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House and Senate Introduce Energy Reform Legislation

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The U.S. House and Senate have introduced comprehensive bills that seek to modernize the nation's energy policy by addressing energy efficiency, infrastructure, supply and accountability. The bills contain many of the same requirements for boosting grid and cybersecurity, improving energy workforces, reducing red tape and improving data reporting.

In an attempt to gain bipartisan support, neither bill addresses high-visibility issues such as the Keystone XL pipeline, renewable fuel standards and concerns related to climate change. The Senate Energy and Natural Resources Committee did take up a separate bill that addresses hot topics such as repealing the crude oil export ban, opening up expanded areas for offshore drilling, and related state revenue sharing – topics that the House bill does not yet address. House leaders have said they will work on adding issues to their bill.

Senate Committee Seeks to Modernize Energy Policy

In late July, Senate Energy and Natural Resource Committee leaders unveiled their 357-page proposal, the Energy Policy Modernization Act of 2015, to make sweeping changes to the nation's energy policy. The authors, Sens. Lisa Murkowski (R-AK) and Maria Cantwell (D-WA), pulled together provisions they liked from 114 bills assigned to the committee this year. Their bill – as well as the much shorter House version – addresses four main energy-related issues:

Efficiency: The Senate bill focuses on federal standards directed at buildings, appliances and manufacturing (including technical assistance to small and medium-sized businesses and manufacturers).

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Infrastructure: The Senate bill addresses policies that would bolster and organize the nation's defense against cyberattacks aimed at electric grid infrastructure, and it makes the Department of Energy (DOE) responsible for researching, developing and carrying out strategies that incorporate new technologies to defend our power grids. It provides the Secretary of Energy with emergency powers, including working with Canada and Mexico to plan actions necessary to avoid widespread electricity failures and shutdowns. An amendment provided for exemption from usual disclosure and information sharing on systems deemed "critical electrical grid infrastructure" for the state or region. In addition, the bill requires the DOE to thoroughly review the strategies and purposes of the Strategic Petroleum Reserve and set priorities for funds generated by a sale of any of the reserves.

The bill sets up rules for the sale of liquefied natural gas (LNG), including tracking data for such sales, expedited consideration and public disclosure requirements. A study of the economic impact of LNG sales was included in a later amendment.

The bill contains a large section to research and develop broader uses of electric grids and energy storage techniques, including multiple programs to develop projects to modernize and set standards for inter-operating grid and micro-grid systems. For example, the bill would authorize programs to establish hybrid micro-grids that could provide reliable, economical power to remote areas. Likewise, it would have the secretary do more to develop and coordinate model pathways to modernize the electric grid for a community using "public-private partnerships." The authors include expedited systems and reports in an effort to identify barriers and reduce red tape in bringing the power transmission infrastructure up to date.

Supply: The Senate bill proposes improving and developing diversified energy sources such as renewables (hydroelectric, geothermal, marine hydrokinetic, biomass); oil and gas; and helium (who has rights on federal property). Other issues addressed include current and future needs for critical minerals; monitoring, handling and collection of carbon dioxide from coal; a report by DOE on privately funded fusion and fission reactor prototypes; and energy savings from recycling carbon

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fiber. The bill also added an amendment to authorize $50 million in grants to pursue "woody biomass" sources to build and study methods to derive energy from wood-burning facilities.

Accountability: The Senate bill seeks to strengthen the way federal energy-related programs and agencies are run by improving loan programs such as those for innovative technologies in the EPACT of 2005 and the Advanced Technology Vehicles Manufacturing program. It requests further study on the "Energy and Water Nexus" for sustainability in communities, and it funds grants to help communities establish such programs. The bill also provides more freedom to develop commercial application through the Office of Science, ARPA-E and the National Laboratories; seeks detailed reports on regional electricity reliability and also reports from transmission organizations on reliability and diversity of developing supplies; proposes better management of Interior and BLM properties of federal assets and operation of oversight with states; establishes mechanisms to keep better track of emerging markets and inventories and how they are regulated; and authorizes a pilot program to implement plans to reduce regional and community energy costs through efficiency, conservation or technology innovation in high-cost areas.

Fuel-Efficient Vehicles

Sen. Lamar Alexander (R-TN) added an entire section by amendment that tracks his previous bill to reauthorize and expand an Energy Department program to research and develop fuel-efficient vehicles. The technology, which can include hybrids, electric or natural gas vehicles, will provide more than $300 million per year to keep up with emerging technologies. It also would allow funds for more development of inter-communication systems to prevent accidents (so-called V2X).

Offshore Production

In addition to a modernization bill, the Energy and Natural Resources Committee took up legislation that addressed major changes in oil policy. The Offshore Production and Energizing National Security (OPENS) bill would repeal the current export ban on most crude oil produced in the U.S. To increase the pool of oil resources open to exploration, the bill expands federal lease areas for offshore fields and provides that coastal states, in addition to the Gulf Coast states, will share in revenues generated by offshore production.

House Version Energy Bill

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The Energy and Power Subcommittee of the powerful House Energy and Commerce Committee has sent forward a bill that hits issues similar to the Senate energy bill. In the interest of moving a bill that could get bipartisan support, the authors, as in the Senate bill, sidestep some controversial issues. Some environmental groups assert the bill could do more to provide incentives for renewable energy and energy efficiency. This bill concentrates instead on electricity reliability, cybersecurity, training an energy-competent workforce and expanding natural gas to take advantage of a fast-growing resource.

But this could change - the committee characterizes the bill as a "start" that focuses on non-controversial items coming out of subcommittee. Subcommittee Chair Ed Whitfield (R- KY) pointed out that the committee and staff can use the six-week summer break to talk over and perhaps work out more controversial items before the full committee in the fall.

A Step in the Right Direction, but the Future Remains Unclear

The energy policy modernization bills that have been introduced are long overdue and fill a need to bring our laws up-to-date with advancements in energy technology and supplies. They also start to address the future challenges we will face in supplying and defending our massive energy network.

While the bill passed the Senate committee on an 18-4 vote, the real test will be if it gets to the floor of the Senate, where other higher-profile issues, such as the Clean Power Plan, will make this a very busy legislative session for the energy industry. As noted, many of the more controversial provisions dealing directly with wind, solar and crude oil were voted down in committee, where bipartisanship was a driving force behind what was included and what was left out. The bill's ultimate fate remains uncertain, however, as many of those provisions could be added as amendments once it hits the Senate floor.

How We Can Help

If a final version of the bill does pass, the effects to the energy industry and economy will be significant. A wide range of energy companies, in both the electricity and fuel sectors, will play a meaningful and influential role in developing the final product. Husch Blackwell's team of energy regulatory and policy experts provides lobbying, regulatory and legal services to public and private entities that wish to engage in the legislative process. Our group represents clients in all sectors of the industry, including renewable and conventional generators, investor-owned and public power utilities, marketers, customers, investors and landowners – all of which will be greatly affected by the passage of this bill.

Contact Us

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For additional information regarding how the proposed legislation might impact your business or your clients, or if you'd like assistance, please contact Adam Sachs, partner and legislative advocate in the firm's Energy & Natural Resources group, at 816.983.8176.

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