



MEMORANDUM

January 7, 2020

To: Subcommittee on Energy Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Subcommittee Markup of H.R. 3079, the “Energy Savings Through Public-Private Partnerships Act of 2019”; H.R. 5527, the “21st Century Power Grid Act”; H.R. 1426, the “Timely Review of Infrastructure Act”; H.R. 5542, A bill to require the Secretary of Energy to establish a grant program for States to provide incentives to natural gas distribution systems; H.R. 2906, the “Clean Commute for Kids Act of 2019”; H.R. 3361, the “Reliable Investment in Vital Energy Reauthorization Act”; H.R. 5518, A bill to require the Secretary of Energy to carry out a Clean Cities Coalition program; H.R. 5541, A bill to amend the Energy Policy Act of 1992 to reauthorize programs to assist consenting Indian tribes in meeting energy education, planning, and management needs, and for other purposes; and H.R. 5545, the “New Opportunities to Expand Healthy Air Using Sustainable Transportation Act of 2020”

On **Thursday, January 9, 2020, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building**, the Subcommittee on Energy will hold a markup of the following nine bills: H.R. 3079, the “Energy Savings Through Public-Private Partnerships Act of 2019”; H.R. 5527, the “21st Century Power Grid Act”; H.R. 1426, the “Timely Review of Infrastructure Act”; H.R. 5542, A bill to require the Secretary of Energy to establish a grant program for States to provide incentives to natural gas distribution systems; H.R. 2906, the “Clean Commute for Kids Act of 2019”; H.R. 3361, the “Reliable Investment in Vital Energy Reauthorization Act”; H.R. 5518, A bill to require the Secretary of Energy to carry out a Clean Cities Coalition program; H.R. 5541, A bill to amend the Energy Policy Act of 1992 to reauthorize programs to assist consenting Indian tribes in meeting energy education, planning, and management needs, and for other purposes; and H.R. 5545, the “New Opportunities to Expand Healthy Air Using Sustainable Transportation Act of 2020”

I. H.R. 3079, THE “ENERGY SAVINGS THROUGH PUBLIC-PRIVATE PARTNERSHIPS ACT OF 2019”

H.R. 3079, the “Energy Savings Through Public-Private Partnerships Act of 2019,” introduced by Reps. Welch (D-VT) and Kinzinger (R-IL), would amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in federal facilities. The Committee reported an identical version of the legislation by Reps. Kinzinger and Welch, H.R. 723, in the 115th Congress by unanimous consent.

Performance contracting is a method of financing by which an entity may fund energy efficiency upgrades over time with savings generated from capital improvements, typically through the use of Energy Savings Performance Contracts (ESPCs) or Utility Energy Service Contracts (UESCs). Entities engaged in an ESPC or UESC are generally able to recuperate savings generated by efficiency improvements following a period of repayment to the individual or company performing those facility upgrades. Current law requires federal facility energy managers to evaluate and identify energy and water efficiency measures for federal facilities. Agencies are not required under federal law, however, to implement those measures. Accordingly, the bill would require agencies to implement the measures, provided they are cost-effective.

H.R. 3079 also enables the development of more renewable energy and resiliency projects by allowing agencies to utilize existing revenue streams such as rebates, grid services revenue, and Renewable Energy Certificates (RECs) to help fund a project. The bill prohibits the use of performance contracting at federal hydroelectric facilities.

II. H.R. 5527, THE “21ST CENTURY POWER GRID ACT”

H.R. 5527, the “21st Century Power Grid Act,” introduced by Rep. Sarbanes (D-MD) would require the Secretary of Energy to establish a program to provide financial assistance for projects relating to the modernization of the electric grid.

The bill requires that eligible projects be designed to improve the resiliency, performance, or efficiency of the electric grid, while demonstrating secure integration and management of energy resources, communications interoperability or information technologies. The bill also stipulates that each project carried out with financial assistance from the program include a cybersecurity plan to comply with guidelines in accordance with DOE’s “DataGuard Energy Data Privacy Program.”

III. H.R. 1426, THE “TIMELY REVIEW OF INFRASTRUCTURE ACT”

H.R. 1426, the “Timely Review of Infrastructure Act,” introduced by Reps. Olson (R-TX) and Doyle (D-PA), addresses insufficient compensation of employees and other personnel at the Federal Energy Regulatory Commission (FERC).

The bill amends section 401 of the Department of Energy Organization Act by adding a new subsection (k) at the end. The new subsection grants the FERC Chairman additional authority to adjust compensation for a category of employees and other personnel without regard to certain civil service laws. The Chairman must publicly certify that other approaches to retaining and attracting employees are inadequate and that the adjustment to compensation is necessary to carry out the functions of the Commission in a timely, efficient, and effective manner. The bill also requires that the Chairman periodically submit to Congress a report including information related to hiring, vacancies, compensation, and efforts to retain and attract employees.

IV. H.R. 5542, A BILL TO REQUIRE THE SECRETARY OF ENERGY TO ESTABLISH A GRANT PROGRAM FOR STATES TO PROVIDE INCENTIVES TO NATURAL GAS DISTRIBUTION SYSTEMS

H.R. 5542, introduced by Reps. Sherrill (D-NJ) and Blunt Rochester (D-DE), would require the Secretary of Energy to establish a grant program for States to provide incentives to natural gas distribution companies for the improvement of natural gas distribution systems.

The legislation establishes a grant program at DOE for the purposes of improving public safety and the environmental performance of the natural gas distribution system. The bill authorizes grant funding to States for the purposes of offsetting rate increases to low-income households and improving the safety and environmental performance of natural gas distribution systems through incentives for natural gas distribution companies to accelerate, expand, or enhance improvements to the natural gas distribution system. In awarding grants under the program, the agency must prioritize applications that produce quantifiable benefits to public safety, reduce methane emissions, and benefit low-income households, among other factors.

The bill authorizes \$250 million per year for the program from FY 2021-2030.

V. H.R. 2906, THE “CLEAN COMMUTE FOR KIDS ACT OF 2019”

H.R. 2906, the “Clean Commute for Kids Act of 2019,” introduced by Rep. Cárdenas (D-CA), would amend the Energy Policy Act of 2005 (EPA05) to reauthorize and update the Clean School Bus Program.

The Clean School Bus Program offers competitive grant funding for modernizing school bus fleets. The bill broadens grant eligibility criteria to include electric vehicles and provides prioritization for applicants seeking to acquire clean school buses with low or zero emissions. Congress originally authorized the Clean School Bus Program in EPA05 from fiscal year (FY) 2007 through FY 2010. H.R. 2906 reauthorizes the Clean School Bus program at \$50 million annually from FY 2020-2025.

VI. H.R. 3361, THE “RELIABLE INVESTMENT IN VITAL ENERGY REAUTHORIZATION ACT”

H.R. 3361, the “Reliable Investment in Vital Energy Reauthorization Act,” introduced by Rep. McKinley (R-WV), would amend section 242 of EPAct05 to reauthorize the hydroelectric production incentives program. Additionally, the bill reauthorizes the hydroelectric efficiency improvement program set forth in EPAct05 section 243.

The hydroelectric production incentives program provides payments to owners or operators of hydroelectric facilities that are added to existing dams or conduits. The hydroelectric efficiency improvement program similarly provides payments, but for the purpose of making changes in a facility that improve its efficiency by three percent or more.

H.R. 3361 reauthorizes both programs from FY 2019-2036 at the originally authorized level of \$10 million per year.

VII. H.R. 5518, A BILL TO REQUIRE THE SECRETARY OF ENERGY TO CARRY OUT A CLEAN CITIES COALITION PROGRAM

H.R. 5518, introduced by Rep. McEachin (D-VA), would require the Secretary of Energy to carry out a Clean Cities Coalition Program.

The Department of Energy (DOE) created the Clean Cities Coalition Program in the early 1990s based upon authorities in the Energy Policy Act of 1992 (EPAct92). The purpose of the program is to reduce dependence on petroleum fuels through the development of local government-industry partnerships to encourage the use of alternative fuels and vehicles.

H.R. 5518 formally authorizes the program in law and establishes program elements. The legislation authorizes the program beginning in FY 2020 at \$50 million and increases incrementally each year, ultimately reaching \$100 million in FY 2024.

VIII. H.R. 5541, A BILL TO AMEND THE ENERGY POLICY ACT OF 1992 TO REAUTHORIZE PROGRAMS TO ASSIST CONSENTING INDIAN TRIBES IN MEETING ENERGY EDUCATION, PLANNING, AND MANAGEMENT NEEDS

H.R. 5541, introduced by Rep. O’Halloran (D-AZ), would amend sections 2601 and 2602 of EPAct92, reauthorizing programs to assist consenting Indian tribes in meeting energy education, planning, and management needs.

Congress authorized the establishment of an Indian energy resources development program in EPAct92 and it established an Office of Indian Energy Policy and Programs at DOE in EPAct05. The legislation amends the definition of Indian Land to extend eligibility for grant funding to consenting Alaskan Native Tribes. The bill also provides DOE’s Director of the Office of Indian Energy Policy and Programs the authority to expand programmatic access by

reducing applicable cost-share based on criteria such as proven financial need. Finally, the bill reauthorizes the program at \$30 million annually from FY 2021-2025.

The “21st Century Power Grid Act,” authorizes \$200 million in each year for the program from FY 2021-2025.

IX. H.R. 5545, THE “NEW OPPORTUNITIES TO EXPAND HEALTHY AIR USING SUSTAINABLE TRANSPORTATION ACT OF 2020” OR “NO EXHAUST ACT OF 2020”

H.R. 5545, the “New Opportunities to Expand Healthy Air Using Sustainable Transportation Act of 2020,” or “NO EXHAUST Act of 2020,” introduced by Rep. Rush (D-IL), would promote the domestic manufacture and use of advanced, fuel-efficient vehicles and zero-emission vehicles, encourage electrification of the transportation sector, create jobs, and improve air quality.

The “NO EXHAUST Act of 2020,” seeks to expand access to electric vehicle charging infrastructure in several ways. The legislation establishes a new program to provide rebates to offset the cost of purchasing and installing new electric vehicle charging stations. The bill authorizes \$100 million annually for the program from FY 2021-2030. H.R. 5545 also directs the Secretary of Energy to assess the availability, opportunity, and barriers to providing access to electric vehicle charging infrastructure in urban, underserved communities. It also directs the Secretary to consider the needs of underserved or disadvantaged communities when implementing programs intended to expand infrastructure to support clean transportation. The bill further directs the Secretary to establish or update model building codes to enable greater integration of electric vehicle charging equipment into buildings. It also amends section 111(d) of the Public Utility Regulatory Policies Act of 1978 to require states to consider additional measures that will promote expanded development of electric vehicle charging networks.

Additionally, H.R. 5545 amends sections 362 and 365 of the Energy Policy and Conservation Act (EPCA) to authorize funding for the development of State energy transportation and conservation plans. The bill authorizes \$100 million for State energy conservation plans from FY 2021-2025, increasing to \$125 million from FY 2026-2030. The bill also authorizes \$25 million each year for State energy transportation plans from FY 2021-2025, increasing to \$35 million from FY 2026-2030.

The bill amends several provisions related to federal fleets. It amends section 303 of EPCA to increase the percentage of alternative fueled vehicles that federal agencies must acquire, and sets minimum requirements for the percentage of alternative fueled vehicles that must be zero emission vehicles. It also amends section 400FF of EPCA to increase the requirement for federal use of alternative fuels, and includes a new requirement to reduce federal fleet greenhouse gas emissions.

The bill amends Subtitle B of Title VII of EPCA to expand eligibility for the domestic manufacturing conversion grant program to include plug-in vehicles, and sets priorities for

awards to manufacturing facilities that have recently ceased operations or are scheduled to do so in the near term. The “NO EXHAUST Act of 2020,” contains provisions requiring grant applicants to provide written assurance that laborers will be paid prevailing wages for work on relevant projects receiving federal funding.

The bill also amends section 136 of the Energy Independence and Security Act of 2007 to modify the definition of an “advanced technology vehicle” to include ultra-efficient vehicles and light- and medium-duty vehicles that meet specific regulatory emission standards. The legislation authorizes \$2.5 billion for the grant program annually from FY 2021-2030.