



**Substitute House Bill 6
Opponent Testimony**

**Before the Energy and Natural Resources Committee
Representative Nino Vitale, Chair**

Presented by

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Chairman Vitale, Ranking Member Denson, and members of the Energy and Natural Resources Committee, thank you for the opportunity to present opponent testimony today on Substitute House Bill 6.

My name is Terri Sexton. I am Environmental and Energy Manager at the Navistar Assembly Plant in Springfield. Navistar is a leading manufacturer of commercial trucks, buses, defense vehicles and engines. Our company is headquartered outside Chicago and have operations around the globe. The Springfield Assembly Plant dates to 1967, though historically the company's presence in Springfield dates back more than 100 years. We are known to people of our community by our legacy names, International and International Harvester. The plant directly employs 2000 men and women. Our associates are unionized.

Navistar's major truck, bus and engine manufacturing facilities are ISO 14001 certified, and employees constantly find new ways to reduce energy use, trim greenhouse gas emissions, lower the production of waste and increase recycling of excess materials. Our manufacturing facilities are committed to reducing their environmental impact and challenged specifically to lower their electric consumption load by 4 percent annually. Our energy conservation efforts continue to focus on low- or no-capital investment opportunities and eliminating waste.

Throughout our supply chain, we promote compliance with safety, environmental and social standards.

I am testifying today on behalf of my company but also on behalf of The Ohio Manufacturers' Association (OMA). Our company is an active member of the OMA. The OMA was created in 1910 to advocate for Ohio manufacturers; today it has approximately 1,400 members – large, small and in-between. Its mission is to protect and grow Ohio manufacturing.

Access to reliable, affordable energy is critical to all manufacturers. For that reason, companies like Navistar are always seeking cost-effective energy solutions. We are constantly looking for ways to reduce our electricity costs because money we save by reducing our energy spend is money we can reinvest in our business, in our employees, in our facilities and in product innovations—as well as in the communities in which we live and maintain facilities.

Also critical to manufacturers are energy policies that support energy markets, free from market manipulation, that allow consumers to access the cost and innovation benefits of competition.

We have reviewed Substitute House Bill 6 and find the bill still creates multiple new costs, and new forms of costs, for manufacturers. The bill, as written, will cost manufacturers more money in the form of new riders above what we are paying today. The OMA is skeptical of the bill's intended environmental justification and we believe the bill will foster worse, not better, emissions reductions for Ohio. Worst of all, the bill distorts the function of the marketplace which is delivering cost savings and energy innovation to Ohio energy consumers.

The OMA finds this bill, as written, to be a mandated, customer-financed bailout of uneconomical power plants in the form of 'Clean Air Credits' and direct subsidies. We note that this bill appears to allow fossil-fuel plants to apply for unspecified amounts of funds to subsidize investment in the plants. There is nothing in the bill to prevent funds from being used to subsidize uneconomical coal plants. These initiatives appear in direct conflict with the State's environmental programs and goals, financially rewarding older and dirtier technologies while manufacturers constantly face 'Best Available Technology' improvements and added costs to reduce environmental impacts.

These non-bypassable charges on customers are unwarranted. While manufacturers support nuclear power as part of an 'all-of-the-above' energy portfolio, we are strongly opposed to subsidizing certain generation plants and saddling Ohio consumers with hundreds of millions of dollars of unjustified charges annually for an unspecified period into the future.

We are keenly interested in public policies that will drive lowest-cost energy resources and solutions – rather than policies that will impose hundreds of millions of dollars of unwarranted, anti-competitive, above-market charges on our businesses. If enacted as introduced, Substitute House Bill 6 would cost manufacturers and other customers throughout the state an estimated \$172 million in 2020 and \$300 million annually thereafter (until the law is repealed) just for the Clean Air Fees.

It's impossible from the current bill language to know exactly which generation sources will qualify to receive the subsidies, but based on the proponents' testimony, we suspect most will go to subsidize two Ohio nuclear power plants owned and operated by FirstEnergy Solutions and FirstEnergy's subsidiary, FENOC. It appears that large scale renewable energy projects may also receive subsidies. Additionally, fossil-fuel plants could receive a portion of the "accumulated" funds identified in the bill to assist in "capital formation" for investment in the plants.

The cost of the new Ohio Clean Air Program alone adds up to almost \$3 billion in new customer charges in the first ten years. This is a new above-market charge that all customers of Ohio's distribution utilities would be required to pay with limited exceptions.

The lack of transparency, coupled with the cost-driving provisions of the bill, leads me to fear that my company will experience increased, not reduced, costs.

Additionally, under the current language, it is clear that energy-efficiency programs, and their associated costs, will be modified and recreated under two different funding mechanisms.

The bill creates cost risks in other ways. First, it allows and encourages Clean Air Resources – including nuclear plants - to obtain a Purchase Power Agreement (PPA), which could pass additional unspecified charges to all ratepayers, with no caps. This is a blank check. Second, Substitute House Bill 6 could likely trigger a “bifurcation” of PJM's capacity auction, which would increase electricity capacity costs to all Ohioans.

Furthermore, there are multiple, additional concerns that manufacturers have beyond the Clean Air Fee assessment, which include the following:

1. Customers will continue to pay shared savings (i.e., profit) and lost-distribution revenue associated with existing energy efficiency programs to the utilities through a revenue decoupling mechanism for an undefined period, even after the energy efficiency mandates and existing programs are terminated.
2. Customers will be required to pay for costs associated with winding down or discontinuing the existing energy efficiency programs through December 31, 2021. These are new, unknown costs and could include contract termination payments and employee severance pay.
3. Substitute House Bill 6 allows utilities to run energy efficiency programs approved by the PUCO and to receive recovery of costs and incentives for those programs beginning January 1, 2021, while customers are still paying for existing energy efficiency programs. Therefore, in the year 2021, customers could be paying for existing programs, discontinuation costs, and new PUCO-approved programs, which would be in addition to the energy efficiency costs (shared savings incentive revenue and lost distribution revenue) that the customers will pay through the revenue decoupling mechanism.
4. It is unclear whether opted-out customers will now have to pay through the revenue decoupling mechanism shared savings and lost-distribution revenue associated with the energy efficiency programs from which they opted out.
5. Customers will be required to pay for unknown PPA Program costs for customer-sited projects and utilities' projects.

So, you can see there are a lot of moving parts in Substitute House Bill 6. How will all those pieces impact my company? Navistar will see increased electricity costs because of Substitute

House Bill 6. The net direct cost of the Clean Air Program and increased capacity costs, minus the Renewable Portfolio Standard costs, is about \$52,000 per year.

As I said earlier in my remarks, my company is working to make our products and our manufacturing processes more efficient while reducing waste and emissions. Market forces help to achieve those results in manufacturing.

Market forces are also at work in power generation. It would be our suggestion that this committee invite comment from Ohio EPA to learn more about the trends in Ohio's airshed. Ohio EPA recently highlighted in its comments to U.S. EPA that Ohio's carbon emissions have dropped by 38% since 2005 due to market forces.

While there are no carbon emissions limitations in effect in the U.S. today, data show that market pressures, from investors and customers, are encouraging cleaner forms of energy for power generation. This would dispute much of the proponents' justification for the bill. Noticeably, Substitute House Bill 6 exempts the carbon-emitting "Reduced Emissions Resources" from having to report its forecast of carbon emissions when applying for Clean Air Program funds.

A final provision I want to address is the bill's creation of a PPA Program. This program would create additional costs for customers that will also distort the market, potentially driving wholesale and retail costs higher in future years. While sponsors have called this a customer benefit to spur customer-sited projects, we find this provision provides no new benefits for customers, who already have ready access to three-year PPAs in the competitive market and who can already request a reasonable arrangement. I should note that the bill does not apply to customer-sited projects where there is no PPA or the PPA is less than three years in duration.

I understand that this program may allow a FirstEnergy distribution utility to enter into a PPA for the output of the nuclear plants that is committed to customers, which would shift subsidies for the nuclear plants to the PPA Program in that utility's service territory. In such a situation, the net increase of the PPA and the capacity costs could be over \$250,000 per year to our company. The PPA Program could create a whole new set of riders and potential costs for utility-owned or operated renewable energy. Importantly, this language fundamentally creates a mechanism for distribution utilities to re-enter the generation market.

In sum, this bill does not protect customers, but rather it protects select generators and utilities.

For years, the OMA has worked to mitigate the impact of unwarranted above-market charges that put upward pressure on energy costs. According to the Office of the Consumers' Counsel, Ohio utilities have collected more than *\$15 billion* in PUCO-approved, above-market charges from utility customers since 2000. This bill would guarantee more unjustified consumer-financed subsidies, create upward pressure on energy costs, and set Ohio back on its heels as a place for energy innovation and capital-attraction.

In closing, The Ohio Manufacturers' Association strongly believes in fair, market-driven competition. The subsidized charges imposed on consumers and manufacturers from Substitute House Bill 6 are simply not consistent with competitive markets and are not good for Ohio – in

either the short term or the long term. For these reasons, the OMA firmly opposes Substitute House Bill 6. It is anticompetitive and anti-consumer, and not good for our state.

I am pleased also to be joined by Kimberly Bojko of the Carpenter Lipps & Leland law firm. Kim serves as the OMA's chief energy attorney, representing industry positions before the state and federal regulatory commissions. She is able to help me respond to your questions.

Chairman, members of the committee, this concludes my prepared remarks.