

including many that will be performed in Maine to protect our troops and our homeland such as the project designed to help identify and address the needs of military personnel in the event of a biowarfare attack.

Of potentially significant value to the Navy, it authorizes \$1 million for research at the University of Maine aimed at developing a specialized structural reliability analysis process to optimize the use of polymers in future ship construction, and provides \$5 million in funding for development of a Small Kill Vehicle Technology, aimed at improving the accuracy of missile and anti-missile technology.

Furthermore, among the more critical provisions of this legislation are those aimed at protecting our homeland. It provides the President with \$10 billion for the war against terrorism including \$4.3 billion for military operations and \$1 billion for equipment replacement and upgrades to military capabilities.

And finally, the legislation includes almost \$1 billion for Chem-Bio programs designed to provide advanced individual protection and equipment to detect and decontaminate chemical and biological agents, as well as an additional \$480 million for DoD homeland security and consequence management.

This authorization provides the men and women of our armed forces with the equipment they need to accomplish their mission, the quality of life they have earned and security for their families. I have been proud to support this legislation because in a year when our Nation is facing unprecedented security challenges and dangers, we can do no less.

THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Mr. HOLLINGS. Madam President, I am pleased that last night the Senate unanimously passed pipeline safety legislation in the form of H.R. 3609, the Pipeline Safety Improvement Act of 2002. This bill is the product of over three years of bipartisan work and compromise, and I thank my colleague, Senator MCCAIN, for his leadership on this important issue.

Mr. MCCAIN. I would like to thank my many colleagues for joining us in supporting this important legislation. This bill will result in improvements in the safety regulatory program at the Department of Transportation, increased levels of safety throughout our national pipeline system, and in the communities through which pipelines run. This bill contains several important improvements, including: requirements for minimum standards for pipeline integrity management programs, requirements for public education programs, and requirements that the Office of Pipeline Safety and the Research and Special Programs Administration comply with safety recommendations made by the National Transportation Safety Board and the

Department of Transportation Inspector General, many of which have already been started.

Mr. HOLLINGS. To expedite enactment of the significant pipeline safety reforms included in this bill, the leadership of the Senate Committee on Commerce, Science, and Transportation has worked with the House Committees on Transportation and Infrastructure and Energy and Commerce in developing the compromise agreement. This Joint Explanatory Statement therefore represents the views of the Chairman and Ranking Member of the Senate Commerce Committee, along with the Chairmen and Ranking Members of the Transportation and Infrastructure Committee and the Energy and Commerce Committee. This Joint Explanatory Statement will provide legislative history for interpreting this important pipeline safety legislation.

I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; amendment of title 49, United States Code

This section designates the act as the "Pipeline Safety Improvement Act of 2002."

Section 2. One-call notification programs

This section requires that state one-call notification programs provide for the participation of government operators and contract excavators. Section 2 also requires that state one-call notification programs document enumerated items set forth in the statute. Additionally, the requirement that the Secretary of Transportation include certain information in reports submitted under section 60124 of Title 49 is made permanent. Authorizations for appropriations for grants to states for fiscal years 2003 through 2006 are provided at \$1,000,000 per year, and grants for administration in section 6107(b) are updated for fiscal years 2003 through 2006. This section also amends section 6105 of Title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-call notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled "Common Ground," as periodically updated, and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2003 through 2006 are provided at \$500,000 per year, but would not be derived from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators

This section provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term "person" who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

This section amends section 60123(d) of Title 49 by rearranging the phrase "knowingly and willfully" to address the problem raised when a court interpreted ex-

isting law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by now requiring that the "knowingly and willfully" standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if the violator promptly reports a violation.

Section 4. State oversight role

This section amends section 60106 of Title 49 to allow the Secretary of Transportation to make an agreement with a state authority authorizing the state authority to participate in the oversight of interstate pipeline transportation including incident investigation, new construction, and other inspection and investigatory duties. However the Secretary shall not delegate the enforcement of safety standards for interstate pipeline facilities to a state authority. This section further provides that the Secretary may terminate agreements with the State authorities if a gap results in the State authority's oversight responsibilities of intrastate pipeline transportation, the State authority fails to meet requirements set forth in this section, or continued participation in the oversight of interstate pipeline transportation would not promote pipeline safety. Existing state agreements shall continue until a new agreement between the state and the DOT is executed or December 31, 2003, whichever is sooner.

Section 5. Public education programs

Section 5 amends section 60116 of Title 49 to include hazardous liquid pipeline facilities in this section requiring a continuing program to educate the public on the use of one-call notification systems, the possible hazards associated with unintended releases, and how to tell if an unintended release occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. This section also requires owners and operators to review existing public education programs for effectiveness and to modify their programs as necessary. In addition, the section allows the Secretary to issue standards prescribing the elements of public education programs and develop materials for use in such programs.

Previous versions of Senate-passed pipeline safety legislation also included a provision calling for the coordination of emergency preparedness between operators of pipeline facilities and state and local officials, as well as to provide for public access to certain safety information. Agreement was not reached on how safety information could be accessed by the public in a manner that would protect security-sensitive information from distribution. The managers agreed that this issue would be better dealt with in the context of the pending homeland security legislation.

Section 6. Protection of employees providing pipeline safety information

This section adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the federal government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or

participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

This section contains a provision that essentially says if a preliminary order provides that an employee must be allowed to return to work, the filing of an objection by the employer "shall not operate to stay any reinstatement remedy contained in the preliminary order." The intention of this language is to assure that the mere filing of an objection would not work as an automatic stay, thus precluding an employee from returning to work pending the outcome of the matter. However, this language would not preclude an employer from filing an independent motion for a stay if sufficient grounds exist for the filing of such a motion.

Section 7. Safety orders

Section 7 adds a paragraph to section 60117 of Title 49 to give the Secretary of Transportation authority to order an operator of a facility to take corrective action if the Secretary decides that a potential safety-related condition exists. The Office of Pipeline Safety (OPS) requested this provision so that corrective action could be taken immediately rather than waiting until a facility is classified as "hazardous" prior to requiring corrective action.

Section 8. Penalties

This section modifies the existing penalties provision set forth in section 60112 of Title 49 to allow the Secretary of Transportation to decide if the operation of a pipeline facility, is "or would be" hazardous to life, property, or the environment. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventative actions, rather than actions only in response to an imminent hazard.

In subsection (a)(1) of section 60122, the amounts of the penalties have been increased. The per day, per incident, amount has been increased from \$25,000 to \$100,000. The maximum civil penalty for a related series of violations has been increased from \$500,000 to \$1,000,000. This section of the bill also provides that, in determining the amount of a civil penalty, the Secretary of Transportation shall consider as an additional consideration in section 60122(b) of Title 49, the adverse impact on the environment. The Secretary of Transportation may consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section of the statute (section 60120(a)(1) of Title 49) by specifically providing that the court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation remains in effect.

Section 8 also requires that the Comptroller General conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties.

Section 9. Pipeline safety information grants to communities

Section 9 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision

is to provide grants to communities for technical assistance such as engineering or scientific analysis of pipeline safety issues. Applicants must compete for the grants in a procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one-grant recipient may not receive more than \$50,000. The grant funds cannot be used for lobbying or in direct support of litigation. This section authorizes the appropriation of \$1,000,000 for each of the fiscal years 2003 through 2006.

Section 10. Operator assistance in investigations

This section requires the operator of a pipeline facility to make available information and records to the Secretary of Transportation or the National Safety Transportation Board (NTSB) in the event of an accident, subject to constitutional protections for operators and employees. Actions taken by an operator pursuant to this section shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

Section 11. Population encroachment and rights-of-way

This section requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC) and other federal agencies and state and local governments, to study land use practices and zoning ordinances, as well as the preservation of environmental resources, with regard to pipeline rights-of-way. Based upon the purposes set forth in this section, a report is to be written that identifies successful practices, ordinances, and laws addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 12. Pipeline integrity, safety, and reliability research and development

This section requires the heads of the participating agencies to carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipelines. The Secretary of Energy, Secretary of Transportation, and the Director of the National Institute of Standards and Technology (NIST) each have defined roles. The Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and submit to Congress a 5-year plan to guide the activities under this section. The plan shall also be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review. The section authorizes appropriations for the fiscal years 2003 through 2006 in the following amounts: Secretary of Energy: \$10,000,000; the Secretary of Transportation: \$10,000,000; and the National Institute of Standards and Technology: \$5,000,000. Any sums authorized pursuant to this section shall not be derived from user fees. In addition \$3,000,000 from the Oil Spill Liability Trust Fund shall be transferred to the Secretary of Transportation, as provided in appropriations Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

Even though the Secretary of Transportation does not regulate gathering lines, the

participating agencies are encouraged to include such lines in their research, development, demonstration, and standardization efforts on the integrity of gathering lines.

Section 13. Pipeline qualification programs

This section requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs, including a method for examining or testing the qualifications of individuals who perform covered tasks. Such method may include written examination, oral examination, on-the-job training, simulations, observation during on-the-job performance, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks where the Secretary has determined specifically that such observation is the best method of examining or testing qualifications. Further, the Secretary must ensure that the results of any such on-the-job performance observations are documented in writing. The Secretary may waive or modify requirements if not inconsistent with pipeline safety. The Secretary is required to verify each operator's qualification program, including modifications to previously verified programs. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 14. Risk analysis and integrity management programs for gas pipelines

This section requires operators of pipeline facilities subject to section 60109 of Title 49 to adopt and implement a written integrity management program to reduce risks to each facility. Within 12 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within 24 months from the enactment of the section. Minimum requirements are set forth in this section for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities which must be completed within 10 years after the enactment of the section (at least 50 percent of such facilities shall be assessed no later than 5 years after the date of enactment of this section), and a reassessment of each facility at a minimum of once every 7 years, with prioritization being based on all relevant risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures.

The Secretary of Transportation is required to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of Title 49 is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of Title 49 does not, nor was it intended to, apply to natural gas distribution lines.

Section 14 authorizes the Secretary of Transportation to grant waivers and modifications pursuant to section 60118(c) of Title 49 for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waivers or modifications shall not be inconsistent with pipeline safety.

This section also requires that the Comptroller General conduct a study to evaluate the 7-year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 4 years from the date of enactment.

In this section, each operator of a gas pipeline facility is required to conduct a risk analysis for facilities located in high consequence areas and to adopt and implement an integrity management program for each such facility to reduce associated risks. This section requires each operator to prioritize facilities for integrity assessment based on all risk factors, including any history of leaks, repairs, or failures, and directs the operator to give priority to facilities with the highest risks.

The Department of Transportation's Research and Special Programs Administration (RSPA) issued a final rule defining "high consequence areas" on August 6, 2002. The managers strongly support RSPA's regulation defining high consequence areas, although recognize that the definition could be subject to alteration by future regulatory action by RSPA.

Pipeline safety regulations have long required gas operators to survey and patrol along their pipeline rights-of-way to classify areas of population. The new definition of high consequence areas builds on the existing classification of areas where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property, and includes current class 3 and 4 locations, facilities with persons who are mobility impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes.

In the July 2002 Technical Pipeline Safety Standards Committee meeting to consider the proposed definition, RSPA made clear its intent to include in its definition known areas where people gather, such as the Pecos River pipeline crossing near Carlsbad, New Mexico, which was commonly used by campers and fishermen and was the location of a pipeline rupture in August 2000 that resulted in 12 fatalities. The managers support is expressed for this new definition of high consequence areas and expect RSPA to further clarify the application of the definition in the substantive rule to be issued on integrity management programs.

Section 15. National Pipeline Mapping System

Section 15 requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System, the name and address of the person with primary operational control, and a means for a member of the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 16. Coordination of environmental reviews

Section 16 requires the President to establish an interagency committee for the purpose of developing and ensuring the implementation of a coordinated environmental review and permitting process in order for pipeline operators to complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and shall examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into, by unanimous consent, a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, state, and local permits necessary to carry out the repair project; and is compatible with pipeline safety.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 17. Nationwide toll-free number system

Section 17 requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3-digit telephone number system to be used by state one-call notification systems.

Section 18. Implementation of Inspector General recommendations

Section 18 requires the Secretary of Transportation to respond to each of the recommendations of the Department of Transportation Inspector General contained in RT-2000-069 every 90 days and to submit the responses to the appropriate committees of Congress.

Section 19. NTSB safety recommendations

Section 19 requires RSPA and OPS to respond to recommendations received from the NTSB within 90 days from receipt of such recommendations. Such responses shall state the intentions of the OPS with respect to the recommendations and shall state the timetable for completing the procedures and rea-

sons for refusals to do so. The responses shall be made available to the public. The OPS is required to submit an annual report describing each recommendation received and the OPS response to each recommendation for the previous year.

Section 20. Miscellaneous amendments

Section 20 amends section 60102(a) of Title 49 by adding language expressing that the purpose of the chapter is to provide adequate protection against risks to life and property posed by pipeline transportation pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

This section also modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees pursuant to section 60115 of Title 49 so that none of the individuals selected for committee membership from the general public "may have a significant financial interest in the pipeline, petroleum, or gas industry." The intent of this provision is to prevent industry employees and individuals with a sizable stake in the pipeline industry from serving as representatives from the general public, not prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans.

Section 21. Technical amendments

Section 21 makes technical amendments to correct previous drafting errors in the existing legislation.

Section 22. Authorization of appropriations

Section 22 authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 23. Inspections by direct assessment

Section 23 requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

Section 24. State pipeline safety advisory committees

Section 24 requires the Secretary of Transportation to respond within 90 days after receiving recommendations from advisory committees appointed by the Governor of any state.

Section 25. Pipeline bridge risk study

Section 25 requires the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks. The Secretary may only use funds specifically appropriated to carry this section.

Section 26. Study and Report on Natural Gas Pipeline and Storage Facilities in New England

Section 26 requires the Federal Energy Regulatory Commission, in consultation with the Department of Energy, to conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network and report back to the relevant House and Senate Committees within a year of the date of enactment.

AVERTING A BREAKDOWN IN FEDERAL TAX ENFORCEMENT

Mr. LEVIN. Madam President, many have said they want the next Congress to work on tax reform. Any tax reform effort we undertake, however, needs to address the grave warning recently provided by IRS Commissioner Charles O. Rossotti about the need for immediate steps to avert a breakdown in federal tax enforcement.