

## REPORT OF THE LEGISLATION COMMITTEE

This report provides a summary of the energy legislative activities occurring during the 2nd Session of the 111th Congress from January 5, 2010, through August 2010.\*

Despite an unprecedented amount of Congressional activity during the second session of the 111th Congress, neither incremental nor comprehensive energy legislation was able to pass both Congressional Houses and to be signed into law by the President of the United States.

The only federal energy legislation of note occurred indirectly as a source of funding for non-energy related activities when Congress rescinded \$1.5 billion in credit subsidy appropriations from the original \$5.965 billion made available in the American Recovery & Reinvestment Act of 2009 for the Department of Energy's (DOE) Title XVII 1705 Loan Guarantee Program (1705 Program).<sup>1</sup>

The 1705 Program authorized DOE to provide loan guarantees for three specific categories of commercially available energy technologies:

- (1) Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy, and facilities that manufacture related components.
- (2) Electric power transmission systems, including upgrading and reconditioning projects.
- (3) Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary [of Energy] determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce<sup>2</sup> life-cycle greenhouse gas emissions compared to other transportation fuels.

Congress shifted the 1705 Program's funding in the Education Jobs & Medicaid Assistance Act of 2010, to provide financial aid to states for an array of governmental functions.<sup>3</sup>

The \$1.5 billion rescinded in the Education Jobs & Medicaid Assistance Act of 2010 is in addition to the already \$2 billion transferred to fund the "Cash for Clunkers" program implemented in 2009, as part of the Consumer Assistance to Recycle and Save Act of 2009.<sup>4</sup> Therefore, only \$2.5 billion in credit subsidy funds remain available for DOE's 1705 Program, less the amount of funding already either conditionally committed or closed by the Department of Energy to energy projects.<sup>5</sup>

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\* This report was prepared by Legislation Committee members Jordan Collins and Laura Marshall Schepis.

1. American Recovery & Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, 140 (2009). The \$5.695 billion number is a function of \$6 billion less \$25 million carved out for administrative expenses of the Loan Guarantee Program and \$10 million transferred to DOE's Advanced Vehicle Technology Manufacturing Program.

2. *Id.* § 105(a).

3. Education Jobs and Medicaid Assistance Act, Pub. L. No. 111-226, § 308, 124 Stat. 2389, 2405 (2010).

4. Consumer Assistance to Recycle and Save Act of 2009, Pub. L. No. 111-32, 123 Stat. 1909 (2009).

5. For up to date Loan Guarantee Program activities and data, see <http://energy.gov/recovery/lgprogram.htm> (last visited Aug. 19, 2010).

Other than the 1705 Program's credit subsidy rescission, only H.R. 2454, the American Clean Energy & Security Act of 2009, garnered enough support to pass one body of Congress; however, it was never taken up by Senate leadership.<sup>6</sup>

In addition to the comprehensive energy legislation introduced during the first session, Congress introduced over 300 separate pieces of legislation addressing all aspects of supply and demand-side energy policies, and countless hearings and markups were held. However, every piece of energy legislation continues to stand idle at various stages of the legislative process in both the House and Senate.<sup>7</sup>

In those 300-plus pieces of introduced legislation, Congress considered a vast number of energy policy measures ranging from extending tax credits for alternative fuels, authorizing a cap-and-trade greenhouse gas emission reduction program, enhancing loan guarantee authority for commercial and innovative energy technologies, research and development programs for pre-commercial energy technologies, electricity grid cyber-security regulations, market-based incentives for the scale-up and deployment of nascent energy technologies, amending liability caps for environmental disasters, toughening health and safety regulations for extractive industries, and countless other topics.<sup>8</sup>

As of August 2010, Congressional legislative work on energy policy culminated with no consensus or bipartisan compromise on how to formulate a comprehensive national energy policy, or even how to address any single element of the multi-faceted and fragmented energy sector.

The absence of new federal energy legislation resulted in a majority of energy policies emanating from the Executive Branch and its agencies through the implementation of the American Recovery & Reinvestment Act of 2009, which continues to serve as the principal source of Congressional funding and policy direction for public and private sector investments in the energy sector.<sup>9</sup>

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6. American Clean Energy and Security Act, H.R. 2454, 111th Cong. (2010) (for more information on H.R. 2454, see <http://thomas.loc.gov> (last visited Aug. 17, 2010)).

7. For a list of all introduced Bills in the 111th Congress, see generally <http://thomas.loc.gov/home/Browse.php?n=bills&c=111> (last visited Aug. 19, 2010).

8. *Id.*

9. American Recovery & Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, 140 (2009).

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