Developing State Policies Supportive of Bioenergy Development

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Abstract

Working within the context of the Southern States Biobased Alliance (SSBA) and with officials in each state, the Southern States Energy Board (SSEB) is identifying bioenergy-related policies and programs within each state to determine their impact on the development, deployment or use of bioenergy. In addition, SSEB will determine which policies have impacted industry's efforts to develop, deploy or use biobased technologies or products. As a result, SSEB will work with the Southern States Biobased Alliance to determine how policy changes might address any negative impacts or enhance positive impacts.

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Introduction

The President's National Energy Policy recognizes the need to increase and diversify domestic energy resources of traditional and alternative fuels. As stated in the Report of the National Energy Policy Development Group (NEPD) published in May 2001, continued growth of renewable energy will continue to be important in delivering larger supplies of clean, domestic power for America's growing economy.

The NEPD Group recommended that the tax credit for electricity produced from biomass and wind be extended and that eligible biomass sources should include forest-related sources, agricultural sources, and certain urban sources. In addition, the NEPD Group supported a credit for electricity produced from biomass co-fired with coal.

The Administration's FY03 Budget Request includes a number of proposed tax incentives to encourage energy efficiency and the use of renewable energy resources. Besides the recommended tax incentives in the National Energy Policy, the budget request also creates new tax incentives as well as extends some existing energy tax incentives.

In September 2001, SSEB and the Southern Governors' Association addressed energy policy in the southern states and adopted ***Energy Policy in the South- Integrating Energy, Environment and Economic Development: A Balanced and Comprehensive Approach*** that is in concert with the President's National Energy Plan. It was presented to Vice President Cheney at the 2001 Annual Meeting of the Southern Governors Association and the SSEB

The cornerstone of this report is the need for a stable, reliable and secure energy supply. The five key principles highlighted in the document are as follows:

- Ensure diversity of domestic energy resources to achieve energy and economic stability;
- Address supply to enable market stability and ensure energy reliability;
- Increase conservation and improve efficiency to minimize environmental impact and foster demand response;
- Expand and strengthen infrastructure capacity; and
- Advance R&D and use clean energy technologies and systems.

The Southern Governors recognize that in order to maintain the world's strongest economy and protect National security coupled with a clean environment, states must support and develop policies and technologies that enable a diversity of domestic energy resources to be utilized throughout the region. The Southern Governors called upon Congress to provide adequate funding and incentives for further development of clean and efficient technologies and systems to provide an effective approach to increasing domestic energy supplies.

In the Energy Policy in the South, the Southern Governors recommend that states should develop programs and policies that will foster a regional market in the southern states for biofuels and bioenergy. This project addresses the need to develop state policies that are supportive of the development, deployment, and use of biobased technologies and products.

Over its lifetime, the Regional Biomass Energy Program has developed close linkages with state energy offices and other state agencies. State officials are key bioenergy stakeholders; especially since elected officials set policies within their states, have power over programs, and control appropriations that can positively or negatively impact the development, deployment, and use of bioenergy. However, career state officials are influential too as they carry out state programs and policies, and provide continuity across changing administrations. State governments are also important, as the federal government cannot, by itself, attain the potential of the region without the cooperation and assistance of the states. It is therefore essential for state officials to understand the benefits of bioenergy and the impact state policies have on bioenergy, and that these policies be supportive.

The Southern States Energy Board is an interstate compact that includes 16 southeastern states and Puerto Rico and the US Virgin Islands. One of the Southern States Energy Board's goals over its 40-year life is to "...develop, promote, and recommend policies and programs on energy, environment, and economics that encourage sustainable development." One way that the Southern States Energy Board accomplishes this goal is to establish task forces comprised of members from its states, the private sector, non-profits, and others. The Southern States Energy Board, which is also the host for the Southeastern Regional Biomass Energy Program, is currently in the progress of setting up a biobased task force, which has been named the Southern States Bio-Based Alliance.

Activities of the Southern States Bio-Based Alliance are focused on creating awareness, and providing information and education for its members. As the members of the Southern States Bio-Based Alliance assess the opportunities for bio-based products and bioenergy in the region, the group will review and, if necessary, make recommendations for modifying or adding to their existing policies to make them supportive of bioenergy development, deployment, and use. The Southern States Bio-Based Alliance will also provide a forum for discussing and developing additional bioenergy-related policies when the need arises in the future.

Although not targeted at local government officials, this activity will also impact policies at the local level since local officials frequently follow the lead of their state government in setting local policy.

Goal

The goal of this project is to have state policies within the SSEB region (and nation) that, to the extent possible, positively impact the development, deployment, or use of bioenergy and are consistent among states.

Statement of work

Working within the context of the Southern States Bio-Based Alliance and with officials in each state, a staff member and/or contractor will identify bioenergy-related policies and programs within each state and determine their impact (in any way) on the development, deployment, or use of bioenergy. The staff member and/or contractor will be asked to determine as quantitatively as possible how this impact occurs, and how the legislation originally came to be promulgated.

Additionally and simultaneously, the staff member and/or contractor will be interviewing bio-based industry officials to determine what policies (or lack of policies) have impacted their efforts to develop, deploy, or use biobased technologies or products. The staff member and/or contractor will also try to determine the nature of these impacts and how policy changes might address any negative impacts or increase positive impacts.

These policies may involve the following aspects or other aspects:

- Financial and other incentives for technology development, testing, demonstration, deployment, and/or use;
- Permitting and licensing processes related to construction of new facilities, modification of existing facilities, and/or use of new products;
- Regulations pertaining to land use and siting (e.g., zoning, height restrictions) of bioenergy facilities; or running utilities to bioenergy facilities;
- Environmental regulations including air and water quality protection related to bioenergy facilities or the production of biomass crops; wildlife management, development of new agricultural and forestry crops, testing new technologies;
- Resources for relevant state agencies and programs including staffing qualifications and needs;
- Policies pertaining to state procurement, specification, bidding, and purchasing requirements to design, finance, and/or build new or modify existing state facilities;
- Policies pertaining to state procurement, specification, bidding, purchasing, and/or use requirements for biomass fuels or bio-based products;
- State educational policies;
- Technical assistance;
- Solid waste management and recycling programs;
- Economic development and industry recruitment;
- Agricultural and forestry production;
- Transportation of biomass feedstocks and bio-based products;
- Taxes including investment, corporate, road use, etc.
- Project financing;
- Utility deregulation including power sales to others, stranded costs, electricity pricing; renewable portfolio standards, and wheeling policies;
- Health and safety;
- Purchase of alternative fuel vehicles and installation of refueling stations.

Once the policies are identified and analyzed for impact, SSEB will host a series of meetings of the Alliance to:

- Share the findings with other states using an interactive meeting forum
- For policies that provide negative impacts, the state representatives will be asked to determine how to *change* their state policies to provide positive impacts based on discussions of successes in other states.
- Also based on successes in other states and the ensuing discussion, the state representatives will determine if they need to *add new* policies in their states. The group will be asked to draft model legislation to fulfill these needs that can be taken back and implemented within their respective states.

Due to the wide range of policies and to keep each meeting manageable, policies that are more closely allied will be lumped together for discussion and meeting purposes. This approach will also make it easier to get officials from the appropriate state agencies to attend the meetings, since they will know that a particular meeting will deal with the topics that are relevant to them.

In addition to attaining the project goal, this project approach will facilitate information sharing and education on state policies and their ramifications, create peer reaction, and ultimately provide more uniform regulations across the region that are supportive of bioenergy development, deployment, and use.

Experimental

Due to the nature of the project, no experimental methods, materials or equipment are necessary.

Results and Discussion

Currently, Congress is scheduled to go to conference on a comprehensive energy bill. Senate Bill 517 includes a number of provisions that would require increased use of biopower and biofuels. For example, SB 517 establishes a minimum renewable fuels standard. However, House Resolution 4 only requires that EPA and DOE jointly conduct a study of the feasibility of developing a renewable fuels standard. SB 517 contains a Renewable Portfolio Standard that will require a percentage of electricity generation from renewable energy sources. Unlike the Senate bill, HR 4 does not include a provision for a renewable portfolio standard. Both HR 4 and SB 517 extend the Production Tax Credit for wind, closed-loop biomass and poultry waste facilities through January 2007. Both bills also expand the credit to open-loop biomass and landfill gas. Additionally, SB 517 expands the credit to solar, swine and bovine waste as well as geothermal energy.

Both HR4 and SB 517 include numerous provisions that encourage the use of alternative energy sources and specifically, biopower and biofuels. The outcome of these proposals is yet to be determined and will be the subject of Congressional debate toward developing a national comprehensive energy policy.

While Congress continues to work toward a national comprehensive energy policy, the new farm bill, Farm Security and Rural Investment Act of 2002, includes an energy title. Title IX provides opportunities for rural development through a new biobased product federal preference purchasing program for new agricultural products and expansion opportunities for rural businesses. In addition, the energy title provides for grants and loans for energy audits, energy efficiency improvements and renewable energy systems purchases to assist farmers, ranchers and rural small businesses in improving their operations.

During 2002, state legislatures in the southern region introduced and passed a number of bills that provide a benchmark for building a stronger bioenergy industry. Seven states expressed an interest in alternative energy developments. In **Mississippi**, for example, new legislation authorizes \$18 million in general obligation bonds to encourage, promote, and initiate the development of alternative energy strategies, applied research technologies, and commercialization enterprises that focus on the state's natural resources.

Mississippi, as well as several other states, took steps to encourage the use of ethanol. **Mississippi** authorized the Commissioner of Agriculture and Commerce to make certain cash payments to producers of ethanol, anhydrous alcohol and wet alcohol that are located in the state. Both **Maryland** and **Oklahoma** expressed interest in developing the ethanol industry in their respective states. **Oklahoma** lawmakers directed their Oklahoma Department of Agriculture to conduct a study to demonstrate the potential of their state to attract industry leaders interested in establishing an ethanol processing plant in the state. Likewise,

Maryland lawmakers passed a resolution urging certain state agencies to provide technical and financial support for the development of a business plan for an ethanol industry in that state.

Kentucky is recommending that all reformulated gas sold in the state, beginning in 2004, be produced using ethanol in place of methyl tertiary butyl ether (MTBE) or other gasoline additives. Furthermore, **Kentucky**'s legislation bans the importation, sale or storage of fuel containing MTBE beginning in 2006 and encourages the use of biodiesel.

Similar to **Kentucky**, new legislation in **Missouri** addressed MTBE and the use of biodiesel. After July 1, 2005, no gasoline sold or stored within the state of **Missouri** can contain more than one-half of one percent by volume of MTBE. Lawmakers also created the Missouri Qualified Biodiesel Producers Incentive Fund, which provides an incentive to producers of biodiesel of 30 cents per gallon for up to 15 million gallons of biodiesel produced per year for five years. The Missouri Department of Transportation also is required to develop a program for the use of alternative fuels with at least the biodiesel content of B-20 in the Department's vehicle fleet and heavy equipment that use diesel fuel. "B-20" is defined as a blend of 20 percent by volume biodiesel fuel and 80 percent by volume petroleum-based diesel fuel.

In **Georgia**, the state legislature created several study committees to address alternative energy sources, such as the House Biodiesel Study Committee, the Joint Ethanol Production Study Committee, the Joint Study Committee on Alternative and Environmentally Sensitive Truck Fuels, and the House Study Committee on the Development of Sustainable Energy in Georgia.

More detailed summaries of each state's legislation are discussed below:

Georgia

Biodiesel Study Committee (HR 1321)

This resolution creates the House Biodiesel Study Committee. The Committee will undertake a study of the conditions, needs, issues, and problems related thereto and recommend any action or legislation which the committee deems necessary or appropriate. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report will be made on or before December 1, 2002. The committee will stand abolished on December 1, 2002.

Committee on Alternative and Environmentally Sensitive Truck Fuels (SR 604)

This resolution creates the Joint Study Committee on Alternative and Environmentally Sensitive Truck Fuels. The Committee will undertake a study of the conditions, needs, issues, and problems mentioned in this resolution, including but not limited to the following items:

changing the motor fuel tax structure in order to equalize rates in which alternative fuels are taxed;
promoting equitable taxation of and incentives for converting to alternative fuels;

creating additional economic and other incentives to fleet owners to convert to alternative fuels;
assistance in meeting current federally mandated deadlines regarding alternate fuel vehicles in their automotive fleet;
promoting cleaner alternative truck fuels;
promoting conversation, maintenance, and repair of dual-faced truck engines;
improved mobility of fleet by the ability to use HOV lanes, with the possibility of a special long term, low cost license plate for fleets, designating them as good corporate citizens and being environmentally sensitive; and
investigating the cost of conversion to be able to use clean fuels.

The Committee will recommend any actions or legislation which the Committee deems necessary or appropriate. In the event the Committee makes a report of its findings and recommendations with suggestions for proposed legislation, if any, such report will be made on or before December 31, 2002. The Committee stands abolished on December 31, 2002.

Committee on the Development of Sustainable Energy in Georgia (HR 986)

This resolution creates the House Study Committee on the Development of Sustainable Energy in Georgia. The Committee shall undertake a study of the conditions, needs, issues, and problems related to the development of sustainable energy in Georgia and recommend any actions or legislation which the committee deems necessary or appropriate. In the event the Committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report will be made on or before December 31, 2002. The Committee will stand abolished on December 31, 2002.

Income Tax Credit for Low-Speed Vehicles (HB 1389)

This act provides for insurance, registration, titling, operation and equipment of low-speed vehicles and provides a certain one-time income tax credit for low-speed vehicles placed in service during the taxable year ending December 31, 2001. The term motor vehicle now includes a low-speed vehicle, defined as any four-wheeled electric vehicle whose top speed is between 20-25 miles per hour. Low-speed vehicles can be operated on highways where the posted speed limit does not exceed 35 miles per hour. They are entitled to full use of a lane and cannot overtake and pass in the same lane occupied by the vehicle being overtaken. Low-speed vehicles also cannot be operated between lanes of traffic and cannot be operated adjacent to another vehicle in the same lane. Low-speed vehicles must have a mounted strobe light that is visible from both the front and rear at a distance of 500 feet.

Joint Ethanol Production Study Committee (HR 806)

This resolution creates the Joint Ethanol Production Study Committee. The Committee will undertake a study of the conditions, needs, issues, and problems mentioned in this resolution and recommend any actions or legislation which the Committee deems necessary. In the event the Committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report will be made on or before December 31, 2002. The Committee will stand abolished on December 31, 2002.

Kentucky

MTBE and Ethanol (SB 13)

Among other things, this act includes language banning the importation, sale or storage of fuel containing methyl tertiary butyl ether (MTBE) beginning on January 1, 2006. The legislation strongly encourages that all reformulated gas sold in the State, beginning January 1, 2004, be produced using ethanol in place of MTBE or other gasoline additives. Trace amounts not to exceed one-half of one percent by volume, will be allowed in gasoline.

In addition, this measure encourages the use of biodiesel. Beginning January 1, 2006, the General Assembly encourages that all diesel fuel sold in the state and formulated to achieve federally mandated sulfur reduction requirements use biodiesel blend of not less than two percent to meet those requirements.

The legislation also requires the Interim Joint Committee on Agriculture and Natural Resources to receive a report on the petroleum refining industry's progress toward achieving the federal diesel fuel sulfur mandates and information on how the use of biodiesel can help meet the reductions.

Maryland

Ethanol Production in Maryland (HJ 33/SJ 18)

These resolutions urge the Department of Business and Economic Development (DBED), the Department of the Environment, and the Department of Agriculture (MDA) to provide technical assistance and financial support for the development of a business plan for an ethanol industry in Maryland. The MDA, the Maryland Energy Administration, and DBED are directed to report to the General Assembly by December 1, 2002, on the feasibility of developing an ethanol plant in Maryland, including examination of proposed operational structures, financing, and State incentives.

Mississippi

Ethanol (HB 1130)

This measure authorizes the Commissioner of Agriculture and Commerce to make certain cash payments to producers of ethanol, anhydrous alcohol and wet alcohol located in the State. These payments will apply only to those products fermented and produced at plants in the State.

Land, Water and Timber Resources Board (HB 1341)

This legislation provides that the Mississippi Land, Water and Timber Resources Board may provide funds to public and private entities through loans, grants, contracts and any other manner the Board determines appropriate for the purposes of carrying out the provisions of the Mississippi Land, Water and Timber Resources Act, which encourages the development of alternative energy strategies.

Land, Water and Timber Resources Fund (HB 1836)

This act authorizes the issuance of general obligation bonds of the State of Mississippi for the purpose of providing funds for the Mississippi Land, Water and Timber Resources Fund. It revises the powers and duties of the Mississippi Land, Water and Timber Resources Board to authorize the Board to encourage, promote and initiate the development of alternative energy strategies, applied research technologies and commercialization enterprises that focus on Mississippi natural resources. The Board is authorized to provide monies from the Fund to the Mississippi Department of Agriculture and Commerce and the Mississippi Development Authority for the purpose of providing additional funds to the Department and the Authority to defray costs incurred in assisting the Board in carrying out the provisions of the Mississippi Land, Water and Timber Resources Act.

Missouri

Biodiesel (SB 984)

As part of an omnibus measure, this act requires the Department of Transportation to develop a program for the use of alternative fuels with at least the biodiesel content of B-20 in the Department's vehicle fleet and heavy equipment that use diesel fuel. "B-20" is defined as a blend of 20 percent by volume biodiesel fuel and 80 percent by volume petroleum-based diesel fuel.

Ethanol and Biodiesel Funds, MTBE (HB 1348)

As part of an omnibus act, this measure requires that the Missouri Qualified Fuel Ethanol Producer Incentive Fund be administered on a fiscal year instead of the calendar year, as currently required. It also requires any fuel ethanol production facility to be at least 51 percent owned by agricultural producers actively engaged in agricultural production.

In addition, this legislation creates the Missouri Qualified Biodiesel Producers Incentive Fund, which provides an incentive to producers of biodiesel of 30 cents per gallon for up to 15 million gallons of biodiesel produced per year for five years. The incentive is to be received on an estimated monthly production basis paid by the Department of Agriculture.

This act also provides that, after July 1, 2005, no gasoline sold or stored within the state within Missouri is to contain more than one-half of one percent by volume of methyl tertiary butyl ether (MTBE).

Oklahoma

Alternative Fuels Conversion Fund (HB 2050)

Current law provides that all monies accruing to the credit of the Oklahoma Alternative Fuels Conversion fund will be expended by the Department of Central Services to reimburse expenses relative to the conversion of government and school vehicles to have the capability of being fueled or charged by alternative fuels and/or the expenses relative to the installation of a fill station or charge station. The maximum amount expended per vehicle will be the actual cost of vehicle conversion or \$5,000, whichever is less. This act increases the amount from \$5,000 to \$10,000. Current law also provides that the maximum amount expended per

fill station or charge station will be the actual cost of the installation or \$100,000, whichever is less. This measure increases the amount to \$150,000.

Ethanol Processing (SB 878)

This legislation directs the Oklahoma Department of Agriculture (ODA) to conduct a study to demonstrate the potential of the state to attract potential industry leaders interested in establishing an ethanol processing plant in this state. The study will demonstrate the financial feasibility available in Oklahoma and the potential return to farmers, rural communities and the State of Oklahoma. The ODA will identify state incentives necessary to attract the ethanol industry and encourage their location in our state. This act creates the Oklahoma Ethanol Plant Feasibility Advisory Committee to assist the ODA in conducting the study. The Committee will prepare a report and deliver it to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before December 31, 2002.

Texas

Interim Studies

The Senate Natural Resources Committee is studying alternative fuels and fuel additives, and is assessing the cost-benefit of innovative technologies utilized in the conversion of solid and agricultural wastes into fuel.

Virginia

Alternative Fuels Retailer Definition (HB 6)

This legislation provides that a retailer of alternative fuels includes only those persons that maintain alternative fuel storage facilities and sell or dispense such fuel to be used to generate power to operate a highway vehicle.

Conclusion

Beyond the potential economic development benefits, states gain the opportunity to strengthen and integrate the work of energy, agriculture, forestry, environmental and other state agencies. Where issues are the same among several states, strategies can be developed to address these issues without regard to state borders. Examples include the development of similar legislative actions, working with the private sector with multi-state locations, and multi-state training and outreach to economize resources.

Notably, several southern states have long-standing policies and programs that support the use of bioenergy. Therefore, some states have a more developed bioenergy economy than others. However, all states in the southern region have significant biomass resources. SSEB will report these findings in the final report. In addition, SSEB is conducting a survey of industry and expects to have a preliminary report on these findings to present to the Alliance members in October 2002.

References

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