



THE COMMITTEE ON ENERGY AND COMMERCE

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MEMORANDUM

July 12, 2013

To: Energy and Commerce Committee

From: Majority Staff

Re: Markup of H.R. 1582, Energy Consumers Relief Act of 2013; H.R. 1900, Natural Gas Pipeline Permitting Reform Act; H.R. 83, to require the Secretary of the Interior to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of action plans aimed at reducing reliance on imported fossil fuels and increasing use of indigenous clean-energy resources, and for other purposes; H.R. 2094, School Access to Emergency Epinephrine Act; H.R. 698, HIV Organ Policy Equity Act (HOPE Act); H.R. 2052, Global Investment in American Jobs Act of 2013.

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The Committee on Energy and Commerce will meet in open markup session on Tuesday, July 16, 2013 at 5:00 p.m. in 2123 Rayburn House Office Building for opening statements on six bills: (1) H.R. 1582, Energy Consumers Relief Act of 2013, (2) H.R. 1900, Natural Gas Pipeline Permitting Reform Act, (3) H.R. 83, to require the Secretary of the Interior to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of action plans aimed at reducing reliance on imported fossil fuels and increasing use of indigenous clean-energy resources, and for other purposes, (4) H.R. 2094, School Access to Emergency Epinephrine Act, (5) H.R. 698, HIV Organ Policy Equity Act (HOPE Act), and (6) H.R. 2052, Global Investment in American Jobs Act of 2013. The Committee will reconvene on Wednesday, July 17, 2013, at 10:00 a.m. in 2123 Rayburn House Office Building in open markup session on the legislation. Summaries of the legislation to be considered are below.

In keeping with Chairman Upton's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to [peter.kielty@mail.house.gov](mailto:peter.kielty@mail.house.gov). Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

**I. H.R. 1582, Energy Consumers Relief Act of 2013**

On April 12, 2013, the Subcommittee on Energy and Power held a legislative hearing on a discussion draft of the "Energy Consumers Relief Act of 2013." The bill would provide for greater transparency and interagency coordination by prohibiting EPA from finalizing certain

energy-related rules if the Secretary of Energy determines the rule would cause significant adverse effects to the economy. On April 16, 2013, Rep. Bill Cassidy (R-LA) formally introduced the discussion draft as H.R. 1582. On July 10, 2013, the Subcommittee favorably reported the bill, as amended, to the full Committee by a vote of 17 to 10. Specific provisions include the following:

*Section 1: Short Title*

Section 1 provides the short title of “Energy Consumers Relief Act of 2013.”

*Section 2: Prohibition Against Finalizing Certain Energy-Related Rules that Will Cause Significant Adverse Effects to the Economy*

This section prohibits the EPA Administrator from finalizing any energy-related rule estimated to cost more than \$1 billion if the Secretary of Energy determines that the rule will cause significant adverse effects to the economy.

*Section 3: Reports and Determinations Prior to Promulgating as Final Certain Energy-Related Rules*

This section provides for certain reports and determinations prior to the finalizing of EPA energy-related rules estimated to cost more than \$1 billion.

Section 3(1) of the Act directs that before such a rule may be promulgated as final, the EPA Administrator shall submit a report to Congress that includes: (1) a copy of the rule; (2) a concise general statement relating to the rule; (3) an estimate of the total costs of the rule, including direct and indirect costs; (4) an estimate of the total benefits of the rule, an estimate of when such benefits are expected to be realized, and a description of the modeling, the assumptions, and the limitations due to uncertainty, speculation, or lack of information associated with the estimates; and (5) a detailed description of the employment effects, including potential job losses and shifts in employment, that may result from implementation or enforcement of the rule.

Section 3(2) provides that before such a rule may be promulgated as final by EPA, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission and the Energy Information Administration, shall prepare an independent analysis to determine whether the rule will cause: (a) any increase in energy prices for consumers, including low-income households, small businesses, and manufacturers; (b) any impact on fuel diversity of the Nation’s electricity generation portfolio or on national, regional, or local electric reliability; or (3) any other adverse effect on energy supply, distribution, or use (including a shortfall in supply and increased use of foreign supplies).

Section 3(3) specifies that if the Secretary of Energy determines that the rule will cause an increase, impact, or effect described in section 3(2), then the Secretary, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Administrator of the Small Business Administration, shall: (a) determine whether such increase, impact, or effect will cause

significant adverse effects to the economy, taking into consideration impacts on economic indicators, including those related to gross domestic product, unemployment, wages, consumer prices, and business and manufacturing activity; and (b) publish the results of such determination in the Federal Register.

#### *Section 4: Definitions*

This section contains the following definitions:

- “Direct costs” and “indirect costs” have the meanings given such terms in chapter 8 of EPA’s “Guidelines for Preparing Economic Analyses” dated December 17, 2010.
- “Energy-related rule that is estimated to cost more than \$1 billion” means a rule of the EPA that (a) regulates any aspect of the production, supply, distribution, or use of energy or provides for such regulation by States or other governmental entities; and (b) is estimated by the Administrator of EPA or the Director of the Office of Management and Budget to impose direct costs and indirect costs, in the aggregate, of more than \$1 billion.
- “Rule” has the meaning given to such term in section 551 of title 5, U.S. Code.

## **II. H.R. 1900, Natural Gas Pipeline Permitting Reform Act**

On May 9, 2013, Rep. Mike Pompeo (R-KS), together with Reps. Cory Gardner (R-CO), Bill Johnson (R-OH), Pete Olson (R-TX), and Jim Matheson (D-UT), introduced H.R. 1900, the Natural Gas Pipeline Permitting Reform Act. On July 9, 2013, the Subcommittee on Energy and Power held a legislative hearing on the bill. On July 10, 2013, the Subcommittee favorably reported the bill to the full Committee by a vote of 17 to 9. Specific provisions include the following:

#### *Section 1: Short Title*

Section 1 provides the short title of “Natural Gas Pipeline Permitting Reform Act.”

#### *Section 2: Regulatory Approval of Natural Gas Pipeline Projects*

Section 2 of the legislation amends section 7 of the Natural Gas Act (NGA) by adding two new subsections, (i) and (j).

New subsection (i) directs the Federal Energy Regulatory Commission (FERC) to approve or deny an application for a certificate of public convenience and necessity for the siting, construction, expansion, or operation of any natural gas pipeline project not later than 12 months after providing public notice of the application.

New subsection (j)(1) requires any agency responsible for issuing any license, permit, or approval required under Federal law in connection with the project for which a certificate of public convenience and necessity is sought under the NGA to approve or deny the issuance of

the license, permit, or approval within 90 days after FERC issues its final environmental document relating to the project.

New subsection (j)(2) provides that an agency may request FERC to extend the time period under paragraph (j)(1) by 30 days. FERC is required to grant the extension if the agency demonstrates it is necessary because of unforeseen circumstances beyond the agency's control.

New subsection (j)(3) provides that if an agency does not approve or deny the issuance of the license, permit, or approval within the 90 day time period (or 120 days if a 30 day extension is granted), such license, permit, or approval shall go into effect.

### **III. H.R. 83, to require the Secretary of the Interior to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of action plans aimed at reducing reliance on imported fossil fuels and increasing use of indigenous clean-energy resources, and for other purposes**

On January 3, 2013, Rep. Donna Christensen (D-VI), together with Reps. Madeleine Bordallo (D-GU), Eni Faleomavaega (D-AS), Pedro Pierluisi (D-PR), and Gregorio Kilili Camacho Sablan (D-MP), introduced H.R. 83, a bill to require the Secretary of the Interior to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of an energy action plan, and for other purposes. On July 10, 2013, the Subcommittee favorably reported the bill, as amended, to the full Committee by voice vote. Specific provisions include the following:

#### *Section 1: Insular Areas and Freely Associated States Energy Development*

Section 1(a) contains the following definitions:

- “Comprehensive energy plan” means a comprehensive energy plan prepared and updated under subsections (c) and (e) of section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1492).
- “Energy action plan” means the plan required by subsection (d).
- “Freely Associated States” means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
- “Insular areas” means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

- “Secretary” means the Secretary of the Interior.
- “Team” means the team established by the Secretary under subsection (b).

Section 1(b) requires the Secretary of the Interior, within 180 days of enactment, establish a team of technical, policy, and financial experts to develop energy action plans addressing the immediate, near-term, and long-term energy and environmental needs of each of the insular areas and Freely Associated States, and to assist each of the insular areas and Freely Associated States in implementing such plans.

Section 1(c) directs the Secretary to consider including regional utility organizations in the team to be established pursuant to section 1(b).

Section 1(d) provides that the plans include (1) recommendations to promote access to affordable, reliable energy; develop indigenous energy resources; and improve performance of energy infrastructure and overall energy efficiency; (2) a schedule for implementation of such recommendations and identification and prioritization of specific projects; (3) a financial and engineering plan for implementing and sustaining projects; and (4) benchmarks for measuring progress toward implementation.

Section 1(e) requires the team, not more than one year after it is established pursuant to section 1(b), submit a report to the Secretary detailing progress made in fulfilling its charge and in implementing the energy action plans.

Section 1(f) requires the Secretary, not later than 30 days after the date of receipt of the report under section 1(e), submit to the appropriate committees of Congress a summary of the team’s report.

#### **IV. H.R. 2094, School Access to Emergency Epinephrine Act**

H.R. 2094, led by Rep. David Roe (R-TN) and Rep. Steny Hoyer (D-MD), would amend the Children’s Asthma Treatment Grants Program and other asthma programs administered by the Department of Health and Human Services (HHS) to aid in preparing schools to treat allergic reactions. Under the bill, States would receive a preference for funding if they meet the following requirements. First, States would have to certify to HHS that they have reviewed their civil liability protection laws and determined that the laws provide adequate protection to school personnel who administer epinephrine. Second, the States’ schools would be required to maintain a supply of epinephrine in a secure location and have trained personnel to administer the epinephrine.

#### **V. H.R. 698, HIV Organ Policy Equity Act (HOPE Act)**

H.R. 698, sponsored by Rep. Lois Capps (D-CA), would eliminate the restriction on acquiring HIV-positive organs in order to permit research on transplants involving HIV-positive individuals. It also would require the Secretary of HHS to develop and publish guidelines for the conduct of this research and direct the revision of transplant standards based on the research. In

June, the Senate passed similar legislation, S. 330, which was introduced by Senators Barbara Boxer (D-CA) and Tom Coburn (R-OK) and cosponsored by Senators Tammy Baldwin (D-WI) and Rand Paul (R-KY).

## **VI. H.R. 2052, Global Investment in American Jobs Act of 2013**

On May 23, 2013 the Subcommittee on Commerce, Manufacturing, and Trade held a markup to consider H.R. 2052, which passed with an amendment, by voice vote. The Subcommittee held a legislative hearing on a draft bill on April 18, 2013.

H.R. 2052, Global Investment in American Jobs Act, seeks to make the United States more competitive in attracting foreign direct investment. It directs the Secretary of Commerce to lead an interagency review studying the Federal Government's current efforts to attract foreign investment as well as noteworthy initiatives at the State and local level and best practices in other nations. The review is not to include laws or policies relating to the Committee on Foreign Investment in the United States. The Secretary is to provide two opportunities for public comment—one allowing comment on the subjects to be covered in the review, and another allowing comment on the proposed findings and recommendations. Not later than one year after enactment, the Secretary must report to Congress the findings of the review and submit recommendations for increasing the competitiveness of the United States in attracting foreign direct investment without weakening labor, consumer, financial, or environmental protections.

## **VII. Conclusion**

If you have questions regarding H.R. 1582 or H.R. 83, please contact Mary Neumayr or Patrick Currier. If you have questions regarding H.R. 1900, please contact Tom Hassenboehler or Jason Knox.

If you have questions regarding H.R. 2094 or H.R. 698, please contact Clay Alspach, Brenda Destro, or Katie Novaria.

If you have questions regarding H.R. 2052, please contact Gib Mullan, Brian McCullough, or Shannon Taylor.