

106TH CONGRESS  
1ST SESSION

# S. 1496

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

AUGUST 4, 1999

Mr. HOLLINGS (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Federal Railroad Safe-  
5        ty Enhancement Act of 1999”.

6        **SEC. 2. FINDINGS.**

7        The Congress finds and declares the following:

8                (1) Consistent with the purposes of the Govern-  
9        ment Performance and Results Act of 1993, the  
10       Federal Railroad Administration has reshaped the

1 regulatory and compliance components of the Fed-  
2 eral railroad safety program to ensure that the en-  
3 tire program is squarely focused on achieving de-  
4 monstrable results, i.e., reducing the number of  
5 deaths and injuries associated with railroading in  
6 the United States. The foundation of the program is  
7 its emphasis on inclusion of all interested parties—  
8 railroad employees and labor unions, railroad man-  
9 agement, manufacturers, State government groups,  
10 and public associations—in identifying safety prob-  
11 lems and implementing solutions. This emphasis on  
12 safety partnership has helped begin a transformation  
13 of key aspects of the corporate culture of the Na-  
14 tion’s railroads, a transformation that is producing  
15 safety and business benefits.

16 (2) The Safety Assurance and Compliance Pro-  
17 gram is an approach to safety that emphasizes the  
18 active partnership of the Federal Railroad Adminis-  
19 tration, rail labor representatives, and railroad man-  
20 agement in identifying current safety problems and  
21 jointly developing effective solutions to those prob-  
22 lems. One fundamental principle of this approach is  
23 tracing a safety problem to its root cause and at-  
24 tacking that cause rather than only its symptoms.  
25 Where a problem is determined to be system-wide,

1 this approach calls for a system-wide solution.  
2 Under this approach, the Federal Railroad Adminis-  
3 tration seeks to focus its inspection and enforcement  
4 resources on the most serious safety problems. This  
5 approach has demonstrated significant capacity for  
6 identifying and eliminating the root cause of system-  
7 wide safety problems by enlisting those most di-  
8 rectly-affected by such problems—railroad employees  
9 and managers—in a partnership effort. Used to-  
10 gether with the Federal Railroad Administration’s  
11 regular inspections and enforcement tools, this ap-  
12 proach provides a firm basis for addressing the safe-  
13 ty challenges facing the changing railroad industry  
14 and advancing toward the safety program’s ultimate  
15 goal of zero tolerance for any safety hazard in the  
16 railroad industry.

17 (3) The Railroad Safety Advisory Committee,  
18 which was established by the Federal Railroad Ad-  
19 ministration under the Federal Advisory Committee  
20 Act (5 U.S.C. App. 2), is proving to be an effective  
21 means of involving interested members of the rail-  
22 road community, including the staff of the National  
23 Transportation Safety Board, in the development of  
24 railroad safety rules issued by the Federal Railroad  
25 Administration. The Congress strongly encourages

1 the continued use of this collaborative method of de-  
2 veloping safety regulations, which is more likely to  
3 produce rules that are based on an industry con-  
4 sensus and, accordingly, more readily understood  
5 and more consistently complied with, than rules pro-  
6 duced under more traditional methods.

7 (4) A critical element for the sustained success  
8 of any company's safety program is the establish-  
9 ment and growth of a clearly defined, positive safety  
10 culture. The safety culture of a company encom-  
11 passes the beliefs, values, attitudes, and practices  
12 shared by employees and company officials and in-  
13 cludes such matters as how decisions are made, who  
14 makes them, how rewards and discipline are distrib-  
15 uted, who is promoted, and how people are treated.  
16 Many of today's most successful organizations recog-  
17 nize that people are their most important assets;  
18 they have come to realize that it is important for  
19 managers and employees to share a common vision  
20 and work in concert to pursue common goals. By ex-  
21 ploring innovative concepts involving employee em-  
22 powerment, coaching, counseling, and enhanced  
23 training often through joint partnerships involving  
24 rail labor, railroad management, and the Federal  
25 Railroad Administration—some railroads are seeking

1 new and better methods to promote compliance with  
2 company and Federal safety rules and to promote  
3 the free flow of safety-related information to better  
4 identify safety hazards and prevent injuries and ac-  
5 cidents. The improvements in the industry's safety  
6 culture that have resulted from these initiatives hold  
7 the promise of increasing railroad safety to historic  
8 levels and moving toward the ultimate goal of zero  
9 tolerance for safety hazards. The Congress strongly  
10 endorses efforts by the Federal Railroad Administra-  
11 tion, rail labor, and individual railroads to build  
12 meaningful safety partnerships that foster positive  
13 safety cultures on the Nation's railroads. The Fed-  
14 eral Railroad Administration has committed to re-  
15 port regularly to the Congress on the continuing evo-  
16 lution of the railroad industry's safety culture.

17 (5) Although advances have been made in the  
18 industry's safety culture and rail safety trends are  
19 generally favorable, in terms of total fatalities, em-  
20 ployee and other injuries, and grade crossing inci-  
21 dents, nevertheless, too many of these accidents and  
22 incidents still occur, as illustrated by recent fatalities  
23 related to railroading. In 1998, eight railroad em-  
24 ployees were killed in switching-related incidents,  
25 and one was killed in a train collision. In the same

1 year, hundreds of motorists, their passengers, and  
2 others lost their lives in grade crossing accidents and  
3 incidents, the vast majority of which are attributable  
4 to human factors involving the motorists. More re-  
5 cently, in March 1999, 11 Amtrak passengers died  
6 in a truck-train grade crossing collision at Bourbon-  
7 nais, Illinois. Furthermore, each year approximately  
8 a third of all train accidents are caused by human  
9 factors. Clearly, there is a need for changes in the  
10 law to prevent deaths and accidents such as these  
11 by finding remedies to the kinds of conditions and  
12 behaviors that permitted these tragedies to occur;  
13 therefore, we enact the following statute, which deals  
14 with the critical human factor issues of fatigue and  
15 safety culture in the railroad industry, with grade  
16 crossing safety, and with other important rail safety  
17 issues.

18 **SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

19 Except as otherwise expressly provided, whenever in  
20 this Act an amendment or repeal is expressed in terms  
21 of an amendment to, or a repeal of, a section or other  
22 provision, the reference shall be considered to be made to  
23 a section or other provision of title 49, United States  
24 Code.

**1 SEC. 4. TABLE OF CONTENTS.**

**2** The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Amendment of title 49, United States Code.
- Sec. 4. Table of contents.

TITLE I—HOURS OF SERVICE

- Sec. 101. Definitions.
- Sec. 102. Limitations on duty hours of train employees.
- Sec. 103. Limitations on duty hours of signal employees.
- Sec. 104. Limitations on duty hours of dispatching service employees.
- Sec. 105. Conforming amendments regarding hours of service violations.
- Sec. 106. Fatigue management plans.
- Sec. 107. Joint submission of waiver petitions.
- Sec. 108. Employee sleeping quarters.

TITLE II—MONITORING OF RAILROAD RADIO COMMUNICATIONS

- Sec. 201. Enhanced inspection and investigation authority under the Federal railroad safety laws.
- Sec. 202. Exception to chapter 119, title 18, United States Code.

TITLE III—RULEMAKING AUTHORITY

- Sec. 301. Railroad accident and incident reporting.
- Sec. 302. High-speed rail noise regulation.

TITLE IV—WHISTLEBLOWER PROTECTION

- Sec. 401. Expansion of employee protections.

TITLE V—GRADE CROSSING SAFETY

- Sec. 501. Emergency notification of grade crossing problems.
- Sec. 502. Grade crossing signal violations.
- Sec. 503. National highway-rail crossing inventory.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Technical amendments regarding adjustment of civil penalties for inflation.
- Sec. 602. Revision of special preemption provision.
- Sec. 603. Railroad safety inspection user fees.
- Sec. 604. Authorization of appropriations.

**3 TITLE I—HOURS OF SERVICE**

**4 SEC. 101. DEFINITIONS.**

**5** Section 21101 is amended—

1 (1) by striking “employed by a railroad carrier”  
2 in paragraph (4); and

3 (2) by adding at the end the following:

4 “(6) ‘dually-employed’ means being at the same  
5 time in the employ of 2 or more railroad carriers, of  
6 2 or more railroad contractors, or of both 1 or more  
7 railroad carriers and 1 or more railroad contractors.

8 “(7) ‘railroad contractor’ or, in context, ‘con-  
9 tractor’ means an independent contractor to a rail-  
10 road carrier or a subcontractor to an independent  
11 contractor to a railroad carrier.”.

12 **SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EM-**  
13 **PLOYEES.**

14 (a) Section 21103(a) is amended by—

15 (1) striking “officers” and inserting “managers,  
16 supervisors, officers,”;

17 (2) inserting “(1)” before “Except”;

18 (3) redesignating paragraphs (1) and (2) as  
19 subparagraphs (A) and (B), respectively; and

20 (4) adding at the end the following:

21 “(2) Except as provided in subsection (c) of  
22 this section, a railroad carrier and its managers, su-  
23 pervisors, officers, and agents and a railroad con-  
24 tractor and the contractor’s managers, supervisors,  
25 officers, and agents may not, if the railroad carrier



1 or railroad contractor has actual knowledge that a  
2 train employee is dually-employed and actual knowl-  
3 edge of the individual’s schedule for the time period  
4 in question, require or allow the dually-employed  
5 train employee to remain or go on duty, nor may a  
6 dually-employed train employee remain or go on  
7 duty—

8 “(A) unless that employee has had at least  
9 8 consecutive hours off duty during the prior  
10 24 hours; or

11 “(B) after that employee has been on duty  
12 for 12 consecutive hours, until that employee  
13 has had at least 10 consecutive hours off  
14 duty.”.

15 (b) Section 21103 is amended by adding at the end  
16 the following:

17 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND  
18 SCHEDULE.—

19 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
20 RIERS AND RAILROAD CONTRACTORS.—Not later  
21 than January 31st each year, a railroad carrier and  
22 a railroad contractor shall inform each of its train  
23 employees in writing—

24 “(A) that all time spent performing aggre-  
25 gate duty on 1 or more railroad carriers or 1

1 or more railroad contractors or a combination  
2 thereof counts towards the limitations on duty  
3 hours of this section;

4 “(B) about the employee’s responsibilities  
5 under paragraph (2) of this subsection; and

6 “(C) about the penalties under section  
7 21303 of this title applicable to a failure to  
8 comply with paragraph (2) of this subsection.

9 “(2) DUTIES OF EMPLOYEES.—A dually-em-  
10 ployed train employee—

11 “(A) shall inform each of his or her rail-  
12 road carrier employers and railroad contractor  
13 employers in writing within 5 days of estab-  
14 lishing an employee-employer relationship that  
15 results in the employee’s becoming dually-em-  
16 ployed; and

17 “(B) shall ensure that each of his or her  
18 railroad carrier employers and railroad con-  
19 tractor employers is kept informed about the  
20 employee’s current work schedule with each of  
21 his or her other employing railroad carriers and  
22 railroad contractors and which portions of that  
23 service are likely to be in covered service.

24 “(3) RECORD RETENTION DUTIES OF RAILROAD  
25 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-

1 ceiving written notification of dual employment, a  
2 railroad carrier or railroad contractor shall—

3 “(A) retain at the carrier’s system and di-  
4 vision headquarters, or at the contractor’s head-  
5 quarters, respectively, a copy of the notification  
6 for a period of 2 years after termination of such  
7 dual employment status; and

8 “(B) make the record available to rep-  
9 resentatives of the Secretary for inspection and  
10 copying during normal business hours.”.

11 **SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EM-**  
12 **PLOYEES.**

13 (a) Section 21104(a)(2) is amended by—

14 (1) striking “officers” and inserting “managers,  
15 supervisors, officers,”; and

16 (2) adding at the end the following:

17 “(3) Except as provided in subsection (c) of  
18 this section, a railroad carrier and its managers, su-  
19 pervisors, officers, and agents and a railroad con-  
20 tractor and the contractor’s managers, supervisors,  
21 officers, and agents may not, if the railroad carrier  
22 or railroad contractor has actual knowledge that a  
23 signal employee is dually-employed and actual  
24 knowledge of the individual’s schedule for the time  
25 period in question, require or allow the dually-em-

1       ployed signal employee to remain or go on duty, nor  
2       may a dually-employed signal employee remain or go  
3       on duty—

4               “(A) unless that employee has had at least  
5               8 consecutive hours off duty during the prior  
6               24 hours;

7               “(B) after that employee has been on duty  
8               for 12 consecutive hours, until that employee  
9               has had at least 10 consecutive hours off duty;  
10              or

11              “(C) after that employee has been on duty  
12              a total of 12 hours during a 24-hour period, or  
13              after the end of that 24-hour period, whichever  
14              occurs first, until that employee has had at  
15              least 8 consecutive hours off duty.”.

16       (b) Section 21104(b)(3) is amended by striking  
17       “duty, except that up to 1 hour of that time spent return-  
18       ing from the final trouble call of a period of continuous  
19       or broken service is time off duty” and inserting “duty.”.

20       (c) Section 21104 is amended by adding the following  
21       at the end:

22              “(d) NOTICE ABOUT DUAL EMPLOYMENT AND  
23       SCHEDULE.—

24              “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
25       RIERS AND RAILROAD CONTRACTORS.—Not later

1 than January 31st of each year, a railroad carrier  
2 or a railroad contractor shall inform each of its sig-  
3 nal employees in writing—

4 “(A) that all time spent performing aggre-  
5 gate duty on 1 or more railroad carriers or 1  
6 or more railroad contractors or a combination  
7 thereof counts towards the limitations on duty  
8 hours of this section;

9 “(B) about the employee’s responsibilities  
10 under paragraph (2) of this subsection; and

11 “(C) about the penalties under section  
12 21303 of this title applicable to a failure to  
13 comply with paragraph (2) of this subsection.

14 “(2) DUTIES OF EMPLOYEES.—A dually-em-  
15 ployed signal employee—

16 “(A) shall inform each of his or her rail-  
17 road carrier employers and railroad contractor  
18 employers in writing within 5 days of estab-  
19 lishing an employee-employer relationship that  
20 results in the employee’s becoming dually-em-  
21 ployed; and

22 “(B) shall ensure that each of his or her  
23 railroad carrier employers and railroad con-  
24 tractor employers is kept informed about the  
25 employee’s current work schedule with each of

1 the other employing railroad carriers and rail-  
 2 road contractors and which portions of that  
 3 service are likely to be in covered service.

4 “(3) RECORD RETENTION DUTIES OF RAILROAD  
 5 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-  
 6 ceiving written notification of dual employment, a  
 7 railroad carrier or railroad contractor shall—

8 “(A) retain at the carrier’s system and di-  
 9 vision headquarters, or at the contractor’s head-  
 10 quarters, respectively a copy of the notification  
 11 for a period of 2 years after termination of such  
 12 dual employment status; and

13 “(B) make the record available to rep-  
 14 resentatives of the Secretary for inspection and  
 15 copying during normal business hours.”.

16 **SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING**  
 17 **SERVICE EMPLOYEES.**

18 (a) Section 21105(b) is amended by—

19 (1) striking “or allowed” and inserting “or al-  
 20 lowed by a railroad carrier or its managers, super-  
 21 visors, officers, and agents”;

22 (2) inserting “(1)” before “Except”;

23 (3) redesignating paragraphs (1) and (2) as  
 24 subparagraphs (A) and (B), respectively; and

25 (4) adding at the end the following:

1           “(2) Except as provided in subsection (d) of  
2 this section, a railroad carrier and its managers, su-  
3 pervisors, officers, and agents and a railroad con-  
4 tractor and the contractor’s managers, supervisors,  
5 officers, and agents may not, if the railroad carrier  
6 or railroad contractor has actual knowledge that a  
7 dispatching service employee is dually-employed and  
8 actual knowledge of the individual’s schedule for the  
9 time period in question, require or allow the dually-  
10 employed dispatching service employee to remain or  
11 go on duty, nor may a dually-employed dispatching  
12 service employee remain or go on duty, for more  
13 than—

14                   “(A) a total of 9 hours during a 24-hour  
15 period in a tower, office, station, or place at  
16 which at least 2 shifts are employed; or

17                   “(B) a total of 12 hours during a 24-hour  
18 period in a tower, office, station, or place at  
19 which only 1 shift is employed.”.

20           (b) Section 21105(c) is amended to read as follows:

21           “(c) DETERMINING TIME ON DUTY.—In determining  
22 under subsection (b) of this section the time a dispatching  
23 service employee is on or off duty, the following rules  
24 apply:

1           “(1) Time spent performing any other service  
2           for 1 or more railroad carriers or 1 or more railroad  
3           contractors or a combination thereof during a 24-  
4           hour period in which the employee is on duty in a  
5           tower, office, station, or other place is time on duty  
6           in that tower, office, station, or place, and counts to-  
7           ward the employee’s aggregate time on duty.

8           “(2) If during a 24-hour period an employee  
9           performs the duties of a dispatching service em-  
10          ployee for more than 1 railroad carrier or railroad  
11          contractor or for a railroad carrier and a railroad  
12          contractor, and at least 1 of those tours of duty is  
13          in a tower, office, station, or other place at which at  
14          least 2 shifts are employed, then the duty limits of  
15          subsection (b)(1) of this section apply.

16          “(3) All time on duty by the employee for any  
17          railroad carrier or railroad contractor shall be in-  
18          cluded.”.

19          (c) Section 21105 is amended by adding at the end  
20          the following:

21          “(e) NOTICE ABOUT DUAL EMPLOYMENT AND  
22          SCHEDULE.—

23                 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
24                 RIERS AND RAILROAD CONTRACTORS.—Not later  
25                 than January 31st each year, a railroad carrier and



1 a railroad contractor shall inform each of its dis-  
2 patching service employees in writing—

3 “(A) that all time spent performing aggre-  
4 gate duty on 1 or more railroad carriers or rail-  
5 road contractors or a combination thereof  
6 counts towards the limitations on duty hours of  
7 this section;

8 “(B) about the employee’s responsibilities  
9 under paragraph (2) of this subsection;

10 “(C) about the penalties under section  
11 21303 of this title applicable to a failure to  
12 comply with paragraph (2) of this subsection.

13 “(2) DUTIES OF EMPLOYEES.—A dually-em-  
14 ployed dispatching service employee—

15 “(A) shall inform each of his or her rail-  
16 road carrier employers and railroad contractor  
17 employers in writing within 5 days of estab-  
18 lishing an employee-employer relationship that  
19 results in the employee’s becoming dually-em-  
20 ployed; and

21 “(B) shall ensure that each of his or her  
22 railroad carrier employers and railroad con-  
23 tractor employers is kept informed about the  
24 employee’s current work schedule with each of  
25 his or her other employing railroad carriers and

1           railroad contractors and which portions of that  
2           service are likely to be in covered service.

3           “(3) RECORD RETENTION DUTIES OF RAILROAD  
4           CARRIERS AND RAILROAD CONTRACTORS.—Upon re-  
5           ceiving written notification of dual employment, a  
6           railroad carrier or a railroad contractor shall—

7                   “(A) retain at the carrier’s system and di-  
8                   vision headquarters, or at the railroad contrac-  
9                   tor’s headquarters, a copy of the notification for  
10                  a period of 2 years after termination of such  
11                  dual employment status; and

12                   “(B) make the record available to rep-  
13                   resentatives of the Secretary for inspection and  
14                   copying during normal business hours.”.

15 **SEC. 105. CONFORMING AMENDMENTS REGARDING HOURS**  
16 **OF SERVICE VIOLATIONS.**

17           (a) Section 21106 is amended by striking “officers”  
18           and inserting “managers, supervisors, officers,”.

19           (b) Section 21303(c) is amended by striking “offi-  
20           cers” and inserting “managers, supervisors, officers,”.

21 **SEC. 106. FATIGUE MANAGEMENT PLANS.**

22           (a) IN GENERAL.—Chapter 211 is amended by add-  
23           ing at the end the following:

24 **“§ 21109. Fatigue management plans**

25           “(a) SUBMISSION OF PLANS AND AMENDMENTS.—

1           “(1) Each Class I and Class II railroad carrier,  
2           each railroad carrier providing intercity railroad pas-  
3           senger service, and each railroad carrier providing  
4           commuter or other short-haul railroad passenger  
5           service in a metropolitan or suburban area, shall  
6           submit to the Secretary of Transportation a fatigue  
7           management plan that is designed to reduce the fa-  
8           tigue experienced by railroad employees (as defined  
9           by section 21101 of this chapter) covered by the  
10          hours of service laws and railroad employees who  
11          construct or maintain track, and to reduce the likeli-  
12          hood of accidents and injuries caused by fatigue.  
13          The plan shall discuss each of the elements set forth  
14          in subsection (b) of this section and shall be sub-  
15          mitted not more than 1 year after enactment of this  
16          section, or not less than 45 days prior to com-  
17          mencing railroad operations, whichever is later.  
18          However, with respect to any group of directly-af-  
19          fected employees, a carrier may submit its plan with-  
20          in 2 years of enactment if, within 1 year of enact-  
21          ment, it submits to the Secretary a letter signed by  
22          the labor organization representing those employees  
23          stating that the carrier is actively involved in negoti-  
24          ating a fatigue management plan with that organiza-

1       tion. A carrier shall file any amendment to its plan  
2       with the Secretary.

3           “(2) Each Class III railroad carrier that oper-  
4       ates on the track of a carrier subject to paragraph  
5       (1) of this subsection (or otherwise engages in joint  
6       operations with a carrier subject to paragraph (1) of  
7       this subsection), except as necessary for purposes of  
8       interchange, shall submit to the Secretary a fatigue  
9       management plan that is designed to reduce the fa-  
10      tigue experienced by train employees (as defined by  
11      section 21101 of this chapter) covered by the hours  
12      of service laws and to reduce the likelihood of acci-  
13      dents and injuries caused by fatigue. However, the  
14      plan submitted by each affected Class III railroad  
15      carrier need not discuss employees who are not en-  
16      gaged in or connected with the movement of a train  
17      over the track of a carrier subject to paragraph (1)  
18      of this subsection (or otherwise engage in joint oper-  
19      ations with a carrier subject to paragraph (1) of this  
20      subsection) except as necessary for the purpose of  
21      interchange. The plan shall discuss the elements set  
22      forth in subsection (b) of this section and shall be  
23      submitted not more than three years after enact-  
24      ment of this section, or not less than 60 days prior

1 to commencing railroad operations, whichever is  
2 later.

3 “(3) Each railroad carrier subject to paragraph  
4 (1) or (2) of this subsection shall implement its plan  
5 and any amendment to that plan no later than 90  
6 days after the date of its submission to the Sec-  
7 retary. If the plan fails to contain a discussion of  
8 any required element, the Secretary shall notify the  
9 carrier as to the specific element or elements that  
10 were omitted. The carrier shall then submit an  
11 amended plan within 90 days of such notification.

12 “(4)(A) Each railroad carrier subject to para-  
13 graph (1) or (2) of this subsection shall employ good  
14 faith and use its best efforts to reach agreement by  
15 consensus with all of its directly-affected employee  
16 groups (including each labor organization rep-  
17 resenting a class or craft of directly-affected employ-  
18 ees of the railroad carrier (as applicable)) on the  
19 contents of the fatigue management plan and  
20 amendments to the plan, and, wherever possible, the  
21 carrier and those employee groups shall jointly sub-  
22 mit the plan and each amendment to the Secretary.

23 “(B) If the carrier and its employees cannot  
24 reach consensus on the contents of the plan or an  
25 amendment to the plan, then—

1           “(i) the carrier shall file the plan or  
2 amendment with the Secretary as required by  
3 subsection (a) of this section; and

4           “(ii) each directly-affected employee group  
5 (as applicable), may include in the plan or an  
6 amendment to a plan a statement explaining its  
7 views on the plan or amendment on which con-  
8 sensus was not reached.

9           “(b) ELEMENTS OF THE FATIGUE MANAGEMENT  
10 PLAN.—

11           “(1) GENERAL FACTORS.—The fatigue manage-  
12 ment plan and each amendment shall—

13           “(A) be based upon scientific knowledge  
14 and literature relating to fatigue;

15           “(B) describe the methods and measures  
16 the carrier will utilize to determine the effec-  
17 tiveness of each fatigue countermeasure;

18           “(C) take into account the varying cir-  
19 cumstances of operations by the railroad carrier  
20 on different parts of its system, and what vari-  
21 ations in fatigue countermeasures are appro-  
22 priate to address those varying circumstances;  
23 and

24           “(D) to the extent that implementation of  
25 the plan is connected in any way to a waiver re-

1           quest submitted under section 21108 of this  
2           chapter, discuss that connection.

3           “(2) SUBJECTS THAT CONCERN ALL DIRECTLY-  
4           AFFECTED EMPLOYEES.—With respect to directly-  
5           affected employees, whether working in scheduled or  
6           nonscheduled service, the plan shall discuss the fol-  
7           lowing subjects:

8                   “(A) Education and training on the phys-  
9                   iological and other human factors that affect fa-  
10                   tigue, as well as strategies to counter fatigue.

11                   “(B) Joint labor-management initiatives  
12                   concerning the identification, diagnosis, and  
13                   treatment of sleep disorders that could con-  
14                   tribute to fatigue.

15                   “(C) Methods of avoiding increased fatigue  
16                   due to the need to respond to emergency situa-  
17                   tions, such as derailments and natural disas-  
18                   ters.

19                   “(D) Scheduling practices that improve  
20                   work/rest cycles and minimize cumulative sleep  
21                   loss and fatigue.

22                   “(E) Methods used to determine that cur-  
23                   rent and future staffing levels are adequate to  
24                   ensure that current and anticipated workloads

1 can be handled without exacerbating fatigue on  
2 the part of affected employees.

3 “(F) Alertness strategies to address acute  
4 sleepiness and fatigue while an employee is on  
5 duty.

6 “(G) Opportunities to obtain restful sleep  
7 at lodging facilities.

8 “(H) How to minimize disturbances of the  
9 employee’s rest within the carrier’s control dur-  
10 ing rest periods.

11 “(3) SUBJECTS THAT CONCERN DIRECTLY-AF-  
12 FECTED EMPLOYEES IN NONSCHEDULED SERVICE.—  
13 With respect to directly-affected employees working  
14 in nonscheduled service, the plan shall also discuss  
15 the following subjects:

16 “(A) Methods of affording greater sched-  
17 uling predictability to allow an employee to bet-  
18 ter plan personal activities, sleep, and prepara-  
19 tion for work during the off-duty period.

20 “(B) How to provide employees with op-  
21 portunities to take days off from work on a  
22 scheduled basis.

23 “(C) How to avoid abrupt changes in rest  
24 cycles for employees returning to duty after an



1 extended absence due to circumstances includ-  
2 ing illness, injury, or vacation.

3 “(D) Ways to minimize the amount of time  
4 that employees spend awaiting the arrival of  
5 deadhead transportation to their points of final  
6 release, and to mitigate the fatigue con-  
7 sequences of excessive waiting time.

8 “(E) How to maximize the amount of rest  
9 time given at the employee’s home terminal.

10 “(c) REPORTS TO THE SECRETARY ON EFFECTIVE-  
11 NESS OF COUNTERMEASURES.—

12 “(1) Each railroad carrier required by sub-  
13 section (a)(1) to submit a fatigue management plan  
14 shall also submit to the Secretary by June 30 of the  
15 years 2000 through 2003, an annual report on the  
16 effectiveness of each fatigue countermeasure that it  
17 has employed, including a description of the methods  
18 and measures employed by the carrier to determine  
19 the effectiveness of these countermeasures and any  
20 problems encountered in implementing them. In pre-  
21 paring each report, a carrier shall consult with the  
22 labor organizations that represent the classes or  
23 crafts of directly-affected employees of the railroad  
24 carrier; each report shall include any comments  
25 these organizations have on the report.

1           “(2) Each railroad carrier required by sub-  
2           section (a)(2) to submit a fatigue management plan  
3           for its affected train employees shall also submit to  
4           the Secretary by June 30, 2003, a report on the ef-  
5           fectiveness of each fatigue countermeasure that it  
6           has employed, including a description of the methods  
7           and measures employed by the carrier to determine  
8           the effectiveness of these countermeasures and any  
9           problems encountered in implementing them. In pre-  
10          paring the report, a carrier shall consult with the  
11          labor organizations that represent the affected train  
12          employees of the carrier. The report shall include  
13          any comments these organizations have made on the  
14          report.

15          “(d) SECRETARY’S ASSESSMENT OF FATIGUE COUN-  
16          TERMEASURES.—The Secretary shall, at least once every  
17          fiscal year for the fiscal years 2000 through 2003, provide  
18          to the Committee on Commerce, Science, and Transpor-  
19          tation of the Senate and the Committee on Transportation  
20          and Infrastructure of the House of Representatives a cur-  
21          rent assessment (which may be in letter form) of fatigue  
22          mitigation efforts by railroad carriers and their directly-  
23          affected employees, a summary of any regulatory or other  
24          action the Secretary intends to take regarding fatigue  
25          mitigation, and any recommendations for legislative action

1 concerning fatigue. In making such recommendations, the  
2 Secretary shall consider whether, in the interest of rail-  
3 road safety, additional categories or classes of railroad  
4 carriers should be required to submit fatigue management  
5 plans, including whether additional categories or classes  
6 of carrier employees should be covered.

7 “(e) ENFORCEMENT.—

8 “(1) It is a violation of this section for a rail-  
9 road carrier subject to this section to—

10 “(A) fail to submit to the Secretary a fa-  
11 tigue management plan or, if any, an amend-  
12 ment to a fatigue management plan, by the re-  
13 quired date;

14 “(B) submit a fatigue management plan  
15 that fails to contain a discussion of the ele-  
16 ments required to be included under subsection  
17 (b) of this section, unless the carrier submits a  
18 properly amended plan within the time provided  
19 under subsection (a)(3) of this section;

20 “(C) fail to implement substantially its fa-  
21 tigue management plan by the required date;

22 “(D) fail to submit to the Secretary a re-  
23 port under subsection (e) of this section by the  
24 required date; or

1           “(E) submit a report under subsection (c)  
2           of this section that does not contain a discus-  
3           sion of the elements required to be included.

4           “(2) Every day that a violation continues con-  
5           stitutes a separate violation.

6           “(3) In addition to other enforcement actions  
7           available with regard to violations of this section, the  
8           Secretary may, with regard to violations described in  
9           paragraph (1) (A) or (C) of this subsection, issue an  
10          order under section 20111 of this part, directing the  
11          carrier to implement whatever fatigue mitigation  
12          measures the Secretary finds to be appropriate to  
13          deal with the lack of a plan or lack of substantial  
14          implementation of 1 or more elements of a plan,  
15          which may include restrictions on maximum on-duty  
16          hours or minimum off-duty periods, or both, that are  
17          more stringent than the restrictions of this chapter,  
18          such as minimum periods of advance notice of re-  
19          porting times, minimum periods of undisturbed rest,  
20          a specified number of days off in a week or month,  
21          longer periods off duty, and shorter periods on duty.

22          “(f) DEFINITIONS.—In this section:

23                 “(1) DIRECTLY-AFFECTED EMPLOYEE.—The  
24                 term ‘directly-affected employee’ means—

1           “(A) with respect to a Class I or II rail-  
2 road carrier or a railroad carrier providing  
3 intercity railroad passenger service or commuter  
4 or other short-haul railroad passenger service in  
5 a metropolitan or suburban area, an employee  
6 of that carrier covered by the hours of service  
7 laws and an employee of that carrier who con-  
8 structs or maintains track and is therefore cov-  
9 ered by the terms of the plan; and

10           “(B) with respect to a Class III railroad  
11 carrier, a train employee (as defined by section  
12 21101 of this chapter) covered by the hours of  
13 service laws who is engaged in or connected  
14 with the movement of a train over the track of  
15 a carrier subject to subsection (a)(1) of this  
16 section (or otherwise engaged in joint oper-  
17 ations with a carrier subject to subsection  
18 (a)(1) of this section) except as necessary for  
19 purposes of interchange.

20           “(2) EMPLOYEE IN NONSCHEDULED SERV-  
21 ICE.—The term ‘employee in nonscheduled service’  
22 means a directly-affected employee who is assigned  
23 to work a tour of duty without regular and predict-  
24 able starting and stopping times.

1       “(g) CONSULTATION WITH KNOWLEDGEABLE  
 2 GROUPS.—In carrying out duties under this section, the  
 3 Secretary may consult with and receive advice and rec-  
 4 ommendations from any group comprised of labor and  
 5 management representatives with relevant expertise, in-  
 6 cluding the North American Rail Alertness Partnership,  
 7 or technical experts. Such consultation is not subject to  
 8 the Federal Advisory Committee Act (5 U.S.C. App.).”.

9       (b) CONFORMING AMENDMENT.—The chapter anal-  
 10 ysis for chapter 211 is amended by adding at the end the  
 11 following new item:

“21109. Fatigue management plans.”.

12 **SEC. 107. JOINT SUBMISSION OF WAIVER PETITIONS.**

13       (a) AMENDMENT.—Section 21108 is amended to  
 14 read as follows:

15 **“§ 21108. Joint submission of waiver petitions**

16       “(a) WAIVER.—

17               “(1) PETITION.—A railroad carrier (including a  
 18 Class III railroad carrier) and all labor organizations  
 19 representing any class or craft of directly-affected  
 20 employees of the railroad carrier may jointly petition  
 21 the Secretary of Transportation for approval of a  
 22 waiver, in whole or in part, of compliance with this  
 23 chapter, in order to implement alternatives to the  
 24 strict application of the requirements of this chapter  
 25 to such class or crafts of employees, including re-

1 requirements concerning maximum on-duty and min-  
2 imum off-duty periods. If the petition has any con-  
3 nection to a fatigue management plan that has been  
4 or will be submitted under section 21109 of this  
5 chapter, the petition shall explain the relationship  
6 between the waiver being sought and any specific  
7 provisions of that plan.

8 “(2) AUTHORITY TO WAIVE.—Based on such a  
9 joint petition under paragraph (1) or paragraph (3)  
10 of this subsection, the Secretary may, after notice  
11 and opportunity for comment, waive in whole or in  
12 part compliance with this chapter for any specified  
13 time period, if the Secretary determines that such a  
14 waiver of compliance is in the public interest and  
15 consistent with railroad safety. A waiver is con-  
16 sistent with railroad safety if it is demonstrated that  
17 the employees involved will perform their job func-  
18 tions at a level of safety at least functionally equiva-  
19 lent to that afforded by the provision or provisions  
20 of this chapter sought to be waived. A notice of any  
21 petition under this section and an explanation of any  
22 waiver granted under this section shall be published  
23 in the Federal Register.

24 “(3) WHEN EMPLOYEES ARE NOT REP-  
25 RESENTED BY LABOR ORGANIZATIONS.—If labor or-

1 organizations do not represent classes or crafts of di-  
 2 rectly-affected employees of a railroad carrier, the  
 3 carrier may, after consulting with all of its directly-  
 4 affected employee groups in drafting the waiver re-  
 5 quest, request the waiver of any provisions of this  
 6 chapter, subject to the same conditions and proce-  
 7 dures as a request made under paragraph (1) of this  
 8 subsection.

9 “(b) DEFINITION.—In this section, ‘directly-affected  
 10 employee’ means an employee covered by the hours of  
 11 service laws to whose hours of service the terms of the  
 12 waiver petitioned for specifically apply.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-  
 14 ysis for chapter 211 is amended by striking the item relat-  
 15 ing to section 21108 and inserting the following:

“21108. Joint submission of waiver petitions.”.

16 **SEC. 108. EMPLOYEE SLEEPING QUARTERS.**

17 Section 21106 is amended—

18 (1) by inserting “(a) SLEEPING QUARTERS.—”

19 before “A railroad carrier and its”;

20 (2) by striking “and” at the end of paragraph

21 (1);

22 (3) by striking “performed.” in paragraph (2)

23 and inserting “performed; and”;

24 (4) by adding at the end the following:



1           “(3) may not, after January 1, 2002, provide  
 2           sleeping quarters (including crew quarters, camp or  
 3           bunk cars, and trailers) for employees, and any indi-  
 4           viduals employed to maintain the right of way of a  
 5           railroad carrier in an area or in the immediate vicin-  
 6           ity of an area in which railroad switching or hump-  
 7           ing operations are performed.

8           “(b) IMMEDIATE VICINITY DEFINED.—In subsection  
 9           (a)(3), the term ‘immediate vicinity’ means the area within  
 10          one-half mile of switching or humping operations as meas-  
 11          ured from the nearest rail of the nearest trackage where  
 12          switching or humping operations are performed to the ex-  
 13          terior wall of the structure housing the sleeping quarters  
 14          that is closest to such operations.”.

15       **TITLE II—MONITORING OF RAIL-**  
 16       **ROAD RADIO COMMUNICA-**  
 17       **TIONS**

18       **SEC. 201. ENHANCED INSPECTION AND INVESTIGATION AU-**  
 19                               **THORITY UNDER THE FEDERAL RAILROAD**  
 20                               **SAFETY LAWS.**

21          Section 20107 is amended by adding at the end  
 22 thereof following:

23          “(c) RAILROAD RADIO COMMUNICATIONS.—

24                       “(1) To carry out the Secretary’s responsibil-  
 25          ities under this part, officers, employees, or agents

1 of the Secretary are authorized to conduct the fol-  
2 lowing kinds of inspection and investigative activities  
3 at reasonable times:

4 “(A) To listen to a radio communication  
5 that is broadcast or transmitted over a fre-  
6 quency authorized by the Federal Communica-  
7 tions Commission to a railroad carrier, with or  
8 without making their presence known to the  
9 sender or other receivers of the communication  
10 and with or without obtaining the consent of  
11 the sender or other receivers of the communica-  
12 tion.

13 “(B) To communicate the existence, con-  
14 tents, substance, purport, effect, or meaning of  
15 the communication, subject to the restrictions  
16 in paragraph (3) of this subsection.

17 “(C) To receive or assist in receiving the  
18 communication (or any information therein con-  
19 tained).

20 “(D) Having received the communication  
21 or having become acquainted with the contents,  
22 substance, purport, effect, or meaning of the  
23 communication (or any part thereof), to disclose  
24 the contents, substance, purport, effect, or  
25 meaning of the communication (or any part

1           thereof of such communication) or use the com-  
2           munication (or any information contained  
3           therein), subject to the restrictions in para-  
4           graph (3) of this subsection.

5           “(E) To record the communication by any  
6           means, including writing and tape recording.

7           “(2) The purposes for which officers, employ-  
8           ees, or agents of the Secretary are permitted to en-  
9           gage in the activities set forth in paragraph (1) of  
10          this subsection include rulemaking, accident inves-  
11          tigating, and acquiring general information as to  
12          railroad operations.

13          “(3) Information obtained in compliance with  
14          paragraphs (1) and (2) of this subsection may not  
15          be used as evidence for the assessment or collection  
16          of civil penalties or for the implementation of other  
17          enforcement mechanisms provided in sections  
18          20702(b), 20111, 20112, 20113, or 20114 of this  
19          title and may not be conveyed to a railroad carrier,  
20          but may be used as background for further inves-  
21          tigation which might lead to the discovery of other  
22          useful evidence.

23          “(4) The authority granted by this subsection  
24          shall be an exception to the general prohibitions of  
25          section 705 of the Communications Act of 1934 (47

1 U.S.C. 605), and chapter 119 of title 18, United  
2 States Code.

3 “(d) AT REASONABLE TIMES DEFINED.—In this sec-  
4 tion, the term ‘at reasonable times’ means at any time  
5 that the railroad carrier being inspected or investigated  
6 is performing its rail transportation business.”.

7 **SEC. 202. EXCEPTION TO CHAPTER 119, TITLE 18, UNITED**  
8 **STATES CODE.**

9 Section 2511(2) of title 18, United States Code, is  
10 amended by adding at the end the following:

11 “(i) Notwithstanding any other provision of this  
12 chapter or section 705 of the Communications Act  
13 of 1934 (47 U.S.C. 605), officers, employees, or  
14 agents of the Secretary of Transportation in the  
15 normal course of employment and in furtherance of  
16 the Federal railroad safety laws under subtitle V of  
17 part A of title 49, United States Code, may inter-  
18 cept radio communications broadcast or transmitted  
19 over a frequency authorized by the Federal Commu-  
20 nications Commission to a railroad carrier and may  
21 disclose or use the information thereby obtained, for  
22 the purposes and to the extent permitted by section  
23 20107(c) of title 49.”.

1                   **TITLE III—RULEMAKING**  
2                   **AUTHORITY**

3 **SEC. 301. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

4           Section 20901(a) is amended to read as follows:

5           “(a) **GENERAL REQUIREMENTS.**—On a periodic basis  
6 not less often than monthly or, if no qualifying accident  
7 or incident occurs, on a periodic basis not less often than  
8 quarterly, as specified by the Secretary of Transportation,  
9 a railroad carrier shall file a report with the Secretary on  
10 all accidents and incidents resulting in injury or death to  
11 an individual or damage to equipment or a roadbed arising  
12 from the carrier’s operations during that month or other  
13 applicable period. The report shall state the nature, cause,  
14 and circumstances of each reported accident or incident.  
15 If a railroad carrier assigns human error as a cause, the  
16 report shall include, at the option of each employee whose  
17 error is alleged, a statement by the employee explaining  
18 any factors the employee alleges contributed to the acci-  
19 dent or incident.”.

20 **SEC. 302. HIGH-SPEED RAIL NOISE REGULATION.**

21           (a) **AMENDMENT.**—Chapter 201 is amended by add-  
22 ing at the end the following:

23 **“§ 20154. High-speed rail noise regulation**

24           “The Secretary of Transportation, with the concur-  
25 rence of the Administrator of the Environmental Protec-

1 tion Agency, shall prescribe regulations governing noise  
 2 emissions from high-speed rail systems, including mag-  
 3 netic levitation systems, when operating at speeds greater  
 4 than 150 miles per hour. Railroad-related noise regula-  
 5 tions issued pursuant to the Noise Control Act of 1972  
 6 (42 U.S.C. 4916(a)) shall govern noise emissions from lo-  
 7 comotives, cars, and consists of locomotives and cars,  
 8 when operating at speeds equal to or less than 150 miles  
 9 per hour.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-  
 11 ysis of chapter 201 is amended by inserting after the item  
 12 relating to section 20153 the following:

“20154. High-speed rail noise regulation.”.

13 **TITLE IV—WHISTLEBLOWER**  
 14 **PROTECTION**

15 **SEC. 401. EXPANSION OF EMPLOYEE PROTECTIONS.**

16 (a) Section 20109(a) is amended—

17 (1) by striking “COMPLAINTS AND TESTI-  
 18 FYING” in the subsection heading and inserting  
 19 “COMPLAINTS, TESTIFYING, REPORTING INJURIES  
 20 AND ILLNESSES, AND COOPERATING WITH SAFETY  
 21 INVESTIGATIONS”;

22 (2) by striking “or” following the semicolon in  
 23 paragraph (1); and

24 (3) by striking “proceeding.” in paragraph (2)  
 25 and inserting “proceeding;”; and

1 (4) by adding at the end the following:

2 “(3) notified, or attempted to notify, the rail-  
3 road carrier of a work-related personal injury or  
4 work-related illness of an employee; or

5 “(4) cooperated with a safety investigation by  
6 the Secretary of Transportation or the National  
7 Transportation Safety Board.”.

8 (b) Section 20109(b) is amended—

9 (1) by striking the subsection heading and in-  
10 sserting “HAZARDOUS CONDITIONS.—”;

11 (2) by inserting “or against an employee re-  
12 sponsible for the inspection or repair of safety-re-  
13 lated equipment, track, or structures for refusing to  
14 authorize the use of such equipment, track, or struc-  
15 tures when the employee believes that the equip-  
16 ment, track, or structures are in a hazardous condi-  
17 tion and that the use of the equipment, track, or  
18 structures would endanger human life,” in para-  
19 graph (1) after “performance of the employee’s du-  
20 ties,”; and

21 (3) by striking subparagraph (C) and inserting  
22 the following:

23 “(C) the employee, where possible, has no-  
24 tified the carrier of the existence of the haz-  
25 ardous condition and the intention not to per-

1 form further work or not to authorize the use  
2 of the hazardous equipment, track, or struc-  
3 tures, unless the condition is corrected imme-  
4 diately or the equipment, track, or structures  
5 are repaired properly or replaced.”.

6 (c) Section 20109(c) is amended to read as follows:

7 “(c) DISPUTE RESOLUTION.—

8 “(1) IN GENERAL.—A dispute, grievance, or  
9 claim arising under this section is subject to  
10 resolution—

11 “(A) under section 3 of the Railway Labor  
12 Act (45 U.S.C. 553); or

13 “(B) through a tort action brought by the  
14 employee in a district court of the United  
15 States.

16 “(2) EXPEDITED RESOLUTION UNDER RAILWAY  
17 LABOR ACT.—In a proceeding by the National Rail-  
18 road Adjustment Board, a division of delegate of the  
19 Board, or another board of adjustment established  
20 under section 3 (45 U.S.C. 553) to resolve the dis-  
21 pute, grievance, or claim, the proceeding shall be ex-  
22 pedited and the dispute, grievance, or claim shall be  
23 resolved not later than 180 days after it is filed.

24 “(3) VENUE.—A tort action under paragraph  
25 (1)(B) of this subsection may be brought in the judi-



1 cial district in which the dispute, grievance, or claim  
 2 arose or the defendant has its principal executive of-  
 3 fice.

4 “(4) RELIEF.—If the employee has been found  
 5 by the Board, division, delegate, or other board of  
 6 adjustment or by the court, as applicable, to have  
 7 been discharged, suspended, or otherwise discrimi-  
 8 nated against in violation of subsection (a) or (b) of  
 9 this section, the Board division, delegate, or other  
 10 board of adjustment or the court, as applicable—

11 “(A) may award reasonable damages, in-  
 12 cluding punitive damages sufficient to deter the  
 13 railroad carrier from such conduct in the future  
 14 up to \$100,000; and

15 “(B) shall make the employee whole, in-  
 16 cluding reinstatement, with an award of back  
 17 pay, and with all benefits and accumulated se-  
 18 niority.”.

## 19 **TITLE V—GRADE CROSSING** 20 **SAFETY**

### 21 **SEC. 501. EMERGENCY NOTIFICATION OF GRADE CROSSING** 22 **PROBLEMS.**

23 Section 20152 is amended to read as follows:

1 **“§ 20152. Emergency notification of grade crossing**  
2 **problems**

3 “(a) PROGRAM.—

4 “(1) The Secretary of Transportation shall pro-  
5 mote the establishment of emergency notification  
6 systems utilizing toll-free telephone numbers that  
7 the public can use to convey to railroad carriers, ei-  
8 ther directly or through public safety personnel, in-  
9 formation about malfunctions of automated warning  
10 devices or other safety problems at highway-rail  
11 grade crossings.

12 “(2) To assist in encouraging widespread use of  
13 such systems, the Secretary may provide technical  
14 assistance and enter into cooperative agreements.  
15 Such assistance shall include appropriate emphasis  
16 on the public safety needs associated with operation  
17 of small railroads.

18 “(b) REPORT.—Not later than 24 months following  
19 enactment of the Federal Railroad Safety Enhancement  
20 Act of 1999, the Secretary shall report to Congress the  
21 status of such emergency notification systems, together  
22 with any recommendations for further legislation that the  
23 Secretary considers appropriate.

24 “(c) CLARIFICATION OF TERM.—In this section, the  
25 use of the term ‘emergency’ does not alter the cir-  
26 cumstances under which a signal employee subject to the

1 hours of service law limitations in chapter 211 of this title  
2 may be permitted to work up to 4 additional hours in a  
3 24-hour period when an actual emergency under section  
4 21104(c) of this title exists and the work of that employee  
5 is related to the emergency.”.

6 **SEC. 502. VIOLATION OF GRADE CROSSING SIGNALS.**

7 (a) IN GENERAL.—Section 20151 is amended—

8 (1) by striking the section heading and insert-  
9 ing the following:

10 **“§ 20151. Strategy to prevent railroad trespassing**  
11 **and vandalism and violation of grade**  
12 **crossing signals”;**

13 (2) by striking “and vandalism affecting rail-  
14 road safety” in subsection (a) and inserting “, van-  
15 dalism affecting railroad safety, and violations of  
16 highway-rail grade crossing signals”;

17 (3) by inserting “, concerning trespassing and  
18 vandalism,” in subsection (a) after “such evaluation  
19 and review”; and

20 (4) by inserting “The second such evaluation  
21 and review, concerning violations of highway-rail  
22 grade crossing signals, shall be completed not later  
23 than 1 year after the date of enactment of the Fed-  
24 eral Railroad Safety Enhancement Act of 1999” in  
25 subsection (a) after “1994.”;

1           (5) by inserting “FOR TRESPASSING AND VAN-  
2           DALISM PREVENTION” in the subsection heading of  
3           subsection (b) after “OUTREACH PROGRAM”;

4           (6) by inserting “(1)” in subsection (c) before  
5           “Within”;

6           (7) by redesignating paragraphs (1) and (2) as  
7           subparagraphs (A) and (B), respectively;

8           (8) by adding at the end of subsection (c) the  
9           following:

10           “(2) Not later than 2 years after the date of  
11           the enactment of the Federal Railroad Safety En-  
12           hancement Act of 1999, the Secretary, after con-  
13           sultation with State and local governments and rail-  
14           road carriers, shall develop and make available to  
15           State and local governments model State legislation  
16           providing for civil or criminal penalties, or both, for  
17           violations of highway-rail grade crossing signals.”;  
18           and

19           (9) by adding at the end the following:

20           “(d) VIOLATION OF HIGHWAY-RAIL GRADE CROSS-  
21           ING SIGNALS DEFINED.—In this section, the term ‘viola-  
22           tion of highway-rail grade crossing signals’ includes any  
23           action by a motorist, unless directed by an authorized  
24           safety officer—

1           “(1) to drive around or through a grade cross-  
2           ing gate in a position intended to block passage over  
3           railroad tracks;

4           “(2) to drive through a flashing grade crossing  
5           signal;

6           “(3) to drive through a grade crossing with pas-  
7           sive warning signs without determining that the  
8           grade crossing could be safely crossed before any  
9           train arrived; or

10           “(4) in the vicinity of a grade crossing, that  
11           creates a hazard of an accident involving injury or  
12           property damage at the grade crossing.”.

13           (b) CONFORMING AMENDMENT.—The chapter anal-  
14           ysis for chapter 201 is amended by striking the item relat-  
15           ing to section 20151 and inserting the following:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of  
grade crossing signals.”.

16           **SEC. 503. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.**

17           (a) AMENDMENT.—Subchapter II of chapter 201, as  
18           amended by this Act, is further amended by adding at the  
19           end the following new section:

20           **“§ 20155. National highway-rail crossing inventory**

21           “(a) MANDATORY INITIAL REPORTING OF CROSSING  
22           INFORMATION.—No later than September 30, 2001, each  
23           railroad carrier shall—

1           “(1) report to the Secretary of Transportation  
2           certain information, as specified by the Secretary by  
3           rule or order issued after notice and opportunity for  
4           public comment or by guidelines, concerning each  
5           highway-rail crossing through which the carrier op-  
6           erates; or

7           “(2) otherwise ensure that the information has  
8           been reported to the Secretary by that date.

9           “(b) MANDATORY PERIODIC UPDATING OF CROSSING  
10          INFORMATION.—On a periodic basis beginning no later  
11          than September 30, 2003, and not less often than Sep-  
12          tember 30 of every third year thereafter, or as otherwise  
13          specified by the Secretary of Transportation by rule or  
14          order issued after notice and opportunity for public com-  
15          ment or by guidelines, each railroad carrier shall—

16               “(1) report to the Secretary certain current in-  
17               formation, as specified by the Secretary by rule or  
18               order issued after notice and opportunity for public  
19               comment or by guidelines, concerning each highway-  
20               rail grade crossing through which it operates; or

21               “(2) otherwise ensure that the information has  
22               been reported to the Secretary by that date.

23          “(c) DEFINITIONS.—In this section:

24               “(1) HIGHWAY-RAIL CROSSING.—The term  
25               ‘highway-rail crossing’ means a location within a

1 State where a public highway, road, street, or pri-  
 2 vate roadway, including associated sidewalks and  
 3 pathways, crosses 1 or more railroad tracks either at  
 4 grade or grade separated.

5 “(2) STATE.—The term ‘State’ means a State  
 6 of the United States, the District of Columbia, Puer-  
 7 to Rico, the Northern Mariana Islands, Guam,  
 8 American Samoa, and the Virgin Islands.”.

9 (b) CONFORMING AMENDMENT.—The table of sec-  
 10 tions for chapter 201 is amended by adding after new item  
 11 20155 the following new item:

“20155. National highway-rail crossing inventory.”.

12 (c) AMENDMENT.—Section 130 of title 23, United  
 13 States Code, is amended—

14 (1) by striking the section heading and insert-  
 15 ing the following:

16 “§ 130. Highway-rail crossings”;

17 (2) by adding at the end the following:

18 “(k) NATIONAL HIGHWAY-RAIL CROSSING INVEN-  
 19 TORY.—

20 “(1) MANDATORY INITIAL REPORTING OF  
 21 CROSSING INFORMATION.—No later than September  
 22 30, 2001, each State shall—

23 “(A) report to the Secretary of Transpor-  
 24 tation certain information, as specified by the  
 25 Secretary by rule or order issued after notice

1 and opportunity for public comment or by  
2 guidelines, concerning each highway-rail cross-  
3 ing located within its borders; or

4 “(B) otherwise ensure that the information  
5 has been reported to the Secretary by that date.

6 “(2) MANDATORY PERIODIC UPDATING OF  
7 CROSSING INFORMATION.—On a periodic basis be-  
8 ginning no later than September 30, 2003, and not  
9 less often than September 30 of every third year  
10 thereafter, or as otherwise specified by the Secretary  
11 of Transportation by rule or order issued after no-  
12 tice and opportunity for public comment or by guide-  
13 lines, each State shall—

14 “(A) report to the Secretary certain cur-  
15 rent information, as determined by the Sec-  
16 retary by rule or order issued after notice and  
17 opportunity for public comment or by guide-  
18 lines, concerning each highway-rail crossing lo-  
19 cated within its borders; or

20 “(B) otherwise ensure that the information  
21 has been reported to the Secretary by that date.

22 “(3) DEFINITIONS.—In this subsection—

23 “(A) HIGHWAY-RAIL CROSSING.—The term  
24 ‘highway-rail crossing’ means a location where  
25 a public highway, road, street, or private road-



1 way, including associated sidewalks and path-  
 2 ways, crosses 1 or more railroad tracks either  
 3 at grade or grade separated.

4 “(B) STATE.—The term ‘State’ means a  
 5 State of the United States, the District of Co-  
 6 lumbia, Puerto Rico, the Northern Mariana Is-  
 7 lands, Guam, American Samoa, and the Virgin  
 8 Islands.”.

9 (d) CONFORMING AMENDMENT.—The chapter anal-  
 10 ysis for chapter 1 of title 23, United States Code, is  
 11 amended by striking the item relating to section 130 and  
 12 inserting the following:

“130. Highway-rail crossings.”.

13 (e) CIVIL PENALTIES.—

14 (1) Section 21301(a)(1) is amended—

15 (A) by striking “title.” and inserting “title  
 16 or with section 20155.”; and

17 (B) by inserting “or violating section  
 18 20155” after “chapter 201” in the second sen-  
 19 tence.

20 (2) Section 21301(a)(2) is amended by insert-  
 21 ing after the first sentence the following: “The Sec-  
 22 retary shall impose a civil penalty for a violation of  
 23 section 20155 of this title”.

1           **TITLE VI—MISCELLANEOUS**  
2                           **PROVISIONS**

3   **SEC. 601. TECHNICAL AMENDMENTS REGARDING ADJUST-**  
4                           **MENT OF CIVIL PENALTIES FOR INFLATION.**

5           (a) CHAPTER 201 GENERAL VIOLATIONS.—Section  
6 21301(a)(2) is amended by—

7                   (1) striking “\$10,000.” and inserting “\$10,000  
8                   or such other amount to which the stated maximum  
9                   penalty is adjusted if required by the Federal Civil  
10                  Penalties Inflation Adjustment Act of 1990 (28  
11                  U.S.C. 2461 note).”; and

12                   (2) striking “\$20,000.” and inserting “\$20,000  
13                   or such other amount to which the stated maximum  
14                   penalty is adjusted if required by the Federal Civil  
15                  Penalties Inflation Adjustment Act of 1990 (28  
16                  U.S.C. 2461 note).”.

17           (b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLA-  
18                  TIONS AND CHAPTER 203–209 VIOLATIONS.—Section  
19 21302(a)(2) is amended by

20                   (1) striking “\$10,000.” and inserting “\$10,000  
21                   or such other amount to which the stated maximum  
22                   penalty is adjusted if required by the Federal Civil  
23                  Penalties Inflation Adjustment Act of 1990 (28  
24                  U.S.C. 2461 note).”; and

1           (2) striking “\$20,000.” and inserting “\$20,000  
2           or such other amount to which the stated maximum  
3           penalty is adjusted if required by the Federal Civil  
4           Penalties Inflation Adjustment Act of 1990 (28  
5           U.S.C. 2461 note).”.

6           (c)     CHAPTER     211     VIOLATIONS.—Section  
7   21303(a)(2) is amended by—

8           (1) striking “\$10,000.” and inserting “\$10,000  
9           or such other amount to which the stated maximum  
10          penalty is adjusted if required by the Federal Civil  
11          Penalties Inflation Adjustment Act of 1990 (28  
12          U.S.C. 2461 note).”; and

13          (2) striking “\$20,000.” and inserting “\$20,000  
14          or such other amount to which the stated maximum  
15          penalty is adjusted if required by the Federal Civil  
16          Penalties Inflation Adjustment Act of 1990 (28  
17          U.S.C. 2461 note).”.

18 **SEC. 602. REVISION OF SPECIAL PREEMPTION PROVISION.**

19          Section 711 of the Regional Rail Reorganization Act  
20          of 1973 (45 U.S.C. 797j), is amended to read as follows:

21          “SEC. 711. No State may continue in force any law,  
22          rule, regulation, order, or standard adopted before the  
23          date of enactment of the Federal Railroad Safety En-  
24          hancement Act of 1999 requiring any railroad in the Re-  
25          gion to employ any specified number of persons to perform

1 any particular task, function, or operation, or requiring  
2 the railroad to pay protective benefits to employees.”.

3 **SEC. 603. RAILROAD SAFETY INSPECTION USER FEES.**

4 Section 20115 is amended—

5 (1) striking “chapter.” in subsection (a) and in-  
6 serting “part.”; and

7 (2) striking subsection (a)(1) and inserting the  
8 following:

9 “(1) shall cover the costs incurred by the Fed-  
10 eral Railroad Administration in carrying out this  
11 part and chapter 51 of this title;”;

12 (3) by striking subsection (c) and inserting the  
13 following:

14 “(c) COLLECTION, DEPOSIT, AND USE.—

15 “(1) The Secretary is authorized to impose and  
16 collect fees under this section for each fiscal year  
17 (beginning with fiscal year 2000) before the end of  
18 the fiscal year to cover the costs of carrying out this  
19 part and Federal Railroad Administration activities  
20 in connection with chapter 51 of this title.

21 “(2) Fees authorized under this section shall be  
22 collected and available for obligation only to the ex-  
23 tent and in the amount provided in advance in ap-  
24 propriations acts. Such fees are authorized to be ap-  
25 propriated to remain available until expended.”; and

1 (4) by striking subsections (d) and (e).

2 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

3 Section 20117(a) is amended to read as follows:

4 “(a) IN GENERAL.—There are authorized to be ap-  
5 propriated to the Secretary of Transportation to carry out  
6 this part and to carry out chapter 51 of this title with  
7 respect to the railroad mode of transportation—

8 “(1) for the fiscal year ending September 30,  
9 2000, not more than \$117,262,000; and

10 “(2) for fiscal years 2001 through 2003, such  
11 sums as may be necessary.”.

○