

106TH CONGRESS
2D SESSION

H. R. 4849

To provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2000

Mr. FRANKS of New Jersey (for himself, Mr. FRELINGHUYSEN, Mr. PASCRELL, Mr. METCALF, Ms. DUNN, Mr. INSLEE, Mr. DICKS, Mr. McDERMOTT, Mr. BAIRD, and Mr. SMITH of Washington) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,**
4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Pipeline Safety Improvement Act of 2000”.

1 (b) AMENDMENT OF TITLE 49, UNITED STATES
2 CODE.—Except as otherwise expressly provided, whenever
3 in this Act an amendment or repeal is expressed in terms
4 of an amendment to, or a repeal of, a section or other
5 provision, the reference shall be considered to be made to
6 a section or other provision of title 49, United States
7 Code.

8 **SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL REC-**
9 **COMMENDATIONS.**

10 (a) IN GENERAL.—Except as otherwise required by
11 this Act, the Secretary of Transportation shall implement
12 the safety improvement recommendations provided for in
13 the Department of Transportation Inspector General’s Re-
14 port (RT–2000–069).

15 (b) REPORTS BY THE SECRETARY.—Not later than
16 90 days after the date of enactment of this Act, and every
17 90 days thereafter until each of the recommendations re-
18 ferred to in subsection (a) has been implemented, the Sec-
19 retary shall transmit to the Committee on Commerce,
20 Science, and Transportation of the Senate and the Com-
21 mittee on Transportation and Infrastructure of the House
22 of Representatives a report on the specific actions taken
23 to implement such recommendations.

24 (c) REPORTS BY THE INSPECTOR GENERAL.—The
25 Inspector General shall periodically transmit to the Com-

1 mittees referred to in subsection (b) a report assessing the
2 Secretary's progress in implementing the recommenda-
3 tions referred to in subsection (a) and identifying options
4 for the Secretary to consider in accelerating recommenda-
5 tion implementation.

6 **SEC. 3. NTSB SAFETY RECOMMENDATIONS.**

7 (a) IN GENERAL.—The Secretary of Transportation,
8 the Administrator of the Research and Special Program
9 Administration, and the Director of the Office of Pipeline
10 Safety shall fully comply with section 1135 of title 49,
11 United States Code, to ensure timely responsiveness to
12 National Transportation Safety Board recommendations
13 about pipeline safety.

14 (b) PUBLIC AVAILABILITY.—The Secretary, Adminis-
15 trator, or Director, respectively, shall make a copy of each
16 recommendation on pipeline safety and response, as de-
17 scribed in section 1135(a) and (b) of title 49, United
18 States Code, available to the public at reasonable cost.

19 (c) REPORTS TO CONGRESS.—The Secretary, Adminis-
20 trator, or Director, respectively, shall submit to the Con-
21 gress by January 1 of each year a report containing each
22 recommendation on pipeline safety made by the Board
23 during the prior year and a copy of the response to each
24 such recommendation.

1 **SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.**

2 (a) **QUALIFICATION PLAN.**—Each pipeline operator
3 shall make available to the Secretary of Transportation,
4 or, in the case of an intrastate pipeline facility operator,
5 the appropriate State regulatory agency, a plan that is de-
6 signed to enhance the qualifications of pipeline personnel
7 and to reduce the likelihood of accidents and injuries. The
8 plan shall be made available not more than 6 months after
9 the date of enactment of this Act, and the operator shall
10 revise or update the plan as appropriate.

11 (b) **REQUIREMENTS.**—The enhanced qualification
12 plan shall include, at a minimum, criteria to demonstrate
13 the ability of an individual to safely and properly perform
14 tasks identified under section 60102 of title 49, United
15 States Code. The plan shall also provide for training and
16 periodic reexamination of pipeline personnel qualifications
17 and provide for requalification as appropriate. The Sec-
18 retary, or, in the case of an intrastate pipeline facility op-
19 erator, the appropriate State regulatory agency, may re-
20 view and certify the plans to determine if they are suffi-
21 cient to provide a safe operating environment and shall
22 periodically review the plans to ensure the continuation of
23 a safe operation. The Secretary may establish minimum
24 standards for pipeline personnel training and evaluation,
25 which may include written examination, oral examination,
26 work performance history review, observation during per-

1 formance on the job, on the job training, simulations, or
2 other forms of assessment.

3 (c) REPORT TO CONGRESS.—

4 (1) IN GENERAL.—The Secretary shall submit
5 a report to the Congress evaluating the effectiveness
6 of operator qualification and training efforts,
7 including—

8 (A) actions taken by inspectors;

9 (B) recommendations made by inspectors
10 for changes to operator qualification and train-
11 ing programs; and

12 (C) industry responses to those actions and
13 recommendations.

14 (2) CRITERIA.—The Secretary may establish
15 criteria for use in evaluating and reporting on oper-
16 ator qualification and training for purposes of this
17 subsection.

18 (3) DUE DATE.—The Secretary shall submit
19 the report required by paragraph (1) to the Con-
20 gress 3 years after the date of enactment of this
21 Act.

22 **SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.**

23 Section 60109 is amended by adding at the end the
24 following:

25 “(c) INTEGRITY MANAGEMENT.—

1 “(1) GENERAL REQUIREMENT.—The Secretary
2 shall promulgate regulations requiring operators of
3 hazardous liquid pipelines and natural gas trans-
4 mission pipelines to evaluate the risks to the opera-
5 tor’s pipeline facilities in areas identified pursuant
6 to subsection (a)(1), and to adopt and implement a
7 program for integrity management that reduces the
8 risk of an incident in those areas. The regulations
9 shall be issued no later than one year after the Sec-
10 retary has issued standards pursuant to subsections
11 (a) and (b) of this section or by December 31, 2001,
12 whichever is sooner.

13 “(2) STANDARDS FOR PROGRAM.—In promul-
14 gating regulations under this subsection, the Sec-
15 retary shall require an operator’s integrity manage-
16 ment plan to be based on risk analysis and each
17 plan shall include, at a minimum—

18 “(A) internal inspection or pressure test-
19 ing, or another equally protective methods,
20 where these techniques are not feasible, that pe-
21 riodically assesses the integrity of the pipeline;

22 “(B) clearly defined criteria for evaluating
23 the results of the inspection or testing done
24 under subparagraph (A) and procedures to en-

1 sure identified problems are corrected in a time-
2 ly manner;

3 “(C) measures, as appropriate, that pre-
4 vent and mitigate unintended releases, such as
5 leak detection, integrity evaluation, restrictive
6 flow devices, or other measures; and

7 “(D) a description of the operators’ con-
8 sultation with State and local officials during
9 development of the integrity management plan
10 and actions taken by the operator to address
11 safety concerns raised by such officials.

12 “(3) CRITERIA FOR PROGRAM STANDARDS.—In
13 deciding how frequently the integrity inspections or
14 testing under paragraph (2)(A) must be conducted,
15 an operator shall take into account the potential for
16 new defects developing or previously identified struc-
17 tural defects caused by construction or installation,
18 the operational characteristics of the pipeline, and
19 leak history. In addition, the Secretary may estab-
20 lish a minimum testing requirement for operators of
21 pipelines to conduct internal inspections.

22 “(4) STATE ROLE.—A State authority that has
23 an agreement in effect with the Secretary under sec-
24 tion 60106 is authorized to review and assess an op-
25 erator’s risk analyses and integrity management

1 plans required under this subsection for interstate
2 pipelines located in that State. The reviewing State
3 authority shall provide the Secretary with a written
4 assessment of the plans, make recommendations, as
5 appropriate, to address safety concerns not ade-
6 quately addressed in the operator’s plans, and sub-
7 mit documentation explaining the State-proposed
8 plan revisions. The Secretary shall carefully consider
9 the State’s proposals and work in consultation with
10 the States and operators to address safety concerns.

11 “(5) MONITORING IMPLEMENTATION.—The
12 Secretary shall review the risk analysis and program
13 for integrity management required under this sub-
14 section and provide for continued monitoring of such
15 plans. Not later than 2 years after the implementa-
16 tion of integrity management plans under this sub-
17 section, the Secretary shall complete an assessment
18 and evaluation of the effects on safety and the envi-
19 ronment of extending all of the requirements man-
20 dated by the regulations described in paragraph (1)
21 to additional areas. The Secretary shall submit the
22 assessment and evaluation to Congress along with
23 any recommendations to improve and expand the
24 utilization of integrity management plans.”.

1 **SEC. 6. ENFORCEMENT.**

2 (a) IN GENERAL.—Section 60112 is amended—

3 (1) by striking subsection (a) and inserting the
4 following:

5 “(a) GENERAL AUTHORITY.—After notice and an op-
6 portunity for a hearing, the Secretary of Transportation
7 may decide a pipeline facility is hazardous if the Secretary
8 decides that—

9 “(1) operation of the facility is or would be haz-
10 arduous to life, property, or the environment; or

11 “(2) the facility is, or would be, constructed or
12 operated, or a component of the facility is, or would
13 be, constructed or operated with equipment, mate-
14 rial, or a technique that the Secretary decides is
15 hazardous to life, property, or the environment.”;

16 (2) by striking “is hazardous,” in subsection
17 (d) and inserting “is, or would be, hazardous”; and

18 (3) by adding at the end thereof the following:

19 “(f) SHUTDOWN AUTHORITY.—

20 “(1) IN GENERAL.—If the Secretary, or, in the
21 case of an intrastate pipeline facility operator, the
22 appropriate State regulatory agency, determines that
23 allowing the continued operation of a hazardous liq-
24 uid or natural gas pipeline creates an imminent haz-
25 ard (as defined in section 5102(5)), the Secretary or
26 the agency shall take such action as may be nec-

1 taken for public safety in the event of a pipeline re-
2 lease, and how to report such an event.

3 “(2) Within 12 months after the date of enact-
4 ment of the Pipeline Safety Improvement Act of
5 2000, each owner or operator of a gas or hazardous
6 liquid pipeline facility shall review its existing public
7 education program for effectiveness and modify the
8 program as necessary. The completed program shall
9 include activities to advise affected municipalities,
10 school districts, businesses, and residents of pipeline
11 facility locations. The completed program shall be
12 submitted to the Secretary of Transportation or, in
13 the case of an intrastate pipeline facility operator,
14 the appropriate State agency and shall be periodi-
15 cally reviewed by the Secretary or, in the case of an
16 intrastate pipeline facility operator, the appropriate
17 State agency.

18 “(3) The Secretary may issue standards pre-
19 scribing the elements of an effective public education
20 program. The Secretary may also develop material
21 for use in the program.

22 “(b) EMERGENCY PREPAREDNESS.—

23 “(1) OPERATOR LIAISON.—Within 12 months
24 after the date of enactment of the Pipeline Safety
25 Improvement Act of 2000, an operator of a gas

1 transmission or hazardous liquid pipeline facility
2 shall initiate and maintain liaison with the State
3 emergency response commissions, and local emer-
4 gency planning committees in the areas of pipeline
5 right-of-way, established under section 301 of the
6 Emergency Planning and Community Right-To-
7 Know Act of 1986 (42 U.S.C. 11001) in each State
8 in which it operates.

9 “(2) INFORMATION.—An operator shall, upon
10 request, make available to the State emergency re-
11 sponse commissions and local emergency planning
12 committees, and shall make available to the Office of
13 Pipeline Safety in a standardized form for the pur-
14 pose of providing the information to the public, the
15 information described in section 60102(d), any pro-
16 gram for integrity management, and information
17 about implementation of that program. The informa-
18 tion about the facility shall also include, at a
19 minimum—

20 “(A) the business name, address, telephone
21 number of the operator, including a 24-hour
22 emergency contact number;

23 “(B) a description of the facility including
24 pipe diameter, the product or products carried,
25 and the operating pressure;

1 “(C) with respect to transmission pipeline
2 facilities, maps showing the location of the facil-
3 ity and, when available, any high consequence
4 areas which the pipeline facility traverses or ad-
5 joins and abuts;

6 “(D) a summary description of the integ-
7 rity measures the operator uses to assure safety
8 and protection for the environment; and

9 “(E) a point of contact to respond to ques-
10 tions from emergency response representative.

11 “(3) SMALLER COMMUNITIES.—In a community
12 without a local emergency planning committee, the
13 operator shall maintain liaison with the local fire,
14 police, and other emergency response agencies.

15 “(4) PUBLIC ACCESS.—The Secretary shall pre-
16 scribe requirements for public access, as appropriate,
17 to this information, including a requirement that the
18 information be made available to the public by wide-
19 ly accessible computerized database.

20 “(c) COMMUNITY RIGHT TO KNOW.—Not later than
21 12 months after the date of enactment of the Pipeline
22 Safety Improvement Act of 2000, and annually thereafter,
23 the owner or operator of each gas transmission or haz-
24 ardous liquid pipeline facility shall provide to the gov-
25 erning body of each municipality in which the pipeline fa-

1 cility is located, a map identifying the location of such fa-
2 cility. The map may be provided in electronic form. The
3 Secretary may provide technical assistance to the pipeline
4 industry on developing public safety and public education
5 program content and best practices for program delivery,
6 and on evaluating the effectiveness of the programs. The
7 Secretary may also provide technical assistance to State
8 and local officials in applying practices developed in these
9 programs to their activities to promote pipeline safety.

10 “(d) PUBLIC AVAILABILITY OF REPORTS.—The Sec-
11 retary shall—

12 “(1) make available to the public—

13 “(A) a safety-related condition report filed
14 by an operator under section 60102(h);

15 “(B) a report of a pipeline incident filed by
16 an operator;

17 “(C) the results of any inspection by the
18 Office of Pipeline Safety or a State regulatory
19 official; and

20 “(D) a description of any corrective action
21 taken in response to a safety-related condition
22 reported under subparagraph (A), (B), or (C);
23 and

24 “(2) prescribe requirements for public access,
25 as appropriate, to integrity management program in-

1 formation prepared under this chapter, including re-
2 quirements that will ensure data accessibility to the
3 greatest extent feasible.”.

4 (b) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 601 is amended by striking the item relat-
6 ing to section 60116 and inserting the following:

“60116. Public education, emergency preparedness, and community right to
know.”.

7 **SEC. 8. PENALTIES.**

8 (a) CIVIL PENALTIES.—Section 60122 is amended—

9 (1) by striking “\$25,000” in subsection (a)(1)
10 and inserting “\$500,000”;

11 (2) by striking “\$500,000” in subsection (a)(1)
12 and inserting “\$1,000,000”;

13 (3) by adding at the end of subsection (a)(1)
14 the following: “The preceding sentence does not
15 apply to judicial enforcement action under section
16 60120 or 60121.”; and

17 (4) by striking subsection (b) and inserting the
18 following:

19 “(b) PENALTY CONSIDERATIONS.—In determining
20 the amount of a civil penalty under this section—

21 “(1) the Secretary shall consider—

22 “(A) the nature, circumstances, and grav-
23 ity of the violation, including adverse impact on
24 the environment;

1 “(B) with respect to the violator, the de-
2 gree of culpability, any history of prior viola-
3 tions, the ability to pay, any effect on ability to
4 continue doing business; and

5 “(C) good faith in attempting to comply;
6 and

7 “(2) the Secretary may consider—

8 “(A) the economic benefit gained from the
9 violation without any discount because of subse-
10 quent damages; and

11 “(B) other matters that justice requires.”.

12 (b) EXCAVATOR DAMAGE.—Section 60123(d) is
13 amended—

14 (1) by striking “knowingly and willfully”;

15 (2) by inserting “knowingly and willfully” be-
16 fore “engages” in paragraph (1); and

17 (3) striking paragraph (2)(B) and inserting the
18 following:

19 “(B) a pipeline facility, is aware of dam-
20 age, and does not report the damage promptly
21 to the operator of the pipeline facility and to
22 other appropriate authorities; or”.

23 (c) CIVIL ACTIONS.—Section 60120(a)(1) is amended
24 to read as follows:

1 “(1) On the request of the Secretary of Transpor-
2 tation, the Attorney General may bring a civil action in
3 an appropriate district court of the United States to en-
4 force this chapter, including section 60112 of this chapter,
5 or a regulation prescribed or order issued under this chap-
6 ter. The court may award appropriate relief, including a
7 temporary or permanent injunction, punitive damages,
8 and assessment of civil penalties considering the same fac-
9 tors as prescribed for the Secretary in an administrative
10 case under section 60122.”.

11 **SEC. 9. STATE OVERSIGHT ROLE.**

12 (a) STATE AGREEMENTS WITH CERTIFICATION.—
13 Section 60106 is amended—

14 (1) by striking “GENERAL AUTHORITY.—” in
15 subsection (a) and inserting “AGREEMENTS WITH-
16 OUT CERTIFICATION.—”;

17 (2) by redesignating subsections (b), (c), and
18 (d) as subsections (c), (d), and (e); and

19 (3) by inserting after subsection (a) the fol-
20 lowing:

21 “(b) AGREEMENTS WITH CERTIFICATION.—

22 “(1) IN GENERAL.—If the Secretary accepts a
23 certification under section 60105 of this title and
24 makes the determination required under this sub-
25 section, the Secretary may make an agreement with

1 a State authority authorizing it to participate in the
2 oversight of interstate pipeline transportation. Each
3 such agreement shall include a plan for the State
4 authority to participate in special investigations in-
5 volving incidents or new construction and allow the
6 State authority to participate in other activities
7 overseeing interstate pipeline transportation or to
8 assume additional inspection or investigatory duties.

9 “(2) DETERMINATIONS REQUIRED.—The Sec-
10 retary may not enter into an agreement under this
11 subsection, unless the Secretary determines that—

12 “(A) the agreement allowing participation
13 of the State authority is consistent with the
14 Secretary’s program for inspection and con-
15 sistent with the safety policies and provisions
16 provided under this chapter;

17 “(B) the interstate participation agreement
18 would not adversely affect the oversight respon-
19 sibilities of intrastate pipeline transportation by
20 the State authority;

21 “(C) the State is carrying out a program
22 demonstrated to promote preparedness and risk
23 prevention activities that enable communities to
24 live safely with pipelines;

1 “(D) the State meets the minimum stand-
2 ards for State one-call notification set forth in
3 chapter 61; and

4 “(E) the actions planned under the agree-
5 ment would not impede interstate commerce or
6 jeopardize public safety.

7 “(3) EXISTING AGREEMENTS.—Except as pro-
8 vided in subsection (e), an agreement between the
9 Secretary and a State authority that is in effect on
10 the date of enactment of the Pipeline Safety Im-
11 provement Act of 2000 shall remain in effect until
12 the Secretary determines that the State meets the
13 requirements for a determination under paragraph
14 (2).”.

15 (b) ENDING AGREEMENTS.—Subsection (e) of sec-
16 tion 60106, as redesignated by subsection (a), is amended
17 to read as follows:

18 “(e) ENDING AGREEMENTS.—

19 “(1) PERMISSIVE TERMINATION.—The Sec-
20 retary may end an agreement under this section
21 when the Secretary finds that the State authority
22 has not complied with any provision of the agree-
23 ment.

24 “(2) MANDATORY TERMINATION OF AGREE-
25 MENT.—The Secretary shall end an agreement for

1 the oversight of interstate pipeline transportation if
2 the Secretary finds that—

3 “(A) implementation of such agreement
4 has resulted in a gap in the oversight respon-
5 sibilities of intrastate pipeline transportation by
6 the State authority;

7 “(B) the State actions under the agree-
8 ment have failed to meet the requirements
9 under subsection (b); or

10 “(C) continued participation by the State
11 authority in the oversight of interstate pipeline
12 transportation is not promoting pipeline safety.

13 “(3) PROCEDURAL REQUIREMENTS.—The Sec-
14 retary shall give the notice and an opportunity for
15 a hearing to a State authority before ending an
16 agreement under this section. The Secretary may
17 provide a State an opportunity to correct any defi-
18 ciencies before ending an agreement. The finding
19 and decision to end the agreement shall be published
20 in the Federal Register and may not become effec-
21 tive for at least 15 days after the date of publication
22 unless the Secretary finds that continuation of an
23 agreement poses an imminent hazard.”.

24 (c) CONTINUATION OF INTERSTATE AGENT AGREE-
25 MENT AUTHORITY.—

1 (1) IN GENERAL.—If an agreement was in ef-
2 fect in 1999 between the Secretary of Transpor-
3 tation or one of its agencies and a State to permit
4 that State to oversee interstate pipeline transpor-
5 tation, the Secretary shall continue to permit that
6 State to carry out activities under the agreement, in-
7 cluding inspection responsibilities and other actions
8 to ensure compliance with Federal pipeline safety
9 regulations.

10 (2) TERMINATION.—Notwithstanding para-
11 graph (1), the Secretary may terminate an agree-
12 ment described in that paragraph if—

13 (A) the State wishes to withdraw from the
14 agreement;

15 (B) implementation of the agreement has
16 resulted in gaps in the oversight responsibilities
17 of intrastate pipeline transportation by the
18 State; or

19 (C) the State’s oversight actions under the
20 agreement have had an adverse impact on pipe-
21 line safety or impeded interstate commerce.

22 (3) PROCEDURAL REQUIREMENTS FOR TERMI-
23 NATION.—Before terminating an agreement de-
24 scribed in paragraph (1), the Secretary shall give
25 notice and an opportunity for a hearing to the State,

1 and provide an opportunity for the State to correct
2 any deficiencies. The Secretary shall publish the de-
3 cision to terminate such an agreement and the rea-
4 sons therefore in the Federal Register not less than
5 15 days before the termination is effective, unless
6 the Secretary finds that continuation of an agree-
7 ment poses an imminent hazard.

8 **SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.**

9 (a) IN GENERAL.—Within 12 months after the date
10 of enactment of this Act, the Secretary of Transportation
11 shall develop and implement a comprehensive plan for the
12 collection and use of gas and hazardous liquid pipeline
13 data to revise the causal categories on the incident report
14 forms to eliminate overlapping and confusing categories
15 and include subcategories. The plan shall include compo-
16 nents to provide the capability to perform sound incident
17 trend analysis and evaluations of pipeline operator per-
18 formance using normalized accident data.

19 (b) REPORT OF RELEASES EXCEEDING 5 GAL-
20 LONS.—Section 60117(b) is amended—

21 (1) by inserting “(1)” before “To”;

22 (2) redesignating paragraphs (1) and (2) as
23 subparagraphs (A) and (B);

24 (3) inserting before the last sentence the fol-
25 lowing:

1 “(2) A person owning or operating a hazardous liquid
2 pipeline facility shall report to the Secretary each release
3 to the environment greater than five gallons of the haz-
4 arduous liquid or carbon dioxide transported. This section
5 applies to releases from pipeline facilities regulated under
6 this chapter. A report must include the location of the re-
7 lease, fatalities and personal injuries, type of product,
8 amount of product release, cause or causes of the release,
9 extent of damage to property and the environment, and
10 the response undertaken to clean up the release.

11 “(3) During the course of an incident investigation,
12 a person owning or operating a pipeline facility shall make
13 records, reports, and information required under sub-
14 section (a) of this section or other reasonably described
15 records, reports, and information relevant to the incident
16 investigation, available to the Secretary within the time
17 limits prescribed in a written request.”; and

18 (4) inserting “(4)” before “The Secretary”.

19 (c) PENALTY AUTHORITIES.—(1) Section 60122(a)
20 is amended by striking “60114(c)” and substituting
21 “60117(b)(3)”.

22 (2) Section 60123(a) is amended by striking
23 “60114(c)” and substituting “60117(b)(3)”.

1 (d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—
2 Section 60117 is amended by adding at the end the fol-
3 lowing:

4 “(1) NATIONAL DEPOSITORY.—The Secretary shall
5 establish a national depository of data on events and con-
6 ditions, including spill histories and corrective actions for
7 specific incidents, that can be used to evaluate the risk
8 of, and to prevent, pipeline failures and releases. The Sec-
9 retary shall administer the program through the Bureau
10 of Transportation Statistics, in cooperation with the Re-
11 search and Special Programs Administration, and shall
12 make such information available for use by State and local
13 planning and emergency response authorities and the pub-
14 lic.”.

15 **SEC. 11. INNOVATIVE TECHNOLOGY DEVELOPMENT.**

16 (a) IN GENERAL.—As part of the Department of
17 Transportation’s research and development program, the
18 Secretary of Transportation shall direct research attention
19 to the development of alternative technologies—

20 (1) to expand the capabilities of internal inspec-
21 tion devices to identify and accurately measure de-
22 fects and anomalies;

23 (2) to inspect pipelines that cannot accommo-
24 date internal inspection devices available on the date
25 of enactment;

1 (3) to develop innovative techniques measuring
2 the structural integrity of pipelines;

3 (4) to improve the capability, reliability, and
4 practicality of external leak detection devices; and

5 (5) to develop and improve alternative tech-
6 nologies to identify and monitor outside force dam-
7 age to pipelines.

8 (b) COOPERATIVE.—The Secretary may participate
9 in additional technological development through coopera-
10 tive agreements with trade associations, academic institu-
11 tions, or other qualified organizations.

12 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) GAS AND HAZARDOUS LIQUIDS.—Section
14 60125(a) is amended to read as follows:

15 “(a) GAS AND HAZARDOUS LIQUID.—To carry out
16 this chapter and other pipeline-related damage prevention
17 activities of this title (except for section 60107), there are
18 authorized to be appropriated to the Department of
19 Transportation—

20 “(1) \$26,000,000 for fiscal year 2001, of which
21 \$20,000,000 is to be derived from user fees for fis-
22 cal year 2001 collected under section 60301 of this
23 title; and

24 “(2) \$30,000,000 for each of the fiscal years
25 2002 and 2003 of which \$23,000,000 is to be de-

1 rived from user fees for fiscal year 2002 and fiscal
2 year 2003 collected under section 60301 of this
3 title.”.

4 (b) GRANTS TO STATES.—Section 60125(c) is
5 amended to read as follows:

6 “(c) STATE GRANTS.—Not more than the following
7 amounts may be appropriated to the Secretary to carry
8 out section 60107—

9 “(1) \$17,000,000 for fiscal year 2001, of which
10 \$15,000,000 is to be derived from user fees for fis-
11 cal year 2001 collected under section 60301 of this
12 title; and

13 “(2) \$20,000,000 for each of the fiscal years
14 2002 and 2003 of which \$18,000,000 is to be de-
15 rived from user fees for fiscal year 2002 and fiscal
16 year 2003 collected under section 60301 of this
17 title.”.

18 (c) OIL SPILLS.—Section 60125 is amended by re-
19 designating subsections (d), (e), and (f) as subsections (e),
20 (f), (g) and inserting after subsection (c) the following:

21 “(d) OIL SPILL LIABILITY TRUST FUND.—Of the
22 amounts available in the Oil Spill Liability Trust Fund,
23 \$8,000,000 shall be transferred to carry out programs au-
24 thorized in this Act for fiscal year 2001, fiscal year 2002,
25 and fiscal year 2003.”.

1 (d) DAMAGE PREVENTION ACTIVITIES.—Section
2 60125 is further amended by adding at the end the fol-
3 lowing new subsection:

4 “(h) DAMAGE PREVENTION ACTIVITIES.—Out of
5 amounts authorized under subsection (a), there are au-
6 thorized to be appropriated to the Department of Trans-
7 portation \$500,000 for fiscal year 2001, to remain avail-
8 able for expenditure until the end of fiscal year 2002, to
9 support damage prevention activities, including public
10 education and awareness, arising out of the best practices
11 study conducted under section 6105 of this title.”.

12 **SEC. 13. OPERATOR ASSISTANCE IN INVESTIGATIONS.**

13 (a) IN GENERAL.—If the Department of Transpor-
14 tation or the National Transportation Safety Board inves-
15 tigate an accident, the operator involved shall make avail-
16 able to the representative of the Department or the Board
17 all records and information that in any way pertain to the
18 accident (including integrity management plans and test
19 results), and shall afford all reasonable assistance in the
20 investigation of the accident.

21 (b) HAZARDOUS FACILITY DESIGNATION.—A facility
22 operated by an operator that fails to take prompt action
23 to relieve, reassign, or place on leave (with or without com-
24 pensation) any employee whose duties affect public safety
25 and whose performance of those duties is a subject of such

1 an accident investigation until the conclusion of the inves-
2 tigation is deemed to be hazardous under section 60112.
3 The Secretary shall take action under section 60112(d)
4 against that facility.

5 **SEC. 14. PROTECTION OF EMPLOYEES PROVIDING PIPE-**
6 **LINE SAFETY INFORMATION.**

7 (a) IN GENERAL.—Chapter 601 is amended by add-
8 ing at the end the following:

9 **“§60129. Protection of employees providing pipeline**
10 **safety information**

11 “(a) DISCRIMINATION AGAINST PIPELINE EMPLOY-
12 EES.—No pipeline operator or contractor or subcontractor
13 of a pipeline may discharge an employee or otherwise dis-
14 criminate against an employee with respect to compensa-
15 tion, terms, conditions, or privileges of employment be-
16 cause the employee (or any person acting pursuant to a
17 request of the employee)—

18 “(1) provided, caused to be provided, or is
19 about to provide (with any knowledge of the em-
20 ployer) or cause to be provided to the employer or
21 Federal Government information relating to any vio-
22 lation or alleged violation of any order, regulation,
23 or standard of the Research and Special Programs
24 Administration or any other provision of Federal law

1 relating to pipeline safety under this chapter or any
2 other law of the United States;

3 “(2) has filed, caused to be filed, or is about to
4 file (with any knowledge of the employer) or cause
5 to be filed a proceeding relating to any violation or
6 alleged violation of any order, regulation, or stand-
7 ard of the Administration or any other provision of
8 Federal law relating to pipeline safety under this
9 chapter or any other law of the United States;

10 “(3) testified or is about to testify in such a
11 proceeding; or

12 “(4) assisted or participated or is about to as-
13 sist or participate in such a proceeding.

14 “(b) DEPARTMENT OF LABOR COMPLAINT PROCE-
15 DURE.—

16 “(1) FILING AND NOTIFICATION.—A person
17 who believes that he or she has been discharged or
18 otherwise discriminated against by any person in
19 violation of subsection (a) may, not later than 90
20 days after the date on which such violation occurs,
21 file (or have any person file on his or her behalf) a
22 complaint with the Secretary of Labor alleging such
23 discharge or discrimination. Upon receipt of such a
24 complaint, the Secretary of Labor shall notify, in
25 writing, the person named in the complaint and the

1 Administrator of the Research and Special Programs
2 Administration of the filing of the complaint, of the
3 allegations contained in the complaint, of the sub-
4 stance of evidence supporting the complaint, and of
5 the opportunities that will be afforded to such per-
6 son under paragraph (2).

7 “(2) INVESTIGATION; PRELIMINARY ORDER.—

8 “(A) IN GENERAL.—Not later than 60
9 days after the date of receipt of a complaint
10 filed under paragraph (1) and after affording
11 the person named in the complaint an oppor-
12 tunity to submit to the Secretary of Labor a
13 written response to the complaint and an oppor-
14 tunity to meet with a representative of the Sec-
15 retary to present statements from witnesses,
16 the Secretary of Labor shall conduct an inves-
17 tigation and determine whether there is reason-
18 able cause to believe that the complaint has
19 merit and notify in writing the complainant and
20 the person alleged to have committed a violation
21 of subsection (a) of the Secretary’s findings. If
22 the Secretary of Labor concludes that there is
23 reasonable cause to believe that a violation of
24 subsection (a) has occurred, the Secretary shall
25 accompany the Secretary’s findings with a pre-

1 liminary order providing the relief prescribed by
2 paragraph (3)(B). Not later than 30 days after
3 the date of notification of findings under this
4 paragraph, either the person alleged to have
5 committed the violation or the complainant may
6 file objections to the findings or preliminary
7 order, or both, and request a hearing on the
8 record. The filing of such objections shall not
9 operate to stay any reinstatement remedy con-
10 tained in the preliminary order. Such hearings
11 shall be conducted expeditiously. If a hearing is
12 not requested in such 30-day period, the pre-
13 liminary order shall be deemed a final order
14 that is not subject to judicial review.

15 “(B) REQUIREMENTS.—

16 “(i) REQUIRED SHOWING BY COM-
17 PLAINANT.—The Secretary of Labor shall
18 dismiss a complaint filed under this sub-
19 section and shall not conduct an investiga-
20 tion otherwise required under subpara-
21 graph (A) unless the complainant makes a
22 prima facie showing that any behavior de-
23 scribed in paragraphs (1) through (4) of
24 subsection (a) was a contributing factor in

1 the unfavorable personnel action alleged in
2 the complaint.

3 “(ii) SHOWING BY EMPLOYER.—Not-
4 withstanding a finding by the Secretary
5 that the complainant has made the show-
6 ing required under clause (i), no investiga-
7 tion otherwise required under subpara-
8 graph (A) shall be conducted if the em-
9 ployer demonstrates, by clear and con-
10 vincing evidence, that the employer would
11 have taken the same unfavorable personnel
12 action in the absence of that behavior.

13 “(iii) CRITERIA FOR DETERMINATION
14 BY SECRETARY.—The Secretary may de-
15 termine that a violation of subsection (a)
16 has occurred only if the complainant dem-
17 onstrates that any behavior described in
18 paragraphs (1) through (4) of subsection
19 (a) was a contributing factor in the unfa-
20 vorable personnel action alleged in the
21 complaint.

22 “(iv) PROHIBITION.—Relief may not
23 be ordered under subparagraph (A) if the
24 employer demonstrates by clear and con-
25 vincing evidence that the employer would

1 have taken the same unfavorable personnel
2 action in the absence of that behavior.

3 “(3) FINAL ORDER.—

4 “(A) DEADLINE FOR ISSUANCE; SETTLE-
5 MENT AGREEMENTS.—Not later than 120 days
6 after the date of conclusion of a hearing under
7 paragraph (2), the Secretary of Labor shall
8 issue a final order providing the relief pre-
9 scribed by this paragraph or denying the com-
10 plaint. At any time before issuance of a final
11 order, a proceeding under this subsection may
12 be terminated on the basis of a settlement
13 agreement entered into by the Secretary of
14 Labor, the complainant, and the person alleged
15 to have committed the violation.

16 “(B) REMEDY.—If, in response to a com-
17 plaint filed under paragraph (1), the Secretary
18 of Labor determines that a violation of sub-
19 section (a) has occurred, the Secretary of Labor
20 shall order the person who committed such vio-
21 lation to—

22 “(i) take affirmative action to abate
23 the violation;

24 “(ii) reinstate the complainant to his
25 or her former position together with the

1 compensation (including back pay) and re-
2 store the terms, conditions, and privileges
3 associated with his or her employment; and

4 “(iii) provide compensatory damages
5 to the complainant.

6 If such an order is issued under this para-
7 graph, the Secretary of Labor, at the request of
8 the complainant, shall assess against the person
9 whom the order is issued a sum equal to the ag-
10 gregate amount of all costs and expenses (in-
11 cluding attorney’s and expert witness fees) rea-
12 sonably incurred, as determined by the Sec-
13 retary of Labor, by the complainant for, or in
14 connection with, the bringing the complaint
15 upon which the order was issued.

16 “(C) FRIVOLOUS COMPLAINTS.—If the
17 Secretary of Labor finds that a complaint
18 under paragraph (1) is frivolous or has been
19 brought in bad faith, the Secretary of Labor
20 may award to the prevailing employer a reason-
21 able attorney’s fee not exceeding \$1,000.

22 “(4) REVIEW.—

23 “(A) APPEAL TO COURT OF APPEALS.—
24 Any person adversely affected or aggrieved by
25 an order issued under paragraph (3) may ob-

1 tain review of the order in the United States
2 Court of Appeals for the circuit in which the
3 violation, with respect to which the order was
4 issued, allegedly occurred or the circuit in which
5 the complainant resided on the date of such vio-
6 lation. The petition for review must be filed not
7 later than 60 days after the date of issuance of
8 the final order of the Secretary of Labor. Re-
9 view shall conform to chapter 7 of title 5,
10 United States Code. The commencement of pro-
11 ceedings under this subparagraph shall not, un-
12 less ordered by the court, operate as a stay of
13 the order.

14 “(B) LIMITATION ON COLLATERAL AT-
15 TACK.—An order of the Secretary of Labor
16 with respect to which review could have been
17 obtained under subparagraph (A) shall not be
18 subject to judicial review in any criminal or
19 other civil proceeding.

20 “(5) ENFORCEMENT OF ORDER BY SECRETARY
21 OF LABOR.—Whenever any person has failed to com-
22 ply with an order issued under paragraph (3), the
23 Secretary of Labor may file a civil action in the
24 United States district court for the district in which
25 the violation was found to occur to enforce such

1 order. In actions brought under this paragraph, the
2 district courts shall have jurisdiction to grant all ap-
3 propriate relief, including, but not to be limited to,
4 injunctive relief and compensatory damages.

5 “(6) ENFORCEMENT OF ORDER BY PARTIES.—

6 “(A) COMMENCEMENT OF ACTION.—A per-
7 son on whose behalf an order was issued under
8 paragraph (3) may commence a civil action
9 against the person to whom such order was
10 issued to require compliance with such order.
11 The appropriate United States district court
12 shall have jurisdiction, without regard to the
13 amount in controversy or the citizenship of the
14 parties, to enforce such order.

15 “(B) ATTORNEY FEES.—The court, in
16 issuing any final order under this paragraph,
17 may award costs of litigation (including reason-
18 able attorney and expert witness fees) to any
19 party whenever the court determines such
20 award costs is appropriate.

21 “(c) MANDAMUS.—Any nondiscretionary duty im-
22 posed by this section shall be enforceable in a mandamus
23 proceeding brought under section 1361 of title 28, United
24 States Code.

1 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-
2 TIONS.—Subsection (a) shall not apply with respect to an
3 employee of a pipeline, contractor or subcontractor who,
4 acting without direction from the pipeline contractor or
5 subcontractor (or such person’s agent), deliberately causes
6 a violation of any requirement relating to pipeline safety
7 under this chapter or any other law of the United States.

8 “(e) CONTRACTOR DEFINED.—In this section, the
9 term ‘contractor’ means a company that performs safety-
10 sensitive functions by contract for a pipeline.”.

11 (b) CONFORMING AMENDMENT.—The chapter anal-
12 ysis for chapter 601 is amended by adding at the end the
13 following:

“60129. Protection of employees providing pipeline safety information.”.

14 **SEC. 15. PIPELINE SAFETY ADVISORY COUNCIL PILOT PRO-**
15 **GRAM.**

16 (a) PILOT PROGRAM.—Within 120 days after the
17 date of enactment of this Act, the Secretary of Transpor-
18 tation shall create a Pipeline Safety Advisory Council pilot
19 program. Under the pilot program, the Secretary shall es-
20 tablish one or more Pipeline Safety Advisory Councils to
21 provide advice and recommendations to the Secretary on
22 a range of hazardous liquid or natural gas transmission
23 pipeline safety issues affecting pipelines operated in the
24 State in which the Council is established.

1 (b) ESTABLISHMENT AND COMPOSITION.—A Council
2 shall be comprised of 11 members, appointed by the Sec-
3 retary as follows:

4 (1) All members shall be residents of the State
5 in which the pipelines are located the safety of which
6 that Council is to review and monitor.

7 (2) The membership shall include representa-
8 tives of—

9 (A) the general public (who are not rep-
10 resentatives of any other category under this
11 paragraph);

12 (B) pipeline right-of-way property owners
13 (who are not representatives of any other cat-
14 egory under this paragraph);

15 (C) local governments;

16 (D) emergency responders;

17 (E) environmental organizations; and

18 (F) State officials with jurisdiction over
19 pipeline safety.

20 (c) FUNCTIONS.—Each Advisory Council shall pro-
21 vide advice to the Secretary on pipeline safety regulations
22 and other matters relating to activities and functions of
23 the Department of Transportation's Office of Pipeline
24 Safety. Each meeting shall be open to the public and the
25 Council shall maintain minutes of each meeting. Any rec-

1 ommendations made by a Council shall be available upon
2 request to other interested parties. In carrying out its ad-
3 visory duties, each Council shall—

4 (1) provide advice and recommendations on
5 policies, permits, and regulations relating to the op-
6 eration and maintenance of pipeline facilities which
7 affect the State to the Secretary and the Governor
8 of the State;

9 (2) review and comment on proposals for new
10 pipeline facilities in the State, including issues of
11 public safety and environmental impact;

12 (3) submit advice to the Secretary on permits
13 and standards that would affect the environment
14 and safety of a pipeline operating in that State;

15 (4) submit recommendations to the Secretary
16 and appropriate authorities of the State on stand-
17 ards to improve pipeline safety, accidental release re-
18 sponses, emergency preparedness, and efforts to help
19 the public live safely with pipelines; and

20 (5) provide an annual report to the Secretary
21 on its activities and the steps taken in the State to
22 address its advice and safety recommendations.

23 (d) FUNDING.—

24 (1) FUNDING REQUEST BY COUNCIL.—Each
25 Council shall submit an application for a funding re-

1 quest to the Secretary, at such time, in such form,
2 and containing such information as the Secretary
3 may require, outlining the Council's budget.

4 (2) SECRETARY TO APPROVE BUDGET AND PRO-
5 VIDE FUNDS.—After receiving a request under para-
6 graph (1) from a Council, the Secretary shall deter-
7 mine the level of Council funding and may—

8 (A) utilize funds obtained from fines and
9 penalties to finance the Council; or

10 (B) make appropriated funds available to
11 the Council.

12 (e) PILOT PROGRAM ASSESSMENT.—A Council estab-
13 lished under this section shall submit an annual report to
14 the Secretary. The annual report shall list all activities
15 undertaken by the Council to improve the safety of pipe-
16 lines located within its State and what action taken was
17 by the State and Department of Transportation to address
18 pipeline operation safety as a result of the Council's activi-
19 ties. Based on the submitted annual reports, and any
20 other material a Council may submit, the Secretary shall
21 determine the need for continuing and, if appropriate, ex-
22 panding the pilot program. The Secretary shall report that
23 determination, together with any recommendations con-
24 cerning the program, to the House of Representatives
25 Committee on Transportation and Infrastructure and the

1 Senate Committee on Commerce, Science, and Transpor-
2 tation by December 31, 2004.

3 **SEC. 16. FINES AND PENALTIES.**

4 The Inspector General of the Department of Trans-
5 portation shall conduct an analysis of the Department's
6 assessment of fines and penalties on gas transmission and
7 hazardous liquid pipelines, including the cost of corrective
8 actions required by the Department in lieu of fines, and,
9 no later than 6 months after the date of enactment of this
10 Act, shall provide a report to the Senate Committee on
11 Commerce, Science, and Transportation and the House
12 Committee on Transportation and Infrastructure on any
13 findings and recommendations for actions by the Sec-
14 retary or Congress to ensure the fines assessed are an ef-
15 fective deterrent for reducing safety risks.

16 **SEC. 17. STUDY OF RIGHTS-OF-WAY.**

17 The Secretary of Transportation is authorized to con-
18 duct a study on how best to preserve environmental re-
19 sources in conjunction with maintaining pipeline rights-
20 of-way. The study shall recognize pipeline operators' regu-
21 latory obligations to maintain rights-of-way and to protect
22 public safety.

○