

AMENDMENT TO H.R. 5120
OFFERED BY MRS. FLETCHER OF TEXAS

Strike section 23 of the bill and insert the following:

1 **SEC. 23. ADVANCEMENT OF NEW PIPELINE SAFETY TECH-**
2 **NOLOGIES AND APPROACHES.**

3 (a) IN GENERAL.—Chapter 601 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 60145. Pipeline safety enhancement programs**

7 “(a) IN GENERAL.—The Secretary may establish and
8 carry out limited safety-enhancing testing programs dur-
9 ing the period of fiscal years 2020 through 2026 to evalu-
10 ate innovative technologies and operational practices test-
11 ing the safe operation of—

12 “(1) a natural gas pipeline facility; or

13 “(2) a hazardous liquid pipeline facility.

14 “(b) LIMITATIONS.—

15 “(1) IN GENERAL.—Such testing programs may
16 not exceed—

17 “(A) 5 percent of the total miles of haz-
18 ards liquid pipelines in the United States;
19 and

1 “(B) 5 percent of the total miles of natural
2 gas pipelines in the United States.

3 “(2) INDIVIDUAL OPERATOR MILEAGE LIMITA-
4 TION.—The Secretary shall limit the mileage an in-
5 dividual operator can test under each program es-
6 tablished under subsection (a) to the lesser of—

7 “(A) 50 percent of the total pipeline mile-
8 age in the operator’s system; or

9 “(B) 1,000 miles.

10 “(3) HIGH POPULATION AREAS; HIGH CON-
11 SEQUENCE AREAS.—Any program established under
12 subsection (a) shall not be located in a high popu-
13 lation area (as defined in section 195.450 of title 49,
14 Code of Federal Regulations) or a high consequence
15 area (as defined in section 192.903 of title 49, Code
16 of Federal Regulations).

17 “(4) UNUSUALLY SENSITIVE AREAS.—Any pro-
18 gram established under subsection (a) shall not be
19 located in an unusually sensitive area (as described
20 in section 60109(b)).

21 “(5) HIGH CONSEQUENCE AREAS FOR HAZ-
22 ARDOUS LIQUID PIPELINES.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of this section, the
25 Secretary shall submit to Congress a report

1 containing an examination of the benefits and
2 costs of prohibiting testing in high consequence
3 areas (as defined in section 195.450 of title 49,
4 Code of Federal Regulations) for hazardous liq-
5 uid pipelines.

6 “(B) CONTENTS OF REPORT.—The report
7 described in subparagraph (A) shall examine
8 the safety benefits of allowing testing for haz-
9 ardous liquid pipelines in high consequence
10 areas and whether additional testing conditions
11 are required to protect such areas while con-
12 ducting the program established under sub-
13 section (a) in such areas.

14 “(6) RESTRICTION.—

15 “(A) IN GENERAL.—The Secretary shall
16 not approve a program under this section until
17 the report required under paragraph (5) is sub-
18 mitted to Congress.

19 “(B) EXCEPTION.—The limitation in sub-
20 paragraph (A) shall not apply if—

21 “(i) the Secretary determines that
22 there is a need for a program under this
23 section; and

24 “(ii) more than 1 year has passed
25 since the date of enactment of this section.

1 “(c) DURATION.—The term of a testing program es-
2 tablished under subsection (a) shall be not more than a
3 period of 4 years beginning on the date of approval of the
4 program.

5 “(d) SAFETY STANDARDS.—

6 “(1) IN GENERAL.—The Secretary shall re-
7 quire, as a condition of approval of a testing pro-
8 gram under subsection (a), that the safety measures
9 in the testing program are designed to achieve a
10 level of safety that is greater than, or equivalent to,
11 the level of safety required by this chapter.

12 “(2) DETERMINATION.—

13 “(A) IN GENERAL.—The Secretary may
14 issue an order under subparagraph (A) of sec-
15 tion 60118(c)(1) to accomplish the purpose of
16 a testing program for a term not to exceed the
17 time period described in subsection (c) if the
18 condition described in paragraph (1) is met, as
19 determined by the Secretary.

20 “(B) LIMITATION.—An order under sub-
21 paragraph (A) shall pertain only to those regu-
22 lations that would otherwise prevent the use of
23 the safety technology to be tested under the
24 testing program.

1 “(e) CONSIDERATIONS.—In establishing a testing
2 program under subsection (a), the Secretary shall con-
3 sider—

4 “(1) the accident or incident record of the own-
5 ers or operators participating in the program;

6 “(2) whether the owners or operators partici-
7 pating in the program have a safety management
8 system in place and how the application for such
9 program proposes to eliminate or mitigate any po-
10 tential safety risks;

11 “(3) a description of any measures or activities
12 the owners or operators participating in the program
13 propose to eliminate or mitigate any environmental
14 risks;

15 “(4) a description of any previous testing and
16 the outcome of such testing of the proposed safety
17 technology through a research and development pro-
18 gram carried out by—

19 “(A) the Secretary;

20 “(B) collaborative research development
21 organizations; or

22 “(C) other institutions;

23 “(5) whether there have been other testing pro-
24 grams granted under subsection (a) similar to the

1 proposed safety technology and the outcome of such
2 programs; and

3 “(6) whether the pipeline segments tested by
4 the program could affect, or are outside of, a high
5 consequence areas (as defined in sections 192.903
6 and 195.450 of title 49, Code of Federal Regula-
7 tions) and unusually sensitive areas (as described in
8 section 60109(b)).

9 “(f) MULTIPLE OPERATORS.—

10 “(1) IN GENERAL.—The Secretary may select
11 up to 5 owners or operators to carry out a testing
12 program under subsection (a) in a single application.

13 “(2) DETERMINATION.—In selecting owners or
14 operators under paragraph (1), the Secretary shall
15 determine that each testing program proposed by
16 such owners or operators—

17 “(A) meet the requirements of subsection
18 (d)(1);

19 “(B) test a similar technology, best prac-
20 tice, or related set of technologies and best
21 practices; and

22 “(C) provides appropriate testing condi-
23 tions for the technologies or practices being
24 used.

25 “(3) AUTHORITY TO REVOKE PARTICIPATION.—

1 “(A) IN GENERAL.—If an owner or oper-
2 ator participating in a program established
3 under subsection (a), the Secretary may revoke
4 permission to participate in such program if—

5 “(i) the owner or operator is involved
6 in an accident or incident and the testing
7 program is determined to be the cause or
8 a contributing factor of such accident or
9 incident; or

10 “(ii) the Secretary determines revoca-
11 tion of permission is warranted for public
12 safety reasons.

13 “(g) DATA AND FINDINGS.—

14 “(1) IN GENERAL.—As a participant in a test-
15 ing program established under subsection (a), an
16 owner or operator shall submit to the Secretary de-
17 tailed findings and a summary of data collected as
18 a result of participation in the testing program.

19 “(2) PUBLIC REPORT.—To the extent prac-
20 ticable, the Secretary shall make a yearly interim re-
21 port publicly available on the website of the Depart-
22 ment of Transportation for any ongoing testing pro-
23 gram established under subsection (a) summarizing
24 the progress of such program.

1 “(h) AUTHORITY TO REVOKE PARTICIPATION.—The
2 Secretary shall immediately revoke participation in a test-
3 ing program under subsection (a) if—

4 “(1) the participant has an accident or incident
5 involving a death, or personal injury necessitating
6 in-patient hospitalization and the testing program is
7 determined to be the cause or a contributing factor
8 to such accident or incident;

9 “(2) the participant fails to comply with the
10 terms and conditions of the testing program; or

11 “(3) in the determination of the Secretary, con-
12 tinued participation in the testing program by the
13 participant would be unsafe.

14 “(i) AUTHORITY TO TERMINATE PROGRAM.—The
15 Secretary shall immediately terminate a testing program
16 under subsection (a) if continuation of the testing pro-
17 gram would not be consistent with the goals and objectives
18 of this chapter.

19 “(j) STATE RIGHTS.—

20 “(1) EXEMPTION.—Except as provided in para-
21 graph (2), if a State submits to the Secretary notice
22 that the State requests an exemption from any test-
23 ing program considered for establishment under this
24 section, the State shall be exempt.

25 “(2) LIMITATIONS.—

1 “(A) IN GENERAL.—The Secretary shall
2 not grant a requested exemption under para-
3 graph (1) after a testing program is estab-
4 lished.

5 “(B) LATE NOTICE.—The Secretary shall
6 not grant a requested exemption under para-
7 graph (1) if the notice submitted under that
8 paragraph is submitted to the Secretary more
9 than 10 days after the date on which the Sec-
10 retary issues an order providing an effective
11 date for the testing program.

12 “(3) EXCEPTION.—A State shall be eligible to
13 withdraw from a testing program if an owner or op-
14 erator conducting such testing program in such
15 State has an incident involving a death, a personal
16 injury necessitating in-patient hospitalization, or a
17 reportable accident (within the meaning of sections
18 195.50 and 191.3 of title 49, Code of Federal Regu-
19 lations), and the testing program is determined to be
20 the cause or a contributing factor to such incident.

21 “(4) EFFECT.—If a State has not submitted a
22 notice requesting an exemption under paragraph (1),
23 the State shall not enforce any law (including regu-
24 lations) that is inconsistent with a testing program
25 in effect in the State under this section.

1 “(k) PROGRAM REVIEW PROCESS AND PUBLIC NO-
2 TICE.—

3 “(1) IN GENERAL.—The Secretary shall publish
4 in the Federal Register a notice of each testing pro-
5 gram under subsection (a), including the order to be
6 considered, and provide an opportunity for public
7 comment for not less than 60 days.

8 “(2) COMMUNICATION WITH STATES.—

9 “(A) IN GENERAL.—As part of carrying
10 out the process described in paragraph (1), the
11 Secretary shall individually notify, at the time
12 described in paragraph (1), the relevant au-
13 thorities in the States such testing programs
14 would be conducted in.

15 “(B) NOTIFICATION CONTENTS.—The no-
16 tification described in subparagraph (A) shall
17 include a specific list of the laws or regulations
18 that the State would not be allowed to enforce
19 pursuant to subsection (j)(4) should such test-
20 ing program go into effect, and the ability of
21 the State to request an exemption from the pro-
22 gram.

23 “(3) RESPONSE FROM SECRETARY.—Not later
24 than the date on which the Secretary issues an order
25 providing an effective date of a testing program no-

1 ticed under paragraph (1), the Secretary shall re-
2 spond to each comment submitted under that para-
3 graph.

4 “(1) REPORT TO CONGRESS.—At the conclusion of
5 each testing program, the Secretary shall make publicly
6 available on the website of the Department of Transpor-
7 tation a report containing—

8 “(1) the findings and conclusions of the Sec-
9 retary with respect to the testing program; and

10 “(2) any recommendations of the Secretary
11 with respect to the testing program, including any
12 recommendations for amendments to laws (including
13 regulations) and the establishment of standards,
14 that—

15 “(A) would enhance the safe operation of
16 interstate gas or hazardous liquid pipeline fa-
17 cilities; and

18 “(B) are technically, operationally, and
19 economically feasible.

20 “(m) STANDARDS.—If a report under subsection (l)
21 indicates that it is practicable to establish technically,
22 operationally, and economically feasible standards for the
23 use of a safety-enhancing technology and any cor-
24 responding operational practices tested by the testing pro-
25 gram described in the report, the Secretary, as soon as

1 practicable after submission of the report, may promulgate
2 regulations consistent with chapter 5 of title 5 (commonly
3 known as the ‘Administrative Procedures Act’) that—

4 “(1) allow operators of interstate gas or haz-
5 arduous liquid pipeline facilities to use the relevant
6 technology or practice to the extent practicable; and

7 “(2) establish technically, operationally, and
8 economically feasible standards for the capability
9 and deployment of the technology or practice.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for chapter 601 of title 49, United States Code, is amend-
12 ed by inserting after the item relating to section 60141
13 the following:

“60142. Pipeline safety enhancement programs.”.

