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Modest Energy Efficiency Bill Heads to Obama's Desk

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The first energy bill of the 114th Congress is heading toward the President's desk for signature.

On April 21st, the eve of Earth Day, Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) announced that their **Energy Efficiency Improvement Act of 2015** overwhelmingly passed the House after passing the Senate earlier in March.

Senators Shaheen and Portman have pressed for more comprehensive energy efficiency legislation in one form or another since 2011. Despite broad bipartisan and private sector support from the U.S. Chamber of Commerce, the Alliance to Save Energy, the Business Roundtable, and the Environmental Defense Fund, the duo's efforts have stalled multiple times on non-germane and/or procedural grounds. So for right now, the fact Congress passed any energy legislation is a small victory in and of itself.

Senator Shaheen noted in a **press release** accompanying passage that "on the bill's merits — creating jobs, saving consumers money and reducing pollution — it was never a hard sell… the tough part was convincing Washington to not play politics with a good idea."

The scope of S.535 is modest. There are three (3) main titles to the bill aimed at reducing market barriers to improving the efficiency of federal and commercial buildings, and, as an unintended consequence, regulating the energy performance of water heaters.

Better Buildings

Title I of S.535 attempts to address the common "split incentive" problem that exists when the owner of a building passes on utility expenses to tenants, naturally reducing their interest in investing in energy and water efficiency measures. Provisions in this title were originally introduced by Sens. Bennet (D-CO) and Ayotte (R-NH) as the Better Buildings Act in the 113th Congress.

The legislation will require the Department of Energy (DOE) and the General Services Administration (GSA) to develop model commercial leasing provisions, policies, and best practices within 180 days that "align the interests of building owners and tenants" in a manner that encourages investment in cost-effective energy and water efficiency measures. The model provisions will be used in federal building leases, and made available for use by other state and local government agencies as well as the private sector.

The first title also requires DOE to complete a 1-year feasibility study of how to "significantly improve energy efficiency" in commercial buildings and overcome this "split incentive" phenomenon.

Finally, S.535 authorizes the creation of a new voluntary program at EPA, akin to the Energy Star program, dubbed "Tenant Star," creating a rating system for use in recognizing commercial building tenants that achieve high levels of energy efficiency.

Grid-Enabled Water Heaters

Title II authorizes an exemption — with some caveats — for certain electric resistance water heaters used as demand response or grid-balancing assets from pending Department of Energy **energy conservation standards**.

DOE's water heater standards are estimated to save about 3.3 quads of energy and $63 billion for consumers through 2044. However, utilities in thirty-five states utilize water heater load control programs, and the National Rural Electric Cooperative Association estimates that co-op utilities save about 500 megawatts through demand response using electric resistance water heaters.

The compromise language addressed concerns that the proposed federal energy efficiency standards would have hampered demand response programs that use traditional, electric-resistance water heaters as grid assets. This section is based on the Water Heater Efficiency Act originally introduced by Sens. Hoeven (R-ND) and Pryor (R-AR).

Energy Information for Commercial Buildings

Title III amends existing federal energy requirements by requiring federally leased buildings to benchmark and disclose their energy usage data.

Further, the legislation also authorizes DOE to conduct a 2-year study on benchmarking methodologies, best practices, programs, and policies that increase building energy efficiency. This provision is based on a benchmarking bill sponsored by Sen. Franken (D-MN).

More than anything, the enactment of S.535 provides some renewed sense of optimism that more significant energy efficiency legislation could make progress in a deeply entrenched, partisan Congress. Senate Energy and Natural Resources Chairman Lisa Murkowski (R-AK) commented that S.535 “is an important start to advancing additional efficiency measures that the committee will take up as part of a broader energy bill this spring.”

The next Congressional action is approaching quickly — Chairman Murkowski **will hold a hearing** on April 30th to deliberate several bipartisan energy efficiency bills, including:

- Sen. Coons (D-DE) and Sen. Collins (R-ME): Weatherization Enhancement and Local Energy Efficiency Investment and Accountability Act (**S. 703**)
- Sen. Portman (R-OH) and Sen. Shaheen (D-NH): Energy Savings and Industrial Competitiveness Act of 2015 (**S. 720**)
- Sen. Gardner (R-CO) and Sen. Coons (D-DE): Energy Savings Through Public-Private Partnerships Act of 2015 (**S. 858**)

The House Energy and Commerce Committee is expected to hold a similar hearing soon.

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