

NORTHERN ROUTE APPROVAL ACT

MAY 17, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3) to approve the construction, operation, and maintenance of the Keystone XL pipeline, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3 is to approve the construction, operation, and maintenance of the Keystone XL pipeline.

BACKGROUND AND NEED FOR LEGISLATION

On September 19, 2008, Canada-based TransCanada Corporation submitted an application with the U.S. Department of State for a Presidential Permit for its Keystone XL pipeline project to cross the U.S. Canada border and run to the Gulf of Mexico.

When complete, the U.S. Department of Energy estimates this project will transport up to 830,000 barrels of oil per day from the oil sands area of Alberta, Canada. It will also accept U.S. crude from the Bakken area of North Dakota. This amount represents nearly half of what the U.S. currently imports from the Middle East.

The Department of State draft supplemental Environmental Impact Statement (EIS) (March 1, 2013) estimates the project would create approximately 42,100 direct and indirect jobs over the construction period, with 3,900 jobs directly involved with project construction.

H.R. 3 will ensure the Keystone pipeline project moves forward by removing the requirement for a Presidential Permit and deeming the final EIS from August 2011 to satisfy all NEPA and National Historic Preservation Act requirements. It deems an incidental take permit to have been issued for the American burying beetle and deems a permit under the Migratory Bird Treaty Act to have been issued. It further deems a right-of-way and temporary use permit to have been issued by the Bureau of Land Management for affected public lands. It further gives exclusive judicial review jurisdiction to the District of Columbia Circuit Court and sets a 60 day timeline to issue challenges. H.R. 3 will ensure that the pipeline is built, enhance America's energy security and create tens of thousands of jobs. Congress should move quickly to pass this legislation.

COMMITTEE ACTION

H.R. 3 was introduced on March 15, 2013, by Congressman Lee Terry (R-NE). The bill was referred primarily to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce and Natural Resources. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Energy and Mineral Resources. On April 16, 2013, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On April 24, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. Congresswoman Colleen Hanabusa (D-HI) offered an amendment designated .005 to the bill. The amendment was not adopted by a bipartisan roll call vote of 15 to 21, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 1

Meeting on / Amendment on: **H.R. 3 - HANABUSA.005**, Not agreed to by vote of 15 yeas to 21 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | | X | | Mr. Duncan, SC | | X | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | X | | |
| Mr. Young, AK | | | | Mr. Tipton, CO | | X | |
| <i>Mr. Defazio, OR</i> | | | | <i>Mr. Cardenas, CA</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | X | | |
| Mr. Bishop, UT | | X | | Mr. Labrador, ID | | X | |
| <i>Mr. Pallone, NJ</i> | X | | | <i>Mr. Huffman, CA</i> | X | | |
| Mr. Lamborn, CO | | X | | Mr. Southerland, FL | | X | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Ruiz, CA</i> | X | | |
| Mr. Wittman, VA | | X | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | | | | <i>Ms. Shea-Porter, NH</i> | X | | |
| Mr. Broun, GA | | X | | Mr. Runyan, NJ | | X | |
| <i>Mr. Grijalva, AZ</i> | X | | | <i>Mr. Lowenthal, CA</i> | X | | |
| Mr. Fleming, LA | | X | | Mr. Amodei, NV | | | |
| <i>Ms. Bordallo, GU</i> | X | | | <i>Mr. Garcia, FL</i> | X | | |
| Mr. McClintock, CA | | X | | Mr. Mullin, OK | | X | |
| <i>Mr. Costa, CA</i> | | X | | <i>Mr. Cartwright, PA</i> | X | | |
| Mr. Thompson, PA | | X | | Mr. Stewart, UT | | X | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | | X | |
| Ms. Lummis, WY | | X | | Mr. Cramer, ND | | X | |
| <i>Ms. Tsongas, MA</i> | X | | | Mr. LaMalfa, CA | | | |
| Mr. Benishek, MI | | X | | | | | |
| <i>Mr. Pierluisi, PR</i> | X | | | | | | |
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| | | | | TOTALS | 15 | 21 | |

Congresswoman Carol Shea-Porter (D-NH) offered an amendment designated .001 to the bill. The amendment was not adopted by a bipartisan roll call vote of 17 to 23, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 2

Meeting on / Amendment on: **H.R. 3 - SHEA PORTER.001**, Not agreed to by vote of 17 yeas to 23 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | | X | | Mr. Duncan, SC | | X | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | X | | |
| Mr. Young, AK | | X | | Mr. Tipton, CO | | X | |
| <i>Mr. Defazio, OR</i> | X | | | <i>Mr. Cardenas, CA</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | X | | |
| Mr. Bishop, UT | | X | | Mr. Labrador, ID | | X | |
| <i>Mr. Pallone, NJ</i> | X | | | <i>Mr. Huffman, CA</i> | X | | |
| Mr. Lamborn, CO | | X | | Mr. Southerland, FL | | X | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Ruiz, CA</i> | X | | |
| Mr. Wittman, VA | | X | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | X | | | <i>Ms. Shea-Porter, NH</i> | X | | |
| Mr. Broun, GA | | X | | Mr. Runyan, NJ | | X | |
| <i>Mr. Grijalva, AZ</i> | X | | | <i>Mr. Lowenthal, CA</i> | X | | |
| Mr. Fleming, LA | | X | | Mr. Amodei, NV | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | <i>Mr. Garcia, FL</i> | X | | |
| Mr. McClintock, CA | | X | | Mr. Mullin, OK | | X | |
| <i>Mr. Costa, CA</i> | | X | | <i>Mr. Cartwright, PA</i> | X | | |
| Mr. Thompson, PA | | X | | Mr. Stewart, UT | | X | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | | X | |
| Ms. Lummis, WY | | X | | Mr. Cramer, ND | | X | |
| <i>Ms. Tsongas, MA</i> | X | | | Mr. LaMalfa, CA | | | |
| Mr. Benishek, MI | | X | | | | | |
| <i>Mr. Pierluisi, PR</i> | X | | | | | | |
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| | | | | TOTALS | 17 | 23 | |

Congresswoman Carol Shea-Porter (D-NH) offered an amendment designated .004 to the bill. The amendment was not adopted by a bipartisan roll call vote of 17 to 24, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 3

Meeting on / Amendment on: **H.R. 3 - SHEA PORTER.004**, Not agreed to by vote of 17 yeas to 24 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | | X | | Mr. Duncan, SC | | X | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | X | | |
| Mr. Young, AK | | X | | Mr. Tipton, CO | | X | |
| <i>Mr. Defazio, OR</i> | X | | | <i>Mr. Cardenas, CA</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | X | | |
| Mr. Bishop, UT | | X | | Mr. Labrador, ID | | X | |
| <i>Mr. Pallone, NJ</i> | X | | | <i>Mr. Huffman, CA</i> | X | | |
| Mr. Lamborn, CO | | X | | Mr. Southerland, FL | | X | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Ruiz, CA</i> | X | | |
| Mr. Wittman, VA | | X | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | X | | | <i>Ms. Shea-Porter, NH</i> | X | | |
| Mr. Broun, GA | | X | | Mr. Runyan, NJ | | X | |
| <i>Mr. Grijalva, AZ</i> | X | | | <i>Mr. Lowenthal, CA</i> | X | | |
| Mr. Fleming, LA | | X | | Mr. Amodei, NV | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | <i>Mr. Garcia, FL</i> | X | | |
| Mr. McClintock, CA | | X | | Mr. Mullin, OK | | X | |
| <i>Mr. Costa, CA</i> | | X | | <i>Mr. Cartwright, PA</i> | X | | |
| Mr. Thompson, PA | | X | | Mr. Stewart, UT | | X | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | | X | |
| Ms. Lummis, WY | | X | | Mr. Cramer, ND | | X | |
| <i>Ms. Tsongas, MA</i> | X | | | Mr. LaMalfa, CA | | X | |
| Mr. Benishek, MI | | X | | | | | |
| <i>Mr. Pierluisi, PR</i> | X | | | | | | |
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| | | | | TOTALS | 17 | 24 | |

Congressman Rush Holt (D-NJ) offered an amendment designated .002 to the bill. The amendment was not adopted by a roll call vote of 18 to 23, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 4

Meeting on / Amendment on: **H.R. 3 - HOLT.002**, Not agreed to by vote of 18 yeas to 23 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | | X | | Mr. Duncan, SC | | X | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | X | | |
| Mr. Young, AK | | X | | Mr. Tipton, CO | | X | |
| <i>Mr. Defazio, OR</i> | X | | | <i>Mr. Cardenas, CA</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | X | | |
| Mr. Bishop, UT | | X | | Mr. Labrador, ID | | X | |
| <i>Mr. Pallone, NJ</i> | X | | | <i>Mr. Huffman, CA</i> | X | | |
| Mr. Lamborn, CO | | X | | Mr. Southerland, FL | | X | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Ruiz, CA</i> | X | | |
| Mr. Wittman, VA | | X | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | X | | | <i>Ms. Shea-Porter, NH</i> | X | | |
| Mr. Broun, GA | | X | | Mr. Runyan, NJ | | X | |
| <i>Mr. Grijalva, AZ</i> | X | | | <i>Mr. Lowenthal, CA</i> | X | | |
| Mr. Fleming, LA | | X | | Mr. Amodei, NV | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | <i>Mr. Garcia, FL</i> | X | | |
| Mr. McClintock, CA | | X | | Mr. Mullin, OK | | X | |
| <i>Mr. Costa, CA</i> | X | | | <i>Mr. Cartwright, PA</i> | X | | |
| Mr. Thompson, PA | | X | | Mr. Stewart, UT | | X | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | | X | |
| Ms. Lummis, WY | | X | | Mr. Cramer, ND | | X | |
| <i>Ms. Tsongas, MA</i> | X | | | Mr. LaMalfa, CA | | X | |
| Mr. Benishek, MI | | X | | | | | |
| <i>Mr. Pierluisi, PR</i> | X | | | | | | |
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| | | | | TOTALS | 18 | 23 | |

Congressman Rush Holt (D-NJ) offered an amendment designated .003 to the bill. The amendment was not adopted by a bipartisan roll call vote of 16 to 25, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 5

Meeting on / Amendment on: **H.R. 3 - HOLT.003** - Not agreed to by vote of 16 yeas to 25 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | | X | | Mr. Duncan, SC | | X | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | X | | |
| Mr. Young, AK | | X | | Mr. Tipton, CO | | X | |
| <i>Mr. Defazio, OR</i> | X | | | <i>Mr. Cardenas, CA</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | X | | |
| Mr. Bishop, UT | | X | | Mr. Labrador, ID | | X | |
| <i>Mr. Pallone, NJ</i> | X | | | <i>Mr. Huffman, CA</i> | X | | |
| Mr. Lamborn, CO | | X | | Mr. Southerland, FL | | X | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Ruiz, CA</i> | X | | |
| Mr. Wittman, VA | | X | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | X | | | <i>Ms. Shea-Porter, NH</i> | X | | |
| Mr. Broun, GA | | X | | Mr. Runyan, NJ | | X | |
| <i>Mr. Grijalva, AZ</i> | X | | | <i>Mr. Lowenthal, CA</i> | X | | |
| Mr. Fleming, LA | | X | | Mr. Amodei, NV | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | <i>Mr. Garcia, FL</i> | X | | |
| Mr. McClintock, CA | | X | | Mr. Mullin, OK | | X | |
| <i>Mr. Costa, CA</i> | | X | | <i>Mr. Cartwright, PA</i> | X | | |
| Mr. Thompson, PA | | X | | Mr. Stewart, UT | | X | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | | X | |
| Ms. Lummis, WY | | X | | Mr. Cramer, ND | | X | |
| <i>Ms. Tsongas, MA</i> | X | | | Mr. LaMalfa, CA | | X | |
| Mr. Benishek, MI | | X | | | | | |
| <i>Mr. Pierluisi, PR</i> | | X | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | TOTALS | 16 | 25 | |

No further amendments were offered and the bill was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24 to 17, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: April 24, 2013

Recorded Vote #: 6

Meeting on / Amendment on: **H.R. 3 - TO REPORT**, Adopted and favorably reported to the House of Representatives by vote of 24 yeas to 17 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|-----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA, Chairman | X | | | Mr. Duncan, SC | X | | |
| <i>Mr. Markey, MA, Ranking</i> | | | | <i>Ms. Hanabusa, HI</i> | | X | |
| Mr. Young, AK | X | | | Mr. Tipton, CO | X | | |
| <i>Mr. Defazio, OR</i> | | X | | <i>Mr. Cardenas, CA</i> | | X | |
| Mr. Gohmert, TX | | | | Mr. Gosar, AZ | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | <i>Mr. Horsford, NV</i> | | X | |
| Mr. Bishop, UT | X | | | Mr. Labrador, ID | X | | |
| <i>Mr. Pallone, NJ</i> | | X | | <i>Mr. Huffman, CA</i> | | X | |
| Mr. Lamborn, CO | X | | | Mr. Southerland, FL | X | | |
| <i>Mrs. Napolitano, CA</i> | | X | | <i>Mr. Ruiz, CA</i> | | X | |
| Mr. Wittman, VA | X | | | Mr. Flores, TX | | | |
| <i>Mr. Holt, NJ</i> | | X | | <i>Ms. Shea-Porter, NH</i> | | X | |
| Mr. Broun, GA | X | | | Mr. Runyan, NJ | X | | |
| <i>Mr. Grijalva, AZ</i> | | X | | <i>Mr. Lowenthal, CA</i> | | X | |
| Mr. Fleming, LA | X | | | Mr. Amodei, NV | X | | |
| <i>Ms. Bordallo, GU</i> | | X | | <i>Mr. Garcia, FL</i> | | X | |
| Mr. McClintock, CA | X | | | Mr. Mullin, OK | X | | |
| <i>Mr. Costa, CA</i> | X | | | <i>Mr. Cartwright, PA</i> | | X | |
| Mr. Thompson, PA | X | | | Mr. Stewart, UT | X | | |
| <i>Mr. Sablan, CNMI</i> | | | | Mr. Daines, MT | X | | |
| Ms. Lummis, WY | X | | | Mr. Cramer, ND | X | | |
| <i>Ms. Tsongas, MA</i> | | X | | Mr. LaMalfa, CA | X | | |
| Mr. Benishek, MI | X | | | | | | |
| <i>Mr. Pierluisi, PR</i> | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 24 | 17 | |

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title for the legislation, the “Northern Route Approval Act.”

Section 2. Findings

This section offers seven separate Congressional findings regarding the need for energy infrastructure, the national security benefits of Canadian oil imports, the employment and economic benefits from the Keystone XL pipeline, the review and approval by the State of Nebraska of the Keystone XL pipeline, the length and breadth of the Federal review process, the safety and environmental benefits of transporting oil via pipeline, and the resemblance to the action that was needed to approve the Trans-Alaska Pipeline in 1973.

Section 3. Keystone XL permit approval

Section 3 removes the requirement for a Presidential Permit for the Keystone XL pipeline described in the application filed by TransCanada on May 4, 2012, and that was amended to include the new route approved by the Nebraska Governor. It deems the final EIS issued on August 26, 2011, and the Final Evaluation Report issued by the State of Nebraska to satisfy all requirements of NEPA and the National Historic Preservation Act.

Section 4. Judicial review

This section vests, except for review by the Supreme Court, the U.S. Court of Appeal for the District of Columbia Circuit with sole jurisdiction over specifically listed legal challenges regarding the Keystone XL pipeline. These are limited to the review of any final decisions by Federal agencies regarding the project, questions of Constitutionality, and the adequacy of any analysis. Any claims must be brought within 60 days of a decision giving rise to a claim. Any action brought under this section shall receive expedited consideration.

Section 5. American burying beetle

Section 5 deems an incidental take permit to have been issued under section 7 of the Endangered Species Act for the American burying beetle for the construction, operation and maintenance of the Keystone XL pipeline.

Section 6. Right-of-Way and temporary use permit

This section deems a right-of-way and temporary use permit to have been issued according to terms set forth in an application filed with the Bureau of Land Management under section 28 of the Mineral Leasing Act and the Federal Land Policy and Management Act.

Section 7. Permits for activities in navigable waters

Section 7 states that no later than 90 days after an application is filed, the Secretary of the Army shall issue all permits necessary for the construction, operation and maintenance of the Keystone XL pipeline under section 404 of the Federal Water Pollution Con-

trol Act and section 10 of the Rivers and Harbors Appropriations Act of 1899. The application shall be based on the administrative record which shall be considered complete. The Secretary is given the authority to waive any procedural requirements and if the Secretary has not issued the permits in 90 days then the permits are deemed to have been issued. The Administrator of the Environmental Protection Agency may not prohibit or restrict any activities in this section.

Section 8. Migratory Bird Treaty Act permit

This section deems a special purpose permit under the Migratory Bird Treaty described in an application filed with the U.S. Fish and Wildlife Service to have been issued.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3—Northern Route Approval Act

H.R. 3 would specify various procedures pertaining to federal review and permitting of the proposed Keystone XL pipeline, which would be constructed by a private company to carry crude oil from Alberta, Canada, to destinations on the U.S. Gulf Coast. In particular, the bill would exempt the proposed project, which would cross international borders, from the existing requirement to obtain a Presidential permit. In addition, H.R. 3 would deem various actions by federal agencies involved with permitting decisions related to the proposed pipeline to be satisfied and certain federal permits to be granted.

CBO estimates that implementing H.R. 3 would have no significant impact on the federal budget. Based on information from affected agencies, CBO estimates that the proposed changes to administrative procedures would not significantly affect federal spending for such activities relative to current law. The bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On May 1, 2013, CBO transmitted a cost estimate for H.R. 3 as ordered reported by the House Committee on Energy and Commerce on April 17, 2013. The two versions of the legislation are identical, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 3 would have no significant impact on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to approve the construction, operation, and maintenance of the Keystone XL pipeline.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

We oppose H.R. 3 because it would have the United States bear all of the environmental risk of transporting dirty tar sands oil without ensuring that American consumers or our energy security realize any of the benefits. The Keystone XL pipeline would end in Port Arthur, Texas and other designated foreign free trade zones where it could be exported without having to pay excise taxes. The president of TransCanada, the company proposing to build the Keystone XL pipeline, has refused to commit that the fuel produced from tar sands oil transported through the Keystone pipeline will actually stay in the United States to benefit our consumers. The Majority's legislation would do nothing to prevent the oil and refined fuels from the Keystone XL pipeline from simply being re-exported out of America.

This legislation would completely ignore the lessons from recent pipeline spills. In April of 2013, a pipeline owned by ExxonMobil carrying heavy crude oil from the tar sands region of Canada ruptured in the town of Mayflower, Arkansas, spilling thousands of barrels of oil into marsh areas and populated neighborhoods. Yet the Majority's legislation would waive critical environmental laws such as the Endangered Species Act, National Environmental Policy Act (NEPA) National Historic Preservation Act, and the Migratory Bird Treaty Act for the approval of the Keystone XL pipeline.

The Majority's legislation would also do nothing to close a loophole that currently allows oil companies importing tar sands oil to avoid paying into the Oil Spill Liability Trust Fund, which is used to respond to and clean up oil spills. Because of a misguided ruling by the IRS that tar sands oil is, in fact, not oil for purposes of paying into the Trust Fund, this dirty oil currently gets a free ride through U.S. pipelines. The Government Accountability Office has already warned Congress that the Trust Fund is at risk of running out of money because of expensive cleanup efforts for major spills such as BP's Deepwater Horizon disaster and the Enbridge pipeline spill in Michigan in 2010. The Obama Administration has proposed to close this tar sands tax loophole in its 2014 budget request.

The route of the proposed pipeline would cross through Indian Country near and potentially over, culturally significant areas to Tribal nations. It would also pass through or near burial grounds and other sacred places that are not held in trust by the federal government but exist in traditional and historic Tribal territories that have clear and ongoing Tribal interests. The National Congress of American Indians, the oldest, largest and most representative American Indian and Alaska Native organization in the country, has voiced concerns over these issues.

The Majority rejected an amendment from Energy and Mineral Resources Subcommittee Ranking Member Holt that would have ensured that all the oil and refined fuels from the Keystone XL

pipeline actually stay in the United States and not be exported. The Majority also rejected an amendment from Representative Holt that would have closed the tax loophole that currently lets oil companies importing tar sands to avoid paying into the Oil Spill Liability Trust Fund. The Majority voted down an amendment from Representative Shea-Porter that would have ensured that H.R. 3 could not take effect until the Secretary of Transportation completed a review of safety regulations to ensure they are sufficient to cover pipelines transporting tar sands oil. The Majority also rejected an amendment from Ms. Shea-Porter that would have required the company operating the Keystone XL pipeline to disclose all of its political contributions, following the Citizens United decision by the U.S. Supreme Court. Representative Hanabusa, Ranking Member of the Indian and Alaska Native Affairs subcommittee, offered an amendment that was unanimously voted down by Committee Republicans that would have ensured that cultural and sacred sites of Native American tribes are protected to the fullest extent possible during construction and operation of the Keystone XL pipeline.

This legislation represents a complete disregard of the impacts tar sands oil can have on our climate, our environment and our economy. Rather than ensuring that we have the proper protections in place for our environment, before we ship this dirty oil across this country, this bill forces us in the complete opposite direction; all while doing nothing to ensure that Keystone oil would enhance our energy security.

EDWARD J. MARKEY.
RUSH D. HOLT.

