Attorneys General of the States of California, Arizona, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, New Mexico, Oregon, Rhode Island, and Vermont, and the Corporation Counsel for the City of New York

August 1, 2007

The Honorable Nancy Pelosi
Office of the Speaker
U.S. House of Representatives
Washington, DC 20515

RE: Hill-Terry CAFE Amendment to House Energy Bill

Dear Speaker Pelosi:

We write today to voice our strong opposition to H.R. 2927 which contains troublesome language that may be used to eliminate existing Clean Air Act authority to address global warming, including California's landmark greenhouse gas emissions standards. Our understanding is that H.R. 2927 may be voted on in the coming days as an amendment to the House of Representative's energy bill.

While providing only modest increases in federal fuel economy standards, the bill includes language that has the potential to disrupt the statutory framework for controlling carbon dioxide emissions that was endorsed by the U.S. Supreme Court in *Massachusetts v. Environmental Protection Agency (EPA)*, 549 U.S. ____, 127 S.Ct. 1438 (2007). As currently drafted, the bill would require the Secretary of Transportation to issue fuel economy standards in terms of both "miles per gallon" and "grams per mile of carbon dioxide emissions." The Department of Transportation has never set emission standards – its mandate is to promote energy efficiency by setting mileage standards. *See Massachusetts v. EPA*, 127 S.Ct. at 1462 (citing 49 U.S.C. § 6201(5)).

In contrast, EPA's statutory mandate is to prescribe standards applicable to "*emissions* of any air pollutant from any class or classes of new motor vehicle[s] . . . ." 42 U.S.C. § 7521(a)(1); *see also Massachusetts v. EPA*, 127 S. Ct. at 1447. As the Supreme Court recently observed, these two statutory mandates are "wholly independent." *Massachusetts v. EPA*, 127 S.Ct. at 1462. The inclusion of language referring to carbon dioxide *emissions* appears to serve no legitimate statutory purpose.

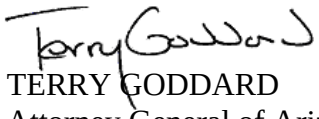
We are concerned that the language will be used by those challenging the state greenhouse gas emission standards originally adopted by California (the Pavley regulations). Thirteen States have now adopted those standards, and many others are considering adoption. These thirteen States – representing over 40% of the American population – have adopted them because the Clean Air Act's cooperative federalism structure allows them to do so, and their citizens are seeking action on global warming. The current system of allowing two (and only two) sets of motor vehicle emission standards has worked well over the last four decades. Indeed, most of the technological innovations needed to reduce air pollutant emissions have been made because of California's standards.

Representatives Hill and Terry have stated, in a July 20, 2007 "Dear Colleague" email, that H.R. 2927 has neither of these effects. And they have pledged, in a July 30, 2007 "Dear Colleague" email, to add clarifying language on this issue. To eliminate any ambiguity, and eliminate needless future disagreements in Congress and needless future litigation, that clarifying language should exactly match the explicit savings clause adopted by the U.S. Senate in its energy bill. That language (in section 519 of H.R. 6) reads: "Nothing in this title shall be construed to conflict with the authority provided by sections 202 and 209 of the Clean Air Act."

Without the addition of this language, we urge all Members of Congress to vote against H.R. 2927. We can achieve energy security for our citizens without putting at risk the authority of EPA or the States to reduce vehicle emissions.

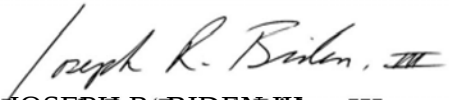
Sincerely,

EDMUND G. BROWN JR.
Attorney General of California



TERRY GODDARD
Attorney General of Arizona

RICHARD BLUMENTHAL
Attorney General of Connecticut

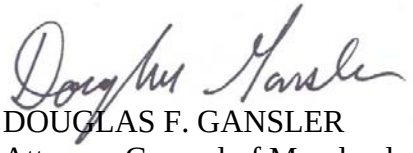


JOSEPH R. BIDEN III
Attorney General of Delaware

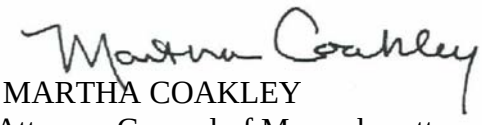
LISA MADIGAN
Attorney General of Illinois

TOM MILLER
Attorney General of Iowa

G. STEVEN ROWE
Attorney General of Maine



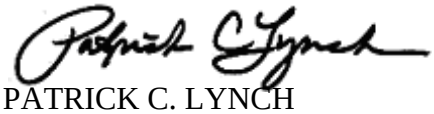
DOUGLAS F. GANSLER
Attorney General of Maryland



MARTHA COAKLEY
Attorney General of Massachusetts

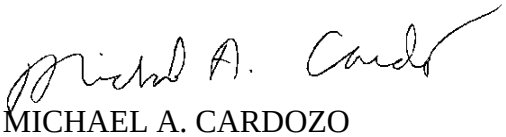
GARY KING
Attorney General of New Mexico

HARDY MYERS
Attorney General of Oregon



PATRICK C. LYNCH
Attorney General of Rhode Island

WILLIAM H. SORRELL
Attorney General of Vermont



MICHAEL A. CARDOZO
Corporation Counsel
City of New York

cc: Representative Baron Hill
Representative Lee Terry