

AMENDMENT TO H.R. 3432
OFFERED BY MR. WALBERG OF MICHIGAN

Insert after section 8 the following section:

1 **SEC. 9. VOLUNTARY INFORMATION SHARING SYSTEM.**

2 (a) IN GENERAL.—Chapter 601 of title 49, United
3 States Code, is amended by inserting after section 60141
4 the following:

5 **“§ 60142. Voluntary information sharing system**

6 “(a) ESTABLISHMENT.—Not later than 180 days
7 after the date of enactment of this section, the Secretary,
8 in consultation with the heads of other relevant Federal
9 agencies, shall promulgate a rule to—

10 “(1) develop and maintain a voluntary informa-
11 tion-sharing system (to be known as the ‘VIS sys-
12 tem’) to facilitate and promote the voluntary sharing
13 of pipeline facility safety information, including in-
14 spection information feedback, for the purpose of
15 improving pipeline facility safety, including pipeline
16 facility integrity risk analysis; and

17 “(2) establish a governing board described in
18 subsection (b) for the VIS system.

19 “(b) GOVERNING BOARD.—

1 “(1) CO-CHAIRS.—The governing board for the
2 VIS system shall be co-chaired by the Administrator
3 of the Pipeline and Hazardous Materials Safety Ad-
4 ministration and a representative of the pipeline in-
5 dustry.

6 “(2) DUTIES.—The governing board for the
7 VIS system shall—

8 “(A) govern the VIS system through con-
9 sensus of the board;

10 “(B) develop governance documents and
11 oversee enforcement of such documents; and

12 “(C) establish and appoint members of
13 issue analysis teams.

14 “(3) MEMBERSHIP.—The Secretary shall ap-
15 point members to the governance board, which shall
16 include balanced representation from—

17 “(A) the Pipeline and Hazardous Materials
18 Safety Administration;

19 “(B) operators of pipeline facilities, includ-
20 ing pipeline trade association representatives;

21 “(C) pipeline service providers;

22 “(D) pipeline safety advocacy groups;

23 “(E) labor representatives;

1 “(F) State pipeline safety regulators or
2 other State officials responsible for pipeline
3 safety oversight; and

4 “(G) research institutions.

5 “(c) ISSUE ANALYSIS TEAMS.—Issue analysis teams
6 appointed by the governing board pursuant to subsection
7 (b)(2)(C) shall—

8 “(1) examine, as directed by the governing
9 board, pipeline facility safety issues;

10 “(2) utilize de-identified data and information
11 submitted to the VIS system, along with publicly-
12 available information;

13 “(3) make recommendations to the governing
14 board for pipeline facility safety improvements in the
15 areas directed by the governing board; and

16 “(4) be composed of persons with technical and
17 subject matter expertise in the area addressed.

18 “(d) THIRD-PARTY DATA MANAGER.—The Secretary
19 may, after consultation with the governing board, enter
20 into a contract with a non-governmental entity to maintain
21 the VIS system.

22 “(e) REPORT ON IMPLEMENTATION.—

23 “(1) IN GENERAL.—Not later than 2 years
24 after the date of enactment of this Act, the Sec-
25 retary and the Inspector General of the Department

1 of Transportation shall jointly submit to Congress a
2 report on the implementation of this section.

3 “(2) RECOMMENDATIONS.—The report sub-
4 mitted under paragraph (1) may include rec-
5 ommendations for improvements or modifications to
6 the VIS system.

7 “(f) PROTECTION FROM LIABILITY; CONFIDEN-
8 TIALITY.—

9 “(1) MONITORING OF INFORMATION SYS-
10 TEMS.—No cause of action shall lie or be maintained
11 in any court against any private entity, and such ac-
12 tion shall be promptly dismissed, for the monitoring
13 of information systems and information provided
14 under subsection (c) for the purpose of carrying out
15 the purpose of subsection (a) that is conducted in
16 accordance with this section.

17 “(2) SHARING OR RECEIPT OF COVERED INFOR-
18 MATION.—No cause of action shall lie or be main-
19 tained in any court against any entity, and such ac-
20 tion shall be promptly dismissed, for the sharing or
21 receipt of covered information if such sharing or re-
22 ceipt is conducted in accordance with this section.

23 “(3) RULE OF CONSTRUCTION.—Nothing in
24 this section shall be construed—

1 “(A) to require dismissal of a cause of ac-
2 tion against an entity that has engaged in gross
3 negligence or willful misconduct in the course of
4 conducting activities authorized by this section;
5 or

6 “(B) to undermine or limit the availability
7 of otherwise applicable common law or statu-
8 tory defenses.

9 “(4) NO LIABILITY FOR NON-PARTICIPATION.—
10 Nothing in this section shall be construed to subject
11 any entity to liability for choosing not to engage in
12 the VIS system.

13 “(g) CONFIDENTIALITY.—

14 “(1) IN GENERAL.—No person, including any
15 VIS system governing board member, program man-
16 ager, third-party data manager, issue analysis team
17 member, nor any Federal, State, local, or Tribal
18 agency, having or obtaining access to any data or in-
19 formation submitted to, stored, managed, analyzed,
20 or produced by the VIS system, shall release or com-
21 municate that information to any person outside the
22 VIS system, with the sole exception being the publi-
23 cation of reports by the VIS system based on anal-
24 ysis of de-identified information and safety related
25 findings that the governing board in its sole discre-

1 tion determines to publish or authorize PHMSA to
2 publish.

3 “(2) EXCLUDED EVIDENCE.—Except as pro-
4 vided in paragraph (4), any data or information sub-
5 mitted to, stored, managed, analyzed, or produced
6 by the VIS system, shall not be used as evidence for
7 any purpose in any Federal, State, local, Tribal, or
8 private litigation, including any action or proceeding,
9 or to support any corrective action, related to a
10 probable violation under chapter 601, title 49,
11 United States Code, or any regulation or order
12 issued thereunder.

13 “(3) EXCLUDED FROM DISCOVERY.—Except as
14 provided in paragraph (4), any data or information
15 submitted to, stored, managed, analyzed, or pro-
16 duced by the VIS system shall not be subject to dis-
17 covery in any Federal, State, local, Tribal, or private
18 litigation or other proceedings.

19 “(4) LIMITATIONS.—The exclusions in para-
20 graphs (2) and (3) shall not apply to—

21 “(A) evidence of a knowing and willful vio-
22 lation;

23 “(B) a reportable release under 49 CFR
24 195.50;

1 “(C) a safety-related condition under 49
2 CFR 195.55; or

3 “(D) data or information obtained by the
4 administrator independently of the VIS system.

5 “(h) WHISTLEBLOWER PROTECTIONS.—Nothing in
6 this section shall be construed to prohibit or limit the dis-
7 closure of such information protected under 2302(b)(8) of
8 title 4, United States Code (governing disclosures of ille-
9 gality, waste, fraud, abuse, or public health or safety
10 threats) or section 7211 of title 5, United States Code
11 (governing disclosures to Congress).

12 “(i) EXEMPTION FROM FOIA RELEASE.—Data or
13 information submitted to, stored, managed, or analyzed,
14 or produced by the VIS system shall not be disclosed to
15 the public pursuant to section 552(b)(3)(B) of title 5,
16 United States Code.

17 “(j) INFORMATION SHARING RELATIONSHIPS.—
18 Nothing in this section shall be construed—

19 “(1) to limit or modify an existing information
20 sharing relationship;

21 “(2) to prohibit a new information sharing rela-
22 tionship;

23 “(3) to require a new information sharing rela-
24 tionship between an entity and another entity or a
25 Federal entity; or

1 “(4) to require the use of the VIS system.

2 “(k) PROHIBITED CONDUCT.—Nothing in this sec-
3 tion shall be construed to permit price-fixing, allocating
4 a market between competitors, monopolizing, or attempt-
5 ing to monopolize a market, boycotting, or exchanges of
6 price or cost information, customer lists, or information
7 regarding competitive planning.

8 “(l) REGULATORY AUTHORITY.—Nothing in this sec-
9 tion shall be construed—

10 “(1) to authorize the promulgation of any regu-
11 lations not specifically authorized by this section;

12 “(2) to establish or limit any regulatory author-
13 ity not specifically established or limited under this
14 section; or

15 “(3) to authorize regulatory actions that would
16 duplicate or conflict with regulatory requirements,
17 mandatory standards, or related processes under any
18 provision of Federal law.

19 “(m) DEFINITIONS.—In this section:

20 “(1) GOVERNING BOARD.—The term ‘governing
21 board’ means the governing board for the VIS sys-
22 tem established pursuant to subsection (a).

23 “(2) VIS SYSTEM.—The term ‘VIS system’
24 means the voluntary information-sharing system de-
25 veloped and maintained pursuant to subsection (a).

1 “(n) SUSTAINABLE FUNDING.—The Secretary, in
2 consultation with the governing board, shall explore sus-
3 tainable funding sources for the VIS system, including
4 public-private partnerships.

5 “(o) AUTHORIZATION OF APPROPRIATIONS.—There
6 is authorized to be appropriated to the Secretary to carry
7 out this section \$1,000,000 for each of the fiscal years
8 2020 through 2024.”.

9 (b) CONFORMING AMENDMENT.—The analysis for
10 chapter 601 of title 49, United States Code, is amended
11 by adding after the item relating to section 60141 the fol-
12 lowing:

“60142. Voluntary information sharing system.”.

