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BACKGROUNDER

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Bipartisan Senate Energy Bill Full of Poison Pills

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Abstract

Senators Lisa Murkowski (R–AK) and Maria Cantwell (D–WA) introduced the Energy Policy Modernization Act of 2015. Billed as a bipartisan effort to promote energy efficiency, infrastructure, supply, accountability, and land conservation, the legislation is a continuation of government meddling in the energy economy. Provisions in the Act waste taxpayer resources, override consumer preference, direct money toward politically preferred technologies, and appease special interests. Congress should adopt commonsense policies that open access, eliminate subsidies, and reduce the regulatory burden for all energy sources and technologies.

The Senate Energy and Natural Resources Committee recently passed its comprehensive 357-page energy bill out of committee.[1] The Senate is attempting to move forward with "non-controversial" legislation that, according to proponents, contains no "poison pills." However, as with the last two major energy bills passed in 2005 and 2007, a few good provisions do not outweigh the abundance of bad policies that waste taxpayer dollars, restrict energy choice, and fund corporate welfare.

The Energy Policy Modernization Act of 2015 takes the same antiquated government-knows-best approach that politicians often take. Reforming old laws and breaking down government-imposed barriers to make energy markets more innovative and competitive is a step in the right direction, but the Energy Policy Modernization Act largely perpetuates the status quo of government picking winners and losers and catering to special interests.

Key Points

- Government should not be involved in spending taxpayer resources on decisions made by state and local governments, private businesses, and families.
- The federal government's efficiency measures ignore the many diverse needs of American families and businesses, who are ultimately the best arbiters of efficiency and how to spend their money.
- The Strategic Petroleum Reserve is not strategically important; it has served more successfully as a political tool to boost public support of an Administration rather than as a mechanism to balance supply and demand.
- Washington uses many mechanisms to play energy favorites, and the Energy Policy Modernization Act continues the status quo.
- The federal government owns a lot of land, much of it poorly cared for; the Energy Policy Modernization Act merely throws more money at the problem.

This paper, in its entirety, can be found at **http://report.heritage.org/bg3075**

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Title I: Efficiency Handouts, Paternalistic Government

The legislation provides taxpayer-funded subsidies for worker-training programs, for generating renewable energy and efficiency retrofits at schools and at nonprofit organizations, and for improving the energy efficiency of state and tribal buildings. Taxpayers have already funneled billions of dollars to similar initiatives, and plenty of state programs exist to promote efficiency. Whether the projects are cost-shared, or whether government spending is offset by reductions or reallocations of existing programs, makes no difference. The government should not be involved in spending taxpayer resources on decisions made by state and local governments, private businesses, and families.

The fundamental problem with the federal government's efficiency measures is that they ignore the many diverse needs of American families and businesses, who ultimately are the best arbiters of efficiency and how to spend their money. A one-size-fits-all regulation or subsidy to artificially elevate the importance of energy efficiency is not only wasting taxpayer dollars, it is skewing preferences and market activity. Businesses and families make energy-saving investments when it makes sense for them to do so. The paternalistic view of federal intervention in energy efficiency ignores the trade-offs, budget constraints, and payback periods that families and investors face, as well as the preferences they hold. Even if an energy-efficiency mandate or subsidy saves consumers money, this does not necessarily make them better off if they value other preferences more, whether it be the safety of a heavier vehicle, the shorter operating cycle of a dishwasher,[2] or the predictable function of an older machine that workers are comfortable using.[3]

The Energy Modernization Act displays the federal government's ignorance of the free market's ability to drive energy efficiency. Two examples are the taxpayer-provided grants for improved manufacturing efficiency and industrial processes and the rebate programs for purchasing electric motors and transformers. Through the Department of Energy's (DOE's) Advanced Manufacturing Office, taxpayers have already provided tens of millions of dollars to automotive and chemical companies that have huge market capitalizations and, in some cases, spend more than a billion dollars on research and development.

If manufacturers believe purchasing more efficient electric motors or transformers will help them lower costs and gain a competitive edge, companies will not need taxpayer-funded rebates to make the investments. They will make these investments (as with all efficiency investments) for one (or both) of two reasons: if they believe these energy-saving technologies are worth the risk and represent the best use of their investment dollars, or if they believe this investment will drive increased business by promoting their company's image. Either way, such an investment should be the manufacturer's choice. Congress should also not retool or expand the manufacturing efficiency programs to assist small and medium-sized manufacturers as proposed in the bill. Congress should eliminate these programs altogether.

Furthermore, providing taxpayer money to train the next generation of workers in energy efficiency misunderstands how markets work and how industries generate workforces. If energy-efficient products and investments make economic sense, the government will not need to artificially create both the demand and the supply. As the private sector expands, it trains workers appropriately to meet demand and capture more opportunities—and it will make those investments with its own resources. When the government embarked on "green jobs" training programs in the stimulus bill, job placement was sparse, and much of the training was delivered to already employed workers who did not need the training to perform their jobs.[4]

1. Energy Policy Modernization Act of 2015, 114th Cong., 1st Sess., http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=eb454e3b-7f32-479e-b1a6-e84f9019941d (accessed July 30, 2015).
2. ConsumerReports.org, "Tougher Dishwasher Standards Could Mean Longer Cycle Times," July 20, 2011, http://news.consumerreports.org/home/2012/09/higher-prices-prevent-some-consumers-from-going-green.html (accessed July 30, 2015).
3. Hunt Allcott and Michael Greenstone, "Is There an Energy Efficiency Gap?" *Journal of Economic Perspectives*, Vol. 26, No. 1 (Winter 2012), pp. 3–28.
4. U.S. Department of Energy, Office of Inspector General, "Audit Report: The State of Illinois Weatherization Assistance Program," October 2010, http://energy.gov/sites/prod/files/igprod/documents/OAS-RA-11-01.pdf (accessed October 23, 2015); U.S. Department of Energy, Office of Inspector General, "Examination Report: Cuyahoga County of Ohio Department of Development—Weatherization Assistance Program Funds Provided by the American Recovery and Reinvestment Act of 2009," September 2011, http://energy.gov/sites/prod/files/OAS-RA-11-19.pdf (accessed October 19, 2015); and U.S. Department of Labor, Office of Inspector General, "Recovery Act: Green Jobs Program Reports Limited Success in Meeting Employment and Retention Goals of June 30, 2012," October 25, 2012, http://www.oig.dol.gov/public/reports/oa/2013/18-13-001-03-390.pdf (accessed July 30, 2015).

The energy bill is similarly littered with job-training programs, all of which should be driven by the private sector, which can adeptly expand and contract as necessary to meet market demand.

Title II: Subsidizing Energy Infrastructure and Top-Down Government Control

Title II of the Energy Modernization Act aims to enhance cybersecurity protections by giving the Secretary of Energy the authority, if deemed necessary by the President, to order specific actions for any entity that is registered with the nation's Electric Reliability Organization (ERO) to protect the bulk power system. The bill embraces a regulatory approach to cybersecurity for short-term emergencies of no more than 90 days. Regulations are unlikely to be effective long-term solutions, and it is unclear what change they could effect in the short term. This power may be appropriate, but it may not be effective, or it may be used to push a regulatory agenda.

The legislation also authorizes $100 million a year for cybersecurity research and development, workforce curricula, supply-chain security, testing response capabilities, improving coordination with the intelligence community and other cybersecurity actors, and risk modeling. While many of these activities may be smart investments, they should rely on and be driven largely by the private sector. Government involvement should be limited to activities related to meeting the government's cybersecurity requirements.

The bill also orders the DOE to conduct a strategic review of the Strategic Petroleum Reserve (SPR), which holds nearly 700 million barrels of crude oil to respond to supply shocks. The legislation reaffirms the SPR as necessary because of its strategic importance.

The SPR is not strategically important. The reserve has served more successfully as a political tool to boost public support of an administration rather than as a mechanism to balance supply and demand. The free market is much more effective at responding to price signals. Getting rid of the SPR would not create any perception that the U.S. is without oil reserves, as America holds an abundance of privately controlled inventory and has abundant reserves. America is awash in natural resources and holds more crude and petroleum products in private stocks than it does in government-controlled inventory.[5] Importantly, because of improvements in advanced drilling techniques and the abundance of unconventional oil resources, the U.S. can ramp up production much more quickly than in the past.[6] Congress should question whether the SPR has been effective and if government stockpiling is necessary. At the very least, Congress should ensure that the SPR is not used as a piggy bank to pay for other bills, as drawing down reserves has been proposed to fund the Highway Trust Fund or a medical research bill.

Title II also directs the Secretary of Energy to approve or disapprove of exporting natural gas to countries with which America does not have a free trade agreement within 45 days of the Federal Energy Regulatory Commission (FERC) conducting its environmental review. Companies must obtain approval from both FERC and the DOE before exporting natural gas. A facility is automatically authorized if the recipient country has a free trade agreement (FTA) with the U.S. In the absence of such an agreement, the DOE can arbitrarily deny a permit if it believes the volume of natural gas exports is not in the public's interest. While the bill marginally improves the status quo by forcing a timeline on the DOE, the decision to export natural gas should be a business decision, not a political one. The U.S. trades regularly with a number of non-FTA countries. Natural gas should be no different and should be treated like any other globally traded good. Moreover, the bill contains no mention of lifting the ban on crude oil exports, which would carry significant economic and geopolitical benefits.[7]

The last subtitle of Title II promotes electricity grid infrastructure and energy storage, but again, goes about it in mostly the wrong way by creating more government programs, not fully addressing any regulatory barriers that prevent development and grid modernization. For instance, the bill creates

5. U.S. Energy Information Administration, "Petroleum and Other Liquids: Total Stocks," http://www.eia.gov/dnav/pet/pet_stoc_wstk_dcu_nus_w.htm (accessed July 21, 2015).
6. Mark P. Mills, "SHALE 2.0 Technology and the Coming Big-Data Revolution in America's Shale Oil Fields," Manhattan Institute, May 2015, http://www.manhattan-institute.org/pdf/eper_16.pdf (accessed October 19, 2015).
7. Nicolas D. Loris, "Energy Exports Promote Prosperity and Bolster National Security," Heritage Foundation *Backgrounder* No. 2931, July 23, 2014, http://www.heritage.org/research/reports/2014/07/energy-exports-promote-prosperity-and-bolster-national-security.

another government program for electric grid energy storage, provides taxpayer-funded grants for "eligible projects related to the modernization of the electric grid," and establishes a program for micro-grids for remote communities.[8] Streamlining the environmental review and permitting processes for new grid investments is a welcome step for managing new supplies and different technologies; however, taxpayers should not subsidize those investments. Many of these programs follow the tried-and-failed model of trying to subsidize a product or technology from the lab to commercialization, when much of that activity should be driven by private companies. Modernization of the grid should not translate to providing grants to projects that politicians deem worthy of taxpayer dollars.

Title III: Washington Continues to Pick Winners and Losers

Washington uses many mechanisms to play energy favorites, and the Energy Policy Modernization Act continues the status quo. Rather than removing preferential treatment for all energy sources and technologies and opening access to resource development, the bill extends and expands existing subsidies.

The subsidies in the bill take the form of government-provided incentives for hydroelectric production, as well as research demonstration projects for geothermal energy and hydrokinetic energy. The bill also expands authority for government money for biopower and bioheat systems, creates a low-interest loan program for industrial bioheat systems, amends and reauthorizes a program to make methane hydrates a commercially viable source of energy, creates a program for recycling critical minerals, promotes commercialization of carbon capture and sequestration as an objective of the DOE's Office of Fossil Energy, and establishes more job-training programs—including a "21st Century Energy Workforce Advisory Board at DOE to develop a strategy for the support and development of a skilled workforce to meet current and future energy sector needs."

None of these activities is the role of the federal government. They are activities that do not need to involve the federal government, an entity not particularly good at picking industry winners and losers or at planning for future workforces. Not only do these spending initiatives waste money, they distort the market by dictating where investments flow, taking labor and capital away from potentially more promising endeavors. At best, the programs may provide some subsidized production and jobs, which politicians can point to as a positive. Overall, though, the bill is not the recipe for a sustainable industry and a thriving economy. Nor does it show how those resources could have been more productive in other sectors of the economy. Congress should sunset and eliminate these programs, not retool and expand them.

When it comes to basic research and development, Congress should focus on the needs of the federal government first and foremost. Secondarily, Congress should figure out more efficient ways for the private sector to invest in government research if commercial applicability exists. Lowering the cost of specific technologies for commercial purposes is not a need of the federal government, especially when America has abundant supplies and a variety of choices for energy. Even if the nation or world were headed toward resource exhaustion, price signals and the private sector are much more efficient at determining where investments and innovation will occur.

Title IV: Miscellaneous Interventions

While Title IV contains a number of innocuous provisions that repeal or reform outdated U.S. laws, it also contains a number of provisions that amend existing laws but maintain the status quo of government intervention in energy markets. For example, the Act requires that borrowers for government-backed energy loan guarantees pay no less than 25 percent of the cost of the credit subsidy.[9] The credit subsidy is the "net present value of the difference between projected cash flows to and from the government over the life of the loan."[10] But the loan guarantee in and of itself is a generous subsidy. The only viable reform is for Congress to prohibit the Energy Department from administering any new loans and loan guarantees.

8. Senate Energy and Natural Resources Committee, "Policy Modernization Act of 2015 Section-by-Section," July 22, 2015, http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=99aec6e6-f5ab-432c-8e6f-936193c66558 (accessed July 30, 2015).
9. Senate Energy and Natural Resources Committee, "Policy Modernization Act of 2015 Section-by-Section."
10. U.S. Government Accountability Office, "DOE Loan Programs: Current Estimated Net Costs Include $2.2 Billion in Credit Subsidy, Plus Administrative Expenses,"April 2015, http://www.gao.gov/assets/670/669847.pdf (accessed October 19, 2015).

The legislation also expands the Advanced Technology Vehicles Manufacturing program to include the "reequipping, expanding, or establishing of a manufacturing facility" for vessels. The latest loan in the ATVM program went to Alcoa, a company with a market capitalization rate of $13.1 billion[11] with revenue of $24 billion.[12] Five companies have been awarded DOE loans, including two that the agency discontinued. The program's biggest black eye is Fisker Automotive, an electric vehicle company that received a $529 million loan in April 2010 but declared bankruptcy just three years later.[13] The Vehicle Production Group, which made handicap-accessible taxi cabs, has also gone under.[14] The two largest loans in the program went to well-established companies: Ford and Nissan. The government should not be expanding loan eligibility; it should be shutting these programs down.

Another senseless proposal is the "e-prize competition or challenge pilot program to implement sustainable community and regional energy solutions that seek to reduce energy costs through increased efficiency, conservation, or technology innovation in high-cost regions."[15] Competition to achieve this goal already exists in the marketplace itself. Any energy solution that captures a share of the market by providing a better product that increases efficiency and lowers costs will generate far more revenue from profits than from some government prize.

Title V: Perpetuation of the Massive Federal Estate

The federal government owns a lot of land, and much of it is poorly cared for. This bill merely throws more money at the problem.

The federal estate is massive, consisting of some 635 million acres. The effective footprint is even larger, as limitations on federal lands often impact the use of adjacent state and private lands, and as government agencies lock up lands through informal designations and study areas. America's largest land holder, the Department of the Interior (DOI), has a maintenance backlog of $13.5 billion to $20 billion for the land it already owns—a deficit leading to environmental degradation, soil erosion, gross amounts of littering, and land mismanagement.

The Energy Modernization Act proposes to create a new $150-million-per-year National Park Maintenance and Revitalization Fund, paid for with revenues from offshore drilling, to address the maintenance backlog. The bill would also permanently reauthorize the Land and Water Conservation Fund (LWCF) that was enacted in 1965 to take offshore energy development royalties and use them to buy private land and turn it into public parks.[16] This bill would specify that the funds collected could be used not only for land acquisition but also for hunting, fishing, and recreational purposes as well as conservation programs. The Act would also permanently reauthorize the Historic Preservation Fund (HPF) at $150 million a year; the fund administers preservation grants to state, territorial, tribal, and local governments, educational institutions, and nonprofits. Both the LWCF and the HPF are funded through offshore energy development royalties and are set to expire this fall.

The solution is not to throw more money at the problem by increasing budgets, but to transfer responsibility to state and local governments and private property owners. Eliminating the LWFC and the HPF will not create more environmental degradation; in fact, just the opposite. By devolving responsibility to those parties closest to the issue who can prioritize problems, solve them effectively, and properly weigh the needs and desires of local communities, the result will be better land use and environmental protection, enacted in ways that suit the needs of local populations—not tens of billions of dollars in maintenance backlogs. The state of California can protect MacArthur Park, and Pennsylvania can protect Gettysburg, both of which

11. Yahoo! Finance, Alcoa, Inc., http://finance.yahoo.com/q?s=AA (accessed July 30, 2015).
12. Alcoa, "Alcoa Reports Strong Fourth Quarter 2014 and Full-Year Results as Transformation Strengthens Profitability," January 12, 2015, http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20150112000252en&newsYear=2015 (accessed July 30, 2015).
13. United States Department of Energy, Loan Programs Office, Portfolio Projects, http://energy.gov/lpo/portfolio-projects (accessed July 30, 2015).
14. Angela Greleing Keane, "Fisker to Sell Assets in Bankruptcy at $139 Million Loss," Bloomberg, November 22, 2013, http://www.bloomberg.com/news/articles/2013-11-22/fisker-to-sell-assets-in-bankruptcy-at-139-million-loss (accessed July 30, 2015).
15. Senate Energy and Natural Resources Committee, "Policy Modernization Act of 2015 Section-by-Section."
16. Robert Gordon, "The Government Owns Over 623 Million Acres. Why Does It Need More?" The Daily Signal, December 5, 2014, http://dailysignal.com/2014/12/05/government-owns-623-million-acres-need/.

have received LWCF funds.[17] Congress should open access to more federal lands and waters to development and split the royalties 50/50 with the states. Doing so would promote energy development and economic activity while providing states with revenues to use how they choose.

What a Bipartisan Energy Policy Should Look Like

The Energy Policy Modernization Act of 2015 would be an extension of everything that is wrong with energy policy in the United States, because it continues the mindset of government intervention in the energy economy. Government intervention attempts to mandate efficiency, which the market can better achieve on its own; it restricts decision making by according special treatment to specific energy technologies and sources; and it maintains the federal government's massive control of land use and land protection.

Americans have become increasingly frustrated with a federal government that has been too keen to hand out favors to politically preferred energy technologies and fuels, whether by giving special treatment to renewables or by shirking its responsibility to manage nuclear waste as the law dictates. To increase energy production, create jobs, and grow the economy, Congress should pass the following reforms, which have enjoyed bipartisan support and which leave more decisions in the hands of Americans than in the hands of Washington politicians and bureaucrats:

1. **Approve the Keystone XL Pipeline.** The proposed 1,660-mile Keystone XL Pipeline would deliver up to 830,000 barrels of oil per day from Canada to the Gulf Coast, where U.S. refineries are already equipped to handle heavier crudes. The pipeline would efficiently provide supply from a secure source and a friendly and important trading partner and create thousands of construction jobs. America already has more than 500,000 miles of crude oil, petroleum, and natural gas pipelines and another 2 million miles of natural gas distribution pipelines. Furthermore, pipelines are the safest mode of transporting oil and gas in terms of accidents, injuries, and fatalities.[18] TransCanada has been waiting for approval for more than six years, despite the State Department having conducted multiple environmental reviews concluding that Keystone XL poses minimal environmental risk to soil, wetlands, water resources, vegetation, fish, and wildlife and that the impact on climate change would be minimal.[19]

It is hard to point to an issue before Congress with more bipartisan support than permit approval for the Keystone XL Pipeline. Strong bipartisan majorities in the House have voted seven times to approve the pipeline, and both the House and Senate passed a measure to approve the pipeline in December 2011 before the President denied the permit. Many Senators on both sides of the aisle have written letters to President Barack Obama urging him to approve the pipeline permit, including every Senate Republican and 11 Democrats in the 113th Congress.[20] As the letter from Senate Democrats explained, "This process has been exhaustive in its time, breadth, and scope [and] has already taken longer than anyone can reasonably justify."[21]

17. Land and Water Conservation Fund, "America's Most Important Conservation and Recreation Program Turns 50," http://lwcfcoalition.org/lwcf-50.html (accessed July 30, 2015).
18. Diana Furchtgott-Roth, "Pipelines Are Safest for Transportation of Oil and Gas," Manhattan Institute *Issue Brief* No. 23, June 2013, http://www.manhattan-institute.org/html/ib_23.htm (accessed October 23, 2015).
19. U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, "Final Supplemental Environmental Impact Statement for the Keystone XL Project: Executive Summary," January 2014, http://keystonepipeline-xl.state.gov/documents/organization/221135.pdf (accessed October 23, 2015).
20. John Hoeven et al., letter to President Barack Obama, September 18, 2014, http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=8a078f86-4f2c-47d7-95ea-b54d08a52cdc (accessed October 23, 2015), and Heidi Heitkamp et al., letter to President Barack Obama, April 10, 2014, http://www.heitkamp.senate.gov/public/_cache/files/99761437-79d3-4295-bf89-48ed3a07f563/4.10.14-kxl.potusltr-signed.pdf (accessed October 23, 2015).
21. Heitkamp et al., letter to President Barack Obama.

2. **Ensure funding for the licensing of the Yucca Mountain repository.** After six years, several court cases, and the urging of Members of Congress from both parties, the Nuclear Regulatory Commission (NRC) finally released Volume 3 of its Safety Evaluation Report. The report concluded that long-term storage of nuclear waste is both technically feasible and safe after the closure of the proposed Yucca Mountain repository site. The DOE originally applied to the NRC for a license to operate a deep geologic repository at Yucca Mountain because it "brings together the location, natural barriers, and design elements most likely to protect the health and safety of the public."[22] However, since 2010, the Obama Administration has worked around Congress to stop Yucca Mountain and divert resources to its own shortsighted interim storage plan.

   Congressional support dates back to 1987, when Congress first selected Yucca Mountain as the location for a national repository, a choice Congress overwhelmingly reaffirmed in 2002. From the start, many Members of Congress in both parties opposed President Obama's efforts to unilaterally stop Yucca Mountain.[23] Most recently, the House repeatedly rejected amendments to spending bills that would deny funding to Yucca Mountain, amassing more than 320 votes each time.[24]

   The NRC's conclusions put to rest any questions around Yucca Mountain's long-term safety and technical feasibility, allowing the nation to operate under the same agreed-upon facts about the project. The nation needs a permanent nuclear materials repository such as the Yucca Mountain facility, for which taxpayers and electricity ratepayers have already been paying. Congress should stay the course and see that the repository's licensing review is finished by the NRC.

3. **Extend master limited partnerships (MLP) to renewable energy production.** Under an MLP, businesses have the tax structure of a partnership or a limited liability company, but ownership equity trades publicly on a securities exchange. The partnership structure allows the business's owners to pay taxes on their individual tax returns while providing the flexibility and opportunity to raise capital from smaller investors directly from the stock market. In the energy sector, the ability to form MLPs is available for mineral extraction, natural gas, oil, pipelines, geothermal, and the transportation and storage of ethanol, biodiesel, and other alternative fuels.[25] Other renewable energy generation does not qualify. Several bipartisan bills in the House and Senate would offer renewable companies the access to capital that MLPs could provide. Both Democrat and Republican legislators have looked to MLP reform as a truly market-driven way to "level the playing field" for renewable energy companies without stimulus spending or government subsidies. Congress should allow all energy project investors to form MLPs, but energy-efficiency projects should not qualify.

4. **Remove limitations on energy exports.** Dramatic increases in domestic oil and natural gas production over the past several years have produced tremendous economic benefits for Americans. However, the federal government restricts opportunities by limiting the ability to export crude oil and natural gas. Crude oil exports have been banned since the 1970s except in rare circumstances.

   The oil and gas boom and Russia's annexation of Crimea in eastern Ukraine brought to the forefront the opportunity America has to dilute Russia's influence on European energy prices. It also

22. U.S. Department of Energy, "Recommendation by the Secretary of Energy Regarding the Suitability of the Yucca Mountain Site for a Repository Under the Nuclear Waste Policy Act of 1982," February 2002, p. 6, http://energy.gov/sites/prod/files/edg/media/Secretary_s_Recommendation_Report.pdf (accessed October 23, 2015).
23. Patty Murray et al., letter to U.S. Secretary of Energy Stephen Chu, July 6, 2010, http://www.murray.senate.gov/public/_cache/files/f849572d-f3eb-44f2-931d-3a0129eb32d5/yucca-letter.pdf (accessed October 23, 2015).
24. GovTrack, "H. Amdt. 1010 (Titus) to H.R. 4923: Amendment Sought to Strike Section 506 from the Bill which Prohibits DOE from Closing Yucca Mountain," July 10, 2014, https://www.govtrack.us/congress/votes/113-2014/h386 (accessed October 23, 2015), and H.AMDT.265, 113th Cong., 2nd Sess., http://thomas.loc.gov/cgi-bin/bdquery/z?d113:hz265: (accessed October 23, 2015).
25. 26 U.S. Code § 7704, "Certain publicly traded partnerships treated as corporations," https://www.law.cornell.edu/uscode/text/26/7704 (accessed August 5, 2015).

increased bipartisan support for liberalizing export restrictions. Democratic senators from traditionally blue states such as Oregon, Louisiana, and Maryland have emphasized the economic growth that increased LNG exports would provide, and the House passed a bill this summer with support from both parties to expedite DOE review once environmental studies of a project are complete. Similarly, there has been bipartisan support to liberalize crude oil exports. Authorizing one of the few exceptions to the ban—exports out of the Alaska North Slope—President Clinton said, "Permitting this oil to move freely in international commerce will contribute to economic growth, reduce dependence on imported oil, and create new jobs for American workers."[26] Oil from other parts of the U.S. should be no different.[27]

Congress should treat energy like any other regularly traded good or service and end both the crude oil export ban and the DOE's role in the decision-making process for LNG exports. Americans would benefit from a more efficient global oil market through lower prices, increased economic activity, and more open energy markets. Fewer restrictions on energy markets would foster innovation as companies face more competition and meet challenges to retain or expand their market share. The result would be more ingenuity in the energy markets, higher-quality products at competitive prices, and an improving standard of living.

5. **Repeal the Renewable Fuel Standard (RFS).** The Renewable Fuel Standard mandates require refiners to blend billions of gallons of ethanol into fuel each year. Most of the ethanol comes from corn. This artificially raises the cost for drivers because ethanol is less efficient and has proven harmful to smaller engines.[28] Additionally, the mandate drives up food prices, not just for American families, but also around the world because corn is a staple food in many countries as well as a staple feed for livestock.[29] As a result, many food associations and anti-hunger organizations oppose the mandate. Although environmental organizations initially supported the mandate to reduce oil use and greenhouse gas emissions, many now argue that the ethanol mandate is poor environmental policy. Further, the program has increasingly proven to be unworkable as the Environmental Protection Agency has been unable to set annual standards that attempt to balance the market's ability to produce biofuels with demand.

Many Republicans have rejected the RFS—a product of a Republican Congress in 2007—as bad policy. The 2012 drought cracked support for the ethanol mandate, and more members of Congress have supported varying degrees of exemptions, reducing the standard, or an outright repeal. Legislation to eliminate the mandate sits in both the House and Senate, and Members of Congress from both parties have called for its repeal. Senator John Barrasso (R–WY) has called the mandate "fundamentally broken and beyond repair," and Representative Peter Welch (D–VT) has argued for the need to "push the pause button so that Congress can reevaluate this misguided policy before more harm is done."[30] The reality is that if ethanol and advanced biofuels were economically viable alternative forms of transportation fuel, the federal government would not need to mandate their production and use.

26. U.S. Senate, Committee on Energy and Natural Resources, "Sen. Murkowski Applauds First Alaska Crude Oil Exports in 10 Years," September 29, 2014, http://www.energy.senate.gov/public/index.cfm/2014/9/sen-murkowski-applauds-first-alaska-crude-oil-exports-in-10-years (accessed October 23, 2015).
27. Nicolas D. Loris, "Time to Lift the Ban on Crude Oil Exports," Heritage Foundation *Backgrounder* No. 2910, May 15, 2014, http://www.heritage.org/research/reports/2014/05/time-to-lift-the-ban-on-crude-oil-exports.
28. Ed Perratore, "Gas with Ethanol Can Make Small Engines Fail," *Consumer Reports*, March 22, 2013, http://www.consumerreports.org/cro/news/2013/03/gas-with-ethanol-can-make-small-engines-fail/index.htm (accessed October 23, 2015).
29. David W. Kreutzer, "Renewable Fuel Standard, Ethanol Use, and Corn Prices," Heritage Foundation *Backgrounder* No. 2727, September 17, 2012, http://www.heritage.org/research/reports/2012/09/the-renewable-fuel-standard-ethanol-use-and-corn-prices.
30. News release, "Barrasso, Pryor, Toomey Bipartisan Bill Repeals Renewable Fuel Standard," Office of Senator John Barrasso (R-WY), June 20, 2013, http://www.barrasso.senate.gov/public/index.cfm/news-releases?ID=62b6454c-fa15-c3dc-d2e2-85e0caac0c5e (accessed October 23, 2015), and news release, "169 Bipartisan Members Urge EPA to Lower Renewable Fuel Standard," Office of Representative Bob Goodlatte (R-VA), October 31, 2013, http://goodlatte.house.gov/press_releases/467 (accessed October 23, 2015).

6. **Reform DOE laboratories.** For far too long, the DOE has attempted to use taxpayer money to drive technologies all the way to the market, crippling the role of entrepreneurs and wasting billions of taxpayer dollars in the process. When the government attempts to drive technological commercialization, it circumvents the competitive process that properly assigns risk and reward in an open market. By pulling capital out of the private sector to finance government-supported projects, this intervention also creates a dependency on the taxpayer that can hinder innovation over the long term. Bipartisan support to reform the national labs emerged in the wake of failed stimulus spending to push renewable technologies to market and with the growing pressure to cut budgets. According to Senator Marco Rubio (R–FL), "[O]ur national labs need the ability to partner more easily with the small businesses that make up the backbone of the American free enterprise system," and Representative Derek Kilmer (D–WA) has advocated for "the tools and the freedom to widen the impact of [the labs'] great discoveries."[31]

   A more appropriate and productive role for the DOE is to conduct the basic research to meet government needs that the private sector would not undertake and to allow the private sector, using private funds, to tap into that research and commercialize it when there is an attractive opportunity to do so. Such a system would also allow workers at the federal labs, when appropriate and without violating conflict-of-interest rules, to push research into the marketplace if they see an opportunity. To that end, the House easily passed the Department of Energy Laboratory Modernization and Technology Transfer Act of 2014 (H.R. 5120) to increase flexibility and private-sector access to the national labs. A companion piece, America Implementing New National Opportunities to Vigorously Accelerate Technology, Energy, and Science (INNOVATES) Act (S. 1973), has been introduced in the Senate.

While certainly not all-encompassing, these six energy policies would drive energy production, job creation, and economic growth.

Government Should Not Play Puppet Master with the Energy Economy

The Energy Modernization Act of 2015 preserves the same tired thinking in Washington that the market works like baking a cake: Sprinkle a few government programs here, mix in some taxpayer-provided incentives there, and add handouts for job-training programs, and a viable new product that generates wealth and opportunity should result. And politicians get to say, "*We* built that," which certainly doesn't hurt at election time. Not only is this not the role of government, it backfires by wasting taxpayer money, trapping labor and capital in unproductive places, and ultimately driving up prices. The entire line of thinking that underpins such legislation is based on a misunderstanding of what drives growth and prosperity. Congress should be eliminating and sunsetting these programs for good, not attempting to revamp, retool, and extend them.

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31. New release, "Kilmer, Hultgren Praise Bipartisan Passage of National Labs Bill," Office of Representative Derek Kilmer (D–WA), June 22, 2014, http://kilmer.house.gov/media-center/press-releases/kilmer-hultgren-praise-bipartisan-passage-of-national-labs-bill (accessed October 23, 2015), and news release, "Senators Coons and Rubio Introduce Bill to Modernize Aspects of National Lab System," Office of Senator Christopher Coons (D–DE), January 29, 2014, http://www.coons.senate.gov/newsroom/releases/release/senators-coons-and-rubio-introduce-bill-to-modernize-aspects-of-national-lab-system (October 23, 2015).