

The background of the slide features a photograph of a classical building with large, fluted columns and a pediment. The image is partially obscured by a semi-transparent white diagonal band that runs from the top left towards the bottom right. In the top left corner, there is a solid orange square containing the text 'K&L GATES' in white.

K&L GATES

ENERGY POLICY IN THE TRUMP ADMINISTRATION:

CONGRESS & TAX REFORM

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PRESENTED BY:

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Panelists



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KEY PLAYERS IN CONGRESS

Key Congressional Leaders: Reconciliation



Rep. Mike Johnson (R-LA-4)
Speaker of the House



Rep. Jason Smith (R-MO-8)
Chair, House Way & Means
Committee



Sen. John Thune
Senate Majority Leader



Sen. Mike Crapo (R-ID)
Chair, Senate Finance
Committee

Key Congressional Leaders: Energy



Rep. Brett Guthrie (R-KY-2)
Chair, House Energy &
Commerce Committee



Rep. Bruce Westerman (R-AR-4)
Chair, House Natural
Resources Committee



Sen. Shelley Moore Capito (R-WV)
Chair, Senate Environment &
Public Works Committee



Sen. Mike Lee (R-UT)
Chair, Senate Energy &
Natural Resources
Committee

BUDGET RECONCILIATION

What is Reconciliation?

- The budget reconciliation process allows Congress to establish overall targets for federal spending (both discretionary and non-discretionary), for federal revenue, and for federal debt.
- Budget reconciliation bills are not subject to the Senate filibuster, which means that a party that controls the House, the Senate, and the White House can dramatically change federal spending and tax policy with a simple majority.

A Brief History of Reconciliation

- In 1974, for the first time, Congress passed the Congressional Budget Act established a process for writing an overall budget for the federal government.
- In the 1980s, as federal budget deficits were projected to rise sharply, Congress resorted repeatedly to budget reconciliation bills to significantly reduce the deficit.
- Until around 2000, reconciliation bills were generally bipartisan bills that significantly reduced the budget deficit, through a combination of cuts in non-discretionary spending and tax increases.

Partisan Reconciliation Bills

- Since 2001, when one party held “the trifecta” (House, Senate, White House), it would aggressively use the budget reconciliation process to pass major budget-related portions of its agenda over the objections of the minority.
 - 2001 and 2003 tax cuts
 - Part of the Affordable Care Act
 - 2015/2017 “Repeal” of the ACA (failed)
 - 2017 Trump tax bill
 - 2021 American Rescue Plan
 - 2022 Inflation Reduction Act

Why does this matter?

- Now that Republicans hold majorities in the House and Senate, reconciliation will be the legislative tool that Congress uses to implement President Trump's agenda.



Reconciliation: Key Points

- 2-step process: budget resolution (with instructions)/reconciliation bill
- “Vote-o-Rama” both times
- Overcomes Senate filibuster
- Subject to the Byrd Rule and other restrictions

The Budget Resolution (H. Con. Res. 14)

- Passed by extremely narrow majorities in both chambers (House: 216-214; Senate 41-48).
- Gives instructions to 11 House committees and 10 Senate committees.
- Target date for committees to submit legislation: May 9.
- Revenue instructions:
 - House: Increase the deficit by no more than \$4.5 trillion (assumes current law baseline).
 - Senate: Increase the deficit by no more than \$1.5 trillion (assumes current policy baseline).
- Scoring dispute unresolved.

Limits on Reconciliation

- In 1984, Senator Robert Byrd (D-WV) worked to pass the “Byrd Rule,” which prohibits including “**extraneous provisions**” in reconciliation bills.
- A provision is **extraneous** if it meets any one of the following tests:
 - It **does not have a budgetary effect**.
 - It is **outside the jurisdiction** of the committee reporting the relevant title of the bill.
 - It has a budgetary effect that is **merely incidental** to the non-budgetary effect.
 - It increases the deficit in the “**out-years.**”
 - It affects the **Social Security** program.

President Trump's Agenda

- President Trump has identified the top policy priorities for Congress to address through reconciliation
 - Extending the 2017 Tax Cuts and Jobs Act
 - Increasing Funding for Border Security
 - Increasing Funding for Defense and National Security
 - Unleashing American Energy Dominance
 - Reducing the Size of the Federal Government
 - Eliminating Waste, Fraud, and Abuse

TAX REFORM 2025 & EXECUTIVE ACTION

Clean Energy Incentives Under Attack

- Projects, investors, and technology providers face significant uncertainty
- Budget reconciliation
- Congressional Review Act
- Executive Orders
- Deregulation
- DOE grants and loans
- Agency cuts

TAX REFORM

Clean Energy Incentives: Reconciliation

- Virtually every IRA tax credit is in play to raise revenue, assuage opponents, or modify to support Trump administration policies
 - Repeal
 - Phase out
 - Moving up dates, e.g., beginning of construction/placed in service
 - Domestic content/Foreign entity of concern
 - Eliminate direct pay and transferability
 - Accommodate fossil fuels

Key Credits in Play

- 45 - Renewable Electricity Production Credit
- 48 - Renewable Electricity Investment Credit
- 45Y - Clean Electricity Production Credit
- 48E - Clean Electricity Investment Credit
- 45V - Clean Hydrogen Production Credit
- 45Q - Carbon Sequestration Credit
- 45Z - Clean Fuel Production Credit
- 45X - Advanced Manufacturing Production Credit

Key Credits in Play (cont'd)

- 45U - Zero-Emission Nuclear Power Production Credit
- 30D - New Clean Vehicle Credit
- 30C - Alternative Fuel Infrastructure Credit
- 45W - Commercial Clean Vehicle Credit
- 179D - Energy Efficient Commercial Buildings Deduction
- 6417 - Elective Payment of Applicable Credits
- 6418 - Transfer of Certain Credits

CONGRESSIONAL REVIEW ACT

The Congressional Review Act

- The Congressional Review Act (CRA) is a tool that allows Congress to review and overturn certain agency rules.
- Under the CRA, certain rules can be overturned with a joint resolution of disapproval passed by both houses of Congress and signed by the President.
- The CRA has become a popular tool to undo last-minute rulemaking from the previous presidential administration.
- The window for Congress to file CRA resolutions has passed
 - Congress now has until early May to consider resolutions that have been introduced

CRA in the 119th Congress

CRA Resolutions Filed:

- General rollback of clean energy, environmental, and appliance standard regulations promulgated during the Biden administration
- Section 45Y Clean Electricity Production Credit and Section 48E Clean Electricity Investment Credit
 - Scheduling challenges, priorities, and Administration actions suggest it's unlikely Congress will consider this topic

EXECUTIVE ACTION

Executive Orders

- **Unleashing American Energy:**
 - Identify, review, and repeal federal rules and regulations that burden domestic energy production
 - Pause disbursement of all funds appropriated through the IRA and IIJA directed towards “Green New Deal” projects
- **Declaring a National Energy Emergency:**
 - Grants agencies emergency authority to promote and develop domestic energy production, specifically in the West Coast, the Northeast, and Alaska.
- **Temporary Withdrawal of All Areas on the OCS from Offshore Wind Leasing and Review of the Federal Government’s Leasing and Permitting Practices for Wind Projects:**
 - Pause all onshore and offshore leasing and permitting application review
- **Zero-Based Regulatory Budgeting to Unleash American Energy**
 - Require 1-year sunset provision for all energy regulations from EPA, DOE, FERC, NRC, and others starting September 30, 2025

White House Priorities



PRO: Fossil, Nuclear, Critical Minerals, Biofuels, Geothermal, Hydropower



ANTI: Wind, Solar (Intermittent)



SILENT: Energy Storage, Hydrogen, Carbon Capture, Sustainable/Synthetic Aviation Fuel

Deregulation

- The Trump administration has taken several steps in recent days toward deregulation. Repealing finalized clean energy regulations would cause uncertainty for project developers, investors, technology providers, and users.
- IRS Notice 2025-19 suggestions for Priority Guidance Plan
 - Shift in focus this year to regulations that are unconstitutional, unlawful, against the public interest, not supported by statute, etc.
- Deregulation suggestion template <https://www.regulations.gov/deregulation>
- Office of Management and Budget Request for Information – suggestions to deregulate [2025-06316.pdf](https://www.regulations.gov/document/2025-06316)
- White House April 9, 2025 memorandum to agency and department heads directing them to identify and rescind unlawful regulations
<https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>

DOE Grants and Loans

- IRA and IIJA disbursements to “Green New Deal” projects paused by *Unleashing American Energy* executive order
- Dismantling of DOE Office of Clean Energy Demonstrations (OCED)
- Stakeholders awarded grants and loans continue to be in limbo on their fate
- Changes in role of Community Benefit Programs and Davis Bacon compliance
- May be remedies for certain awardees

Agency Cuts

- Staffing cuts at DOE, IRS, and other agencies are expected to impact administration of clean energy credits and incentive
- **IRS:**
 - Ability to issue private letter rulings
 - Pre-registration process for 6417/6418
 - Post-regulatory guidance
 - Access to staff
- **DOE:**
 - Updating GREET models and reviewing provisional emissions requests
 - Labs
 - Grants and loans
 - Access to staff

QUESTIONS?

Up Next: Trade and Tariffs

- Join us on **Thursday, 17 April from 12:00-1:00** for our discussion focusing on Trade and Tariff policy under the Trump administration and the many implications for the energy industry. Our speakers will provide an overview of Presidential tariff power, President Trump's evolving trade policy, the impacts of specific tariffs on key energy sectors, and the lasting implications of tariffs for commercial agreements and contractual disputes.
- Partners from our Washington D.C. Public Policy and Law practice will offer their insights on the Trade policy state-of-play and what the energy industry should expect as the Trump administration continues to shape U.S. trade policy.

Looking Ahead: Webinar Series

Session 2 - Trade and Tariffs (4/17, 12:00-1:00)

Session 3 - Fossil Fuels (4/23, 1:00-2:00)

Session 4 - Nuclear Energy (5/1, 12:00-1:00)

Session 5 - Electricity, Transmission, and Data Centers (5/8, 12:00-1:00)

Session 6 - Critical and Fuel Minerals (5/15, 12:00-1:00)

Session 7 - Renewable Energy (5/22, 12:00-1:00)