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

Strike section 23 of the bill and insert the following:

SEC. 23. ADVANCEMENT OF NEW PIPELINE SAFETY TECHNOLOGIES AND APPROACHES.

(a) In General.—Chapter 601 of title 49, United States Code, is amended by adding at the end the following:

“§ 60145. Pipeline safety enhancement programs

“(a) In General.—The Secretary may establish and carry out limited safety-enhancing testing programs during the period of fiscal years 2020 through 2026 to evaluate innovative technologies and operational practices testing the safe operation of—

“(1) a natural gas pipeline facility; or

“(2) a hazardous liquid pipeline facility.

“(b) Limitations.—

“(1) In General.—Such testing programs may not exceed—

“(A) 5 percent of the total miles of hazardous liquid pipelines in the United States; and

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

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

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

“(B) 1,000 miles.

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

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

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

“(A) IN GENERAL.—Not later than 1 year
after the date of enactment of this section, the
Secretary shall submit to Congress a report
containing an examination of the benefits and
costs of prohibiting testing in high consequence
areas (as defined in section 195.450 of title 49,
Code of Federal Regulations) for hazardous liq-
uid pipelines.

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

“(6) RESTRICTION.—

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

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

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

“(ii) more than 1 year has passed
since the date of enactment of this section.
“(c) DURATION.—The term of a testing program established under subsection (a) shall be not more than a period of 4 years beginning on the date of approval of the program.

“(d) SAFETY STANDARDS.—

“(1) IN GENERAL.—The Secretary shall require, as a condition of approval of a testing program under subsection (a), that the safety measures in the testing program are designed to achieve a level of safety that is greater than, or equivalent to, the level of safety required by this chapter.

“(2) DETERMINATION.—

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

“(B) LIMITATION.—An order under subparagraph (A) shall pertain only to those regulations that would otherwise prevent the use of the safety technology to be tested under the testing program.
“(e) CONSIDERATIONS.—In establishing a testing program under subsection (a), the Secretary shall consider—

“(1) the accident or incident record of the owners or operators participating in the program;

“(2) whether the owners or operators participating in the program have a safety management system in place and how the application for such program proposes to eliminate or mitigate any potential safety risks;

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

“(4) a description of any previous testing and the outcome of such testing of the proposed safety technology through a research and development program carried out by—

“(A) the Secretary;

“(B) collaborative research development organizations; or

“(C) other institutions;

“(5) whether there have been other testing programs granted under subsection (a) similar to the
proposed safety technology and the outcome of such
programs; and

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

“(f) MULTIPLE OPERATORS.—

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

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

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

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

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

“(3) AUTHORITY TO REVOKE PARTICIPATION.—
“(A) IN GENERAL.—If an owner or operator participating in a program established under subsection (a), the Secretary may revoke permission to participate in such program if—

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

“(ii) the Secretary determines revocation of permission is warranted for public safety reasons.

“(g) DATA AND FINDINGS.—

“(1) IN GENERAL.—As a participant in a testing program established under subsection (a), an owner or operator shall submit to the Secretary detailed findings and a summary of data collected as a result of participation in the testing program.

“(2) PUBLIC REPORT.—To the extent practicable, the Secretary shall make a yearly interim report publicly available on the website of the Department of Transportation for any ongoing testing program established under subsection (a) summarizing the progress of such program.
“(h) Authority to Revoke Participation.—The Secretary shall immediately revoke participation in a testing program under subsection (a) if—

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

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

“(3) in the determination of the Secretary, continued participation in the testing program by the participant would be unsafe.

“(i) Authority to Terminate Program.—The Secretary shall immediately terminate a testing program under subsection (a) if continuation of the testing program would not be consistent with the goals and objectives of this chapter.

“(j) State Rights.—

“(1) Exemption.—Except as provided in paragraph (2), if a State submits to the Secretary notice that the State requests an exemption from any testing program considered for establishment under this section, the State shall be exempt.

“(2) Limitations.—
“(A) IN GENERAL.—The Secretary shall not grant a requested exemption under paragraph (1) after a testing program is established.

“(B) LATE NOTICE.—The Secretary shall not grant a requested exemption under paragraph (1) if the notice submitted under that paragraph is submitted to the Secretary more than 10 days after the date on which the Secretary issues an order providing an effective date for the testing program.

“(3) EXCEPTION.—A State shall be eligible to withdraw from a testing program if an owner or operator conducting such testing program in such State has an incident involving a death, a personal injury necessitating in-patient hospitalization, or a reportable accident (within the meaning of sections 195.50 and 191.3 of title 49, Code of Federal Regulations), and the testing program is determined to be the cause or a contributing factor to such incident.

“(4) EFFECT.—If a State has not submitted a notice requesting an exemption under paragraph (1), the State shall not enforce any law (including regulations) that is inconsistent with a testing program in effect in the State under this section.
“(k) Program Review Process and Public Notice.—

“(1) In general.—The Secretary shall publish in the Federal Register a notice of each testing program under subsection (a), including the order to be considered, and provide an opportunity for public comment for not less than 60 days.

“(2) Communication with States.—

“(A) In general.—As part of carrying out the process described in paragraph (1), the Secretary shall individually notify, at the time described in paragraph (1), the relevant authorities in the States such testing programs would be conducted in.

“(B) Notification contents.—The notification described in subparagraph (A) shall include a specific list of the laws or regulations that the State would not be allowed to enforce pursuant to subsection (j)(4) should such testing program go into effect, and the ability of the State to request an exemption from the program.

“(3) Response from Secretary.—Not later than the date on which the Secretary issues an order providing an effective date of a testing program no-
ticed under paragraph (1), the Secretary shall re-
spond to each comment submitted under that para-
graph.

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

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

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

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

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

“(m) STANDARDS.—If a report under subsection (l)
indicates that it is practicable to establish technically,
operationally, and economically feasible standards for the
use of a safety-enhancing technology and any cor-
responding operational practices tested by the testing pro-
gram described in the report, the Secretary, as soon as
practicable after submission of the report, may promulgate regulations consistent with chapter 5 of title 5 (commonly known as the ‘Administrative Procedures Act’) that—

“(1) allow operators of interstate gas or hazardous liquid pipeline facilities to use the relevant technology or practice to the extent practicable; and

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

(b) Clerical Amendment.—The table of sections for chapter 601 of title 49, United States Code, is amended by inserting after the item relating to section 60141 the following:

“60142. Pipeline safety enhancement programs.”.