

Energy, Environment, and a Refocus on Climate Change

By: [Ed Cox](#), [Gabe Rozsa](#), and [Stefan Bailey](#)

Like many policies in Congress, a major factor impacting the scope and direction of legislation on energy or the environment will be changes in leadership on the relevant congressional committees. Rep. Frank Pallone (D-NJ), slated to become Chairman of the House Energy & Commerce Committee, has championed federal investment in advancing renewable energy technologies, and has supported efforts to enable offshore wind development. His counterpart in the House will continue to be Rep. Greg Walden (R-OR), current Chairman of the Committee. In addition, House Democrats will gain between 8-10 new seats on the Committee; the ideological profile of these incoming members will have a strong influence on the Committee's legislative and oversight priorities.

On the Natural Resources Committee, Raúl Grijalva (D-AZ) takes the gavel from Rob Bishop (R-UT) who will stay on as Ranking Member. These two members could not be much further apart politically, but they seem to have a collegial working relationship. Much of the Committee's focus is likely to be on oversight of the Administration's policies affecting federal lands or species and habitat protection.

Of added interest is speculation about the re-establishment of a special select committee on climate policy. Soon to be Rep. Speaker Nancy Pelosi has suggested she would like to reestablish the Special Select Committee on Energy Independence and Climate Change formerly chaired by Rep. Ed Markey (D-MA) while environmental advocates, including Representative-elect Alexandria Ocasio-Cortez (D-NY), are pushing for a new Committee to focus on a broad legislative agenda that they refer to as the "Green New Deal." With pushback from the senior Democratic leadership of the current committees with substantive jurisdiction, it is not likely that any new committee would be given significant legislative authority but could provide additional opportunities to shine a light on the issues of climate change.

In the Senate the situation is a bit more uncertain. The election has brought about a game of musical chairs for the position of Ranking Member on the Energy & Natural Resources Committee, where Sen. Joe Manchin (D-WV) is a likely replacement for current Ranking Member Maria Cantwell (D-WA; slated to become the top Democrat on the Senate Commerce Committee). Manchin hails from an energy-producing state and is a vigorous advocate for West Virginia's coal industry, a position contrary to much of the Senate Democratic Caucus. A dealmaker at heart, Sen. Manchin will be looking for opportunities to cobble together a coalition on energy-related legislation.

NAMES TO KNOW IN ENERGY & ENVIRONMENT

House



Frank Pallone
Chairman, Energy & Commerce Committee



Greg Walden
Ranking Member, Energy & Commerce Committee



Raúl Grijalva
Chairman, Natural Resources Committee



Rob Bishop
Ranking Member, Natural Resources Committee



TBD
Chairman, Special Select Committee on Energy Independence & Climate Change



TBD
Ranking Member, Special Select Committee on Energy Independence & Climate Change

Energy Policy

Potential for the Revival of the Elusive “Comprehensive” Energy Package

In the 114th Congress, the House and Senate, in dramatic fashion, failed to move a major energy-themed legislative package. This was despite significant and repeated attempts in conference over the course of several months. It was largely due to a failure to find compromise regarding controversial public-lands related conflicts between both the House Natural Resources Committee and the Senate Energy and Natural Resources Committee leaderships, with many of the issues driven by Republican House Members from western states.

During the 115th Congress, little changed between both the makeup of the committees responsible for negotiating an energy package as well as the policy disagreements that kept them from a final agreement on the inclusion of certain land provisions within the language. As a consequence, there was little effort to revisit the legislation over the last two years.

NAMES TO KNOW IN ENERGY &
ENVIRONMENT

Senate

			
TBD	Tom Carper	Lisa Murkowski	John Barrasso
<i>Ranking Member, Energy and Natural Resources Committee</i>	<i>Ranking Member, Environment & Public Works Committee</i>	<i>Chairwoman, Energy and Natural Resources Committee</i>	<i>Chairman, Environment & Public Works Committee</i>

However, the 116th Congress will be significantly different with a Democratic majority in control of the key committees and leadership. While divided government typically creates additional challenges for the passage of large pieces of legislation, it is anticipated that the new House majority and its newly Democratically led Natural Resources and Energy and Commerce Committees will be far more likely to find common ground with the more moderate Senate-passed version of the energy bill, which largely emphasized conservation and efficiency and avoided the more controversial public lands issues. While an energy bill to be

drafted by Democrats in the House is likely to better align with previous Senate proposals, the challenge may be to avoid poison pill amendments in the House – like those related to climate or a rebuke of Trump Administration lands policies – both of which will make the bill extremely difficult, if not impossible to pass in the Senate.

However, we believe the chances of passing energy efficiency and conservation legislation will be enhanced in part by a desire from both Republican and Democratic leaders to find common ground where possible and pass legislative items that demonstrate their ability to once again legislate on matters of significance.

Environmental Legislation

Climate change will be a major focus of Democrats and with control of the House, they will again hold hearings and likely pursue legislation to address what they perceive to be a serious threat to the global environment. Whether any kind of serious legislative action can be fashioned is not clear and will likely depend on if Speaker Nancy Pelosi, in an effort to placate her more progressive Members, will want to revisit an issue that many feel may have cost Democrats a significant number of seats and contributed to the loss of the majority almost a decade ago. While some Democrats will want to revisit a

major economy transforming approach like the cap and trade bill advanced by Henry Waxman and Ed Markey in the past, the current leaders on the key Energy & Commerce Committee are not likely to pursue such an ambitious proposal.

In addition to a potential environmental legislative agenda, Democrats in the House are expected to expend considerable time in hearings challenging the Administration's reversals of Obama era environmental policies.

Energy in an Infrastructure Package

During the previous Congress there was significant talk in both the Congress and the Administration about the potential for an infrastructure package.

Had this legislation moved during the 115th Congress, we believe it would have included a big push by Republicans for regulatory relief from environmental and administrative impediments to project development, including for major energy development projects. These projects also generate domestic jobs and stimulate the economy but are typically undertaken using private financing and, therefore, such an approach could have produced legislation which would positively impact job growth at a lower cost than simply focusing on federally funding construction projects.

While many Democrats supported increased federal investments for infrastructure projects, many Congressional Republicans were more keen to exploring devolution to the states streamlining federal permitting processes and other environmental and regulatory relief for infrastructure related projects.

Ultimately, this effort failed to gain any sort of traction during the 115th Congress, however, going into the 116th Congress may yet bode well for an infrastructure package due to the fact that it may be one of the few legislative areas where Republicans and Democrats might find common ground. We expect Republicans to again push for some significant environmental streamlining, and the Democrats to push for increased spending. The White House may be highly motivated to push for an infrastructure package that the President can sign and regulatory relief may be the price of a deal with Democrats in the House.

For additional information – an in-depth review of the outlook for infrastructure legislation by our colleague, Becky Weber, can be found [here](#). While most of that paper and the focus of infrastructure generally is on roads and bridges, it is likely that any comprehensive bill will also provide a vehicle for other forms of relevant policy – including a focus on what can be done to encourage development of energy infrastructure.

Energy Tax Extenders

House Ways & Means Republicans have floated legislation that would, among other things, extend or phase out over time a variety of energy tax incentives for wind, solar, and renewable and alternative fuels. There has been some discussion that these could wind up in an omnibus end-of-year funding bill as Congress heads for the exits, but much work remains to be done to bring Democrats, the Senate and the White House on board on these measures and it is possible these items will wind up being carried over into the next Congress. For further information on this topic, look for our review of tax and trade policy.



Regulatory Activities

It is largely expected for the Administration to continue pushing for across the board regulatory relief for the production and consumption of energy and the related environmental policies that have been viewed as overly burdensome by many in industry. Particularly with 2020 nearing on the horizon, and with the new reality of a divided Congress, the Trump Administration will likely continue trying to use the power of his pen and his cabinet to roll-back many of the Obama era energy and environmental regulations, in addition to pursuing an aggressive rulemaking agenda to advance his agenda via existing authorities outside of the need for new legislation. As we have seen in the past, many of the Administration's attempts to "legislate" through agency action have been challenged in the courts and we expect that scenario to continue.

