

"All the News
That's Fit to Print"

The New York Times

VOL. CLIII . . . No. 52,679

Copyright © 2003 The New York Times

NEW YORK, WEDNESDAY, NOVEMBER 26, 2003

A FINAL PUSH IN CONGRESS: ENERGY BILL; Even With Bush's Support, Wide-Ranging Legislation May Have Been Sunk by Excess

By CARL HULSE

Published: November 26, 2003

WASHINGTON, Nov. 25 — In the end, the energy bill that fizzled in the last days of Congress was undone by an overload.

Lawmakers, lobbyists and others who took part in the effort to enact the first significant changes in national energy policy in a decade said on Tuesday that the measure, which fell two votes short of passage, had too much for industry, cost too much, was written with too little Democratic help and was too much in the shadow of the Medicare fight.

"I think the best approach would be to start from a clean slate next year," said Senator John E. Sununu of New Hampshire, one of six Republicans who along with Democratic critics blocked the measure from being sent to President Bush, who has been pursuing an energy bill since early in his term.

Even last-minute intervention by Mr. Bush could not break the impasse. On Monday evening, he telephoned Representative Tom DeLay of Texas, the House majority leader, to see if there was room for compromise on the provision raising the strongest objections, immunity from pollution lawsuits for makers of the gasoline additive MTBE, some of which are based in Houston, near Mr. DeLay's hometown.

According to a spokesman for Mr. DeLay, the majority leader told the president that the immunity was a bipartisan bargain that had passed easily in the House and won 58 votes in the Senate, and that he wanted to stick with it. Senate Republicans then threw in the towel for the

year on the \$31 billion bill, which would use more than \$23 billion in tax breaks to increase domestic energy production and efficiency while improving the power grid.

On Tuesday, the authors of the bill said they intended to bring the measure back early next year. In the meantime, Senator Pete V. Domenici, Republican of New Mexico, the main Senate author of the measure, told his colleagues that they should not hope for a repeat of last summer's blackout.

"If there is," Mr. Domenici said, "the American people are going to ask why. And we're going to tell them, because we did nothing."

Industry officials joined him in warning that the failure to send the energy measure to Mr. Bush would slow the development of mandatory rules to enhance the reliability of the power grid. The measure would give the Federal Energy Regulatory Commission six months to develop those standards and the commission had already set a Dec. 1 hearing to begin the process.

"There are a lot of consequences to not moving forward with the energy bill," said Tom Kuhn, president of the Edison Electric Institute, an industry association.

Lobbyists for the wind energy business, which would have received help through an extension of a production tax credit, said the tax break would expire next month. "It is impossible for the U.S. wind industry to maintain a steady growth rate in the present climate of uncertainty," said Randall Swisher, head of the industry trade association.

Critics of the measure said it was unlikely it would have prevented last summer's blackout. They said there were few immediate benefits for consumers worried about heating costs or gasoline prices and that the proposal -- drawn up by Mr. Domenici and another industry ally, Representative Billy Tauzin, Republican of Louisiana -- had become weighted down with pet projects for an array of special interests.

"They wrote a completely pro-industry bill and they basically pushed people over the edge," said Senator Charles E. Schumer, Democrat of New York and an organizer of a filibuster last week, who said the bill did not represent an overarching energy policy.

The role of the president illustrated the importance the White House placed on the proposal. Mr. Bush and Vice President Dick Cheney, both former oil industry executives, took office promising new approaches to energy policy. A task force led by Mr. Cheney laid the groundwork for some of the legislation in 2001.

Mr. Cheney was also contacting lawmakers in the past few days to break the impasse and had earlier helped settle a House-Senate disagreement over a separate element of the bill. Administration officials expressed frustration at the failure to get the bill passed.

"It is past time to get serious and tackle the job at hand," Energy Secretary Spencer Abraham said on Tuesday.

But it might not be easy to enact a bill in 2004. Lawmakers say the conference committee that wrote the final measure was dissolved after the House easily passed the energy legislation. So the Senate either has to pass that bill, perhaps making changes through separate legislation, or start fresh and potentially renew a full-scale energy debate in Congress.

"They don't have easy choices," said Senator Maria Cantwell, Democrat of Washington and another filibuster organizer.

Ms. Cantwell said the authors should consider trying to advance energy provisions that can pass, like the grid reliability standards, and jettison the others. "You can't have good energy policy held hostage for bad energy policy," she said.

Mr. Domenici indicated he was not interested in trying to pass the measure piecemeal, though he has said he is willing to eliminate the protection for producers of MTBE. But that could fracture the legislative bargains that make up the energy plan.

Mr. DeLay and Mr. Tauzin, among others, pushed for immunity from product liability lawsuits for refineries that produce the additive as well as \$2 billion for those companies to convert to production of other fuels. In exchange, they accepted an expansion in the use of corn-based ethanol as an additive. If the MTBE producers lose out, House Republicans are less inclined to help the ethanol industry, which is crucial to Midwestern support for the measure.

"We have a carefully crafted compromise, and once you start pulling the strings out of the compromise, it becomes difficult to keep as a sweater," said Frank Maisano, a spokesman for a group of MTBE producers.

The bill's future is also complicated by 2004 being an election year, because contentious legislation can be difficult to enact when the parties are jockeying for advantage and unwilling to hand the opposition any successes.

The energy bill, however, also contains scores of projects, like the ethanol program, that lawmakers could tout in their re-election bids. The last significant energy measure was enacted in 1992 and was signed by President George Bush at the height of his re-election campaign.

Mr. Domenici and other lawmakers said the stalemate was an example of the difficulties in drafting energy policy, an area where regional clashes dominate and efforts to help one sector often end up drawing opposition from another.

"It isn't going to be easy," Mr. Domenici said, "but neither has it ever been easy to pass an energy policy in this country."