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CAPITALIZING ON AMERICAN STORAGE POTENTIAL ACT

MAY 22, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1337]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1337) to amend the Energy Policy Act of 2005 to make certain strategic energy infrastructure projects eligible for certain loan guarantees, and for other purposes, having considered the same, reports favorably thereon with an amendment, and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 2, strike line 22 and insert the following:
which the project is located.

“(g) NATIONAL SECURITY REVIEW.—Before making a guarantee for a project under this section, the Secretary shall certify that the guarantee is in the national interest and will not harm the national security of the United States, in accordance with Department of Energy Order 142.5 (relating to the Committee on Foreign Investment in the United States) (or a successor order).”.

PURPOSE

The purpose of S. 1337 is to amend the Energy Policy Act of 2005 to make certain strategic energy infrastructure projects eligible for certain loan guarantees, and for other purposes.

BACKGROUND AND NEED

The Innovative Technology Loan Guarantee Program authorized by title XVII of the Energy Policy Act of 2005 (43 U.S.C. 16511–16516). A number of energy technology projects are eligible for the loan guarantee program, including advanced fossil, advanced nu-

clear, renewable energy, and energy efficiency projects. S. 1337 adds strategic energy infrastructure projects to the list of eligible projects.

LEGISLATIVE HISTORY

S. 1337 was introduced by Senators Manchin and Capito on June 12, 2017. The Subcommittee on Energy held a hearing on S. 1337 on October 3, 2017.

Companion legislation, H.R. 3143, was introduced by Rep. McKinley in the House of Representatives on June 29, 2017, and referred to the Energy Commerce Committee, as well as the Science, Space, and Technology Committee.

The Committee on Energy and Natural Resources met in open business session on March 8, 2018, and ordered S. 1337 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 8, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass S. 1337, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 1337, the Committee adopted an amendment offered by Senator Stabenow. The amendment requires the Secretary to certify that a loan guarantee for a project is in the national interest and will not harm the national security, in accordance with Department of Energy Order 142.5 (relating to foreign investment) before guaranteeing a loan under the program.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Strategic energy infrastructure projects

Section 2 amends section 1703 of the Energy Policy Act of 2005 to include strategic energy infrastructure in the categories of eligible projects in subsection (b)(2), as well as in a new paragraph (11).

This section also adds a new subsection (f) to specify certain criteria that these strategic energy infrastructure projects must meet for consideration, including having a regional scope; the ability to store and distribute more than 100,000 barrels per day of hydrocarbon feedstock with a minimum gross heating value of 1,700 Btu per standard cubic foot; and the potential to contribute significantly to the region's economic resilience.

This section further adds a new subsection (g) to require the Secretary to certify a loan guarantee issued under this section is in the national interest and will not harm the national security of the United States before guaranteeing a loan under section 1703.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the

report was filed. When the report is available, it will be posted on cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1337. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1337, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1337, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of Energy at the October 3, 2017, hearing on S. 1337 follows:

TESTIMONY OF DEPUTY GENERAL COUNSEL BERNARD MCNAMEE, U.S. DEPARTMENT OF ENERGY BEFORE THE U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON ENERGY

S. 1337, Capitalizing on American Storage Potential Act

This new energy landscape also presents opportunities. I appreciate the chance to discuss the legislation on hydrocarbon feedstock storage infrastructure in Appalachia. The Marcellus Shale and Utica Shale sites are blessed with an abundance of hydrocarbon feedstock, such as ethane, which can be used as a building block for plastics.

The U.S. Energy Information Administration estimates that natural gas production in the region has grown from just over 2 billion cubic feet per day (Bcfd) in 2010 to 23 Bcfd mid-2017. In the same period, natural gas liquids production has grown six fold (from 106,000 barrels per day to 621,000 barrels per day). With an increase in energy production, there is often a need for workforce development in the same region. The Department of Energy's National Energy Technology Lab (NETL) is supporting workforce development to support growth of ethane production and storage in the region.

This Administration believes that the private sector has the most important role to play in the development of late stage energy projects. The Administration is committed to reasserting the proper role of what has become a sprawling Federal Government and reducing deficit spending. To that end, the Administration supports an increased reli-

ance on the private sector to fund later-stage research and development of energy technologies, and focuses Federal resources toward early-stage research and development.

The Department looks forward to continuing our general dialogue on ethane-related issues. Recently, the Secretary of Energy had the opportunity to participate in a very productive roundtable discussion with relevant stakeholders, and the Department looks forward to engaging this subcommittee further.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE ENERGY POLICY ACT OF 2005

Public Law 109–58

* * * * *

SEC. 1703. ELIGIBLE PROJECTS.

(a) IN GENERAL.—The Secretary may make guarantees under this section only for projects that—

- (1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and
- (2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) CATEGORIES.—Projects from the following categories shall be eligible for a guarantee under this section:

- (1) Renewable energy systems.
- (2) Advanced fossil energy technology (including coal gasification meeting the criteria [in subsection (d)] *described in subsection (d) and strategic energy infrastructure meeting the criteria described in subsection (f)*).
- (3) Hydrogen fuel cell technology for residential, industrial, or transportation applications.
- (4) Advanced nuclear energy facilities.
- (5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.
- (6) Efficient electrical generation, transmission, and distribution technologies.
- (7) Efficient end-use energy technologies.
- (8) Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.
- (9) Pollution control equipment.
- (10) Refineries, meaning facilities at which crude oil is refined into gasoline.
- (11) *Strategic energy infrastructure meeting the criteria described in subsection (f)*.

(c) GASIFICATION PROJECTS.—The Secretary may make guarantees for the following gasification projects:

(1) INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate one or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process; and

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) INDUSTRIAL GASIFICATION PROJECTS.—Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) PETROLEUM COKE GASIFICATION PROJECTS.—The Secretary is encouraged to make loan guarantees under this title available for petroleum coke gasification projects.

(4) LIQUEFACTION PROJECT.—Notwithstanding any other provision of law, funds awarded under the clean coal power initiative under subtitle A of title IV for coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) EMISSION LEVELS.—In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/MMBtu;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/MMBtu; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/MMBtu.

(e) QUALIFICATION OF FACILITIES RECEIVING TAX CREDITS.—A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this title.

(f) STRATEGIC ENERGY INFRASTRUCTURE PROJECTS.—*The Secretary may make guarantees under this section for any strategic energy infrastructure project that is a regional project—*

(1) that supports a more effective energy market performance due to the scale of the project, such as a project with the capacity to store and distribute greater than 100,000 barrels per day of hydrocarbon feedstock with a minimum gross heating value of 1,700 Btu per standard cubic foot; and

(2) with the potential to significantly contribute to the economic resilience of the region in which the project is located.

(g) NATIONAL SECURITY REVIEW.—*Before making a guarantee for a project under this section, the Secretary shall certify that the guarantee is in the national interest and will not harm the national security of the United States, in accordance with Department of Energy Order 142.5 (relating to the Committee on Foreign Investment in the United States) (or a successor order).*

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