

One Hundred Twelfth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,
the fifth day of January, two thousand and eleven*

Concurrent Resolution

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 2845, the Clerk of the House of Representatives shall make the following correction: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; DEFINITIONS; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011”.

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

(c) **DEFINITIONS.**—

(1) **APPLICABILITY OF CHAPTER 601 DEFINITIONS.**—In this Act, any term defined in chapter 601 of title 49, United States Code, has the meaning given that term in that chapter.

(2) **HIGH-CONSEQUENCE AREA.**—In this Act, the term “high-consequence area” means an area described in section 60109(a) of title 49, United States Code.

(d) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; amendment of title 49, United States Code; definitions; table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Automatic and remote-controlled shut-off valves.
- Sec. 5. Integrity management.
- Sec. 6. Public education and awareness.
- Sec. 7. Cast iron gas pipelines.
- Sec. 8. Leak detection.
- Sec. 9. Accident and incident notification.
- Sec. 10. Transportation-related onshore facility response plan compliance.
- Sec. 11. Pipeline infrastructure data collection.
- Sec. 12. Transportation-related oil flow lines.
- Sec. 13. Cost recovery for design reviews.
- Sec. 14. Biofuel pipelines.
- Sec. 15. Carbon dioxide pipelines.
- Sec. 16. Study of transportation of diluted bitumen.
- Sec. 17. Study of nonpetroleum hazardous liquids transported by pipeline.
- Sec. 18. Clarifications.
- Sec. 19. Maintenance of effort.
- Sec. 20. Administrative enforcement process.
- Sec. 21. Gas and hazardous liquid gathering lines.
- Sec. 22. Excess flow valves.
- Sec. 23. Maximum allowable operating pressure.
- Sec. 24. Limitation on incorporation of documents by reference.

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- Sec. 25. Pipeline safety training for State and local government personnel.
- Sec. 26. Report on minority-owned, woman-owned, and disadvantaged businesses.
- Sec. 27. Report on pipeline projects.
- Sec. 28. Cover over buried pipelines.
- Sec. 29. Seismicity.
- Sec. 30. Tribal consultation for pipeline projects.
- Sec. 31. Pipeline inspection and enforcement needs.
- Sec. 32. Authorization of appropriations.

SEC. 2. CIVIL PENALTIES.

(a) GENERAL PENALTIES; PENALTY CONSIDERATIONS.—Section 60122 is amended—

(1) in subsection (a)(1)—

(A) in the first sentence by striking “\$100,000” and inserting “\$200,000”; and

(B) in the last sentence by striking “\$1,000,000” and inserting “\$2,000,000”; and

(2) in subsection (b)(1)(B) by striking “the ability to pay,”.

(b) OPERATOR ASSISTANCE IN INVESTIGATIONS.—Section 60118(e) is amended to read as follows:

“(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

“(1) ASSISTANCE AND ACCESS.—If the Secretary or the National Transportation Safety Board investigates an accident or incident involving a pipeline facility, the operator of the facility shall—

“(A) make available to the Secretary or the Board all records and information that in any way pertain to the accident or incident, including integrity management plans and test results; and

“(B) afford all reasonable assistance in the investigation of the accident or incident.

“(2) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

“(A) IN GENERAL.—The Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.

“(B) OBSTRUCTS DEFINED.—

“(i) IN GENERAL.—In this paragraph, the term ‘obstructs’ includes actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.

“(ii) GOOD CAUSE.—In clause (i), the term ‘good cause’ may include actions such as restricting access to facilities that are not secure or safe for nonpipeline personnel or visitors.”.

(c) ADMINISTRATIVE PENALTY CAPS INAPPLICABLE.—Section 60120(a)(1) is amended by adding at the end the following: “The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.”.

(d) JUDICIAL REVIEW OF ADMINISTRATIVE ENFORCEMENT ORDERS.—Section 60119(a) is amended—

(1) in the subsection heading by striking “AND WAIVER ORDERS” and inserting “, ORDERS, AND OTHER FINAL AGENCY ACTIONS”; and

(2) by striking “about an application for a waiver under section 60118(c) or (d) of this title” and inserting “under this chapter”.

SEC. 3. PIPELINE DAMAGE PREVENTION.

(a) **MINIMUM STANDARDS FOR STATE ONE-CALL NOTIFICATION PROGRAMS.**—Section 6103(a) is amended to read as follows:

“(a) **MINIMUM STANDARDS.**—

“(1) **IN GENERAL.**—In order to qualify for a grant under section 6106, a State one-call notification program, at a minimum, shall provide for—

“(A) appropriate participation by all underground facility operators, including all government operators;

“(B) appropriate participation by all excavators, including all government and contract excavators; and

“(C) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

“(2) **EXEMPTIONS PROHIBITED.**—In order to qualify for a grant under section 6106, a State one-call notification program may not exempt municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.”

(b) **STATE DAMAGE PREVENTION PROGRAMS.**—Section 60134(a) is amended—

(1) in paragraph (1) by striking “and” after the semicolon;

(2) in paragraph (2)(B) by striking “(b).” and inserting “(b); and”; and

(3) by adding at the end the following:

“(3) does not provide any exemptions to municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

(d) **EXCAVATION DAMAGE.**—

(1) **STUDY.**—The Secretary of Transportation shall conduct a study on the impact of excavation damage on pipeline safety.

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

(A) an analysis of the frequency and severity of different types of excavation damage incidents;

(B) an analysis of exemptions to the one-call notification system requirements in each State;

(C) a comparison of exemptions to the one-call notification system requirements in each State to the types of excavation damage incidents in that State; and

(D) an analysis of the potential safety benefits and adverse consequences of eliminating all exemptions for mechanized excavation from State one-call notification systems.

(3) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit 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 results of the study.

SEC. 4. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.

Section 60102 is amended—

(1) by striking subsection (j)(3); and

(2) by adding at the end the following:

“(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES FOR NEW TRANSMISSION PIPELINES.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, and after considering the factors specified in subsection (b)(2), the Secretary, if appropriate, shall require by regulation the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule containing such requirement.

“(2) HIGH-CONSEQUENCE AREA STUDY.—

“(A) STUDY.—The Comptroller General of the United States shall conduct a study on the ability of transmission pipeline facility operators to respond to a hazardous liquid or gas release from a pipeline segment located in a high-consequence area.

“(B) CONSIDERATIONS.—In conducting the study, the Comptroller General shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of the nearest response personnel, and the costs, risks, and benefits of installing automatic and remote-controlled shut-off valves.

“(C) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit 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 results of the study.”.

SEC. 5. INTEGRITY MANAGEMENT.

(a) EVALUATION.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall evaluate—

(1) whether integrity management system requirements, or elements thereof, should be expanded beyond high-consequence areas; and

(2) with respect to gas transmission pipeline facilities, whether applying integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

(b) FACTORS.—In conducting the evaluation under subsection (a), the Secretary shall consider, at a minimum, the following:

(1) The continuing priority to enhance protections for public safety.

(2) The continuing importance of reducing risk in high-consequence areas.

(3) The incremental costs of applying integrity management standards to pipelines outside of high-consequence areas where operators are already conducting assessments beyond what is required under chapter 601 of title 49, United States Code.

(4) The need to undertake integrity management assessments and repairs in a manner that is achievable and sustainable, and that does not disrupt pipeline service.

(5) The options for phasing in the extension of integrity management requirements beyond high-consequence areas,

including the most effective and efficient options for decreasing risks to an increasing number of people living or working in proximity to pipeline facilities.

(6) The appropriateness of applying repair criteria, such as pressure reductions and special requirements for scheduling remediation, to areas that are not high-consequence areas.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit 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, based on the evaluation conducted under subsection (a), containing the Secretary's analysis and findings regarding—

(1) expansion of integrity management requirements, or elements thereof, beyond high-consequence areas; and

(2) with respect to gas transmission pipeline facilities, whether applying the integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

(d) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a).

(e) TECHNICAL CORRECTION.—Section 60109(c)(3)(B) is amended to read as follows:

“(B) Subject to paragraph (5), periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods described in subparagraph (A). The Secretary may extend such deadline for an additional 6 months if the operator submits written notice to the Secretary with sufficient justification of the need for the extension.”.

(f) RULEMAKING REQUIREMENTS.—

(1) REVIEW PERIOD DEFINED.—In this subsection, the term “review period” means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date that is 1 year after the date of completion of the report under subsection (c); or

(B) the date that is 3 years after the date of enactment of this Act.

(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (c) and implement appropriate recommendations, the Secretary shall not, during the review period, issue final regulations described in paragraph (3)(B).

(3) STANDARDS.—

(A) FINDINGS.—As soon as practicable following the review period, the Secretary shall issue final regulations described in subparagraph (B), if the Secretary finds, in the report required under subsection (c), that—

(i) integrity management system requirements, or elements thereof, should be expanded beyond high-consequence areas; and

(ii) with respect to gas transmission pipeline facilities, applying integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

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(B) REGULATIONS.—Regulations issued by the Secretary under subparagraph (A), if any, shall—

(i) expand integrity management system requirements, or elements thereof, beyond high-consequence areas; and

(ii) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under section 60109(c)(2) of title 49, United States Code.

(4) SAVINGS CLAUSE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may issue final regulations described in paragraph (3)(B), if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the regulations will address the risk or hazard.

(B) IMMINENT HAZARD DEFINED.—In subparagraph (A), the term “imminent hazard” means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

(g) REPORT TO CONGRESS ON RISK-BASED PIPELINE REASSESSMENT INTERVALS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall evaluate—

(1) whether risk-based reassessment intervals are a more effective alternative for managing risks to pipelines in high-consequence areas once baseline assessments are complete when compared to the reassessment interval specified in section 60109(c)(3)(B) of title 49, United States Code;

(2) the number of anomalies found in baseline assessments required under section 60109(c)(3)(A) of title 49, United States Code, as compared to the number of anomalies found in reassessments required under section 60109(c)(3)(B) of such title; and

(3) the progress made in implementing the recommendations in GAO Report 06–945 and the current relevance of those recommendations that have not been implemented.

SEC. 6. PUBLIC EDUCATION AND AWARENESS.

(a) NATIONAL PIPELINE MAPPING SYSTEM.—Section 60132 is amended by adding at the end the following:

“(d) MAP OF HIGH-CONSEQUENCE AREAS.—The Secretary shall—

“(1) maintain, as part of the National Pipeline Mapping System, a map of designated high-consequence areas (as described in section 60109(a)) in which pipelines are required to meet integrity management program regulations, excluding any proprietary or sensitive security information; and

“(2) update the map biennially.

“(e) PROGRAM TO PROMOTE AWARENESS OF NATIONAL PIPELINE MAPPING SYSTEM.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and implement a program promoting greater awareness of the existence of the National Pipeline Mapping System to State and local emergency

responders and other interested parties. The program shall include guidance on how to use the National Pipeline Mapping System to locate pipelines in communities and local jurisdictions.”.

(b) INFORMATION TO EMERGENCY RESPONSE AGENCIES.—

(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to emergency response agencies of the communities and jurisdictions in which those facilities are located.

(2) CONSULTATION.—Before issuing guidance under paragraph (1), the Secretary shall consult with owners and operators of pipeline facilities to determine the extent to which the owners and operators are already providing system-specific information about their pipeline facilities to emergency response agencies.

(c) RESPONSE PLANS.—

(1) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

“§ 60138. Response plans

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) maintain on file a copy of the most recent response plan (as defined in part 194 of title 49, Code of Federal Regulations) prepared by an owner or operator of a pipeline facility; and

“(2) provide upon written request to a person a copy of the plan, which may exclude, as the Secretary determines appropriate—

“(A) proprietary information;

“(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations;

“(C) specific response resources and tactical resource deployment plans; and

“(D) the specific amount and location of worst case discharges (as defined in part 194 of title 49, Code of Federal Regulations), including the process by which an owner or operator determines the worst case discharge.

“(b) RELATIONSHIP TO FOIA.—Nothing in this section may be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60137 the following:

“60138. Response plans.”.

SEC. 7. CAST IRON GAS PIPELINES.

(a) FOLLOW-UP SURVEYS.—Section 60108(d) is amended by adding at the end the following:

“(4) Not later than December 31, 2012, and every 2 years thereafter, the Secretary shall conduct a follow-up survey to measure the progress that owners and operators of pipeline facilities have made in adopting and implementing their plans for the safe management and replacement of cast iron gas pipelines.”.

(b) STATUS REPORT.—Not later than December 31, 2013, the Secretary of Transportation 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 that—

- (1) identifies the total mileage of cast iron gas pipelines in the United States; and
- (2) evaluates the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

SEC. 8. LEAK DETECTION.

(a) LEAK DETECTION REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives a report on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines.

(2) CONTENTS.—The report shall include—

(A) an analysis of the technical limitations of current leak detection systems, including the ability of the systems to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies; and

(B) an analysis of the practicability of establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks, and the safety benefits and adverse consequences of requiring operators to use leak detection systems.

(b) RULEMAKING REQUIREMENTS.—

(1) REVIEW PERIOD DEFINED.—In this subsection, the term “review period” means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date that is 1 year after the date of completion of the report under subsection (a); or

(B) the date that is 2 years after the date of enactment of this Act.

(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (a) and implement appropriate recommendations, the Secretary, during the review period, shall not issue final regulations described in paragraph (3).

(3) STANDARDS.—As soon as practicable following the review period, if the report required by subsection (a) finds that it is practicable to establish technically, operationally, and economically feasible standards for the capability of leak detection systems to detect leaks, the Secretary shall issue final regulations that—

(A) require operators of hazardous liquid pipeline facilities to use leak detection systems where practicable; and

(B) establish technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

(4) SAVINGS CLAUSE.—

(A) **IN GENERAL.**—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may issue final regulations described in paragraph (3) if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the regulations will address the risk or hazard.

(B) **IMMINENT HAZARD DEFINED.**—In subparagraph (A), the term “imminent hazard” means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

SEC. 9. ACCIDENT AND INCIDENT NOTIFICATION.

(a) **REVISION OF REGULATIONS.**—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall revise regulations issued under sections 191.5 and 195.52 of title 49, Code of Federal Regulations, to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center.

(b) **MINIMUM REQUIREMENTS.**—In revising the regulations, the Secretary, at a minimum, shall—

(1) establish time limits for telephonic or electronic notification of an accident or incident to require such notification at the earliest practicable moment following confirmed discovery of an accident or incident and not later than 1 hour following the time of such confirmed discovery;

(2) review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers, for the jurisdictions in which those pipeline facilities are located in the event of an accident or incident, and revise such procedures as appropriate; and

(3) require such owners and operators to revise their initial telephonic or electronic notice to the Secretary and the National Response Center with an estimate of the amount of the product released, an estimate of the number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 48 hours of the accident or incident, to the extent practicable.

(c) **UPDATING OF REPORTS.**—After receiving revisions described in subsection (b)(3), the National Response Center shall update the initial report on an accident or incident instead of generating a new report.

SEC. 10. TRANSPORTATION-RELATED ONSHORE FACILITY RESPONSE PLAN COMPLIANCE.

(a) **IN GENERAL.**—Subparagraphs (A) and (B) of section 311(m)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)(2)) are each amended by striking “Administrator or” and inserting “Administrator, the Secretary of Transportation, or”.

(b) **CONFORMING AMENDMENT.**—Section 311(b)(6)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(6)(A)) is amended by striking “operating or” and inserting “operating, the Secretary of Transportation, or”.

SEC. 11. PIPELINE INFRASTRUCTURE DATA COLLECTION.

(a) IN GENERAL.—Section 60132(a) is amended by adding at the end the following:

“(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines are necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.”

(b) DISCLOSURE LIMITED TO FOIA REQUIREMENTS.—Section 60132, as amended by this Act, is further amended by adding at the end the following:

“(f) PUBLIC DISCLOSURE LIMITED.—The Secretary may not disclose information collected pursuant to subsection (a) except to the extent permitted by section 552 of title 5.”

SEC. 12. TRANSPORTATION-RELATED OIL FLOW LINES.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

“(o) TRANSPORTATION-RELATED OIL FLOW LINES.—

“(1) DATA COLLECTION.—The Secretary may collect geospatial or technical data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

“(2) TRANSPORTATION-RELATED OIL FLOW LINE DEFINED.—In this subsection, the term ‘transportation-related oil flow line’ means a pipeline transporting oil off of the grounds of the well where it originated and across areas not owned by the producer, regardless of the extent to which the oil has been processed, if at all.

“(3) LIMITATION.—Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities or through oil production flow lines located on the grounds of wells.”

SEC. 13. COST RECOVERY FOR DESIGN REVIEWS.

(a) IN GENERAL.—Section 60117(n) is amended to read as follows:

“(n) COST RECOVERY FOR DESIGN REVIEWS.—

“(1) IN GENERAL.—

“(A) REVIEW COSTS.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this paragraph, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this paragraph. The Secretary may not collect design safety review fees under this paragraph and section 60301 for the same design safety review.

“(B) PROJECTS TO WHICH APPLICABLE.—Subparagraph (A) applies to any project that—

“(i) has design and construction costs totaling at least \$2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all-urban consumers published by the Department of Labor, based on—

“(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

“(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

“(ii) uses new or novel technologies or design, as determined by the Secretary.

“(2) NOTIFICATION.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

“(3) PIPELINE SAFETY DESIGN REVIEW FUND.—

“(A) ESTABLISHMENT.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States.

“(B) DEPOSITS.—The Secretary shall deposit funds paid under this subsection into the Fund.

“(C) USE.—Amounts in the Fund shall be available to the Secretary, in amounts specified in appropriations Acts, to offset the costs of conducting facility design safety reviews under this subsection.

“(4) NO ADDITIONAL PERMITTING AUTHORITY.—Nothing in this subsection may be construed as authorizing the Secretary to require a person to obtain a permit before beginning design and construction in connection with a project described in paragraph (1)(B).”.

(b) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue guidance to clarify the meaning of the term “new or novel technologies or design” as used in section 60117(n)(1)(B)(ii) of title 49, United States Code, as amended by subsection (a) of this section.

SEC. 14. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended—

(1) in subparagraph (A) by striking “and” after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities; and”.

SEC. 15. CARBON DIOXIDE PIPELINES.

Section 60102(i) is amended—

(1) by striking “The Secretary shall regulate” and inserting the following:

“(1) TRANSPORTATION IN LIQUID STATE.—The Secretary shall regulate”.

(2) by adding at the end the following new paragraph:

“(2) TRANSPORTATION IN GASEOUS STATE.—

“(A) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state.

“(B) CONSIDERATIONS.—In establishing the standards, the Secretary shall consider whether applying the minimum safety standards in part 195 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this paragraph, for the transportation of carbon dioxide in a liquid state to the transportation of carbon dioxide in a gaseous state would ensure safety.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treatment of carbon dioxide or the preparation of carbon dioxide for transportation by pipeline at production, refining, or manufacturing facilities.”.

SEC. 16. STUDY OF TRANSPORTATION OF DILUTED BITUMEN.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a comprehensive review of hazardous liquid pipeline facility regulations to determine whether the regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen. In conducting the review, the Secretary shall conduct an analysis of whether any increase in the risk of a release exists for pipeline facilities transporting diluted bitumen. The Secretary shall report the results of the review to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives.

SEC. 17. STUDY OF NONPETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

The Secretary of Transportation may conduct an analysis of the transportation of nonpetroleum hazardous liquids by pipeline facility for the purpose of identifying the extent to which pipeline facilities are currently being used to transport nonpetroleum hazardous liquids, such as chlorine, from chemical production facilities across land areas not owned by the producer that are accessible to the public. The analysis should identify the extent to which the safety of the pipeline facilities is unregulated by the States and evaluate whether the transportation of such chemicals by pipeline facility across areas accessible to the public would present significant risks to public safety, property, or the environment in the absence of regulation. The results of the analysis shall be made available to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives.

SEC. 18. CLARIFICATIONS.

(a) **INSPECTION AND MAINTENANCE.**—Section 60108(a)(1) is amended by striking “an intrastate” and inserting “a”.

(b) **OWNER AND OPERATOR.**—Section 60102(a)(2)(A) is amended by striking “owners and operators” and inserting “any or all of the owners or operators”.

SEC. 19. MAINTENANCE OF EFFORT.

Section 60107(b) is amended by adding at the end the following: “For each of fiscal years 2012 and 2013, the Secretary shall grant such a waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that State. For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.”.

SEC. 20. ADMINISTRATIVE ENFORCEMENT PROCESS.

(a) **ISSUANCE OF REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue regulations—

(A) requiring hearings under sections 60112, 60117, 60118, and 60122 of title 49, United States Code, to be convened before a presiding official;

(B) providing the opportunity for any person requesting a hearing under section 60112, 60117, 60118, or 60122 of such title to arrange for a transcript of the hearing, at the expense of the requesting person;

(C) ensuring expedited review of any order issued pursuant to section 60112(e) of such title;

(D) implementing a separation of functions between personnel involved with the investigation and prosecution of an enforcement case and advising the Secretary on findings and determinations; and

(E) prohibiting ex-parte communication relevant to the question to be decided in such a case by parties to an investigation or hearing.

(2) **PRESIDING OFFICIAL.**—The regulations issued under this subsection shall—

(A) define the term “presiding official” to mean the person who conducts any hearing relating to civil penalty assessments, compliance orders, safety orders, or corrective action orders; and

(B) require that the presiding official be an attorney on the staff of the Deputy Chief Counsel of the Pipeline and Hazardous Materials Safety Administration that is not engaged in investigative or prosecutorial functions, including the preparation of notices of probable violations, notices relating to civil penalty assessments, notices relating to compliance, or notices of proposed corrective actions.

(3) **EXPEDITED REVIEW.**—The regulations issued under this subsection shall define the term “expedited review” for the purposes of paragraph (1)(C).

(b) **STANDARDS OF JUDICIAL REVIEW.**—Section 60119(a) is amended by adding at the end the following new paragraph:

“(3) A judicial review of agency action under this section shall apply the standards of review established in section 706 of title 5.”

SEC. 21. GAS AND HAZARDOUS LIQUID GATHERING LINES.

(a) **REVIEW.**—The Secretary of Transportation shall conduct a review of existing Federal and State regulations for gas and hazardous liquid gathering lines located onshore and offshore in the United States, including within the inlets of the Gulf of Mexico.

(b) **REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit 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 results of the review.

(2) **RECOMMENDATIONS.**—The report shall include the Secretary’s recommendations with respect to—

(A) the sufficiency of existing Federal and State laws and regulations to ensure the safety of gas and hazardous liquid gathering lines;

(B) the economic impacts, technical practicability, and challenges of applying existing Federal regulations to gathering lines that are not currently subject to Federal regulation when compared to the public safety benefits; and

(C) subject to a risk-based assessment, the need to modify or revoke existing exemptions from Federal regulation for gas and hazardous liquid gathering lines.

(c) **OFFSHORE GATHERING LINES.**—Section 60108(c) is amended by adding at the end the following:

“(8) If, after reviewing existing Federal and State regulations for hazardous liquid gathering lines located offshore in the United States, including within the inlets of the Gulf of Mexico, the Secretary determines it is appropriate, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.”

SEC. 22. EXCESS FLOW VALVES.

Section 60109(e)(3) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

“(B) **DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.**—Not later than 2 years after the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and after issuing a final report on the evaluation of the National Transportation Safety Board’s recommendation on excess flow valves in applications other than service lines serving one single family residence, the Secretary, if appropriate, shall by regulation require the use of excess flow valves, or equivalent technology, where economically,

technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.”.

SEC. 23. MAXIMUM ALLOWABLE OPERATING PRESSURE.

(a) IN GENERAL.—Chapter 601, as amended by this Act, is further amended by adding at the end the following:

“§ 60139. Maximum allowable operating pressure

“(a) VERIFICATION OF RECORDS.—

“(1) IN GENERAL.—The Secretary of Transportation shall require each owner or operator of a pipeline facility to conduct, not later than 6 months after the date of enactment of this section, a verification of the records of the owner or operator relating to the interstate and intrastate gas transmission pipelines of the owner or operator in class 3 and class 4 locations and class 1 and class 2 high-consequence areas.

“(2) PURPOSE.—The purpose of the verification shall be to ensure that the records accurately reflect the physical and operational characteristics of the pipelines described in paragraph (1) and confirm the established maximum allowable operating pressure of the pipelines.

“(3) ELEMENTS.—The verification process under this subsection shall include such elements as the Secretary considers appropriate.

“(b) REPORTING.—

“(1) DOCUMENTATION OF CERTAIN PIPELINES.—Not later than 18 months after the date of enactment of this section, each owner or operator of a pipeline facility shall identify and submit to the Secretary documentation relating to each pipeline segment of the owner or operator described in subsection (a)(1) for which the records of the owner or operator are insufficient to confirm the established maximum allowable operating pressure of the segment.

“(2) EXCEEDANCES OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—If there is an exceedance of the maximum allowable operating pressure with respect to a gas transmission pipeline of an owner or operator of a pipeline facility that exceeds the build-up allowed for operation of pressure-limiting or control devices, the owner or operator shall report the exceedance to the Secretary and appropriate State authorities on or before the 5th day following the date on which the exceedance occurs.

“(c) DETERMINATION OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—

“(1) IN GENERAL.—In the case of a transmission line of an owner or operator of a pipeline facility identified under subsection (b)(1), the Secretary shall—

“(A) require the owner or operator to reconfirm a maximum allowable operating pressure as expeditiously as economically feasible; and

“(B) determine what actions are appropriate for the pipeline owner or operator to take to maintain safety until a maximum allowable operating pressure is confirmed.

“(2) INTERIM ACTIONS.—In determining the actions for an owner or operator of a pipeline facility to take under paragraph (1)(B), the Secretary shall take into account potential consequences to public safety and the environment, potential

impacts on pipeline system reliability and deliverability, and other factors, as appropriate.

“(d) TESTING REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations for conducting tests to confirm the material strength of previously untested natural gas transmission pipelines located in high-consequence areas and operating at a pressure greater than 30 percent of specified minimum yield strength.

“(2) CONSIDERATIONS.—In developing the regulations, the Secretary shall consider safety testing methodologies, including, at a minimum—

“(A) pressure testing; and

“(B) other alternative methods, including in-line inspections, determined by the Secretary to be of equal or greater effectiveness.

“(3) COMPLETION OF TESTING.—The Secretary, in consultation with the Chairman of the Federal Energy Regulatory Commission and State regulators, as appropriate, shall establish timeframes for the completion of such testing that take into account potential consequences to public safety and the environment and that minimize costs and service disruptions.

“(e) HIGH-CONSEQUENCE AREA DEFINED.—In this section, the term ‘high-consequence area’ means an area described in section 60109(a).”

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60138 the following:

“60139. Maximum allowable operating pressure.”

SEC. 24. LIMITATION ON INCORPORATION OF DOCUMENTS BY REFERENCE.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

“(p) LIMITATION ON INCORPORATION OF DOCUMENTS BY REFERENCE.—Beginning 1 year after the date of enactment of this subsection, the Secretary may not issue guidance or a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.”

SEC. 25. PIPELINE SAFETY TRAINING FOR STATE AND LOCAL GOVERNMENT PERSONNEL.

(a) IN GENERAL.—To further the objectives of chapter 601 of title 49, United States Code, the Secretary of Transportation may provide the services of personnel from the Pipeline and Hazardous Materials Safety Administration to provide training for State and local government personnel at a pipeline safety training facility that is established and operated by an agency or instrumentality of the United States, a unit of State or local government, or an educational institution.

(b) REIMBURSEMENTS FOR TRAINING EXPENDITURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may require reimbursement from sources other than the Federal Government for all expenses incurred by the Secretary in providing training for State and local

government personnel under subsection (a), including salaries, expenses, transportation for Pipeline and Hazardous Materials Safety Administration personnel, and the cost of training materials.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts collected as reimbursement under paragraph (1) are authorized to be appropriated for the purposes set forth in chapter 601 of title 49, United States Code.

SEC. 26. REPORT ON MINORITY-OWNED, WOMAN-OWNED, AND DISADVANTAGED BUSINESSES.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States, based upon available information, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives a comprehensive report assessing the levels and types of participation and methods of facilitating the participation of minority-owned business enterprises, woman-owned business enterprises, and disadvantaged business enterprises in the construction and operation of pipeline facilities in the United States.

SEC. 27. REPORT ON PIPELINE PROJECTS.

(a) STUDY.—The Comptroller General of the United States shall conduct a comprehensive study regarding the process for obtaining Federal and State permits for projects to construct pipeline facilities.

(b) EVALUATION.—In conducting the study, the Comptroller General shall evaluate how long it takes to issue permits for pipeline construction projects, the relationship between the States and the Federal Government in issuing such permits, and any recommendations from the States for improving the permitting process.

(c) CONSULTATION.—In conducting the study, the Comptroller General shall consult with 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.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit 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 results of the study.

SEC. 28. COVER OVER BURIED PIPELINES.

(a) IN GENERAL.—Chapter 601, as amended by this Act, is further amended by adding at the end the following:

“§ 60140. Cover over buried pipelines

“(a) HAZARDOUS LIQUID PIPELINE INCIDENTS INVOLVING BURIED PIPELINES.—

“(1) STUDY.—The Secretary of Transportation shall conduct a study of hazardous liquid pipeline incidents at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark to determine if the depth of cover over the buried pipeline was a factor in any accidental release of hazardous liquids.

“(2) REPORT.—Not later than 1 year after the date of enactment of this section, 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 results of the study.

“(b) ASSESSMENT OF CURRENT REQUIREMENTS FOR DEPTH OF COVER OVER BURIED PIPELINES.—

“(1) IN GENERAL.—If, following completion of the study under subsection (a), the Secretary finds that the depth of cover over buried pipelines is a contributing factor in the accidental release of hazardous liquids from the pipelines, the Secretary, not later than 1 year after the date of completion of the study, shall review and determine the sufficiency of current requirements for the depth of cover over buried pipelines.

“(2) LEGISLATIVE RECOMMENDATIONS.—

“(A) DEVELOPMENT.—If the Secretary determines under paragraph (1) that the current requirements for the depth of cover over buried pipelines are insufficient, the Secretary shall develop legislative recommendations for improving the safety of buried pipelines at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark.

“(B) CONSIDERATION OF FACTORS.—In developing legislative recommendations under subparagraph (A), the Secretary shall consider the factors specified in section 60102(b)(2).

“(C) REPORT TO CONGRESS.—If the Secretary develops legislative recommendations under subparagraph (A), the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the legislative recommendations.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60139 the following:

“60140. Cover over buried pipelines.”

SEC. 29. SEISMICITY.

In identifying and evaluating all potential threats to each pipeline segment pursuant to parts 192 and 195 of title 49, Code of Federal Regulations, an operator of a pipeline facility shall consider the seismicity of the area.

SEC. 30. TRIBAL CONSULTATION FOR PIPELINE PROJECTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop and implement a protocol for consulting with Indian tribes to provide technical assistance for the regulation of pipelines that are under the jurisdiction of Indian tribes.

SEC. 31. PIPELINE INSPECTION AND ENFORCEMENT NEEDS.

(a) INSPECTION AND ENFORCEMENT NEEDS.—Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall submit 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 that provides information on—

(1) the total number of full-time equivalent positions for pipeline inspection and enforcement personnel at the Pipeline and Hazardous Materials Safety Administration;

(2) out of the total number of such positions, how many of the positions are not filled and the reasons why the positions are not filled;

(3) the actions the Administrator of the Pipeline and Hazardous Materials Safety Administration is taking to fill the positions; and

(4) any additional inspection and enforcement resource needs of the Pipeline and Hazardous Materials Safety Administration.

(b) STAFFING.—Subject to the availability of funds, the Secretary may increase the number of positions for pipeline inspection and enforcement personnel at the Pipeline and Hazardous Materials Safety Administration by 10 full-time equivalent employees, if—

(1) on or before September 30, 2014, the Secretary fills the 135 full-time equivalent positions for pipeline inspection and enforcement personnel specified in section 18(e) of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (120 Stat. 3498); and

(2) in preparing the report under subsection (a), the Secretary finds that additional pipeline inspection and enforcement personnel are necessary.

SEC. 32. AUTHORIZATION OF APPROPRIATIONS.

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

“(a) GAS AND HAZARDOUS LIQUID.—

“(1) IN GENERAL.—To carry out the provisions of this chapter related to gas and hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355), there is authorized to be appropriated to the Department of Transportation for each of fiscal years 2012 through 2015, from fees collected under section 60301, \$90,679,000, of which \$4,746,000 is for carrying out such section 12 and \$36,194,000 is for making grants.

“(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1), there is authorized to be appropriated for each of fiscal years 2012 through 2015 from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355), \$18,573,000, of which \$2,174,000 is for carrying out such section 12 and \$4,558,000 is for making grants.”.

(b) EMERGENCY RESPONSE GRANTS.—Section 60125(b)(2) is amended by striking “2007 through 2010” and inserting “2012 through 2015”.

(c) ONE-CALL NOTIFICATION PROGRAMS.—Section 6107 is amended—

(1) in subsection (a) by striking “2007 through 2010.” and inserting “2012 through 2015.”;

(2) in subsection (b) by striking “2007 through 2010.” and inserting “2012 through 2015.”; and

(3) by striking subsection (c).

(d) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134 is amended by adding at the end the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section \$1,500,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.”.

(e) COMMUNITY PIPELINE SAFETY INFORMATION GRANTS.—Section 60130 is amended—

(1) in subsection (a)(1) by striking “\$50,000” and inserting “\$100,000”;

(2) in subsection (b)—

(A) by inserting “to grant recipients and their contractors” after “this section”; and

(B) by inserting “, for direct advocacy for or against a pipeline construction or expansion project,” after “for lobbying”; and

(3) in subsection (d) by striking “\$1,000,000 for each of the fiscal years 2003 through 2010” and inserting “\$1,500,000 for each of fiscal years 2012 through 2015”.

(f) PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—

(1) in subsection (d) by adding at the end the following:

“(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—

“(A) IN GENERAL.—After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation, in coordination with the Director of the National Institute of Standards and Technology, as appropriate, shall prepare a research and development program plan every 5 years thereafter and shall transmit a report to Congress on the status and results-to-date of implementation of the program every 2 years. The biennial report shall include a summary of updated research needs and priorities identified through the consultation requirements of paragraph (2).

“(B) CONSULTATION.—The Secretary shall comply with the consultation requirements of paragraph (2) when preparing the program plan and in the selection and prioritization of research and development projects.

“(C) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary shall ensure at least 30 percent of the costs of program-wide research and development activities are carried out using non-Federal sources.”.

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(2) in subsection (f) by striking “2003 through 2006.” and inserting “2012 through 2015.”

Attest:

Clerk of the House of Representatives.

Attest:

Secretary of the Senate.