

Energy Incentives

Alexandra B. Klass

University of Minnesota Law School

aklass@umn.edu

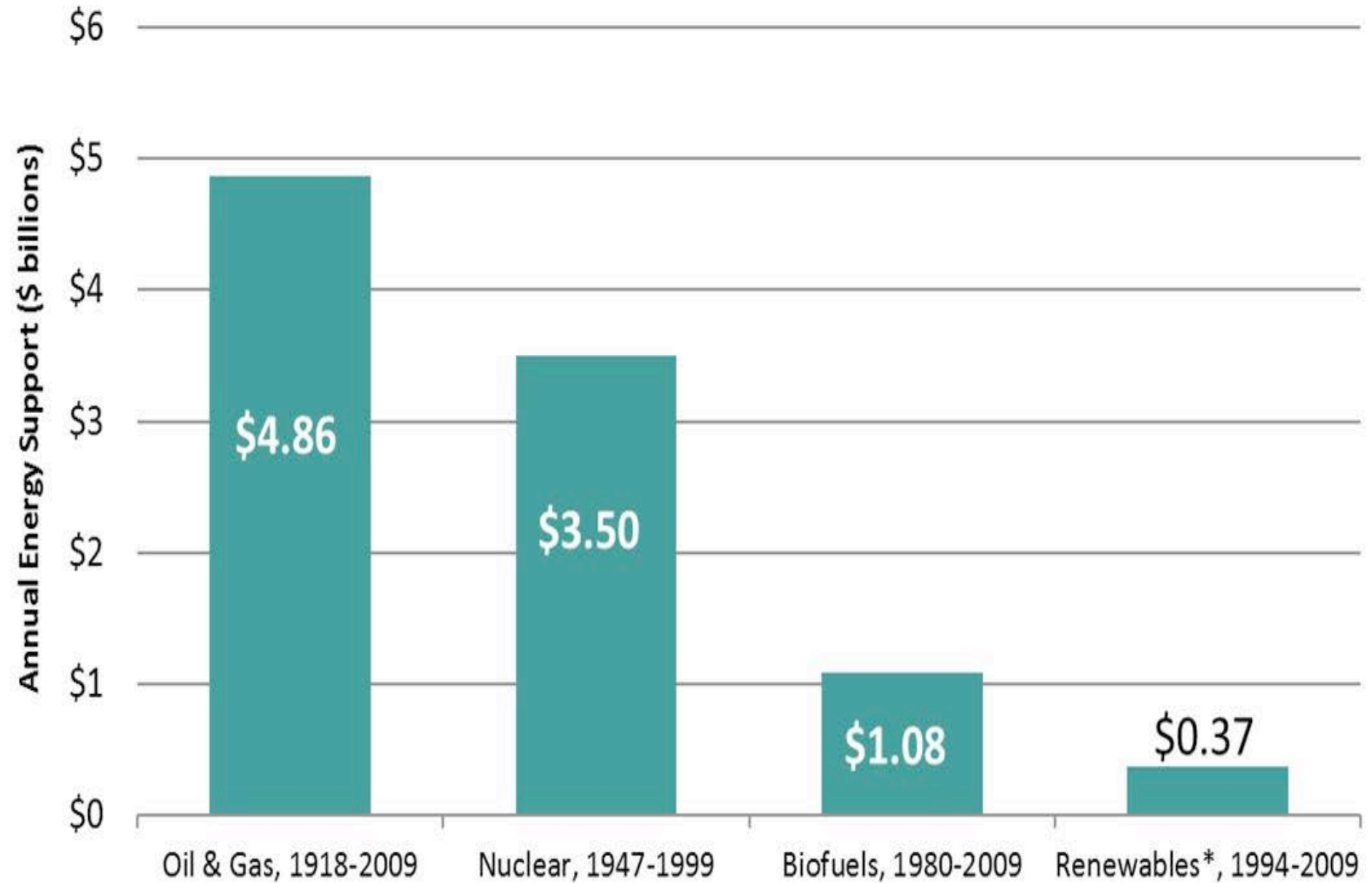
Types of Energy “Incentives”

- Federal and state financial subsidies (PTC, ITC, etc.)
- Federal and state mandates
- Federal property incentives (primarily eminent domain)
- State property incentives (split estate laws, eminent domain, etc.)
- Federal limitations on liability (i.e., Price-Anderson Act)

Energy Incentives – Financial Subsidies

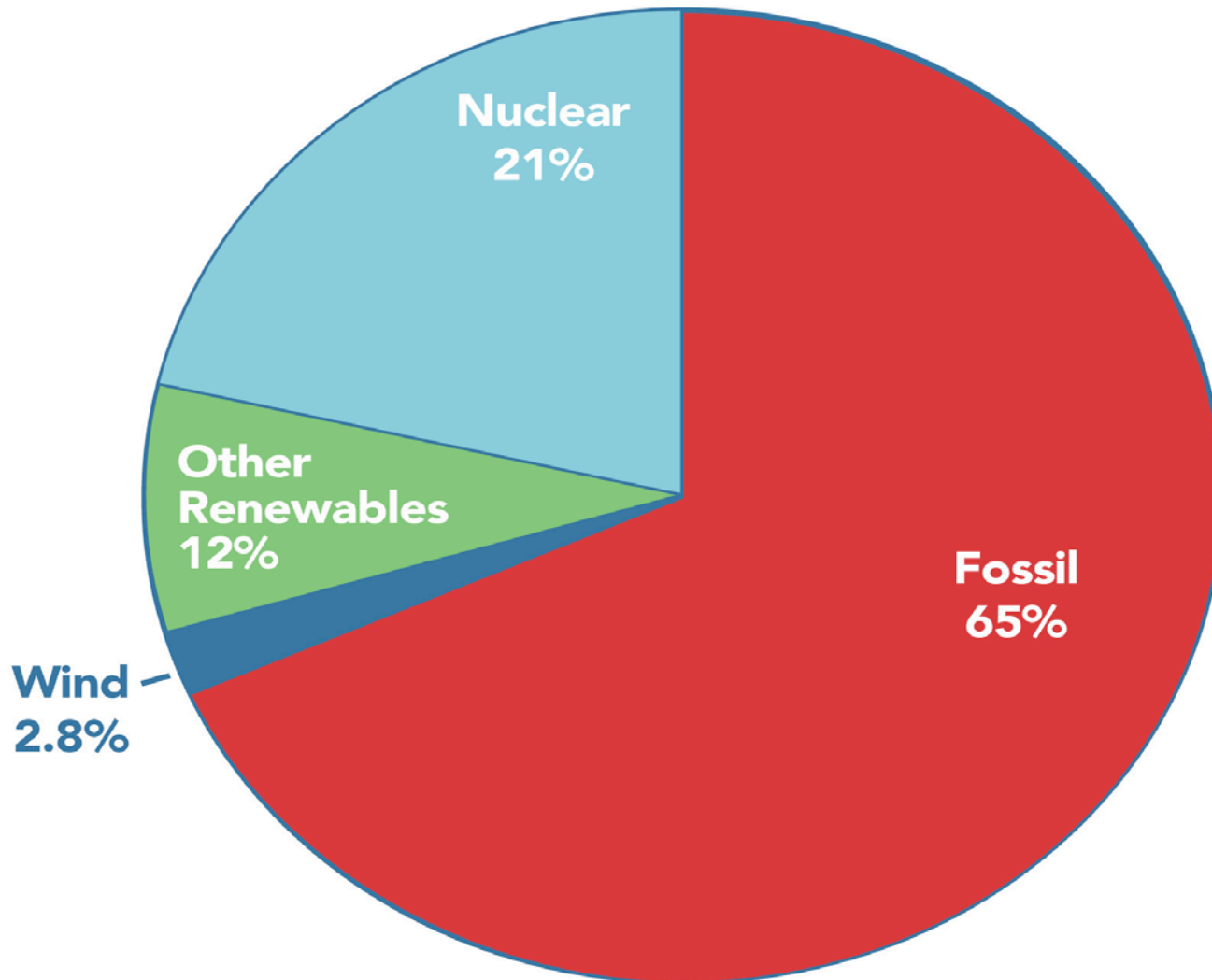
- Federal tax subsidies and grants
- State tax subsidies and grants
- Federal and state R&D \$\$
- DOE loan programs for clean energy (EPAAct 2005)

Historical Average of Annual Energy Subsidies



Source: DBL Investors, 2011

FEDERAL ENERGY INCENTIVES



* Federal incentives for all energy sources from 1947 to 2015 total \$957 billion
Sources: JCT, US Treasury, OMB, DBL Investors, NEI, DOE

Energy Incentives – State and Federal Mandates

- Federal Renewable Fuel Standard (ethanol)
- State Renewable Portfolio Standards, Renewable Energy Credits, Zero-Emission Credits
- PURPA and state and local feed-in tariffs
- Net metering
- Energy efficiency resource standards

Energy Incentives – Liability Limits

- Price-Anderson Act – limits on liability from nuclear accidents which drives insurance availability
- Oil Pollution Act – limits on liability for oil spill damages (BOEM increased the limit from \$75 million to approximately \$134 million for offshore oil and gas facilities in 2015; \$350 million limit for onshore facilities)

Energy Incentives – Federal Property Rights

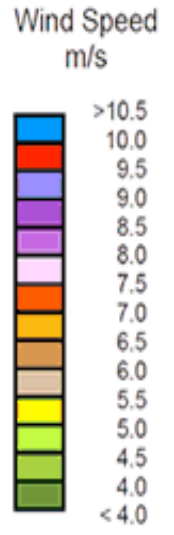
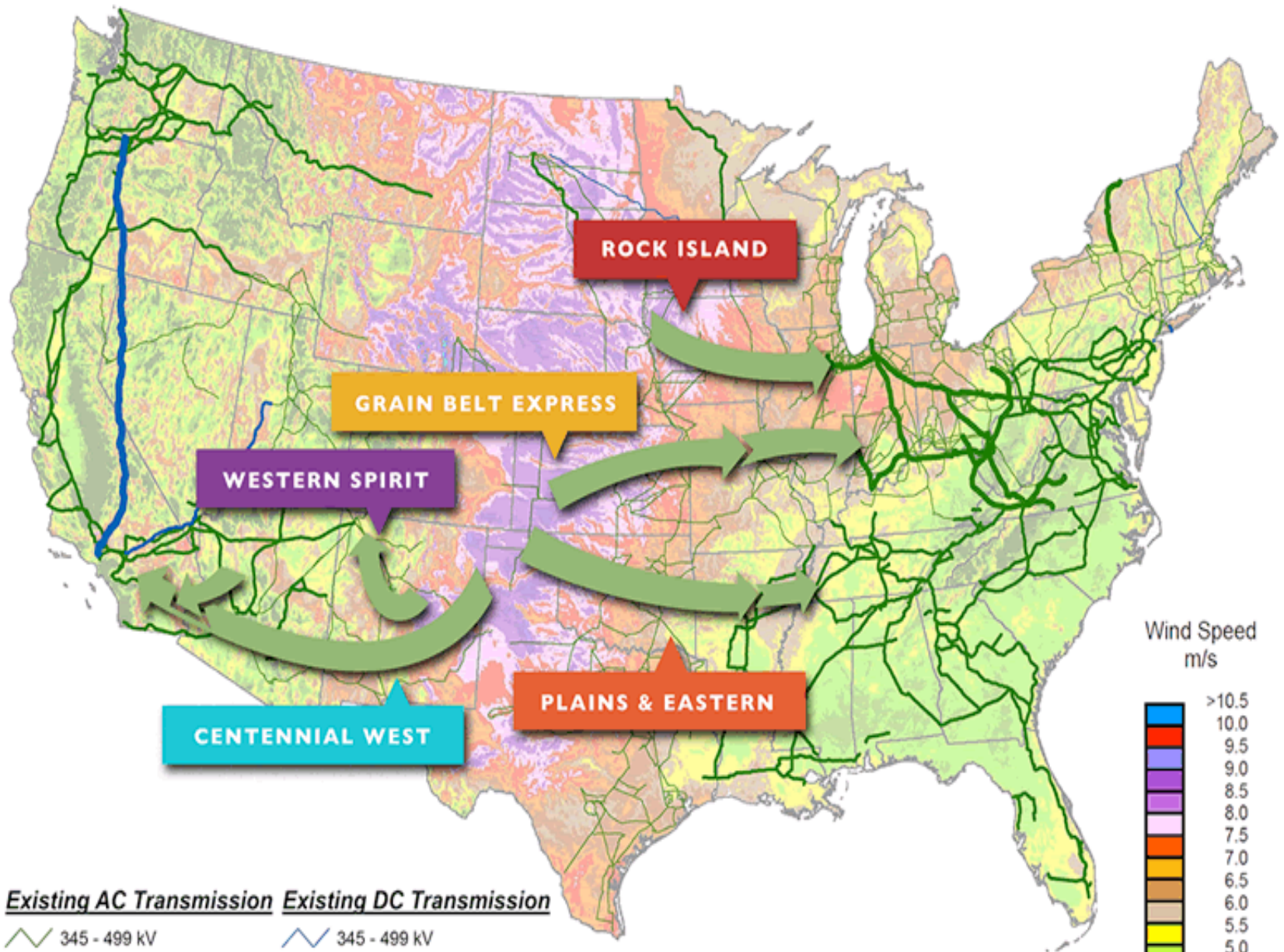
- Eminent domain for interstate natural gas pipelines
- No eminent domain for LNG terminals
- No federal eminent domain for interstate electric transmission lines off federal land (but see Section 1222 of EPLA 2005)
- No federal eminent domain for interstate oil pipelines (except during WWII)

Energy Incentives— State Property Rights

- Split estate laws (oil, gas, coal, minerals)
- Eminent domain for utility-sponsored electric generation facilities (but not wind)
- State siting and eminent domain authority for utility-sponsored electric transmission lines

Energy Disincentives

- Proposed moratorium on new wind development in North Dakota
- New taxes on wind generation in Wyoming, Oklahoma, South Dakota, others?
- State user fees on EVs for failure to pay “fair share” of road use
- Limited or no state siting or eminent domain for merchant transmission lines (state dependent)
- State pushback against eminent domain for oil and gas pipelines (Georgia, South Carolina)
- State pushback against fossil fuel infrastructure (New York)
- MN “Buy the Farm” law for electric transmission lines (from the 1970s)



<u>Existing AC Transmission</u>	<u>Existing DC Transmission</u>
345 - 499 kV	345 - 499 kV
500 - 699 kV	500 - 699 kV
700 - 799 kV	700 - 799 kV
800 - 1000 kV	800 - 1000 kV



Tennessee GPL

Iroquois Gas
Transmission

Iroquois Wright
&
TGP Line 200

Constitution
Pipeline

Williams Midstream
Planned Central
Station

Williams Springville
Gathering System

Williams Transco GPL

MA

NY

CT

NJ

PA

NY

Shifts in Energy Incentives in the Trump Administration?

- Stated emphasis on “infrastructure” but what does that mean?
 - Expanded eminent domain authority?
 - Expanded federal siting authority for pipelines and transmission lines?
 - Less environmental review?
 - More limits on liability?
- Changes in current financial incentives for renewables, nuclear, and CCS?
- Increases in financial incentives for oil and gas development and infrastructure?
- Less R&D \$\$ and eliminated loan programs from DOE?