



November 3, 2009

Dear U.S. Representative:

On behalf of the nation's research universities, we are writing to express our strong support for the Foster-Lujan amendment to H.R. 2868, the Chemical Facilities Anti-Terrorism Act of 2009.

Colleges and universities are committed to the safe conduct of research and education on their campuses and recognize that all of us must become more vigilant in light of the increased potential for terrorist attacks.

While we commend the Energy and Commerce and Homeland Security Committees for their efforts to secure chemical facilities, the bill, as reported, fails to recognize the differences between academic laboratories and major chemical manufacturing and production facilities, including how chemicals are used and stored for research purposes.

Unlike major chemical manufacturing and production facilities, which store large volumes of toxic substances, colleges and universities generally have no such concentrated volumes of these substances. Rather, they distribute these chemicals of interest (COI) among multiple laboratories in multiple buildings, generally in more than one geographic location. This is because academic laboratories use these substances in relatively small quantities. Given this distributed environment, colleges and universities present a low risk for serious toxic releases through theft, sabotage or attack.

The Foster-Lujan amendment recognizes this distinction and achieves the important goal of securing chemical facilities by establishing separate but robust standards, protocols and procedures for assessing vulnerabilities and improving the security of COI in a college or university setting.

Based on our experience in complying with federal regulations governing health, safety and security, including those issued by OSHA, CDC, EPA, USDA and the NRC, we have found that such regulations best achieve their goals when the standards and procedures they establish reflect the nature of our chemical use. Several federal agencies have established separate, and successful, standards for research laboratories. These include separate chemical safety regulations at OSHA and separate hazardous waste management regulations at EPA, both of which are distinct from those applied to industrial production and other facilities.

Without the Foster-Lujan amendment, academic laboratories, specifically, and college and university campuses, in general, would fall under the same regulatory requirements established for major chemical manufacturing and production facilities. Such a generic, imperfect fit would

not enhance the security of our facilities, but it could have a negative impact on both our education and research missions. Specifically, we are concerned that the legislation would seriously undermine our ability to conduct research vital to our national interest, with time and resources diverted toward implementing a campus-wide security perimeter well beyond those few relatively high-risk areas on our campuses.

Moreover, the requirements for wide-ranging background checks would seriously hinder our ability to engage students in the research enterprise and train the next generation of scientists and engineers. These personnel surety and mandatory training requirements simply do not reflect the nature of the students' roles and responsibilities in educational laboratories, and they would reduce opportunities for students to learn.

Our institutions are committed to the secure use of potentially dangerous toxic substances and believe that the goals of this legislation are extremely important. In order to meet the national security goals of the act as well as carry out our vital research and education missions, we need standards and procedures that assist us rather than hinder us.

We urge you to support the Foster-Lujan amendment to H.R. 2868.

Sincerely,

American Council on Education  
Association of American Universities  
Association of Public and Land-grant Universities  
Council on Governmental Relations  
Campus Safety Health and Environmental Management Association  
National Association of College and University Business Officers