How the Senate and House TSCA reform bills stack up against the Administration's Principles for TSCA Reform

Sources:

Essential Principles for Reform of Chemicals Management Legislation
S. 697: The Frank R. Lautenberg Chemical Safety for the 21st Century Act
H.R. 2576: The TSCA Modernization Act of 2015

Overall score	***Senate bill: 8.5/10***	***House bill: 4.0/10***

[Note: There are 6 principles, but Principle #2 has 4 parts, and Principle #5 has 2 parts, for a total of 10 individual scores.]

✓ = Meets principle (1 point)
+/- = Partially meets principle (0.5 point)
X = Does not meet principle (no points)

Principle No. 1: Chemicals Should be Reviewed Against Safety Standards that are Based on Sound Science and Reflect Risk-based Criteria Protective of Human Health and the Environment.

EPA should have clear authority to establish safety standards that are based on scientific risk assessments. Sound science should be the basis for the assessment of chemical risks, while recognizing the need to assess and manage risk in the face of uncertainty.

Senate bill ✓ • *Safety standard defined to prohibit EPA from considering costs in safety determinations.* • *Other instances of "unreasonable risk" in TSCA are similarly qualified.*	***House bill +/-*** • *Prohibits EPA from considering costs in risk evaluations of existing chemicals.* • *Does not apply that prohibition to EPA review of new chemicals or other instances of "unreasonable risk" in TSCA.*

Principle No. 2: Manufacturers Should Provide EPA with the Necessary Information to Conclude That New and Existing Chemicals are Safe and Do Not Endanger Public Health or the Environment.

a. Manufacturers should be required to provide sufficient hazard, exposure, and use data for a chemical to support a determination by the Agency that the chemical meets the safety standard.

Senate bill +/- • *Explicitly calls for EPA to request or require information where available information is*	***House bill +/-*** • *Authority but no explicit provision addressing sufficiency of information.*

insufficient for EPA to make a safety determination for a new or existing chemical. • *EPA must request information before it can require its submission or development, potentially leading to delays.*	• *New chemicals could continue to enter commerce in the absence of sufficient information for EPA to find the chemical is likely to meet the safety standard.*

b. Exposure and hazard assessments from manufacturers should be required to include a thorough review of the chemical's risks to sensitive subpopulations.

Senate bill ✓ • *Expressly requires consideration of risks to potentially exposed or susceptible populations and mandates their protection from such risks.*	***House bill ✓*** • *EPA cannot conclude a chemical will not present an unreasonable risk if one or more potentially exposed populations are subject to such a risk.*

c. Where manufacturers do not submit sufficient information, EPA should have the necessary authority and tools, such as data call in, to quickly and efficiently require testing or obtain other information from manufacturers that is relevant to determining the safety of chemicals.

Senate bill +/- • *Provides authority for EPA to use orders to require testing (with justification) and eliminates TSCA's requirement to first show risk or high exposure.* • *Generally requires EPA to follow a tiered testing approach.*	***House bill +/-*** • *Provides order authority to require testing; no specific justification to use orders is required.* • *The bill retains TSCA's requirement for EPA to first show risk or high exposure before requiring testing unless the testing is "necessary to conduct a risk evaluation."*

d. EPA should also be provided the necessary authority to efficiently follow up on chemicals which have been previously assessed (e.g., requiring additional data or testing, or taking action to reduce risk) if there is a change which may affect safety, such as increased production volume, new uses or new information on potential hazards or exposures. EPA's authority to require submission of use and exposure information should extend to downstream processors and users of chemicals.

Senate bill ✓ • *EPA can revisit the priority of a chemical at any time based on new information or a request to do so.* • *EPA may subject a new chemical to prioritization at any time based on new information.* • *Mandate to collect needed information from chemical processors/users is provided.*	***House bill X*** • *Provides no explicit authority or mandate to revisit new or existing chemicals based on new information.* • *Provides no mandate to collect needed information from chemical processors/users.*

Principle No. 3: Risk Management Decisions Should Take into Account Sensitive Subpopulations, Cost, Availability of Substitutes and Other Relevant Considerations.

EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns.

Senate bill ✓ • *Explicitly requires restrictions sufficient to ensure the chemical meets the safety standard, up to and including a ban.* • *Cost and other non-risk factors are to be taken into account in deciding among risk management measures.*	***House bill ✓*** • *Explicitly requires restrictions "necessary so that the chemical substance no longer presents or will present an unreasonable risk," including to a potentially exposed subpopulation.* • *Cost and other non-risk factors are to be taken into account in deciding among risk management measures.*

Principle No. 4: Manufacturers and EPA Should Assess and Act on Priority Chemicals, Both Existing and New, in a Timely Manner.

EPA should have authority to set priorities for conducting safety reviews on existing chemicals based on relevant risk and exposure considerations. Clear, enforceable and practicable deadlines applicable to the Agency and industry should be set for completion of chemical reviews, in particular those that might impact sensitive sub-populations.

Senate bill +/- • *EPA must make an affirmative safety finding before a new chemical can enter commerce.* • *All existing chemicals are to be prioritized and those deemed high priority must undergo a safety assessment and determination.* • *Deadlines apply to each step in the review and regulatory process.* • *Low minimum numbers of chemicals to be assessed are specified.* • *A limited pathway for industry-requested assessments is provided, with EPA having discretion as to whether to grant a specific request.*	***House bill X*** • *No mandate to review new chemicals or make an affirmative safety finding is provided.* • *No prioritization process or other means to identify chemicals to undergo risk evaluations is established, though EPA can assess chemicals it has prioritized via its work plan.* • *Deadlines apply to risk evaluations and required risk management rules.* • *Low minimum numbers of chemicals to be assessed are specified, subject to availability of appropriations.* • *A virtually unlimited pathway is provided for companies to request risk evaluations for chemicals they want assessed, which EPA must conduct.*

Principle No. 5: Green Chemistry Should Be Encouraged and Provisions Assuring Transparency and Public Access to Information Should Be Strengthened.

a. The design of safer and more sustainable chemicals, processes, and products should be encouraged and supported through research, education, recognition, and other means. The goal of these efforts should be to increase the design, manufacture, and use of lower risk, more energy efficient and sustainable chemical products and processes.

Senate bill ✓ • *A sustainable chemistry provision is included.*	***House bill X*** • *No sustainable chemistry provision is included.*

b. TSCA reform should include stricter requirements for a manufacturer's claim of Confidential Business Information (CBI). Manufacturers should be required to substantiate their claims of confidentiality. Data relevant to health and safety should not be claimed or otherwise treated as CBI. EPA should be able to negotiate with other governments (local, state, and foreign) on appropriate sharing of CBI with the necessary protections, when necessary to protect public health and safety.

Senate bill ✓ • *Upfront justification of most new CBI claims is required and they are subject to a renewable 10-year time limit.* • *EPA must review all past and new CBI claims for the identity of chemicals in commerce and a representative subset of all other claims.* • *The identity of chemicals in health and safety studies cannot be masked as CBI.* • *States must be given access to CBI.*	***House bill +/-*** • *Upfront justification of new CBI claims is required and they are subject to a renewable 10-year time limit.* • *There is no requirement for EPA to review and require substantiation of past CBI claims for chemical identity for chemicals on the TSCA Inventory.* • *The identity of chemicals in health and safety studies can be masked as CBI.* • *States may be given access to CBI, subject to advance notification of claimants.*

Principle No. 6: EPA Should Be Given a Sustained Source of Funding for Implementation.

Implementation of the law should be adequately and consistently funded, in order to meet the goal of assuring the safety of chemicals, and to maintain public confidence that EPA is meeting that goal. To that end, manufacturers of chemicals should support the costs of Agency implementation, including the review of information provided by manufacturers.

Senate bill ✓ • *Fees must be collected for new and existing chemical reviews, which go into a dedicated "TSCA Implementation Fund."* • *The level of fees is to be set initially to cover approximately 25% of relevant EPA program costs up to $18 million/year, and can be adjusted over time.*	***House bill X*** • *EPA can charge fees only to cover costs for industry-requested assessments, which go into a dedicated "fee-for-service" fund.* • *No fees can be charged to cover the costs of EPA-initiated assessments.* • *No level of fees is specified.*