II

118TH CONGRESS
1ST SESSION

S. 2826

To prevent energy poverty and ensure that at-risk communities have access to affordable energy.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2023

Mr. SULLIVAN (for himself and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To prevent energy poverty and ensure that at-risk communities have access to affordable energy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Poverty Prevention and Accountability Act of 2023''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) all people in the United States should have equal access to affordable and reliable energy to maintain personal health and economic security;

(2) the United States should mitigate the disparate impact of increases in the cost of energy on at-risk communities because those communities are more likely to have a fixed income and spend a higher percentage of their income on energy compared to the general population; and

(3) to prevent energy poverty and ensure that each at-risk community has access to affordable energy, the United States should ensure that Federal policies will not increase the cost of energy for any at-risk community.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the meaning given the term in section 551 of title 5, United States Code.

(2) AGENCY ACTION.—The term "agency action" has the meaning given the term in section 551 of title 5, United States Code.

(3) APPLICABLE ENERGY RULE.—The term "applicable energy rule" means any energy rule that—

(A) has an annual effect on the economy of not less than $50,000,000;

(B) results in a major increase in costs or prices for any consumer, industry, agency, or geographic region; or

(C) has a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of an enterprise based in the United States to compete with a foreign-based enterprise in a domestic or international market.

(4) AT-RISK COMMUNITY.—The term ''at-risk community'' means—

(A) a low-income community;

(B) a minority community;

(C) a rural community;

(D) an elderly community; and

(E) an American Indian, Alaska Native, or Native Hawaiian community.

(5) ELDERLY COMMUNITY.—The term ''elderly community'' means a census tract in which the majority of the population consists of elderly persons (as defined in section 891.205 of title 24, Code of Federal Regulations (as in effect on the date of enactment of this Act)).

(6) ENERGY POVERTY.—The term ''energy poverty'' means a condition in which individuals do not

have access to affordable and reliable energy to maintain economic security.

(7) ENERGY RULE.—

(A) IN GENERAL.—The term ''energy rule'' means a rule (as defined in section 551 of title 5, United States Code) promulgated by—

(i) the Administrator of the Environmental Protection Agency;

(ii) the Secretary of the Interior;

(iii) the Secretary of Energy; and

(iv) any other agency the actions of which may affect energy poverty in an at-risk community.

(B) INCLUSIONS.—The term ''energy rule'' includes any rule described in subparagraph (A) that may result in a change to—

(i) electricity prices;

(ii) home heating prices;

(iii) gasoline prices;

(iv) motor vehicle prices;

(v) natural gas prices; or

(vi) household appliance prices.

(8) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means—

(i) National Forest System land;

(ii) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(iii) the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)); and

(iv) land managed by the Department of Energy.

(B) INCLUSION.—The term "Federal land" includes land described in subparagraph (A) for which the rights to the surface estate or subsurface estate are owned by a non-Federal entity.

(9) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(10) LOW-INCOME COMMUNITY.—The term "low-income community" has the meaning given the term in section 45D(e)(1) of the Internal Revenue Code of 1986.

(11) MINORITY COMMUNITY.—The term "minority community" means a census tract in which

the majority of the population consists of minority (as defined in section 104A(a) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703a(a))) individuals.

(12) RURAL COMMUNITY.—The term ''rural community'' means a community that is located in an area that is outside of an urbanized area (as defined in section 5302 of title 49, United States Code).

(13) STATE RENEWABLE PORTFOLIO STANDARD.—The term ''State renewable portfolio standard'' means any State regulation that is designed to increase the use of renewable energy sources, including wind, solar, geothermal, and biomass, to generate electricity.

(14) TRIBAL LAND.—The term ''Tribal land'' has the meaning given the term ''Indian land'' in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501).

SEC. 4. REPORTS ON ACCESS TO RELIABLE AND AFFORDABLE ENERGY.

(a) COMPTROLLER GENERAL.—The Comptroller General of the United States, in consultation with each relevant agency, shall—

(1) conduct an analysis of Federal energy laws, energy rules, and State renewable portfolio standards to determine how those laws, rules, and standards affected at-risk communities during the preceding fiscal year;

(2) identify barriers to the ability of at-risk communities that live on or near Federal land or Tribal land to access reliable and affordable energy, including the manner in which the presence of adequate energy transmission infrastructure affects that access; and

(3) develop criteria to determine whether an at-risk community is experiencing energy poverty.

(b) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall review each applicable energy rule to determine if the applicable energy rule imposes disproportionate costs on at-risk communities relative to the general population.

(c) JOINT REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States and the Director of the Office of Management and Budget shall jointly submit to Congress a report that—

(1) describes the analysis conducted under subsection (a)(1) and the barriers identified under subsection (a)(2);

(2) identifies the at-risk communities that are experiencing energy poverty, by location and type; and

(3) provides recommendations on—

(A) how to reduce energy poverty in at-risk communities; and

(B) actions each applicable agency may take to reduce the barriers described in subsection (a)(2), including by—

(i) establishing lower fees or lowering other costs;

(ii) improving the approval process for rights-of-way on Federal land and Tribal land;

(iii) encouraging private energy sector investment in Federal land and Tribal land; and

(iv) rapidly developing electric transmission and delivery systems in remote areas.

SEC. 5. EXECUTIVE ACTION SUPPORTING AT-RISK COMMUNITIES.

(a) CONGRESSIONAL BUDGET OFFICE ESTIMATES FOR EFFECTS ON ENERGY PRICES.—For purposes of section 402 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 653), the Director of the Congressional Budget Office shall include, for any bill or resolution that may result in an agency action affecting energy poverty, including the proposal of an energy rule, an estimate of how the bill or resolution will affect the cost of energy for at-risk communities.

(b) ENERGY POVERTY STUDY REQUIRED FOR CERTAIN EXECUTIVE ACTIVITIES.—

(1) DEFINITIONS.—In this subsection:

(A) ACTIVITY.—The term ‘‘activity’’ means—

(i) a declaration of a moratorium on the leasing of Federal land for the drilling, mining, or collection of oil, gas, or coal, or related activities unless such moratorium is authorized by Federal statute; and

(ii) an action, including non-action with respect to an action directed to be carried out by statute or regulation, that would prohibit or substantially delay, with respect to Federal land—

(I) the issuance of—

(aa) new oil and gas lease sales, oil and gas leases, drill permits, or associated approvals, or authorizations of any kind associated with oil and gas leases;

(bb) new coal leases (including leases by application in process, renewals, modifications, or expansions of existing leases), permits, approvals, or authorizations; or

(cc) new mineral patents, leases, claims, permits, approvals, or authorizations; or

(II) a withdrawal of Federal land from—

(aa) forms of entry, appropriation, or disposal under the public land laws;

(bb) location, entry, and patent under the mining laws; or

(cc) disposition under laws pertaining to mineral and geothermal leasing or mineral materials.

(B) DESIGNEE OF THE PRESIDENT.—The term ‘‘designee of the President’’ means—

(i) the Secretary of Agriculture;

(ii) the Secretary of Energy;

(iii) the Secretary of the Interior; and

(iv) the Administrator of the Environmental Protection Agency.

(C) MINERAL.—The term ‘‘mineral’’ means any mineral subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the ‘‘Mining Law of 1872’’) (30 U.S.C. 22 et seq.), and minerals located on lands acquired by the United States (as defined in section 2 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351)).

(2) ACTIVITY TO BE CARRIED OUT.—Notwithstanding any other provision of law, the President, or a designee of the President, may carry out an activity only if the Secretary of the Interior has fulfilled the activity requirements described in paragraph (3) for that activity.

(3) ACTIVITY REQUIREMENTS.—For each activity under paragraph (2), the Secretary of the Interior shall—

(A) conduct a study to determine if the activity, relative to the general population, is likely to—

(i) impose disproportionate costs on at-risk communities; or

(ii) increase the likelihood that at-risk communities will experience energy poverty and job losses;

(B) publish the study on a public website of the Department of the Interior; and

(C) submit to Congress a report on the study that describes the study findings in subparagraph (A)(i) and (ii).

(4) ENERGY POVERTY STUDY.—

(A) IN GENERAL.—On request by an entity described in subparagraph (B), a lead Federal department or agency responsible for leasing or permitting an energy or mineral development project, pipeline project, or transmission project on Federal land, in consultation with another Federal department or agency with jurisdiction over that project, shall conduct a study relating to how the project is likely to alleviate energy poverty in at-risk communities, including by—

(i) creating jobs;

(ii) reducing energy prices; and

(iii) other relevant measures as determined by the lead Federal department or agency, or the entity requesting the study.

(B) STUDY REQUEST.—An entity sponsoring an energy or mineral project, pipeline project, or transmission project on Federal land, may request a study for that project under subparagraph (A).

(5) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The lead Federal department or agency, with respect to a project to be studied under paragraph (4)(A), may not begin the study until the lead Federal department or agency has entered into a memorandum of understanding with the entity that requested the study.

(B) REQUIREMENTS.—A memorandum of understanding entered into under this paragraph shall include—

(i) an agreement regarding a neutral third party to conduct the study;

(ii) a determination of which entity, with the consent of that entity, will bear the cost of the study, which may include stakeholders other than the requestor; and

(iii) such other aspects of the study that the lead Federal department or agency and the entity that requested the study consider appropriate.

(c) ENERGY POVERTY STATEMENT.—

(1) IN GENERAL.—Beginning 30 days after the date on which the Director of the Office of Management and Budget issues guidance under section 6, an agency promulgating any energy rule, including any interpretative rule, general statements of policy, or guidance documents relating to an energy rule, shall include an energy poverty statement described in paragraph (2).

(2) ENERGY POVERTY STATEMENT.—An energy poverty statement referred to in paragraph (1) shall—

(A) be displayed prominently on the first page of the rule or guidance; and

(B) state that the applicable agency certifies that the rule or guidance will not result in energy poverty in at-risk communities.

SEC. 6. OMB IMPLEMENTATION GUIDANCE.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall issue guidance to implement this Act.

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