hardly out.

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LaHood-WINKED BY TIGER II

Mobility Grants Push Anti-Car Agenda

BY MARC SCRIBNER

On October 28, President Obama's Transportation Secretary, Ray LaHood, announced the grant recipients of his department's $600-million Transportation Investments Generating Economic Recovery (TIGER) II program.

Skeptics of the Obama-LaHood transportation agenda had known a week earlier that things were going to be bad, thanks to some members of Congress leaking project details to the press—but we didn't think it would be this bad.

While much of the funding went to traditional pork projects like infrastructure repair in low-traffic rural counties, a significant portion went to smart-growth "livability" projects. Sounds great—who doesn't want their community to be more livable?

The problem is that, for smart-growth advocates, "livability" doesn't mean infrastructure investments that can increase Americans' mobility and broaden their opportunities. They mean separating people from their cars.

Smart-growth "livability" projects generally make auto travel more difficult. These include converting highways to boulevards, closing city streets to cars, opening one-way urban streets to bidirectional traffic, narrowing roads, and installing speed bumps.

Congestion is by far the most serious issue facing our transportation system. Livability measures not only fail to address congestion, they make it worse. More congestion means that people spend more time stuck in traffic, which means a lot of wasted time and fuel. As vehicular mobility declines, so does real livability.

A debate between smart growth and traffic efficiency advocates has raged for decades in the transportation policy community. Since the early 1990s, federal transportation planning has been dominated by the smart-growth set. They claim they just want to level the playing field for pedestrians, cyclists, and transit riders.

However, they face one major problem: Most Americans prefer to drive. In essence, smart-growth advocates are attacking a problem that is greatly overstated—a lack of non-auto infrastructure and access—and making the far more serious congestion problem significantly worse.

Proponents of smart growth have much to be thankful for, as less than a third of TIGER II's $585 million in grants went to road projects. In fact, more money went to livability-enhancing projects such as rail transit and bicycle trails than to roads. But grants were not evenly distributed. Five of the least cost effective projects received one-fifth of total funding.

Across the United States, smart-growth advocates have been attempting to bring back city streetcars. The proposed streetcar lines in Atlanta and Salt Lake City received $73.6 million from TIGER II—12 percent of the disbursed grant money. One of the few silver linings in the recent spate of crippling state budget deficits is that many of these expensive and controversial transit projects were put on hold or drastically scaled back.

However, with the federal government providing targeted funds that must be spent, these boondoggles may be able to limp back into operation. In the case of Atlanta's downtown streetcar line, the TIGER II grant accounts for two-thirds of the total investment.

In New Haven, Connecticut, $16 million went to a project to convert a portion of urban limited-access highway to a normal city street. Project backers claim that restoring this portion of Route 34 to the New Haven street grid will make for a more livable, pedestrian-friendly downtown.

Of course, it will increase congestion in an area already suffering from some of the worst driving conditions in the country. The State of Connecticut estimates that chronic congestion costs the New Haven area $117 million a year.

As wasteful as these projects are, the award for dumbest TIGER II grant goes to the Razorback Regional Greenway in northwest Arkansas. The others are at least somewhat related to Department of Transportation's core mission of enhancing American mobility. The Razorback, in contrast, is a proposed 36-mile bicycle and pedestrian corridor stretching from Bentonville to Fayetteville.

According to the Census Bureau's 2009 American Community Survey, only 0.3 percent of commuters bicycled to work in the Bentonville-Fayetteville metro area. Since when is the Transportation Department in the business of providing recreational opportunities to a small but vocal segment of the public?

TIGER II is likely just a taste of what will follow. With reauthorization of the multi-year highway bill around the corner, Americans should be wary of more anti-mobility transportation spending which congressional Democrats and the Obama administration are very likely to support.

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Biofuel or Bust?

Ethanol Subsidies Should be Dropped

BY BRIAN MCGRAW

The long struggle to make ethanol a viable and relevant auto fuel in America got a boost recently from the Environmental Protection Agency (EPA). However, allowing the tax measures that artificially prop demand for ethanol to expire would have a far greater impact.

The EPA's recent ruling that motor vehicle fuel blends of 15 percent ethanol (E15) can now be sold for automobiles built after 2006—an increase from the 10-percent blend currently used in most vehicles—should help farm belt corn growers. But the decision came amid considerable controversy.

Gas stations are wondering how they will afford costly new tanks and pumps for fuels with higher ethanol contents. Automobile manufacturers are concerned that they might be held liable if consumers accidentally use E15 in engines that cannot handle it. (An EPA ruling for E15 use in vehicles made after 2000 is expected later this year.)

The EPA decision will help the ethanol industry, though it isn't game-changing. What the industry is really fighting for is the extension of two significant protections: the ethanol blender tax credit, known as the Volumetric Ethanol Excise Tax Credit, and a tariff on imported ethanol. Both measures are set to expire at the end of 2010. They should be allowed to.

The tax credit is not given directly to ethanol producers, but to the much maligned oil companies that blend the ethanol into fuel. Just who exactly benefits from this tax credit is highly debated. ExxonMobil, a large blender, stated this fall that it believed the benefits flowed primarily to consumers through lower gas prices, and would be fine with its expiration. If you believe that only consumers benefit, the tax credit is frivolous at best, as the government is writing checks to subsidize gasoline consumption paid for by taxpayers.

(continued on the next page)

Yet it is also possible that ethanol producers benefit from the tax credit—either directly or indirectly—which would explain the millions of dollars spent pushing for its renewal. Indirectly, a rationale for the tax credit might be part of a strategic plan to extend the tariff on sugarcane ethanol, a competitor to corn ethanol, from expiring at the end of the year. The existence of the tax credit provides support for this otherwise senseless tariff, since without the tariff, the tax credit could potentially subsidize foreign biofuel producers.

The road to a biofuel future has not been a smooth one. The two largest ethanol trade associations, Growth Energy and the Renewable Fuels Association, parted ways this summer over government support for the industry. Growth Energy abandoned the tax credit in favor of government investments in ethanol infrastructure and mandates that new vehicles be made flex-fuel compatible, meaning they can run on higher blends of ethanol. The Renewable Fuels Association continued to support an extension of the tax credit.

Fearing that their division might cause the industry to lose much of its government support, the two groups recently came to a compromise: They would just ask for everything—an extension of the tax support and government funding for infrastructure investments. Another point of agreement for both groups is that neither seems willing to admit that the industry has matured and can survive without the taxpayer support from which it has benefited for over 30 years.

Outside the ethanol industry, support for ethanol subsidies is essentially nonexistent. Environmental organizations, the meat and grocery industries, and anti-poverty groups have all come out against ethanol subsidies. And despite the industry's claims of bipartisan support for ethanol legislation, few members of Congress outside of the Farm Belt favor continued taxpayer support.

> *What the biofuel lobby is advocating for is anything but a level playing field. It has suggested that the government mandate all new vehicles be made flex-fuel compatible and requested billions of dollars in government infrastructure support.*

So what arguments are put forward in support of ethanol? The domestic ethanol industry has made a number of claims, few of which stand up to closer scrutiny.

The first is that the expiration of the tax credit will cause massive job losses. At a time of low economic growth and high unemployment, the prospect of even thinner payrolls is terrifying to voters. The ethanol industry has capitalized on this, claiming that job losses could exceed 100,000. However, Iowa State University agricultural economist Bruce Babcock recently completed a study concluding that potential job losses resulting from an expiration of the tax credit and tariff would be fewer than 500.

The second is that ethanol is an immediately viable alternative to gasoline and can compete only if given equal access to the market. Given the recent spike in corn prices, ethanol is again more expensive than gasoline when you account for the fewer miles per gallon ethanol provides.

Moreover, what the biofuel lobby is advocating for is anything but a level playing field. It has suggested that the government mandate all new vehicles be made flex-fuel compatible and requested billions of dollars in government infrastructure support.

Finally, it is irresponsible to advocate keeping imported ethanol out of the United States. Brazilian sugarcane ethanol is a much cleaner fuel and has been produced historically at a much lower cost. Brazil has a competitive advantage—sugar grows much easier in warmer climates and yields more fuel per acre. Banning foreign imports of ethanol does little more than keep the domestic price of ethanol artificially high.

Ethanol may one day prove itself as a useful fuel. Producers continue to make significant productivity improvements and are finding new ways to use the residuals from production. But they should do this without the support of government subsidies and tariffs on foreign competitors.

No government mandate, no matter how stringent, can will more efficient energy sources into existence. Using taxpayer money to gamble with new technology is not any government's strength. Innovative technologies are best left to investors who, aside from being uninfluenced by lobbyists, face the loss of their own money if they fail.

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THE GOOD

CEI Takes on NASA over Public Access

NASA continues to block the right of American citizens to gain access to tax-funded global warming research and communications. On November 3, in a lawsuit initiated by the Competitive Enterprise Institute in May 2010, CEI filed its opposition to NASA's motion for summary judgment. The lawsuit seeks documents and emails relating to NASA's temperature record, which NASA was forced to correct in response to criticism from a leading climate watchdog, Steve McIntrye. Those corrections destroyed the position that temperatures have been steadily rising in recent years and revealed 1934, not 1998, to be the warmest year on record. NASA refuses to give CEI the computer file they used to make these changes. The lawsuit also seeks electronic records of NASA scientists who contribute to RealClimate.org—a third-party climate alarmist website—on official time, using official resources.

THE BAD

FDA Targets Alcohol-Energy Drinks

Earlier this year, CEI published a study, "Extreme Refreshment Crackdown," highlighting the FDA's unwarranted assault on alcohol-energy drinks (AEDs)—beverages that contain caffeine and alcohol. In November, media scare stories on a specific AED called Four Loko began appearing across the country. Soon, states began banning the beverage. It didn't take long for FDA bureaucrats to move in for the kill. After moving forward with a proposal to ban AEDs nationally, Four Loko's parent company pulled the product. But FDA ignores the fact that many popular drinks, such as the classic Rum and Coke, contain both caffeine and alcohol. "Most people who drink caffeine and alcohol mix the two substances themselves at home or at a bar, and all the research into alleged abuses of the combination examine those self-mixed drinks," said Greg Conko, CEI's director of food and drug policy. "The FDA is making an unwarranted extrapolation to pre-mixed commercial products in order to justify its regulatory overreach."

THE UGLY

TSA Unveils Invasive New "Security" Measures

When the Transportation Security Administration (TSA) began rolling out backscatter imaging machines—"naked scanners"—it claimed that going through the machines was not mandatory. Passengers, TSA officials said, would be free to opt out. Unsurprisingly, the airport security agency has made this as painful as possible, purposely embarrassing those who wish not to have their private parts viewed by government employees. A national backlash quickly ensued, with horror stories of men, women, children—and even nuns—being accosted and molested by TSA screeners. Of course, these measures will do little in terms of enhancing security. After all, security theater has always taken priority over actual security for the TSA monopoly. "TSA's monolithic approach to passenger screening obfuscates the crucial role of experimentation and competition in spurring security innovation," said CEI Associate Director of Technology Studies Ryan Radia. "Re-privatizing security would also give airlines the flexibility to adopt screening procedures that accommodate the diverse needs of passengers."

Media**MENTIONS**

Compiled by **Lee Doren**

Senior Fellow Ben Lieberman argues that the ecological impact of the Gulf oil spill was intentionally overstated by the Obama administration to push its environmental agenda:

Just as the drumbeat of doom-and-gloom predictions about global warming didn't generate public support for "cap-and-trade," neither did overblown claims of oil-spill-induced ecological devastation create a backlash against offshore drilling. And given the still-struggling economy and stubbornly high unemployment, the electorate is not going to accept costly solutions to overstated threats.

The drilling ban, like cap-and-trade, threatens to raise energy costs and destroy jobs. The public might support the imposition of new safety measures in order to reduce the likelihood of a repeat spill, but only within the context of a policy that allows domestic drilling. Any attempt to parlay the spill into a drilling ban is a clear non-starter with the American people. Recent revelations that Obama officials doctored the first official spill report to claim falsely that a team of experts endorsed its moratorium demonstrates that the public's opposition is justified.

–November 18, *The Washington Times*

Policy Analyst Alex Nowrasteh warns Texas against following Arizona in enacting misguided anti-immigration law:

The Arizona law significantly expands penalties for employers who hire undocumented immigrants—including those who do unknowingly. For a second such offense, the business owner's licenses are permanently revoked. Closing small businesses is never a good strategy in a struggling economy and should not be emulated by Texas.

Texas has weathered the economic downturn surprisingly well because of its pro-business policies. Texas has no state income tax, a light regulatory burden, and relatively relaxed zoning and land-use laws. Moreover, Texas relies heavily on state sales tax and property taxes, so even undocumented immigrants pay their "fair" share for public services.

HB 17 will harm businesses and blot Texas' otherwise wise policy choices. It would cast a wide net that will punish undocumented immigrants, legal immigrants, and hardworking American entrepreneurs trying to survive in precarious economic times. Conservatives were elected last week to roll back state control over our lives, not increase it through laws like HB 17.

–November 15, *The Houston Chronicle's* "Texas on the Potomac" blog

Vice President for Strategy Iain Murray and Land-use and Transportation Policy Analyst Marc Scriber discuss the folly of high-speed rail in America:

[I]n all of their cheerleading, high-speed passenger rail proponents never mention what is perhaps the most damning fact about these projects: Most are not even considered high-speed by international standards.

In Western Europe, for instance, high-speed rail lines must reach a minimum of 125 miles per hour on upgraded track and 160 miles per hour for new track. China currently has trains that can reach speeds in excess of 260 miles per hour for limited stretches.

In contrast, only three of the United States' eight new high-speed rail corridors that received funding will feature trains capable of reaching speeds in excess of 110 miles per hour. Embarrassingly, passenger trains in the 1940s regularly met or exceeded these speeds. Only California's proposed high-speed rail corridor would resemble anything close to a "modern" European or Asian passenger rail line.

–November 14, *The Pittsburgh Tribune-Review*

Vice President for Policy Wayne Crews praises the proposed REINS Act as a good way to strengthen the economy:

Whether Congress delegates excessive power or whether agencies simply assume it, blaming or scolding agencies for emphasizing the very regulating they were set up to do by Congress in the first place won't help. If Congress is the ultimate source of overregulation, then regulatory reform must be seen as *congressional reform*, just as Congress has been the target of other popular reforms aimed at reining in government overreach, such as term limits, committee reform and subjecting Congress to its own laws. Policy forgets that we aren't immortal; most people aren't born yet, and needn't draw their first breath in a nanny/political state. I'm glad to see this Pledge to America and look forward to absorbing details and participating in where debate carries us. But we do have to wall off the future from the policy fevers of today; that's vital.

A proposed, fundamental solution is the REINS Act ("Regulations from the Executive In Need of Scrutiny"), from Rep. Geoff Davis (R-Ky.) and Sen. Jim DeMint (R-S.C.). REINS would require *congressional* approval of "major" ($100 million-plus) rules and regulations before they are binding.

This requirement, that elected representatives affirm significantly costly new agency rules, would change rulemaking dynamics entirely, creating incentives that would drive agencies to ensure that their rules meet plausible cost-benefit benchmarks before sending them back to a newly answerable Congress.

–November 11, Forbes.com

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…END NOTES

Bending the Cost Curve… Up

The American Association of Retired Persons (AARP), the nation's largest seniors' lobby, was a key player in the coalition supporting President Obama's health care overhaul. The group—which stands to gain billions of dollars as a result of Obamacare—is the primary force electrifying the political third-rails that are Social Security and Medicare. In November 2009, AARP peddled the Democratic line that Obamacare would bend the cost curve. According to CEO Barry Rand, "We started this debate more than two years ago with the twin goals of making coverage affordable to our younger members and protecting Medicare for seniors." One year later, the group announced it would be raising its employees' health insurance premiums partly as a result of the law and that it will "make similar changes, as necessary, in the future to avoid the [Obamacare] tax."

Nanny State Follies: Neapolitan Edition

The sleepy Italian seaside town Castellammare di Stabia is perhaps best known by Americans as the ancestral home of Prohibition-era gangster Al Capone. Perhaps this association with vice criminals drove the mayor, Luigi Bobbio, to ban a looming licentious menace: miniskirts. On October 25, the city council passed Bobbio's proposed ordinance banning "very skimpy clothes." No hemline minimum was defined, so enforcing the law, which carries a $700 fine, is at the discretion of the local police. Women's rights advocates demonstrated outside the Castellammare di Stabia city hall, but were unable to get the votes needed to defeat the measure. In addition to short skirts, the city council also passed bans on playing soccer in parks, loud cursing, and blasphemy in public.

Zimbabwe's Hyperinflation by the Numbers

While Americans typically go into panic mode whenever inflation drops below 2 percent or reaches above 6 percent annually, Zimbabweans would likely consider 100 percent annual inflation a blessing. In December 2008, Zimbabwe's annual inflation was estimated at 6.5 quindecillion novemdecillion percent or 6 quinquatrigintillion 500 quattuortrigintillion percent or one googol 65 million percent. That's 65 followed by 107 zeros. In the face of the worthlessness of its currency—which, defying the odds, seems to continue to lose value—the Reserve Bank of Zimbabwe ceased printing Zimbabwe dollars. The South African rand and U.S. dollar were then adopted as the standard currencies of exchange. The country's central bank economists hoped to reintroduce the Zimbabwe dollar in late 2010, but it is appearing increasingly likely that Zimbabwe will lack a national currency for the indefinite future.

A Model for Single-Payer Coverage?

In all of their bellyaching for a "single-payer solution" to our health-care woes, American progressives seem to have forgotten that we already have what is essentially single-payer coverage in the United States—for kidney dialysis patients. The program, which was enacted during the Nixon administration, has functionally been the United States' longest-running foray into non-old-age, non-means-tested universal health care coverage. How are things working out for those on dialysis? In a December article for *The Atlantic* magazine, author Robin Fields reveals the startling truth: "One in four of them will die within 12 months—a fatality rate that is one of the worst in the industrialized world. Oh, and dialysis arguably costs more here than anywhere else."