THE REPUBLICAN STUDY COMMITTEE
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H.R. 2042—Ratepayer Protection Act of 2015 (Rep. Whitfield, R-KY)

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FLOOR SCHEDULE: SCHEDULED FOR CONSIDERATION ON JUNE 24, 2015, SUBJECT TO THE RULE.

TOPLINE SUMMARY: H.R. 2042 would extend the deadline for states to comply with the Environmental Protection Agency (EPA)'s existing or future rules addressing emissions of carbon dioxide from fossil-fuel fired power plants.

COST: The Congressional Budget Office (CBO) estimates that this legislation would not have a significant effect on the federal budget. The legislation would not affect direct spending or revenues, and pay-as-you-go procedures do not apply.

CONSERVATIVE CONCERNS: There are no major conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: H.R 2042 would extend the compliance dates for any final rule issued under the Clean Air Act addressing carbon dioxide (CO_2) emissions from existing fossil fuel-fired electric utility generating units, including for submittal of state plans. The bill defines a final rule as any rule that addresses CO_2 emissions from existing sources that are fossil fuel-fired electric utility generating units including any final rule that succeeds: (1) the proposed rule entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" (June 18, 2014); or (2) the supplemental proposed rule, "Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs (electric generating units) in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships" (November 4, 2014).

The bill would also clarify that the extension period would (1) begin 60 days after the notice of a final rule's promulgation appears in the Federal Register; and (2) would end following any judicial review, on the date on which judgment becomes final, and no longer subject to further appeal or review.

H.R. 2042 would prohibit a state from being required to adopt or submit a state plan, and from being subjected to a federal plan. The governor of such state would be required to make a determination, and notify the Administrator of the EPA, that the implementation of the state or federal plan would: (1) have a significant adverse effect on the state's residential, commercial, or industrial ratepayers, taking into account anticipated rate increases; or (2) have a significant adverse effect on the reliability of the state's electricity system. In making such a determination, the governor would be directed to consult with the state's energy, environmental, public health, and economic development departments or agencies, and the Electric Reliability Organization.

The House report (H. Rept. 114-171) accompanying H.R. 2042 can be found here. A background memo and a fact sheet from the House Energy and Commerce Committee on H.R. 2042 can be found here and here. A guide to states' concerns regarding the EPA's proposed greenhouse gas regulations for existing power plants from the U.S. Chamber of Commerce's Institute for 21st Century Energy can be found here.

In June 2014, the EPA announced a proposed rule on carbon dioxide for existing fossil fuel fired power plants. According to the committee report, "in the rule, EPA [asserted] authority under a rarely invoked provision of the [Clean Air Act], known as section 111(d), to set mandatory CO2 goals for each state's power sector." States would then be required to submit complex plans to meet the EPA-imposed interim goal for the period 2020 to 2029, and a final goal beginning by 2030. According to the House Committee on Energy and Commerce, for states that do not submit a satisfactory plan, the EPA would then impose a federal plan, "a model of which has not yet been proposed by the agency." The agency estimates annual costs of the implementation of the rule to be around $5.5 billion to $7.5 billion in 2020 and $7.3 billion to $8.8 billion in 2030. As stated in the committee fact sheet, according to a NERA Economic Consulting report, the potential costs would be much higher and could potentially range from $366 billion to $479 billion over the period 2017-2031.

AMENDMENTS MADE IN ORDER:

- #3 Huizenga (R-MI): would express a sense of Congress to encourage the Administrator of the Environmental Protection Agency, in promulgating, implementing, or enforcing any final rule to specifically address how the megawatt hours discharged from a pumped hydroelectric storage system will be incorporated into state and federal implementation plans adopted pursuant to any such final rule.

- #7 McNerney (D-CA): would require a state or the Administrator of the EPA to consult with the state's public utility commission or public service commission, and the Electric Reliability Organization; and consider any independent reliability analysis prepared by such entities during development of a plan.

- #8 Newhouse (R-WA): would direct the Administrator of the Environmental Protection Agency to treat hydropower as renewable energy, in issuing, implementing, and enforcing any final rule.

- #6 Pallone (D-NJ): would require a governor to certify that electricity generating units are sources of carbon pollution that contribute to human-induced climate change; and the state or federal plan to reduce carbon emissions from electric utility generating units would promote national security, economic growth, and public health by addressing human-induced climate change through the increased use of clean energy, energy efficiency, and reductions in carbon pollution.

- #1 Rush (D-IL): would require a governor's determination regarding the final rule and would require the determination to include a certification that the inapplicability of a state or federal would not have a significant adverse effect on costs associated with a state's plan to respond to extreme weather events associated with human-caused climate change.

OUTSIDE GROUPS IN SUPPORT:

- U.S. Chamber of Commerce
- Americans for Prosperity (key voting "yes")
- Competitive Enterprise Institute
- Eagle Forum
- Frontiers of Freedom
- Heartland Institute

- Energy and Environment Legal Institute
- American Commitment
- West Virginia Coal Association
- 60 Plus Association
- American Farm Bureau Federation (Partnership for a Better Energy Future)
- Americans for Tax Reform
- American Petroleum Institute (Partnership for a Better Energy Future)
- Caterpillar Inc.
- National Taxpayers Union
- National Association of Manufacturers (Partnership for a Better Energy Future)
- Energy Equipment and Infrastructure Alliance (Partnership for a Better Energy Future)
- Bryant Area Chamber of Commerce (Partnership for a Better Energy Future)
- Mississippi Energy Institute (Partnership for a Better Energy Future)
- North Carolina Chamber (Partnership for a Better Energy Future)
- Consumer Energy Alliance (Partnership for a Better Energy Future)
- Dallas Regional Chamber (Partnership for a Better Energy Future)
- Texas Association of Business (Partnership for a Better Energy Future)
- Texas Railroad Association (Partnership for a Better Energy Future)
- Louisiana Propane Gas Association (Partnership for a Better Energy Future)
- A complete list of letters of support provided by the House Energy and Commerce Committee can be found here.

COMMITTEE ACTION: This bill was introduced on April 28, 2015, and was referred to the House Energy and Commerce Committee. On June 19, 2015, the committee reported the bill.

ADMINISTRATION POSITION: No statement of administration policy is available.

CONSTITUTIONAL AUTHORITY: Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 3 of the U.S. Constitution, to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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