

TO REQUIRE THE FEDERAL RAILROAD ADMINISTRATION AND THE FEDERAL TRANSIT AUTHORITY TO PROVIDE APPROPRIATE CONGRESSIONAL NOTICE OF SAFETY AUDITS CONDUCTED WITH RESPECT TO RAILROADS AND RAIL TRANSIT AGENCIES

MARCH 13, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1093]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1093) to require the Federal Railroad Administration and the Federal Transit Authority to provide appropriate Congressional notice of safety audits conducted with respect to railroads and rail transit agencies, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments areas follows:
Strike all after the enacting clause and insert the following:

SECTION 1. NOTICE OF COMPREHENSIVE SAFETY ASSESSMENTS.

(a) INITIAL NOTICE.—Not later than 10 business days after the Federal Railroad Administration initiates a comprehensive safety assessment of an entity providing regularly scheduled intercity or commuter rail passenger transportation, the Federal Railroad Administration shall notify in electronic format the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and each member of Congress representing a State in which the service that is the subject of the assessment being conducted is located, of the initiation of that assessment.

(b) FINDINGS.—Not later than 90 days after completion of a comprehensive safety assessment described in subsection (a), the Federal Railroad Administration shall transmit in electronic format to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and to each member of Congress representing a State in which the service that is the subject of the assessment being conducted is located, its findings of that assessment, including identified defects and any recommendations.

(c) DEFINITION.—For purpose of this section, the term “comprehensive safety assessment” means a focused review of the safety-related processes and procedures, compliance with safety regulations and requirements, and overall safety culture of an entity providing regularly scheduled intercity or commuter rail passenger transportation.

Amend the title so as to read:

A bill to require the Federal Railroad Administration to provide appropriate congressional notice of comprehensive safety assessments conducted with respect to intercity or commuter rail passenger transportation.

PURPOSE OF LEGISLATION

H.R. 1093, as amended, requires the Federal Railroad Administration (FRA) to provide appropriate Congressional notification of the initiation and results of comprehensive safety assessments of an entity providing intercity or commuter rail passenger transportation.

BACKGROUND AND NEED FOR LEGISLATION

On September 29, 2016, a New Jersey Transit (NJT) train entering the Hoboken, New Jersey station failed to stop, overrode a bumping post, and struck a wall of the terminal. One individual on the platform was killed and 110 passengers and crewmembers on the train were injured. The National Transportation Safety Board (NTSB) launched an investigation of the accident.

At the time of the accident, FRA was conducting a comprehensive safety assessment of NJT, based on an increase in safety violations and the carrier’s overall safety performance. Neither Congress nor the public was aware of NJT’s safety problems or the FRA’s audit.

The NTSB’s Special Investigations Report of the Hoboken accident was released on February 6, 2018. The Board determined that the probable cause of the accident was fatigue resulting from undiagnosed severe obstructive sleep apnea. The NTSB also found that NJT’s System Safety Plan (SSP) was ineffective in identifying operational hazards associated with operating trains into terminal tracks. For example, NJT failed to include in its SSP the potential for a bumping post collision, even though NJT had seven reported accidents in which a train hit a bumping post during the 10-year

period between January 1, 2001, and December 31, 2016. According to the FRA, “An SSP would provide a railroad with the tools to systematically and continuously evaluate its system to identify the hazards and risks that result from gaps in safety and to mitigate or eliminate these hazards and risks.”

The Rail Safety Improvement Act of 2008 (P.L. 110–432) directed the Secretary of Transportation to issue a regulation requiring certain railroads to develop, submit for review and approval, and implement a railroad safety risk reduction program within four years of the date of enactment. The FRA has not issued the final rule. Additionally, the findings of the FRA audit of NJT were never provided to Congress.

H.R. 1093 will ensure that FRA informs the House and Senate Committees of jurisdiction, as well as affected Members of Congress, of both the initiation of comprehensive safety assessments and their results. According to FRA, these in-depth safety reviews are undertaken after FRA has identified serious safety lapses, including incidents of non-compliance with federal safety regulations. This legislation will make FRA’s process more transparent, help the House Transportation and Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee fulfill their responsibility for overseeing rail safety, and allow affected Members of Congress and their constituents to be informed about the state of rail safety in their communities. The notice requirements will also let Congress know that systemic safety problems are being addressed by FRA, and inform Congress of FRA’s findings and recommendations.

HEARINGS

There were no hearings related to this legislation in the House.

LEGISLATIVE HISTORY AND CONSIDERATION

On February 15, 2017, Congressman Albio Sires (D–NJ) introduced 1093, to require notification to the House Transportation and Infrastructure Committee, the Senate Commerce, Science, and Transportation Committee, and affected Members of Congress of the initiation and results of certain safety assessments with respect to railroads and rail transit agencies. The bill was referred solely to the Committee on Transportation and Infrastructure.

On March 29, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1093. The Committee considered and adopted one amendment in the nature of a substitute, offered by Subcommittee on Railroads, Pipelines, and Hazardous Materials Chairman Jeff Denham (R–CA), Subcommittee Ranking Member Michael Capuano (D–MA), and Congressman Sires, by voice vote. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the

names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1093, as amended, or ordering the measure reported. A motion to order H.R. 1093, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974, included below.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1093, as amended, from the Director of the Congressional Budget Office. CBO finds that the bill will have no direct spending or revenue effects.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 18, 2017.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1093, a bill to require the Federal Railroad Administration to provide appropriate Congressional notice of comprehensive safety assessments conducted with respect to intercity or commuter rail passenger transportation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1093—A bill to require the Federal Railroad Administration to provide appropriate Congressional notice of comprehensive safety assessments conducted with respect to intercity or commuter rail passenger transportation

H.R. 1093 would require the Federal Rail Administration (FRA) to notify the Congress upon initiating certain safety assessments and to complete and transmit formal reports to the Congress within 90 days of completing an assessment.

When the FRA conducts a safety assessment of a rail provider the agency does not typically produce a formal report of its findings. Instead, the FRA provides informal communications to the railroad that it has assessed. As a result, the agency would need additional personnel to complete the reporting requirements contained in the bill. According to the agency, it completes two or three safety assessments each year. Based on an analysis of information from the FRA, CBO expects that a formal report to the Congress on each assessment would require the equivalent of one or two full-time employees per year. Thus, CBO estimates that implementing the bill would cost \$2 million over the 2018–2022 period, assuming the availability of appropriated amounts.

Enacting H.R. 1093 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1093 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Sarah Puro. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation, as amended, is to require the Federal Railroad Administration (FRA) to notify specific committees and Members of Congress upon initiating and concluding a safety assessment.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1093, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 1093, as amended, does not di-

rect the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1093, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1. Notice of comprehensive safety assessments

Section 1 directs FRA to provide notification of the initiation of a comprehensive safety assessment of an entity providing intercity or commuter rail passenger transportation to the Committee on Transportation and Infrastructure in the House, the Committee on Commerce, Science, and Transportation in the Senate, and each member of Congress representing a State in which the service that is the subject of the assessment is located, within ten business days after the assessment is initiated. This section also directs FRA to transmit its findings, including identified defects and any recommendations, to these parties in electronic format within 90 days after the safety assessment is completed. The section also defines “comprehensive safety assessment” as a focused review of the safety-related processes and procedures, compliance with safety regulations and requirements, and overall safety culture of the railroad.

It is the Committee’s understanding from FRA that comprehensive safety assessments are those undertaken under the direction of headquarters’ staff on the basis of inspections in the field that have found serious safety problems and a pattern of non-compliance with federal safety regulations. According to FRA, these types of inspections differ from routine safety inspections and are more comprehensive. This legislation is not intended to require FRA to report routine safety inspections to Congress, but rather comprehensive safety assessments that are focused on an entity’s com-

pliance with safety regulations and requirements, safety-related processes and procedures, and its overall safety culture.

FRA currently provides notifications to Congress of train collisions, derailments, and grade crossing accidents on a regular basis. These communications are in the form of email messages to staff, and we would expect FRA to meet the electronic communication requirements of the bill in the same manner. Additionally, the legislation does not require FRA to submit a new report to Congress to inform us of the results of a safety assessment. Rather, the agency need only share with Congress the information it develops when it conducts this kind of safety review.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1093 makes no changes in existing law.

