Conservative Action Team

Policy Brief

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Prepared by the staff of the Conservative Action Team

For additional information contact Neil Bradley at 202-226-2273

H.R. 4441 -- The Motor Carrier Fuel Cost Equity Act

Sponsored by Reps. Rahall (D-WV) & Blunt (R-MO)

SUMMARY: The bill requires that each contract between a shipper and a motor carrier / truck driver include a fuel-cos surcharge requiring the shipper to cover the increased cost of fuel whenever the current fuel price exceeds the latest 52- average by more than 5 cents. One-hundred percent of the fuel surcharge must be passed through to the entity who purchased the fuel. Compliance with the mandatory surcharge will be enforced through a private cause of action. The would not supersede any privately-negotiated fuel-cost surcharges currently in existence. The bill sunsets in three years

BACKGROUND: Supporters contend that most truck drivers and motor carriers do not have the leverage to negotiate fuel surcharge provisions in their contracts and therefore when fuel prices go up they are forced to cover the increased c thereby reducing, or in some cases, even eliminating their profit. Increased fuel costs this year have reportedly hit the t industry especially hard. Supporters cite similar legislation enacted by Congress in 1974 during the fuel crisis as a prec for this type of federal relief.

CRITIQUE: The legislation proposes a direct government interference in private business transactions and manipulat the free market. Provisions of a private contract for services should be determined by those entering a contract, not mandated by the federal government. Fluctuations in fuel prices (both up and down) are a fundamental component of th of operating a truck driving business. Those paying the fuel costs see their profits diminished when costs rise and see t profits increase when costs fall. It is true that many owner-operator drivers and motor carriers do not have the leverage force shippers to agree to fuel surcharge provisions, however, this may be the result of intense market competition for shipping contracts, not the result of any government action. Indeed, since 1980, Congress has sought to reduce federal regulation of the trucking industry. This bill proposes a marked return to government regulation. Such government reg will eventually result in a less efficient trucking system and increased costs for consumers, who ultimately pay for any increased shipping costs.

It is important to note that there is nothing in federal law which prohibits privately negotiated fuel-cost surcharges. Ind bill actually exempts those contracts which already contain privately negotiated surcharges.

Opponents of the legislation also contend that the provisions of the bill will be difficult to enforce and could result in e litigation.

WHAT REPUBLICANS SHOULD BE DOING TO ASSIST THE TRUCKING INDUSTRY: Rather than pursui government regulation of the free market, Republicans should be pushing the Administration to adopt a sound energy p that ensures greater price stability for motor fuels. Republicans might also consider reducing the price for motor fuels b reducing the federal excise taxes collected on such fuels. In particular, Republicans might want to repeal the 4.3 cent p gallon increase enacted by the Democratic Congress and the Clinton-Gore Administration in 1993 as a way to reduce th deficit.