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(Original Signature of Member)

112TH CONGRESS
2D SESSION

H. R.

To approve the Keystone XL pipeline project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MACK introduced the following bill; which was referred to the Committee
on _____

A BILL

To approve the Keystone XL pipeline project, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energizing America
5 through Employment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) On April 30, 2004, President George W.

9 Bush issued Executive Order 13337 (3 U.S.C. 301

1 note), delegating to the Department of State author-
2 ity to oversee the permitting process of cross-border
3 pipeline projects in an effort “to expedite reviews of
4 permits as necessary to accelerate the completion of
5 energy production and transmission projects”.

6 (2) On September 19, 2008, the Department of
7 State received an application for the Keystone XL
8 pipeline.

9 (3) On August 26, 2011, the Department of
10 State issued a final environmental impact statement
11 stating that the Keystone XL pipeline project posed
12 “no significant [environmental] impact”.

13 (4) Three years and four months after the Key-
14 stone XL application was submitted, due to objec-
15 tions to an imposed timeline, the Department of
16 State failed to uphold section 1(g) of Executive
17 Order 13337 requiring the Secretary of State to
18 make a national interest determination based on the
19 “views and assistance obtained” previously in rela-
20 tion to the merits of the permit requested by the ap-
21 plicant.

22 (5) In addition to the Executive branch of the
23 United States Government, Congress is authorized
24 to regulate commerce with foreign nations.

1 (6) The construction of the Keystone XL pipe-
2 line will result in job creation, increased energy secu-
3 rity, ancillary benefits, and multiplier effects for the
4 economy of the United States.

5 (7) The earliest possible completion of the Key-
6 stone XL pipeline project serves the national interest
7 of the United States.

8 **SEC. 3. APPROVAL OF KEYSTONE XL PIPELINE PROJECT.**

9 (a) APPROVAL OF CROSS-BORDER FACILITIES.—

10 (1) IN GENERAL.—In accordance with section 8
11 of article 1 of the Constitution (delegating to Con-
12 gress the power to regulate commerce with foreign
13 nations), TransCanada Keystone Pipeline, L.P. is
14 authorized to construct, connect, operate, and main-
15 tain pipeline facilities, subject to subsection (c), for
16 the import of crude oil and other hydrocarbons at
17 the United States-Canada Border at Phillips Coun-
18 ty, Montana, in accordance with the application filed
19 with the Department of State on September 19,
20 2008 (as supplemented and amended).

21 (2) PERMIT.—Notwithstanding any other provi-
22 sion of law, no permit pursuant to Executive Order
23 13337 (3 U.S.C. 301 note) or any other similar Ex-
24 ecutive Order regulating construction, connection,
25 operation, or maintenance of facilities at the borders

1 of the United States, and no additional environ-
2 mental impact statement, shall be required for
3 TransCanada Keystone Pipeline, L.P. to construct,
4 connect, operate, and maintain the facilities de-
5 scribed in paragraph (1).

6 (b) CONSTRUCTION AND OPERATION OF KEYSTONE
7 XL PIPELINE IN UNITED STATES.—

8 (1) IN GENERAL.—The final environmental im-
9 pact statement issued by the Department of State
10 on August 26, 2011, shall be considered to satisfy
11 all requirements of the National Environmental Pol-
12 icy Act of 1969 (42 U.S.C. 4321 et seq.) and any
13 other provision of law that requires Federal agency
14 consultation or review with respect to the cross-bor-
15 der facilities described in subsection (a)(1) and the
16 related facilities in the United States described in
17 the application filed with the Department of State
18 on September 19, 2008 (as supplemented and
19 amended).

20 (2) PERMITS.—Any Federal permit or author-
21 ization issued before the date of enactment of this
22 Act for the cross-border facilities described in sub-
23 section (a)(1), and the related facilities in the
24 United States described in the application filed with

1 the Department of State on September 19, 2008 (as
2 supplemented and amended), shall remain in effect.

3 (c) CONDITIONS.—In constructing, connecting, oper-
4 ating, and maintaining the cross-border facilities described
5 in subsection (a)(1) and related facilities in the United
6 States described in the application filed with the Depart-
7 ment of State on September 19, 2008 (as supplemented
8 and amended), TransCanada Keystone Pipeline, L.P. shall
9 comply with the following conditions:

10 (1) TransCanada Keystone Pipeline, L.P. shall
11 comply with all applicable Federal and State laws
12 (including regulations) and all applicable industrial
13 codes regarding the construction, connection, oper-
14 ation, and maintenance of the facilities.

15 (2) Except as provided in subsection (a)(2),
16 TransCanada Keystone Pipeline, L.P. shall comply
17 with all requisite permits from Canadian authorities
18 and applicable Federal, State, and local government
19 agencies in the United States.

20 (3) TransCanada Keystone Pipeline, L.P. shall
21 take all appropriate measures to prevent or mitigate
22 any adverse environmental impact or disruption of
23 historic properties in connection with the construc-
24 tion, connection, operation, and maintenance of the
25 facilities.

1 (4) The construction, connection, operation, and
2 maintenance of the facilities shall be—

3 (A) in all material respects, similar to that
4 described in—

5 (i) the application filed with the De-
6 partment of State on September 19, 2008
7 (as supplemented and amended); and

8 (ii) the final environmental impact
9 statement described in subsection (b)(1);
10 and

11 (B) carried out in accordance with—

12 (i) the construction, mitigation, and
13 reclamation measures agreed to for the
14 project in the construction mitigation and
15 reclamation plan contained in appendix B
16 of the final environmental impact state-
17 ment described in subsection (b)(1);

18 (ii) the special conditions agreed to
19 between the owners and operators of the
20 project and the Administrator of the Pipe-
21 line and Hazardous Materials Safety Ad-
22 ministration of the Department of Trans-
23 portation, as contained in appendix U of
24 the final environmental impact statement;

1 (iii) the measures identified in appen-
2 dix H of the final environmental impact
3 statement, if the modified route submitted
4 by the State of Nebraska to the Secretary
5 of State crosses the Sand Hills region; and

6 (iv) the stipulations identified in ap-
7 pendix S of the final environmental impact
8 statement.

9 (d) ROUTE IN NEBRASKA.—

10 (1) IN GENERAL.—Any route and construction,
11 mitigation, and reclamation measures for the project
12 in the State of Nebraska that is identified by the
13 State of Nebraska and submitted to the Secretary of
14 State under this section is considered sufficient for
15 the purposes of this section.

16 (2) PROHIBITION.—Construction of the facili-
17 ties in the United States described in the application
18 filed with the Department of State on September 19,
19 2008 (as supplemented and amended), shall not
20 commence in the State of Nebraska until the date
21 on which the Secretary of State receives a route for
22 the project in the State of Nebraska that is identi-
23 fied by the State of Nebraska.

24 (3) RECEIPT.—On the date of receipt of the
25 route described in paragraph (1) by the Secretary of

1 State, the route for the project within the State of
2 Nebraska under this section shall supersede the
3 route for the project in the State specified in the ap-
4 plication filed with the Department of State on Sep-
5 tember 19, 2008 (including supplements and amend-
6 ments).

7 (4) COOPERATION.—Not later than 30 days
8 after the date on which the State of Nebraska sub-
9 mits a request to the Secretary of State or any ap-
10 propriate Federal official, the Secretary of State or
11 Federal official shall provide assistance that is con-
12 sistent with the law of the State of Nebraska.

13 (e) ADMINISTRATION.—

14 (1) IN GENERAL.—Any action taken to carry
15 out this section (including the modification of any
16 route under subsection (d)) shall not constitute a
17 major Federal action under the National Environ-
18 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

19 (2) STATE SITING AUTHORITY.—Nothing in
20 this section alters any provision of State law relating
21 to the siting of pipelines.

22 (3) PRIVATE PROPERTY.—Nothing in this sec-
23 tion alters any Federal, State, or local process or
24 condition in effect on the date of enactment of this

1 Act that is necessary to secure access from an owner
2 of private property to construct the project.

3 (f) FEDERAL JUDICIAL REVIEW.—The cross-border
4 facilities described in subsection (a)(1), and the related fa-
5 cilities in the United States described in the application
6 filed with the Department of State on September 19, 2008
7 (as supplemented and amended), that are approved by this
8 section, and any permit, right-of-way, or other action
9 taken to construct or complete the project pursuant to
10 Federal law, shall only be subject to judicial review on di-
11 rect appeal to the United States Court of Appeals for the
12 District of Columbia Circuit.

13 **SEC. 4. REFERRAL OF APPLICATIONS FOR FUTURE CROSS-**
14 **BORDER PIPELINE FACILITIES AT THE**
15 **UNITED STATES BORDERS.**

16 (a) REFERRAL OF APPLICATION.—For purposes of
17 making a national interest determination under Executive
18 Order 13337 (3 U.S.C. 301 note) (or any successor Exec-
19 utive Order) with respect to any application filed with the
20 Department of State on or after the date of enactment
21 of this Act to construct, connect, operate, and maintain
22 pipeline facilities at the borders of the United States for
23 the import of crude oil and other hydrocarbons, the Sec-
24 retary of State shall, in addition to referring the applica-
25 tion to the departments and agencies described in section

1 1(b)(ii) of Executive Order 13337 (or any successor Exec-
2 utive Order), also refer the application and pertinent in-
3 formation to the committees of Congress specified in sub-
4 section (b) for purposes of requesting the views of such
5 committees of Congress.

6 (b) COMMITTEES OF CONGRESS.—The committees of
7 Congress referred to in subsection (a) are—

8 (1) the Committee on Foreign Relations, the
9 Committee on Commerce, Science, and Transpor-
10 tation, and the Committee on Energy and Natural
11 Resources of the Senate; and

12 (2) the Committee on Foreign Affairs, the
13 Committee on Transportation and Infrastructure,
14 the Committee on Energy and Commerce, and the
15 Committee on Natural Resources of the House of
16 Representatives.