

Federal Legislative and Policy Update

Florida Electric Cooperatives Association
2021 Fall Lobby Clinic

Bipartisan Infrastructure Bill

Bipartisan Infrastructure Bill – Clean Energy

Recently passed \$1 trillion infrastructure bill includes **clean energy** funding:



- \$355 million for DOE's **energy storage** pilot and demonstration programs and an additional \$150 million for a long-duration energy storage demonstrations.
- \$3.5 billion for **carbon capture** pilot projects and demonstrations.
- \$6 billion for financial support for **existing nuclear reactors** in competitive electricity markets at risk of closure.
- \$5.6 billion for **advanced nuclear** reactor development and deployment.
- \$750 million for **hydropower** production, maintenance, and improvement incentives.
- \$100 million for **wind energy** and \$80 million for **solar energy** RD&D at DOE.
- \$500 million for **school energy efficiency, renewable energy, and EV** grants.
- \$7.5 billion for **electric vehicle** (and alternative fuel) charging infrastructure. Funding goes to states to partner with private entities, including electric co-ops.
- \$2.5 billion for **zero-emission buses**.

Bipartisan Infrastructure Bill – Grid Modernization

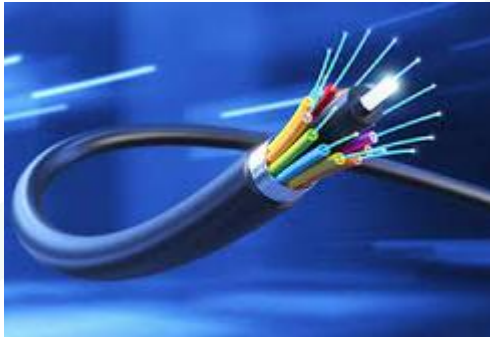
Recently passed \$1 trillion infrastructure bill includes **grid modernization** funding:



- \$10 million for rebates for new energy efficient **transformers**.
- \$250 million for a DOE electric co-op, muni, and small IOU **advanced cybersecurity** grant and assistance program for utilities to detect, respond to, and recover from cybersecurity threats and encourage cybersecurity investments.
- \$5 billion for **resiliency** grants to supplement existing grid hardening efforts, including reducing power line extreme weather and natural disaster risks. 30% of funds are set aside for small utilities (less than 4 million MWh in sales/year).
- \$5 billion to state/local governments and PUCs for transmission, storage and distribution infrastructure **resilience/reliability** demonstration projects. Provides an additional \$1 billion for rural areas (city/town of not more than 10,000 people).
- \$3 billion for a DOE 20% matching grant program for **smart grid** activities, including utility communications, optical fiber, and wireless broadband networks.
- \$2.5 billion for development of **high-voltage transmission lines** through a DOE loan fund where DOE will serve as an “anchor-tenant”.

Bipartisan Infrastructure Bill - Broadband

Recently passed \$1 trillion infrastructure bill includes **broadband** funding:



- \$42.5 billion for a new **state-administered broadband grant program**, prioritizing unserved (<25/3 Mbps), then underserved (<100/20 Mbps) areas with minimum build-to speed requirements of 100/20 Mbps. Areas must be 80% unserved or underserved to be eligible.
- \$2 billion for **USDA broadband programs** such as ReConnect. Adjusts eligible areas to mean 50% of an applied-for area shall be rural and without existing service at 25/3 Mbps. Pole attachment and replacement fees charged by electric co-ops are newly eligible uses of funds.
- \$1 billion for a new NTIA **middle-mile broadband** infrastructure grant program.
- \$14.2 billion to the **Affordable Connectivity Benefit** program, previously called the Emergency Broadband Benefit program. Adjusts subsidy from \$50 to \$30/month (still \$75 on tribal lands).
- \$2 billion to the newly created **Tribal Broadband Program** at NTIA.

Democrats' Budget Reconciliation

Budget Reconciliation – Overview

All the rage! Allows expedited consideration of bills, with only 51 votes to pass the Senate.

- **Legislation considered under reconciliation must** increase/decrease spending; increase/decrease revenue; raise/lower the debt limit.
- **Byrd Rule** prohibits provisions that are deemed “extraneous” to the purpose of the bill and for which increases/decreases in spending or revenue are merely incidental to the policy.
- **Disadvantage** is Congress can only consider reconciliation bills one time per fiscal year.
 - They used FY21 for COVID relief. ‘Human Infrastructure’ social policy would be under FY22.
- **Takeaway**: taxes and spending relatively easy to do; programs like a federal CES more difficult.

Budget Reconciliation – Co-Op Priorities



- **RUS Repricing:** Does not include RUS repricing. But NRECA continues to advocate for its inclusion.



- **USDA Clean Energy Assistance Program:** Contains \$10 billion in financial assistance, exclusively available to electric co-ops, to deploy new clean energy and for debt relief on closing fossil fuel plants.



- **Direct Pay Tax Credits:** Includes direct pay tax parity for electric co-ops across a wide range of technologies.



- **Clean Electricity Performance Program OUT:** Consistent with NRECA's position, CEPP has been removed from the current language and funds are now being reallocated to other programs.
 - NRECA had expressed strong concerns about the overly aggressive timelines, the impractical targets, and the unworkable regulatory structure proposed in that program.

Budget Reconciliation – USDA Program

- \$10 billion in funding is provided to USDA for a **voluntary assistance program** for electric co-ops.
- The Secretary of USDA is directed to prioritize this assistance for purposes “that will achieve the **greatest reduction in greenhouse gas emissions** [...] and that will otherwise **aid disadvantaged rural communities** (as determined by the Secretary) ...”
- Assistance will be provided for two types of eligible activities:
 - Making **grants and loans** to purchase and deploy **renewable energy, renewable energy systems, carbon capture and storage** systems, or make **energy efficiency** improvements.
 - Making **grants** for **debt relief** and **other costs** associated with **terminating**, after the date of enactment or up to one year prior to the date of enactment, the use of nonrenewable energy facilities (ie: **fossil units**) and related transmission assets.
- No eligible entity may receive more than 10% of the total amount available.

Budget Reconciliation – Direct Pay Tax Credits

- **Provides direct-payment tax credit option with respect to:**
 - renewable energy investment tax credit (ITC) (*extended and expanded*);
 - renewable energy production tax credit (PTC) (*extended*);
 - 45Q carbon capture credit (*extended and expanded*);
 - alternative fuel vehicle refueling property credit (*extended*);
 - advanced energy project credit (*renewed*);
 - transmission property ITC (*new*);
 - nuclear power PTC (*new*); and
 - clean hydrogen production (*new*)
- **Overall requirement for prevailing wage, apprenticeships, and domestic content in order to receive the full value of each respective tax credit.**
 - Projects that don't meet those criteria would receive only one-fifth (20%) of the tax credit.

Biden Administration's Approach to Climate Change

Variables Driving Climate Policies

- Broader business community is taking action
- Shifting consumer preferences
- States are adopting renewable, clean energy standards or climate goals
- Nationwide, climate litigation is playing out in the courts
- The President has made climate policy a central pillar of his agenda
- The Democratic majority is committed to climate action

Biden Administration Goals



Source: © FT montage; AP/AFP/Getty/Reuters/Bloomberg

- 100% carbon-free electricity by 2035 and “net-zero” emissions economy-wide by 2050.
- Inability to get a Clean Electricity Standard/CEPP through Congress.
- Relying on tax incentives and RD&D spending from Congress.
- Doubling down instead on a ‘go it alone’ regulatory approach.

Clean Power Plan/ACE Rule Replacement

How will the Biden Administration Proceed, Given the Failed Attempts of the Past?

- Both the Obama and Trump Administrations' rules for existing power plants using Section 111 of the Clean Air Act ran into legal headwinds:
 - Obama's Clean Power Plan stayed by SCOTUS before Trump took office and acted to repeal
 - Trump's Affordable Clean Energy Rule invalidated by the D.C. Circuit Court of Appeals
- SCOTUS recently took up an industry and Republican state-supported challenge to overturn the D.C. Circuit's decision tossing the ACE rule
- In the meantime, the Biden Administration is working on a third attempt to regulate under CAA Section 111 – likely “inside fence line” at a power plant & impose maximum emissions reductions

3 Core Co-Op Messages on a Lower-Carbon Future

- America's not-for-profit electric cooperatives deliver **reliable and affordable electricity** to rural America. These two attributes are the most important to the 42 million electric co-op members across America in the transition toward a lower-carbon energy future.
- Electric co-ops have substantially **lowered carbon emissions** since 2005 and are **driving innovation** across the electric sector in community solar; advanced metering; demand response; battery storage; microgrids; carbon capture, use and storage; and beneficial electrification.
- Electric co-ops **support policy options that provide financial assistance, technology support** and other means to help them map an effective low-carbon path forward **without sacrificing reliable and affordable** electric service.

Questions and Answers

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