

Public Law 108–426
108th Congress

An Act

To amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes.

Nov. 30, 2004
[H.R. 5163]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Norman Y. Mineta Research and Special Programs Improvement Act”.

SEC. 2. PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

(a) IN GENERAL.—Section 108 of title 49, United States Code, is amended to read as follows:

“§ 108. Pipeline and Hazardous Materials Safety Administration

“(a) IN GENERAL.—The Pipeline and Hazardous Materials Safety Administration shall be an administration in the Department of Transportation.

Establishment.

“(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in pipeline transportation and hazardous materials transportation.

“(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

President.
Congress.

“(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

“(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Administrator for Pipeline and Hazardous Materials Safety appointed in the competitive service by the Secretary. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

“(f) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

“(1) duties and powers related to pipeline and hazardous materials transportation and safety vested in the Secretary by chapters 51, 57, 61, 601, and 603; and

“(2) other duties and powers prescribed by the Secretary.

“(g) LIMITATION.—A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another government entity only if specifically provided by law.”.

49 USC 108 note.

(b) TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.—The authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Pipeline and Hazardous Materials Safety Administration.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 1 of title 49, United States Code, is amended by striking the item relating to section 108 and inserting the following:

“108. Pipeline and Hazardous Materials Safety Administration.”.

(2) DOT INSPECTORS.—Section 5118(b)(3)(A) of title 49, United States Code, is amended by striking “Research and Special Programs Administration” and inserting “Pipeline and Hazardous Materials Safety Administration”.

(3) NTSB SAFETY RECOMMENDATIONS.—Section 19(a) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 1135 note; 116 Stat. 3009) is amended by striking “Research and Special Program Administration” and inserting “Pipeline and Hazardous Materials Safety Administration”.

(4) NATIONAL MARITIME ENHANCEMENTS INSTITUTES.—Section 8(f)(2) of Public Law 101–115 (46 U.S.C. App. 1121–2(f)(2)) is amended by striking “Research and Special Programs Administration” and inserting “Research and Innovative Technology Administration”.

(5) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended—

(A) in subsection (a)(3) by striking “Research and Special Projects Administration” and inserting “Pipeline and Hazardous Materials Safety Administration”; and

(B) in subsection (c)(11) by striking “Research and Special Programs Administration” and inserting “Pipeline and Hazardous Materials Safety Administration”.

(6) PENALTIES.—Section 844(g)(2)(B) of title 18, United States Code, is amended by striking “Research and Special Projects Administration” and inserting “Pipeline and Hazardous Materials Safety Administration”.

(d) EXECUTIVE SCHEDULE PAY RATE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: “Administrator, Pipeline and Hazardous Materials Safety Administration.”.

SEC. 3. BUREAU OF TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—Section 111(a) of title 49, United States Code, is amended by striking “in the Department of Transportation” and inserting “in the Research and Innovative Technology Administration”.

(b) APPOINTMENT OF DIRECTOR.—Section 111(b) of title 49, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary.”; and

(2) by striking paragraphs (3) and (4).

(c) EXECUTIVE SCHEDULE PAY RATE.—Section 5316 of title 5, United States Code, is amended by striking the undesignated paragraph relating to the Director, Bureau of Transportation Statistics.

SEC. 4. RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION.

(a) IN GENERAL.—Section 112 of title 49, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 112. Research and Innovative Technology Administration”;

(2) by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT.—The Research and Innovative Technology Administration shall be an administration in the Department of Transportation.”;

(3) by striking subsection (d) and inserting the following:

“(d) POWERS AND DUTIES OF THE ADMINISTRATOR.—The Administrator shall carry out—

“(1) powers and duties prescribed by the Secretary for—

“(A) coordination, facilitation, and review of the Department’s research and development programs and activities;

“(B) advancement, and research and development, of innovative technologies, including intelligent transportation systems;

“(C) comprehensive transportation statistics research, analysis, and reporting;

“(D) education and training in transportation and transportation-related fields; and

“(E) activities of the Volpe National Transportation Center; and

“(2) other powers and duties prescribed by the Secretary.”;

and

(4) by striking subsection (e).

(b) CLARIFICATION.—

49 USC 112 note.

(1) IN GENERAL.—Nothing in this Act shall grant any authority to the Research and Innovative Technology Administration over research and other programs, activities, standards, or regulations administered by the Secretary of Transportation through the National Highway Traffic Safety Administration.

(2) APPLICABILITY.—Paragraph (1) shall not apply to the research and other programs, activities, standards, or regulations provided for in highway and traffic safety programs, administered by the Secretary through the National Highway Traffic Safety Administration, in title 23, United States Code, and chapter 303 of title 49, United States Code, as in effect on the date of enactment of this Act.

(c) OFFICE OF INTERMODALISM.—Section 5503(a) of title 49, United States Code, is amended to read as follows:

“(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration an Office of Intermodalism.”.

49 USC 112 note.

(d) **TRANSFER OF POWERS AND DUTIES OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.**—The authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Research and Innovative Technology Administration.

(e) **CONFORMING AMENDMENT.**—The analysis for chapter 1 of title 49, United States Code, is amended by striking the item relating to section 112 and inserting the following:

“112. Research and Innovative Technology Administration.”.

(f) **EXECUTIVE SCHEDULE PAY RATE.**—Section 5314 of title 5, United States Code, is amended by striking the undesignated paragraph relating to the Administrator, Research and Special Programs Administration and inserting the following:

“Administrator, Research and Innovative Technology Administration.”.

(g) **REPORT.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the Administrator of the Research and Innovative Technology Administration shall submit to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the research activities of the Department of Transportation.

(2) **CONTENTS.**—The report shall include—

(A) a summary of the mission and strategic goals of the Administration;

(B) a prioritized list of the research and development activities that the Department intends to pursue over the next 5 years;

(C) a description of the primary purposes for conducting such research and development activities, such as reducing traffic congestion, improving mobility, and promoting safety;

(D) an estimate of the funding levels needed to implement such research and development activities for the current fiscal year; and

(E) any additional information the Administrator considers appropriate.

(3) **DEVELOPMENT.**—In developing the report, the Administrator shall—

(A) solicit input from a wide range of stakeholders;

(B) take into account how the research and development activities of other Federal, State, private sector, and not-for-profit institutions contribute to the achievement of the purposes identified under paragraph (2)(C); and

(C) address methods to avoid unnecessary duplication of efforts in achieving such purposes.

49 USC 108 note.

SEC. 5. SAVINGS PROVISIONS.

(a) **TRANSFER OF ASSETS AND PERSONNEL.**—Personnel, property, and records employed, used, held, available, or to be made available in connection with functions transferred within the Department of Transportation by this Act shall be transferred for use in connection with the functions transferred, and unexpended balances of

appropriations, allocations, and other funds (including funds of any predecessor entity) shall also be transferred accordingly.

(b) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by any officer or employee, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Department, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) **PROCEEDINGS.**—The provisions of this Act shall not affect any proceedings, including administrative enforcement actions, pending before this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall proceed in accordance with applicable law and regulations. Nothing in this subsection shall be deemed to prohibit the conclusion or modification of any proceeding described in this subsection under the same terms and conditions and to the same extent that such proceeding could have been concluded or modified if this Act had not been enacted. The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings.

(d) **SUITS.**—

(1) **IN GENERAL.**—This Act shall not affect suits commenced before the date of enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) **SUITS BY OR AGAINST DEPARTMENT.**—Any suit by or against the Department begun before the date of enactment of this Act, shall proceed in accordance with applicable law and regulations, insofar as it involves a function retained and transferred under this Act.

(3) **PROCEDURES FOR REMANDED CASES.**—If the court in a suit described in paragraph (1) remands a case, subsequent proceedings related to such case shall proceed under procedures that are in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) **CONTINUANCE OF ACTIONS AGAINST OFFICERS.**—No suit, action, or other proceeding commenced by or against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

(f) **EXERCISE OF AUTHORITIES.**—An officer or employee of the Department, for purposes of performing a function transferred by this Act, may exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function by this Act.

(g) REFERENCES.—A reference relating to an agency, officer, or employee affected by this Act in any Federal law, Executive order, rule, regulation, or delegation of authority, or in any document pertaining to an officer or employee, is deemed to refer, as appropriate, to the agency, officer, or employee who succeeds to the functions transferred by this Act.

(h) DEFINITION.—In this section, the term “this Act” includes the amendments made by this Act.

49 USC 108 note. **SEC. 6. REPORTS.**

(a) REPORTS BY THE INSPECTOR GENERAL.—Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration a report containing the following:

(1) A list of each statutory mandate regarding pipeline safety or hazardous materials safety that has not been implemented.

(2) A list of each open safety recommendation made by the National Transportation Safety Board or the Inspector General regarding pipeline safety or hazardous materials safety.

(b) REPORTS BY THE SECRETARY.—

(1) STATUTORY MANDATES.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

(2) NTSB AND INSPECTOR GENERAL RECOMMENDATIONS.—Not later than January 1st of each year, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2) and a copy of the Department of Transportation response to each such recommendation.

49 USC 108 note. **SEC. 7. DEADLINE FOR TRANSFERS.**

The Secretary shall provide for the orderly transfer of duties and powers under this Act, including the amendments made by

this Act, as soon as practicable but not later than 90 days after the date of enactment of this Act.

Approved November 30, 2004.

LEGISLATIVE HISTORY—H.R. 5163:

HOUSE REPORTS: No. 108–749, Pt. 1 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 150 (2004):

Oct. 6, considered and passed House.

Nov. 16, considered and passed Senate.

