

Calendar No. 245

112TH CONGRESS
1ST SESSION

S. 1932

To require the Secretary of State to act on a permit for the Keystone XL pipeline.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2011

Mr. LUGAR (for himself, Mr. HOEVEN, Mr. VITTER, Ms. MURKOWSKI, Mr. McCONNELL, Mr. JOHANNNS, Mr. ROBERTS, Mr. BARRASSO, Mr. COATS, Mr. RUBIO, Mr. ISAKSON, Mr. CORNYN, Mr. WICKER, Mr. INHOFE, Mr. MORAN, Mr. THUNE, Mr. JOHNSON of Wisconsin, Mr. CRAPO, Mr. GRAHAM, Mr. BLUNT, Mr. SESSIONS, Mr. ENZI, Mr. ALEXANDER, Mrs. HUTCHISON, Mr. RISCH, Mr. CHAMBLISS, Mr. KIRK, Mr. PORTMAN, Mr. BURR, Mr. SHELBY, Mr. LEE, Mr. BOOZMAN, Mr. COBURN, Mr. COCHRAN, Mr. GRASSLEY, Mr. HELLER, Mr. CORKER, Mr. TOOMEY, and Ms. AYOTTE) introduced the following bill; which was read the first time

DECEMBER 1, 2011

Read the second time and placed on the calendar

A BILL

To require the Secretary of State to act on a permit for the Keystone XL pipeline.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “North American En-
3 ergy Security Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) United States overdependence on oil im-
7 ports from hostile or unstable regions damages
8 United States national security, endangers the econ-
9 omy of the United States, puts the lives of military
10 and civilian personnel at risk, and ensures that ac-
11 cess to oil imports comes at tremendous taxpayer ex-
12 pense;

13 (2) the United States imports more than half of
14 the oil it consumes, much of it from countries that
15 do not have the level of environmental standards of
16 Canada and the United States and that are hostile
17 to United States interests or that have political and
18 economic instability that compromises supply secu-
19 rity;

20 (3) while a significant portion of the United
21 States’ oil imports are derived from allies such as
22 Canada and Mexico, the United States remains vul-
23 nerable to substantial supply disruptions created by
24 geopolitical tumult in major oil-producing nations;

25 (4) strong increases in oil consumption in the
26 developing world outpace growth in oil supplies,

1 bringing tight market conditions and higher oil
2 prices in periods of global economic expansion or
3 when supplies are threatened;

4 (5) the development and delivery of oil from
5 Canada to the United States is in the national inter-
6 est of the United States by helping to secure reliable
7 oil supplies to meet demand that is otherwise pro-
8 jected to be met by increases in imports from less
9 secure and reliable suppliers;

10 (6) secure and reliable trade with Canada com-
11 plements United States domestic energy priorities;

12 (7) continued development of North American
13 energy resources, including Canadian oil, increases
14 the access of domestic refiners to stable and reliable
15 sources of crude oil and improves the certainty of
16 fuel supply for the Department of Defense, the larg-
17 est consumer of petroleum in the United States;

18 (8)(A) Canada and the United States have the
19 largest 2-way trading relationship in the world;

20 (B) for every United States dollar spent on
21 products from Canada, including oil, 90 cents is re-
22 turned to the United States economy; and

23 (C) when the same metrics are applied to trad-
24 ing relationships with some other major sources of

1 United States crude oil imports, returns are much
2 lower;

3 (9)(A) the principal choice for Canadian oil ex-
4 porters is between moving increasing crude oil vol-
5 umes to the United States or Asia, particularly
6 China; and

7 (B) increased Canadian oil exports to China
8 would result in increased crude oil imports to the
9 United States from less secure and reliable foreign
10 sources, many of which do not have the level of envi-
11 ronmental standards of Canada and the United
12 States;

13 (10) increased Canadian crude oil imports into
14 the United States correspondingly reduces the scale
15 of wealth transfers to other more distant foreign
16 sources resulting from the greater cost of trans-
17 porting crude oil from those sources;

18 (11) not only are United States companies
19 major investors in Canadian oil sands, but many
20 United States businesses throughout the United
21 States benefit from supplying goods and services re-
22 quired for ongoing Canadian oil sands operations
23 and expansion;

24 (12) there has been more than 3 years of con-
25 sideration and a coordinated review by more than a

1 dozen Federal agencies of the technical aspects and
2 of the environmental, social, and economic impacts
3 of the proposed pipeline project known as the Key-
4 stone XL from Hardisty, Alberta, to Steele City, Ne-
5 braska, and then on to the United States Gulf Coast
6 through Cushing, Oklahoma;

7 (13) the Keystone XL pipeline represents a
8 high capacity pipeline supply option that could meet
9 near, as well as long-term, market demand for crude
10 oil to United States refineries, and could also poten-
11 tially bring over 100,000 barrels per day of United
12 States Bakken crude oil to market;

13 (14) completion of the Keystone XL pipeline
14 would increase total Keystone pipeline system capac-
15 ity by 700,000 barrels per day to 1,290,000 barrels
16 per day;

17 (15) the Keystone XL pipeline would directly
18 create 20,000 jobs and many more long-term jobs
19 and related labor income benefits through the supply
20 chain;

21 (16) the earliest possible construction of the
22 Keystone XL pipeline will increase the quantity of
23 proven and potential reserves of Canadian oil avail-
24 able for United States use and increase United

1 States jobs and will, as a result, serve the national
2 interest;

3 (17) the Keystone XL pipeline would be state-
4 of-the-art and be constructed to meet the highest
5 safety standards; and

6 (18) as a result of the extensive governmental
7 studies already made with respect to the Keystone
8 XL project and the national interest in early delivery
9 of Canadian oil to United States markets, a decision
10 with respect to a Presidential permit for the Key-
11 stone XL pipeline should be promptly issued without
12 further administrative delay or impediment.

13 **SEC. 3. PERMIT FOR KEYSTONE XL PIPELINE.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (b), not later than 60 days after the date of enactment
16 of this Act, the President, acting through the Secretary
17 of State, shall grant a permit under Executive Order
18 13337 (3 U.S.C. 301 note; relating to issuance of permits
19 with respect to certain energy-related facilities and land
20 transportation crossings on the international boundaries
21 of the United States) for the Keystone XL pipeline project
22 application filed on September 19, 2008 (including amend-
23 ments).

24 (b) EXCEPTION.—

1 (1) IN GENERAL.—The President shall not be
2 required to grant the permit under subsection (a) if
3 the President determines that the Keystone XL
4 pipeline would not serve the national interest.

5 (2) REPORT.—If the President determines that
6 the Keystone XL pipeline is not in the national in-
7 terest under paragraph (1), the President shall, not
8 later than 15 days after the date of the determina-
9 tion, submit to the Committee on Foreign Relations
10 of the Senate, the Committee on Foreign Affairs of
11 the House of Representatives, the majority leader of
12 the Senate, the minority leader of the Senate, the
13 Speaker of the House of Representatives, and the
14 minority leader of the House of Representatives a
15 report that provides a justification for determina-
16 tion, including consideration of economic, employ-
17 ment, energy security, foreign policy, trade, and en-
18 vironmental factors.

19 (3) EFFECT OF NO FINDING OR ACTION.—If a
20 determination is not made under paragraph (1) and
21 no action is taken by the President under subsection
22 (a) not later than 60 days after the date of enact-
23 ment of this Act, the permit for the Keystone XL
24 pipeline described in subsection (a) that meets the

1 requirements of subsections (c) and (d) shall be in
2 effect by operation of law.

3 (c) REQUIREMENTS.—The permit granted under sub-
4 section (a) shall require the following:

5 (1) The permittee shall comply with all applica-
6 ble Federal and State laws (including regulations)
7 and all applicable industrial codes regarding the con-
8 struction, connection, operation, and maintenance of
9 the United States facilities.

10 (2) The permittee shall obtain all requisite per-
11 mits from Canadian authorities and relevant Fed-
12 eral, State, and local governmental agencies.

13 (3) The permittee shall take all appropriate
14 measures to prevent or mitigate any adverse envi-
15 ronmental impact or disruption of historic properties
16 in connection with the construction, operation, and
17 maintenance of the United States facilities.

18 (4) For the purpose of the permit issued under
19 subsection (a) (regardless of any modifications under
20 subsection (d))—

21 (A) the final environmental impact state-
22 ment issued by the Secretary of State on Au-
23 gust 26, 2011, satisfies all requirements of the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.) and section 106 of the Na-

1 tional Historic Preservation Act (16 U.S.C.
2 470f);

3 (B) any modification required by the Sec-
4 retary of State to the Plan described in para-
5 graph (5)(A) shall not require supplementation
6 of the final environmental impact statement de-
7 scribed in that paragraph; and

8 (C) no further Federal environmental re-
9 view shall be required.

10 (5) The construction, operation, and mainte-
11 nance of the facilities shall be in all material re-
12 spects similar to that described in the application
13 described in subsection (a) and—

14 (A) in accordance with the construction,
15 mitigation, and reclamation measures agreed to
16 by the permittee in the Construction Mitigation
17 and Reclamation Plan found in appendix B of
18 the final environmental impact statement issued
19 by the Secretary of State on August 26, 2011,
20 subject to the modification described in sub-
21 section (d);

22 (B) the special conditions agreed to be-
23 tween the permittee and the Administrator of
24 the Pipeline Hazardous Materials Safety Ad-
25 ministration of the Department of Transpor-

1 tation found in appendix U of the final environ-
2 mental impact statement described in subpara-
3 graph (A);

4 (C) if the modified route submitted by the
5 Governor of Nebraska under subsection
6 (d)(3)(B) crosses the Sand Hills region, the
7 measures agreed to by the permittee for the
8 Sand Hills region found in appendix H of the
9 final environmental impact statement described
10 in subparagraph (A); and

11 (D) the stipulations identified in appendix
12 S of the final environmental impact statement
13 described in subparagraph (A).

14 (6) Other requirements that are standard in-
15 dustry practice or commonly included in Federal
16 permits that are similar to a permit issued under
17 subsection (a).

18 (d) MODIFICATION.—The permit issued under sub-
19 section (a) shall require—

20 (1) the reconsideration of routing of the Key-
21 stone XL pipeline within the State of Nebraska;

22 (2) a review period during which routing within
23 the State of Nebraska may be reconsidered and the
24 route of the Keystone XL pipeline through the State

1 altered with any accompanying modification to the
2 Plan described in subsection (c)(5)(A); and

3 (3) the President—

4 (A) to coordinate review with the State of
5 Nebraska and provide any necessary data and
6 reasonable technical assistance material to the
7 review process required under this subsection;
8 and

9 (B) to approve the route within the State
10 of Nebraska that has been submitted to the
11 Secretary of State by the Governor of Ne-
12 braska.

13 (e) EFFECT OF NO APPROVAL.—If the President
14 does not approve the route within the State of Nebraska
15 submitted by the Governor of Nebraska under subsection
16 (d)(3)(B) not later than 10 days after the date of submis-
17 sion, the route submitted by the Governor of Nebraska
18 under subsection (d)(3)(B) shall be considered approved,
19 pursuant to the terms of the permit described in sub-
20 section (a) that meets the requirements of subsection (c)
21 and this subsection, by operation of law.

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