

# KIRKLAND & ELLIS

Blog Post

## New Bipartisan Energy Bill Set for Consideration by Senate

02 March 2020

*Update: The Senate voted to proceed the Proposed AEI Act outlined below on March 4, and Senators Murkowski and Manchin led a modified substitute amendment on March 6. For a more in-depth analysis of the Proposed AEI Act, including the modified substitute amendments, see our [Kirkland Alert](#).*

On February 27, 2020, Senator Lisa Murkowski (R-AK), chairman of the Senate Committee on Energy and Natural Resources, and ranking member Senator Joe Manchin (D-WV) introduced a bipartisan energy bill, the American Energy Innovation Act of 2020 (the “Proposed AEI Act”). The Proposed AEI Act is a compilation of various energy initiatives set forth in more than 50 standalone bills reported out of the Senate Committee on Energy and Natural Resources in 2019 and may go before the full Senate for consideration this week.

The bill is divided into two main titles: Innovation and Supply Chain Security. There is also a third title, Code Maintenance, which, among other things, repeals a number of outdated studies and reports.

### Title I — Innovation

Title I, Innovation, focuses on a range of topics including energy efficiency measures; renewable energy and nuclear sources; energy storage; carbon capture, sequestration, and utilization; and LNG exports. Notable features of Title I include:

- **Incentivizes Certain Renewable Energy Sources.** Subtitle B of Title I aims to promote research and development of marine and hydrokinetic, wind, and solar renewable energy technologies and extends incentives for hydroelectric power facilities that make capital improvements to increase efficiency. In addition, Subtitle

B supports expansion of geothermal energy systems by, among other things, directing the Departments of Interior, Energy, and Agriculture to establish national goals for geothermal development.

- **Promotes Development of Energy Storage.** Subtitle C of Title I aims to advance the research and development of advanced energy storage technologies to facilitate the expansion of renewables and stabilize the electric grid. It directs the Federal Energy Regulatory Commission (FERC) to issue regulations to allow energy storage resources used for interstate transmission to recover costs through FERC-regulated rates, and to receive compensation for other services, such as the sale of energy, capacity, and ancillary services, subject to a prohibition against “unjust and unreasonable double recovery” of costs. Subtitle C also promotes assistance for rural electric cooperatives and municipal utilities in planning and developing processes to procure energy storage systems.
- **Seeks to Reduce GHG Emissions Primarily Through Carbon Capture, Utilization, and Storage.** Subtitle D of Title I aims to reduce greenhouse gas (GHG) emissions. It directs the Department of Energy to establish a program to improve the efficiency, effectiveness, and performance of coal and natural gas-fired electric generation facilities. In addition, Subtitle D promotes novel research and development programs to reduce GHG emissions, such as a large-scale carbon sequestration demonstration program, assessing novel uses for carbon, identifying carbon capture technologies for industrial systems, researching technologies to remove carbon dioxide from the atmosphere on a large scale, and identifying alternative uses for coal. Notably, the Proposed AEI Act appropriates more money to carbon capture, utilization, and storage programs than it appropriates to renewables, energy storage, and nuclear programs combined.
- **Improves Access to Export Markets for Small Volumes of LNG.** Subtitle H of Title I amends the Natural Gas Act to expedite Department of Energy approval of applications by determining that export volumes up to 51.75 billion cubic feet per year to any country are consistent with the public interest. This provision would not, however, apply to any nation subject to U.S. sanctions.

## Title II — Supply Chain Security

Title II, Supply Chain Security, focuses on a range of topics including mineral security, cybersecurity, grid security, grid modernization, and workforce development. Notable features of Title II include:

- **Seeks to Improve Cybersecurity and Grid Security.** Subtitle B, Part I, of Title II aims to improve cybersecurity and grid security. It directs FERC to establish

incentive-based rate treatments for the transmission and wholesale sale of electric energy in interstate commerce to encourage (1) investments by public utilities in advanced cybersecurity technology and (2) participation by public utilities in cybersecurity threat sharing programs. Subtitle B, Part I also seeks to enhance grid security – including cybersecurity, physical security, resilience and “cyberresilience” – through, among other things, more advanced risk assessments and increased coordination among various public and private sector entities.

- **Promotes Grid Modernization.** Subtitle B, Part II, of Title II contains provisions designed to promote grid modernization, one of which addresses microgrid and hybrid microgrid systems. The Department of Energy is required to establish a program to promote the development of: hybrid microgrid systems for isolated communities not connected to a regional electric grid (particularly those exposed to extreme weather conditions and high energy costs) and microgrid systems to increase the resilience of critical infrastructure.

## Key Takeaways

The Proposed AEI Act does not represent groundbreaking energy reform or comprehensive climate legislation – but is designed to keep energy affordable, take a “technology-neutral” approach to energy efficiency and a range of technologies, and strengthen national security and competitiveness. Due to the Proposed AEI Act’s incorporation of positions that have enjoyed bipartisan support previously, it is possible that discrete aspects of the bill could eventually pass both houses of Congress. Please follow this blog for updates on developments with respect to this proposed legislation, or see our recent [Kirkland Alert](#) for a more comprehensive analysis of the Proposed AEI Act.

---

[Read more insights on Kirkland's Energy & Infrastructure blog.](#)

## Authors

[Brooksany Barrowes](#)

Partner / [Washington, D.C.](#)

[Tyler Burgess](#)

Associate / [Washington, D.C.](#)

[Alexandra N. Farmer](#)

Partner / [Houston](#) / [Washington, D.C.](#)

Robert S. Fleishman

Partner / [Washington, D.C.](#)

[Nicholas Gladd](#)

Of Counsel / [Washington, D.C.](#)

[Ammaar Joya](#)

Associate / [Washington, D.C.](#)

[Jennie Morawetz](#)

Associate / [Washington, D.C.](#)

## Related Services

### Practices

- [Transactional](#)
- [Energy & Infrastructure](#)
- [Environmental](#)

This publication is distributed with the understanding that the author, publisher and distributor of this publication and/or any linked publication are not rendering legal, accounting, or other professional advice or opinions on specific facts or matters and,

accordingly, assume no liability whatsoever in connection with its use. Pursuant to applicable rules of professional conduct, portions of this publication may constitute Attorney Advertising.

This publication may cite to published materials from third parties that have already been placed on the public record. The citation to such previously published material, including by use of "hyperlinks," is not, in any way, an endorsement or adoption of these third-party statements by Kirkland & Ellis LLP.