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RSC THE REPUBLICAN STUDY COMMITTEE

H.R. 702: To Adapt to Changing Crude Oil Market Conditions (Rep. Barton, R-TX)

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FLOOR SCHEDULE:

SCHEDULED FOR CONSIDERATION ON OCTOBER 9, 2015, UNDER A CLOSED RULE

TOPLINE SUMMARY:

H. 702 would remove restrictions on exporting domestically produced crude oil by repealing section 103 of the Energy Policy and Conservation Act of 1975, relating to the authority of the President to restrict the export of coal, petroleum products, natural gas, or petrochemical feedstocks. The bill would also increase authorized funding for the Maritime Security Program.

COST:

The Congressional Budget Office (CBO) estimates that, enacting this legislation, as reported by the Energy and Commerce Committee, would reduce net direct spending by $1.4 billion over the 2016-2025 period by increasing offsetting receipts from federal oil and gas leases. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues.

The CBO estimate does not include the increase in the authorization for the Maritime Security Program provided for in Section 6 of the Rules Committee Print. That section would increase spending, subject to appropriation.

CONSERVATIVE CONCERNS:

There are no substantive concerns regarding lifting the export ban on U.S. crude petroleum.

Some conservatives have expressed concerns regarding increasing funding for the maritime security program (MSP). Rather, these conservatives argue Congress should address the underlying regulatory structure making U.S. flagged shipping uneconomic. Other conservatives have noted that increasing funding for the program to meet U.S. Transportation Command's requirements is essential to meeting national security needs by ensuring that 60 U.S. flagged commercial ships remain in the national defense sealift fleet.

- **Expand the Size and Scope of the Federal Government?** Section 6 of the legislation would increase the authorized stipend for ships participating in the Maritime Security Program.
- **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. 702 would effectively lift the ban on exporting crude petroleum. The bill would additionally prohibit any federal official from imposing or enforcing any restriction on the export of crude oil. Not later than 120 days after the bill's enactment, the Secretary of Energy would be required to conduct a study and submit to Congress recommendations on the appropriate size, composition, and purpose of the Strategic Petroleum Reserve. H.R. 702 would further stipulate that nothing in the bill would limit the authority of the President under the Constitution, the International Emergency Economic Powers Act, the National Emergencies Act, or the Energy Policy and Conservation Act to prohibit exports on an emergency or national security basis.

Section 6 of the bill would increase the annual operating stipend for the Maritime Security Program. The bill would authorize a stipend per ship of $4,999,950 for fiscal year 2017, $5,000,000 for fiscal years 2018, 2019, and 2020, and $5,233,463 for fiscal year 2021. Total funding for the program would be $299,997,000 for fiscal year 2017, $300,000,000 for fiscal years 2018, 2019, and 2020, and $314,007,780 for fiscal year 2021 for the entirety of the program. This would be an increase of a total of $512 million over current law. Further, under current law as amended by Section 6, funding would be slated to fall to $3.7 million per ship and a program total of $222 million in FY2022. (See 43 U.S.C. 53106 and 43 U.S.C. 53111)

A section-by-section provided by the House Energy and Commerce Committee can be found here. The House report accompanying H.R. 702 (H. Rept. 114-267 Part I and Part II) can be found here and here.

The ban on exporting crude petroleum was first implemented as a response to the oil shocks of the 1970s. However other measures taken at the time were soon repealed like price controls in 1981. With the recent boom in the exploitation of U.S. shale oil fields including the Bakken and Eagle Ford formations, domestic crude oil production has increased rapidly. According to the report and the U.S. Energy Information Administration (EIA), "crude oil production exceeded 9.6 million barrels per day (bbl/d) in April 2015, nearly doubling the amount produced in 2008 and setting a record dating back to 1971. At the same time, imports have fallen dramatically. Approximately twenty-seven percent of the petroleum consumed in the U.S. was imported, the lowest annual average since 1985." More information on lifting the ban on crude petroleum and the positive economic impact on fuel prices can be found here from the American Enterprise Institute, here from the Heritage Foundation, and here from the Congressional Research Service. Information on the positive geopolitical implications of lifting the ban on crude exports can be found here from the Council on Foreign Relations, and here from Congressional testimony from the Center for New American Security.

Section 6 of the bill would increase funding for the Maritime Security Program (MSP), which requires the Secretary of Transportation, in consultation with the Secretary of Defense, to establish a fleet of active, commercially viable, militarily useful, privately-owned vessels to meet national defense requirements. To maintain access to the fleet, the government allocates a stipend to each ship. The military's U.S. Transportation Command (TRANSCOM) has stipulated that to meet current national security requirements, the composition of the Maritime Security Program requires 60 ships to augment the number of ships it can surge in the case of an emergency, and to access global commercial intermodal networks. According to a report from the U.S. Department of Transportation's Maritime Administration (MARAD), "as of October 1, 2011, the MSP retainer payments [were] authorized to increase from $2.9 million to $3.1 million per vessel per year, or about $8,500 per day (based on 365 days in a year)…The MSP payment covers only a portion of the approximately $12,600 per day in higher U.S.-flag vessel operating costs relative to a foreign-flag vessel. On average the unfunded gap for each vessel will be approximately $4,100 per day."

In testimony to the House Armed Services Subcommittee on Seapower and Projection Forces, VADM William A. Brown, Deputy Commander United States Transportation Command stated that: "A significant percentage of our required sealift capacity needed in response to a national emergency will come from the 60 vessels operating within the MSP. Currently, there is downward pressure on the number of qualified U.S. mariners because the flag fleet is shrinking. We remain concerned with the loss in the number of U.S.-flagged vessels in the international trading sector, specifically ocean going vessels in excess of 1,000 tons. Since 1990, the size of this segment of the U.S.-flag fleet has been reduced from 193 to 85 as U.S.-flag companies struggle to remain competitive with companies operating under foreign flags at lower operating costs."

AMENDMENTS MADE IN ORDER:

- #29 Amash (R-MI): would strike section 6 of the bill related to the increase in funding to the maritime security program. Heritage Action has indicated that they will key vote yes on this amendment. Some conservatives have expressed national security concerns if the funding for the Maritime Security Program is not increased.

- #15 Cuellar (R-TX): would require the Department of Energy to continue to develop and broaden partnerships with minority serving institutions, including Hispanic Serving Institutions (HSI) and Historically Black Colleges and Universities (HBCUs) in the areas of oil and gas exploration, production, midstream, and refining. The Department of Energy would be required to encourage public Private partner ships between the energy sector and minority serving institutions.

- #3 Delaney (D-MD): would add an additional finding that "the United States has reduced its oil consumption over the past decade, and increasing investment in clean energy technology and energy efficiency will lower energy prices, reduce greenhouse gas emissions, and increase national security."

- #26 Garamendi (D-CA): would allow the President to take appropriate actions reducing exports of crude oil, which may include modifying or revoking authority to export such crude oil, if the Secretary of Commerce finds that exporting crude oil under authority of this Act has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels.

- #7 Huffman (D-CA): would require the Secretary of Energy to conduct and transmit to Congress the results of a study on the net greenhouse gas emissions that will result from the repeal of the crude oil export ban.

- #19 Jackson Lee (D-TX): would require the Secretary of Energy and the Secretary of Commerce to jointly transmit to Congress a report that reviews the impact of lifting the oil export ban after 10 years as it relates to promoting United States energy and national security.

- #21 Jackson Lee (D-TX): would require the Secretary of Energy and the Secretary of Commerce to jointly transmit to Congress a report within 180 days analyzing how lifting the ban on crude oil exports will help create opportunities for veterans and women in the United States, while promoting energy and national security.

- #12 Lawrence (D-MI): would require the Department of Commerce, in consultation with the Department of Energy, to conduct a study of the state and national implications of lifting the crude oil export ban with respect to consumers and the economy. The report would include an analysis of the economic impact exporting crude oil will have on the economy of the United States, on consumers, on domestic manufacturing, and on the refining sector.

- #5 Messer (R-IN): would prohibit the export of crude oil, refined petroleum products, and petrochemical products to the Islamic Republic of Iran.

- #6 Messer (R-IN): would ensure the President is allowed to ban the export of crude oil to a foreign government that is designated as a state sponsor of terrorism.

OUTSIDE GROUPS IN SUPPORT:

- 60 Plus Association
- American Council for Capital Formation
- American Commitment

- American Council of Engineering Companies
- Americans for Prosperity
- Americans for Tax Reform
- American Energy Alliance (key vote)
- American Petroleum Institute
- Business Roundtable
- Competitive Enterprise Institute
- Center for Individual Freedom
- Domestic Energy Producers Alliance
- Energy Equipment and Infrastructure Alliance
- Freedom Works
- Frontiers of Freedom
- Institute for Liberty
- National Taxpayers Union
- Producers for American Crude Exports
- R Street Institute
- Taxpayers Protection Alliance
- Tea Party Nation
- U.S. Chamber of Commerce
- U.S. Oil and Gas Association

More letters of support provided by the House Energy and Commerce Committee can be found here.

COMMITTEE ACTION:

The bill was introduced on February 4, 2015 and was referred to the House Committee on Energy and Commerce. The bill was then reported (amended) by the committee on September 25, 2015.

ADMINISTRATION POSITION:

The White House Statement of Administration Policy can be found here. According to the statement, if the President were presented with H.R. 702, his senior advisors would recommend that he veto the bill.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 "The Congress shall have Power . . . To regulate commerce with foreign Nations . . ."

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