



S. 1—Keystone XL Pipeline Approval Act (Sen. Hoeven, R-ND)

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FLOOR SCHEDULE: FEBRUARY 11, 2015 SUBJECT TO A [CLOSED RULE](#) THAT PROVIDES ONE HOUR OF DEBATE.

TOPLINE SUMMARY: [S. 1](#) would approve [TransCanada's application](#) to construct the Keystone XL pipeline. The bill would authorize TransCanada to construct, connect, operate, and maintain the pipeline and cross-border facilities described in the application to the Department of State, including any subsequent revision to the pipeline route within the State of Nebraska.

CONSERVATIVE CONCERNS: There are no major substantive concerns.

- **Expand the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: S. 1 would authorize TransCanada to construct, connect, operate, and maintain the pipeline and cross-border facilities described in the application to the Department of State, including any subsequent revision to the pipeline route within the State of Nebraska. The bill would deem that the Final Supplemental Environmental Impact Statement shall be considered to fully satisfy:

- All requirements of the [National Environmental Policy Act of 1969](#); and
- Any other provision of law that requires Federal agency consultation or review.

The bill allows for any federal permit or authorization issued before the date of enactment of the bill for the pipeline and cross-border facilities to remain in effect.

Except in cases subject to Supreme Court review, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any civil action for the review of a federal agency's order or action regarding the pipeline and cross-border facilities. The bill would not alter any federal, state, or local process that is necessary to secure access from an owner of private property to construct the pipeline and

COST: The Congressional Budget Office (CBO) estimates that S. 1 (as introduced in the Senate) would have no significant effect on federal spending for regulatory activities related to the proposed pipeline.

The Keystone XL Pipeline Approval Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO estimate for S. 1 as ordered reported by the Senate Committee on Energy and Natural Resources can be found [here](#). A CBO estimate for the amended Senate passed version of the bill is unavailable.

cross-border facilities. Land or an interest in land for the pipeline and cross-border facilities may only be acquired consistently with the Constitution.

Section 3 would direct the Department of Energy's [Office of Energy Efficiency and Renewable Energy](#) to coordinate and disseminate information on existing federal programs and assistance regarding energy efficiency. The Secretary of Energy is required:

- review of existing programs and financing mechanisms (including revolving loan funds and loan guarantees) available in or from appropriate federal agencies with jurisdiction over energy financing and facilitation;
- establish a federal cross-departmental coordination, education, and outreach effort to streamline communication and promote available federal opportunities and assistance for energy efficiency, renewable energy, and energy retrofitting projects for states, local educational agencies, and schools;
- provide technical assistance for states, local educational agencies, and schools to help develop and finance energy efficiency, renewable energy, and energy retrofitting projects;
- develop and maintain a single online resource website with contact information for relevant technical assistance and support staff in the Office of Energy Efficiency and Renewable Energy for States, local educational agencies, and schools to effectively access and use federal opportunities and assistance to develop energy efficient projects; and
- establish a process for recognition of schools that have successfully implemented such projects and are willing to serve as resources for other local educational agencies and schools to assist similar efforts.

Section 4 would declare that nothing in the bill relieves the United States of its responsibility to consult with Indian nations as required under [Executive Order 13175](#).

Section 5 would express the sense of the Senate that climate change is real and not a hoax.

Section 6 would express the sense of the Senate that Congress should approve a bill to ensure that all forms of bitumen or synthetic crude oil derived from bitumen are subject to the per-barrel excise tax associated with the [Oil Spill Liability Trust Fund](#). Under current law, all forms of bitumen and its derivatives are not subject to the tax.

Division B Energy Efficiency Improvement Act of 2015 (Senate Amendment 3 sponsored by Sen. Portman):

Division B would reflect language contained in [H.R. 2126](#), which passed the House in the 113th Congress on March 5, 2014 by a roll-call vote of [375 – 36](#). A House Energy and Commerce Committee fact sheet on H.R. 2126 can be found [here](#). The RSC's legislative bulletin for H.R. 2126 can be found [here](#).

Section 102 would require the Administrator of General Services Administration (GSA), in consultation with the Secretary of Energy, to develop model commercial leasing provisions and best practices to encourage building owners and tenants to collaborate on cost-effective energy and water efficiency measures, and to use the model commercial leasing provisions in any standard leasing document that designates a federal agency as a landlord or tenant. Furthermore, this section would require the GSA administrator to implement cost-effective energy and water efficiency measures for the realty services, and to make available such measures to state and local governments for use in managing owned and leased building space.

Section 103 would amend the [Energy Independence and Security Act of 2007](#) to require the Office of Energy Efficiency and Renewable Energy to study the feasibility of significantly improving energy efficiency in commercial buildings through (1) the design and construction of separate spaces with high-performance energy efficiency measures; and (2) encouraging owners and tenants to implement high-performance energy efficiency

measures in separate spaces. The Secretary of Energy is mandated to publish the study on the Department of Energy's website.

Section 104 would require the Administrator of the Environmental Protection Agency (EPA) (1) to develop a voluntary Tenant Star program within the [Energy Star program](#) to promote energy efficiency in separate spaces leased by tenants; and (2) to collect data on categories of building occupancy that are known to consume significant quantities of energy.

This section also would require the Administrator of the Energy Information Administration (EIA) (1) to collect data on categories of building occupancy that are known to consume significant quantities of energy and other factors relevant to lowering energy consumption.

Section 201 would provide additional energy conservation standards applicable to grid-enabled water heaters used as part of an electric thermal storage or demand response program (a program that enables customers to reduce or shift their power use during peak demand periods). The standards would apply to their manufacturers and to their operators. The section would also require the Secretary of Energy to (1) assess the extent to which shipped products are put into use in demand response and thermal storage programs; and (2) to establish procedures to prevent product diversion if sales of the products exceed by at least 15 percent the quantity activated for use in the demand response and thermal storage programs annually. The Secretary of Energy, with respect to electric water heaters, is required to consider the impact on thermal storage and demand response programs, including any impact on energy savings, electric bills, peak load reduction, electric reliability, integration of renewable resources, and the environment. The water heaters are also required to be equipped with communication capability to enable the grid-enabled water heaters to participate in ancillary services programs if the technology is available, practical, and cost-effective. The section would prohibit any person from:

- activating an activation lock for a grid-enabled water heater with knowledge that it is not used as part of such program;
- distributing an activation key for a grid-enabled water heater with knowledge that such activation key will be used to activate a grid-enabled water heater that is not used as part of an electric thermal storage or demand response program;
- enabling such water heater to operate at its designed specification and capabilities with knowledge that it is not used as part of the program; or
- knowingly removing or rendering illegible the water heater's label.

Section 301 would amend the Energy Independence and Security Act of 2007 by revising exceptions to federal agency requirements that space be leased in buildings that have earned the Energy Star label. The section would require the Secretary of Energy in collaboration with the EPA to complete a study on the impact of state and local performance benchmarking and disclosure policies, and any associated building efficiency policies, for commercial and multifamily buildings. The Department of Energy is additionally required to maintain, and if necessary create, a database for the purpose of storing and making available public energy-related information on commercial and multifamily buildings.

A list of the bill's cosponsors can be found [here](#). A list of letters in support of S. 1, including from [Americans for Prosperity](#) and [Frontiers of Freedom](#), can be found [here](#). A similar bill ([H.R. 3](#)) was introduced in the House and passed by the yeas and nays ([266 - 153, 1 Present](#)). The RSC's legislative bulletin for H.R. 3 can be found [here](#).

COMMITTEE ACTION: This bill was introduced in the Senate on January 6, 2015 and was passed with amendments by Yea-Nay Vote ([62 – 36](#)) on January 29, 2015.

ADMINISTRATION POSITION: No statement of administration position is available at this time.

CONSTITUTIONAL AUTHORITY: Senate rules do not require the inclusion of a constitutional authority statement.

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