VOINOVICH) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 651

Whereas the National Aeronautics and Space Administration was established on July 29, 1958;

Whereas on May 5, 1961, NASA successfully launched America's first manned spacecraft, Freedom 7, piloted by Alan B. Shepard, Jr.;

Whereas on February 20, 1962, John Glenn became the first American astronaut to orbit the earth;

Whereas in July of 1969 President John Kennedy's vision of landing a man on the moon and returning him safely to Earth was realized with the Apollo 11 mission, commanded by Neil A. Armstrong, Lunar Module Pilot Edwin ''Buzz'' Aldrin, Jr., and Command Module pilot Michael Collins;

Whereas on April 12, 1981, NASA began a new era of human space flight and exploration with the launch of the first Space Shuttle Columbia, commanded by John W. Young and piloted by Robert L. ''Bob'' Crippen;

Whereas on June 18, 1983, Dr. Sally Ride became the first American woman in space as a crewmember of Space Shuttle Challenger for STS–7;

Whereas NASA has greatly expanded our knowledge and understanding of our planet and solar system through various unmanned vehicles utilized on numerous missions;

Whereas, during the Cold War, NASA's achievements served as a source of national pride and captured the imagination of the world by demonstrating a peaceful use of our technological capabilities;

Whereas NASA now serves as a model for international cooperation and American leadership through the International Space Station and other scientific endeavors;

Whereas thanks to NASA and the far-reaching gaze of the Hubble Space Telescope, we have seen further into our universe than ever before;

Whereas NASA space probes have landed on or flown by eight of the planets in our solar system;

Whereas the aeronautics research by NASA has led to great discoveries and advances in aircraft design and aviation;

Whereas the work done by NASA has expanded the scope of human knowledge, created new technologies, and inspired young men and women to enter scientific and engineering careers;

Whereas in the last fifty years, NASA has positively impacted almost every facet of our lives; and

Whereas, thanks to the heroism, courage, and supreme sacrifice of our astronaut corps over the last five decades, we are now able to live and work in space for the benefit of all humankind: Now, therefore, be it

Resolved, by the Senate That the Senate——

(1) honors the men and women of the National Aeronautics and Space Administration on the occasion of its 50th Anniversary;

(2) acknowledges the value of NASA's discoveries and accomplishments; and

(3) pledges to maintain America's position as the world leader in earth and space science, aeronautics and space exploration and technology.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5259. Ms. CANTWELL (for Mr. LAUTENBERG (for himself and Mr. SMITH)) proposed an amendment to the bill H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

SA 5260. Ms. CANTWELL (for Mr. SMITH (for himself, Mr. KOHL, Mr. SPECTER, and Mr. CARDIN)) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud..

SA 5261. Ms. CANTWELL (for Mr. SMITH) proposed an amendment to the bill H.R. 2608, supra.

SA 5262. Ms. CANTWELL (for Mrs. HUTCHISON) proposed an amendment to the bill S. 2507, to address the digital television transition in border states.

SA 5263. Ms. CANTWELL (for Mr. LEVIN) proposed an amendment to the joint resolution S.J. Res. 45, expressing the consent and approval of Congress to an inter-state compact regarding water resources in the Great Lakes—St. Lawrence River Basin..

SA 5264. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5683, to make certain reforms with respect to the Government Accountability Office, and for other purposes.

TEXT OF AMENDMENTS

SA 5259. Ms. CANTWELL (for Mr. LAUTENBERG (for himself and Mr. SMITH)) proposed an amendment to the bill H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the ''Railroad Safety Enhancement Act of 2008''.

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

(c) AMENDMENT OF TITLE 49.—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.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) CROSSING.—The term ''crossing'' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade where—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

(2) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

(3) RAILROAD.—The term ''railroad'' has the meaning given that term by section 20102 of title 49, United States Code.

(4) RAILROAD CARRIER.—The term ''railroad carrier'' has the meaning given that term by section 20102 of title 49, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(6) STATE.—The term ''State'' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) IN TITLE 49.—Section 20102 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'Class I railroad' means a railroad carrier that has annual carrier operating revenues that meet the threshold amount for Class I carriers, as determined by the Surface Transportation Board under section 1201.1-1 of title 49, Code of Federal Regulations.''; and

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

''(4) 'safety-related railroad employee' means—

''(A) a railroad employee who is subject to chapter 211;

''(B) another operating railroad employee who is not subject to chapter 211;

''(C) an employee who maintains the right of way of a railroad carrier;

''(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

''(E) an employee who inspects, repairs, or maintains locomotives, passenger cars or freight cars; and

''(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

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

''(a) IN GENERAL.—

''(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

''(A) $186,000,000 for fiscal year 2008;

''(B) $221,000,000 for fiscal year 2009;

''(C) $231,000,000 for fiscal year 2010;

''(D) $237,000,000 for fiscal year 2011;

''(E) $244,000,000 for fiscal year 2012; and

''(F) $251,000,000 for fiscal year 2013.

''(2) With amounts appropriated pursuant to paragraph (1), the Secretary may designate the following amounts for research and development:

''(A) $36,000,000.

''(B) $34,000,000.

''(C) $36,000,000.

''(D) $37,000,000.

''(E) $38,000,000.

''(F) $39,000,000.

''(3) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System vehicles and track geometry vehicles or other comparable technology as needed to assess track safety, consistent with the results of the track inspection study required by section 403 of the Railroad Safety Enhancement Act of 2008.

''(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2008 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.''.

TITLE I—RAILROAD SAFETY RISK REDUCTION AND STRATEGY

SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.

Section 103 is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g);

(2) by inserting after subsection (b) the following:

''(c) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

''(d) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the career service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator; and

(3) by striking ''(c)(1)'' in subsection (f), as redesignated, and inserting ''(e)(1)''.

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration on the date of enactment of this Act, the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of accidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

(2) Improving the consistency and effectiveness of enforcement and compliance programs.

(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

(4) Improving research efforts to enhance and promote railroad safety and performance.

(5) Preventing railroad trespasser accidents, injuries, and fatalities.

(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.

(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President's budget submission.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies.

(2) REPORT TO CONGRESS.—Not later than November 1st of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 201 is amended by adding at the end thereof the following:

''§ 20156. Railroad safety risk reduction pilot program

''(a) PILOT PROGRAM.—

''(1) IN GENERAL.—In conjunction with ongoing behavior-based safety research at the Department of Transportation, the Secretary shall develop a 4-year railroad safety risk reduction pilot program to systematically evaluate and manage railroad safety risks with the goal of reducing the numbers and rates of railroad accidents, injuries, and fatalities. Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall, in coordination with selected railroads, railroad facilities, nonprofit employee labor organizations that represent safety-related railroad employees employed at such railroad or railroad facility, and any other entities that the Secretary determines to be relevant, at a minimum—

''(A) identify the aspects of a selected railroad or railroad facility, including operating practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety;

''(B) evaluate how these aspects of a selected railroad or railroad facility increase or decrease risks to railroad safety;

''(C) develop a safety risk reduction program to improve the safety of a selected railroad or railroad facility by reducing the numbers and rates of accidents, injuries, and fatalities through—

''(i) the mitigation of the aspects of a selected railroad or railroad facility that increase risks to railroad safety; and

''(ii) the enhancement of aspects of a selected railroad or railroad facility that decrease risks to railroad safety; and

''(D) incorporate into the program the consideration and use of existing, new, or novel technology, operating practices, risk management practices or other behavior-based practices that could improve railroad safety at the selected railroad or railroad facility.

''(2) IMPLEMENTATION DEADLINE.—Not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the selected railroad or railroad facility shall implement the safety risk reduction

program developed under paragraph (1)(C) on the selected railroad or railroad facility and ensure that all employees at the selected railroad or railroad facility have received training related to the program.

''(b) SELECTION OF RAILROAD OR RAILROAD FACILITY FOR PILOT PROGRAM.—Not later than 6 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall develop a voluntary application process to select 1 or more railroad carriers or railroad facilities where the pilot project will be implemented. The application process shall include criteria for rating applicants, such as safety performance, accident and incident history, existence of risk management or behavior-based practices at the railroad or railroad facility, number of employees employed at the railroad or railroad facility, and other relevant criteria determined by the Secretary. If more than 1 railroad or railroad facility is selected, the Secretary shall select railroads and railroad facilities that are representative of the railroad industry as a whole, if possible.

''(c) EVALUATION.—Not later than 6 months after the completion of the safety risk reduction program pilot program, the Secretary shall submit a report to Congress evaluating the pilot program, which shall include—

''(1) a summary of the railroad safety risk reduction pilot program and description of the actions taken by the Secretary and selected railroad or railroad facilities during the program;

''(2) an analysis of the difference in the number and rates of accidents, injuries, and fatalities at a selected railroad or railroad facility before and after the implementation of the risk reduction pilot program at a selected railroad or railroad facility; and

''(3) guidelines on the preparation and implementation of railroad safety risk reduction program for the railroad carriers required to develop such plans under section 20157 that reflect the best practices developed during the pilot program.

''(d) GRANTS.—The Secretary shall establish a grant program for implementation of the railroad safety risk reduction pilot program. Railroads and railroad facilities selected by the Secretary shall be eligible for grants.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $1,000,000 for fiscal years 2009 and 2010 to carry out subsection (d).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20155 the following:

''20156. Railroad safety risk reduction pilot program''.

SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 103, is amended by adding at end thereof the following:

''§ 20157. Railroad safety risk reduction program

''(a) IN GENERAL.—

''(1) PROGRAM REQUIREMENT.—Not later than 5 years after the date of enactment, the Secretary, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad that provides intercity passenger or commuter rail passenger transportation—

''(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates system-wide railroad safety risks and manages those risks in order to reduce the numbers and rates of railroad accidents, injuries, and fatalities;

''(B) to submit its program, including any required plans, to the Federal Railroad Administration for its review and approval; and

''(C) to implement the program and plans approved by the Federal Railroad Administration.

''(2) RELIANCE ON PILOT PROGRAM.—The Secretary shall use the information and experience gathered through the pilot program under section 20156 in developing regulations under this section.

''(3) WAIVERS.—Under section 20103(d) of this chapter the Secretary may grant a waiver to a railroad carrier from compliance with all or a part of the requirements of this section if the Secretary determines that the safety performance of the railroad carrier is sufficient to warrant the waiver.

''(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Federal Railroad Administration. The Federal Railroad Administration shall approve or disapprove any program submitted under this paragraph.

''(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad will implement the contents of the program as approved by the Federal Railroad Administration.

''(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program each railroad required to submit such a program under subsection (a) shall identify and analyze the aspects of its railroad, including operating practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

''(d) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

''(A) the mitigation of aspects that increase risks to railroad safety; and

''(B) the enhancement of aspects that decrease risks to railroad safety.

''(2) REQUIRED COMPONENTS.—Each railroad's safety risk reduction program shall include a technology implementation plan that meets the requirements of subsection (e) and a fatigue management plan that meets the requirements of subsection (f).

''(e) TECHNOLOGY IMPLEMENTATION PLAN.—

''(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a 10-year technology implementation plan that describes the railroad's plan for development, adoption, implementation, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program.

''(2) TECHNOLOGY ANALYSIS.—A railroad's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing technologies, including processor-based technologies, positive train control systems (as defined in section 20158(b)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, trespasser prevention technology, highway rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

''(3) IMPLEMENTATION SCHEDULE.—A railroad's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

''(f) FATIGUE MANAGEMENT PLAN.—

''(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) for which the analysis under subsection (c) has shown fatigue to be a significant source of risk shall develop a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, injuries, and fatalities caused by fatigue.

''(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

''(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

''(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

''(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

''(C) Effects on employee fatigue of an employee's short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

''(D) Scheduling practices for employees, including innovative scheduling practices for employees, including scheduling procedures, on-duty call practices, work and rest cycles, increases in consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

''(E) Methods to minimize accidents and incidences that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees' circadian rhythm.

''(F) Alertness strategies, such as policies on napping, to address acute sleepiness and fatigue while an employee is on duty.

''(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

''(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

''(I) Avoidance of abrupt changes in rest cycles for employees.

''(J) Additional elements that the Secretary considers appropriate.

''(g) CONSENSUS.—

''(1) IN GENERAL.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

''(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

''(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, technology implementation plan, or fatigue management plan.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 103, is further amended by inserting after the item relating to section 20156 the following:

''20157. Railroad safety risk reduction program''.

SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTATION.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 104, is further amended by adding at end thereof the following:

''§ 20158. Positive train control system implementation

''(a) IN GENERAL.—The Secretary of Transportation shall ensure that each railroad required to submit a railroad safety risk reduction program pursuant to section 20157 that includes in its technology implementation plan a schedule for implementation of a positive train control system complies with that schedule and implements its positive train control system by December 31, 2018, unless the Secretary determines that a railroad shall implement its positive train control system by an earlier date.

''(b) POSITIVE TRAIN CONTROL SYSTEM DEFINED.—The term 'positive train control system' means a system designed to prevent train-to-train collisions, overspeed derailments, and incursions into roadway worker work limits.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 104, is further amended by inserting after the item relating to section 20157 the following:

''20158. Positive train control system implementation''.

SEC. 106. HOURS-OF-SERVICE REFORM.

(a) CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—Section 21101(4) is amended—

(1) by striking ''employed by a railroad carrier''; and

(2) by inserting ''railroad'' after ''maintaining''.

(b) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.—Section 21103 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

''(1) remain or go on duty in any calendar month where the employee had spent a total of 276 hours—

''(A) on duty;

''(B) waiting for transportation, or in deadhead transportation, to a place of final release; or

''(C) in any other mandatory service for the carrier;

''(2) remain or go on duty for a period in excess of 12 consecutive hours;

''(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

''(4) remain or go on duty after that employee has initiated an on-duty period each day for—

''(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

''(B) 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

''(i) a collective bargaining agreement expressly provides for such a schedule;

''(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

''(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.'';

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

''(1) A railroad carrier may not require or allow an employee to remain or go on duty in excess of 15 hours of time on duty and time waiting for deadhead transportation on a train, not including interim rest periods unless the train carrying the employee is directly delayed by—

''(A) a casualty;

''(B) an accident;

''(C) an act of God;

''(D) a derailment;

''(E) a major equipment failure that prevents the train from advancing; or

''(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

''(2) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation on a train in excess of the requirements of paragraph (1).

''(3) A railroad carrier and its officers and agents shall provide, at the election of employees subject to this section at the beginning of the employee's off-duty period additional time off duty equal to the number of hours that such sum exceeds 12 hours if—

''(A) the time spent waiting for transportation, or in deadhead transportation, from a duty assignment to the place of final release that is not time on duty, plus

''(B) the time on duty,

exceeds 12 consecutive hours.''; and

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

''(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7), or during additional off duty hours elected to be taken by an employee under subsection (c)(3), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.''.

(c) LIMITATION ON DUTY HOURS OF SIGNAL EMPLOYEES.—Section 21104 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employee to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow one of its signal employees to remain or go on duty''—

''(1) for a period in excess of 12 consecutive hours; or

''(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.'';

(2) by striking ''duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.'' in subsection (b)(3) and inserting ''duty.'';

(3) by inserting ''A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.'' after ''service.'' in subsection (c);

(4) by adding at the end the following:

''(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

''(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Administration.''.

(d) ALTERNATE HOURS OF SERVICE REGIME.—

(1) APPLICATION OF HOURS OF SERVICE REGIME.—Section 21102 is amended—

(A) by striking the section caption and inserting the following:

''§ 21102. Nonapplication, exemption, and alternate hours of service regime'' ; and

(B) by adding at the end thereof the following:

''(c) ALTERNATE HOURS OF SERVICE REGIME.—A railroad carrier and its directly affected employees or a non-profit employee

labor organization that represents such employees may jointly develop and submit for approval to the Secretary an alternate hours of service regime to that provided in this chapter that would increase the maximum hours an employee may be required or allowed to go or remain on duty or decrease the minimum hours an employee may be required to rest and would become effective no earlier than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008. The Secretary may consider such a request anytime after the date of enactment of the Railroad Safety Enhancement Act of 2008 and may approve such a request only after providing an opportunity for public notice and comment and determining that the proposed hours of service regime is in the public interest and will not adversely affect railroad safety. The exemption shall be for a specific period of time and shall be subject to review upon a schedule determined appropriate by the Secretary.

''(d) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN EMPLOYEES.—

''(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

''(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

''(B) the date that is 3 years following the date of enactment of the Railroad Safety Enhancement Act of 2008.

''(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

''(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

''(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

''(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

''(4) In this subsection:

''(A) The terms 'commuter rail passenger transportation' and 'intercity rail passenger transportation' have the meaning given those terms in section 24102 of this title.

''(C) The term 'new section 21103' means section 21103 of this chapter as amended by the Railroad Safety Enhancement Act of 2008.

''(D) The term 'old section 21103' means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 211 is amended by striking the item relating to section 21102 and inserting the following:

''21102. Nonapplication, exemption, and alternate hours of service regime''.

(e) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Chapter 211 is amended by adding at the end thereof the following:

''§ 21109. Regulatory authority

''(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

''(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

''(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

''(3) to limit or eliminate the amount of time an employee spends waiting for or in deadhead transportation to the place of final release that is considered neither on duty nor off duty under this chapter;

''(4) to make changes to the number of hours an employee may spend waiting on a train for deadhead transportation to the place of final release that is considered neither on duty nor off duty that provide for an equivalent level of safety as the level established under this chapter;

''(5) to make changes to the requirements of off-duty communications with employees that provide for an equivalent level of safety as the level established under this chapter;

''(6) for signal employees—

''(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

''(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

''(7) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

''(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent in or waiting for deadhead transportation to the place of final release, that could affect employee fatigue and railroad safety.

''(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue, a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

''(d) TIME LIMITS.—If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (a) or (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months. If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (a) or (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Railroad Safety Enhancement Act of 2008.

''(e) PILOT PROJECTS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

''(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

''(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

''(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

''(f) DUTY CALL DEFINED.—In this section the term 'duty call' means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.''.

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for chapter 211 is amended by adding at the end thereof the following:

''21109. Regulatory authority''.

(B) The first sentence of section 21303(a)(1) is amended by inserting ''including section 21103 (as such section was in effect on the day before the date of enactment of the Railroad Safety Enhancement Act of 2008),'' after ''this title,'' the second place it appears.

(f) RECORD KEEPING AND REPORTING.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

(A) to adjust record keeping and reporting requirements to support fully compliance with chapter 211 of title 49, United States Code, as amended by this Act;

(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements.

(g) 1-YEAR DELAY IN IMPLEMENTATION OF DUTY HOURS LIMITATION CHANGES.—The amendments made by subsections (a), (b), and (c) shall take effect 1 year after the date of enactment of this Act.

SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANALYSES INFORMATION.

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by adding at the end thereof the following:

''§ 20118. Prohibition on public disclosure of railroad safety analysis records

''(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

''(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

''(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

''(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program.

''(c) DISCRETIONARY PROHIBITION OF DISCLOSURE.—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

''§ 20119. Discovery and admission into evidence of certain reports and surveys

''Notwithstanding any other provision of law, no part of any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program or other risk analysis or risk mitigation analysis designated by the Secretary of Transportation under section 20118(c) pursuant to a provision of, or regulation or order under, this chapter (including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks) shall be subject to discovery or admitted into evidence in a Federal or State court proceeding, or considered for another purpose, in any action by a private party or parties for damages against the carrier, or its officers, employees, or contractors. The preceding sentence does not apply to any report, survey, list, or data otherwise available to the public.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20117 the following:

''20118. Prohibition on public disclosure of railroad safety analysis records''.

''20119. Discovery and admission into evidence of certain reports and surveys''.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

SEC. 201. PEDESTRIAN CROSSING SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, injuries, and fatalities at or near passenger stations, including—

(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

(4) installing fences to prohibit access to railroad tracks; and

(5) other strategies or methods as determined by the Secretary.

SEC. 202. STATE ACTION PLANS.

(a) IN GENERAL.—Beginning not later than 6 months after the date of enactment of this Act, the Secretary shall identify on an annual basis the 10 States that receive Federal funds for highway-rail grade crossing safety projects that have had the most highway-rail grade crossing collisions in the preceding fiscal year. The Secretary may require as a condition of receiving such funds in the future (in addition to any requirements imposed under any other provision of law) that each of these States develop within a period of time determined by the Secretary a State Grade Crossing Action Plan that identifies specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, particularly at crossings that have experienced multiple accidents, and shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements.

(b) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected State as to the specific points in which the proposed plan is deficient, and the State shall correct all deficiencies within 60 days following receipt of written notice from the Secretary.

SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 105 of this Act, is further amended by inserting after section 20158 the following:

''§ 20159. Roadway user sight distance at highway-rail grade crossings

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe regulations that require each railroad carrier to remove from its active rights-of-way at all public highway-rail grade crossings, and at all private highway-rail grade crossings open to unrestricted public access (as declared in writing by the holder of the crossing right), grass, brush, shrubbery, trees, and other vegetation which may materially obstruct the view of a pedestrian or a vehicle operator for a reasonable distance, as specified by the Secretary, in either direction of the train's approach, and to maintain its rights-of-way at all such crossings free of such vegetation. In prescribing the regulations, the Secretary shall take into consideration to the extent practicable—

''(1) the type of warning device or warning devices installed at such crossings;

''(2) factors affecting the timeliness and effectiveness of roadway user decisionmaking, including the maximum allowable roadway speed, maximum authorized train speed, angle of intersection, and topography;

''(3) the presence or absence of other sight distance obstructions off the railroad right-of-way; and

''(4) any other factors affecting safety at such crossings.

''(b) PROTECTED VEGETATION.—In promulgating regulations pursuant to this section, the Secretary may make allowance for preservation of trees and other ornamental or protective growth where State or local law or policy would otherwise protect the vegetation from removal and where the roadway authority or private crossing holder is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes appropriate action to abate the hazard to roadway users (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).

''(c) MODEL LEGISLATION.—Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 105 of this Act, is amended by inserting after the item relating to section 20158 the following new item:

''20159. Roadway user sight distance at highway-rail grade crossings''.

SEC. 204. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 203 of this Act, is further amended by adding at the end the following new section:

''§ 20160. National crossing inventory

''(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

''(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates; or

''(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(b) UPDATING OF CROSSING INFORMATION.—

''(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

''(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates or with respect to the trackage over which it operates; or

''(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Railroad Safety Enhancement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

''(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2008, until such provision is superseded by a regulation issued under this section.

''(d) DEFINITIONS.—In this section:

''(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

''(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

''(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

''(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 203 of this Act, is amended by inserting after the item relating to section 20159 the following:

''20160. National crossing inventory''.

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(l) NATIONAL CROSSING INVENTORY.—

''(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

''(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

''(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2008, until such provision is superseded by a regulation issued under this subsection.

''(4) DEFINITIONS.—In this subsection—

''(A) 'public crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

''(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

''(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated; and

''(B) 'State' means a State of the United States, the District of Columbia, or Puerto Rico.''.

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting ''with section 20160 or'' after ''comply'' in the first sentence; and

(B) by inserting ''section 20157 of this title or'' after ''violating'' in the second sentence.

(2) Section 21301(a)(2) is amended by inserting ''The Secretary shall impose a civil penalty for a violation of section 20160 of this title.'' after the first sentence.

SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSSING PROBLEMS.

(a) IN GENERAL.—Section 20152 is amended to read as follows:

''§ 20152. Notification of grade crossing problems

''Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

''(1) establish and maintain a telephone service, which may be required to be a toll-free telephone for specific railroad carriers as determined by the Secretary to be appropriate, for rights-of-way over which it dispatches trains, to directly receive calls reporting—

''(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

''(B) disabled vehicles blocking railroad tracks at such grade crossings;

''(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach; or

''(D) other safety information involving such grade crossings;

''(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

''(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

''(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

''(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

''(A) a telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

''(B) an explanation of the purpose of that telephone number; and

''(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20152 and inserting the following:

''20152. Notification of grade crossing problems''.

SEC. 206. OPERATION LIFESAVER.

(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. This includes development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. It will also include school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this Act. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

(1) $2,000,000 for each of fiscal years 2008, 2009, and 2010; and

(2) $1,500,000 for each of fiscal years 20011, 2012, and 2013.

SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end thereof the following:

''CHAPTER 225. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY

''Sec.

''22501. Financial assistance to States for certain projects

''22502. Distribution

''22503. Standards for awarding grants

''22504. Use of funds

''22505. Authorization of appropriations

''§ 22501. Financial assistance to States for certain projects

''The Secretary of Transportation shall make grants to a maximum of 3 States per year for development or continuance of enhanced public education and awareness activities, in combination with targeted law enforcement, to significantly reduce violations of traffic laws at highway-rail grade crossings and to help prevent and reduce injuries and fatalities along railroad rights-of-way.

''§ 22502. Distribution

''The Secretary shall provide the grants to the State agency or agencies responsible for highway-rail grade crossing safety.

''§ 22503. Standards for awarding grants

''The Secretary shall provide grants based upon the merits of the proposed program of activities provided by the State and upon a determination of where the grants will provide the greatest safety benefits.

''§ 22504. Use of funds

''Any State receiving a grant under this chapter shall use the funds to develop, implement, and continue to measure the effectiveness of a dedicated program of public education and enforcement of highway-rail crossing safety laws and to prevent casualties along railroad rights-of-way. The Secretary may not make a grant under this chapter available to assist a State or political subdivision thereof in establishing or continuing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

''§ 22505. Authorization of appropriations

''There are authorized to be appropriated to the Secretary $500,000 for each of fiscal years 2009 through 2013 to carry out the provisions of this chapter. Amounts appropriated pursuant to this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The subtitle analysis for subtitle V is amended by inserting after the item relating to chapter 223 the following:

225. Federal grant to States for highway-rail crossing safety .....22501''.

SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL CROSSING SAFETY.

(a) TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING WARNING SIGN VIOLATIONS.—Section 20151 is amended—

(1) by striking the section heading and inserting the following:

''§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy'' ;

(2) by striking subsection (a) and inserting the following:

''(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing warning signs and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review concerning violations of grade crossing signals shall be completed within 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically.'';

(3) by inserting ''FOR TRESPASSING AND VANDALISM PREVENTION'' in the subsection heading of subsection (b) after ''OUTREACH PROGRAM'';

(4) in subsection (c)—

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

(B) by inserting ''(1)'' after ''MODEL LEGISLATION.—''; and

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

''(2) Within 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing warning signs.''; and

(5) by adding at the end the following new subsection:

''(d) DEFINITION.—In this section, the term 'violation of highway-rail grade crossing warning signs' includes any action by a motorist, unless directed by an authorized safety officer—

''(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

''(2) to drive through a flashing grade crossing signal;

''(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

''(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by striking the item relating to section 20151 and inserting the following:

''20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy''.

(c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS FOR DISTRIBUTION.—Section 20134(a) is amended by adding at the end of the subsection the following: ''The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.''.

SEC. 209. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following:

''§ 20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings

''(a) POLICY.—It is the policy of the Department of Transportation to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation shall carry out this policy in consultation with States and necessary public and private entities.

''(b) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

''(c) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State law concerning the adequacy of the technology in providing warning at the crossing. Under no circumstances may a person (including a State, other public authority, railroad carrier, system designer, or supplier of the technology) be held liable for damages for any harm to persons or property because of an accident or incident at the crossing protected by such technology based upon the carrier's failure to properly inspect and maintain such technology, if the carrier has inspected and maintained the technology in accordance with the terms of the Secretary's approval.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 204 of this Act, is further amended by inserting after the item relating to section 20160, the following:

''20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings''.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

SEC. 301. HUMAN CAPITAL INCREASES.

(a) IN GENERAL.—The Secretary shall increase the number of Federal Railroad Administration employees by 25 employees in each of fiscal years 2008 through 2013.

(b) FUNCTIONS.—In increasing the number of employees pursuant to subsection (a), the Secretary shall focus on hiring employees—

(1) specifically trained to conduct on-site railroad and highway-rail grade crossing accident investigations;

(2) to implement the Railroad Safety Strategy;

(3) to administer and implement the Railroad Safety Risk Reduction Pilot Program and the Railroad Safety Risk Reduction Program;

(4) to implement section 20166 of title 49, United States Code, and to focus on encouragement and oversight of the use of new or novel rail safety technology;

(5) to conduct routine inspections and audits of railroad and hazardous materials facilities and records for compliance with railroad safety laws and regulations;

(6) to inspect railroad bridges, tunnels, and related infrastructure, and to review or analyze railroad bridge, tunnel, and related infrastructure inspection reports;

(7) to prevent or respond to natural or manmade emergency situations or events involving rail infrastructure or employees; and

(8) to support the Federal Railroad Administration's safety mission.

SEC. 302. CIVIL PENALTY INCREASES.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

(c) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) is amended—

(1) by striking ''$10,000.'' and inserting ''$25,000.''; and

(2) by striking ''$20,000.'' and inserting ''$100,000.''.

SEC. 303. ENFORCEMENT REPORT.

(a) IN GENERAL.—Subchapter I of chapter 201, as amended by section 107 of this Act, is amended by adding at the end the following:

''§ 20120. Enforcement Report.

''(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Transportation shall make available to the public and publish on its public website an annual report that—

''(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incidence reporting, and hazardous materials;

''(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

''(A) the number of civil penalties assessed against railroad carriers, hazardous material shippers, and individuals;

''(B) the initial amount of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(C) the number of civil penalty cases settled against railroad carriers, hazardous material shippers, and individuals;

''(D) the final amount of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(E) the difference between the initial and final amounts of civil penalties assessed against railroad carriers, hazardous materials shippers, and individuals;

''(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

''(G) the number of cases referred to the Attorney General for civil or criminal prosecution;

''(H) the number and subject matter of all compliance orders, emergency orders or precursor agreements;

''(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

''(4) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

''(A) the Locomotive Engineer Review Board;

''(B) an Administrative Hearing Officer or Administrative Law Judge; or

''(C) the Administrator of the Federal Railroad Administration;

''(5) provides any explanation regarding changes in the Secretary's or the Federal Railroad Administration's enforcement programs or policies that may substantially affect the information reported; and

''(6) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 107 of this Act, is amended by inserting after the item relating to section 20119 the following:

''20120. Enforcement report''.

SEC. 304. PROHIBITION OF INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS FOR A VIOLATION OF HAZARDOUS MATERIALS TRANSPORTATION LAW.

Section 20111(c) is amended to read as follows:

''(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

''(1) If an individual's violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met.

''(2) This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.''.

SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

''(c) RAILROAD RADIO COMMUNICATIONS.—

''(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

''(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

''(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

''(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

''(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

''(C) Receiving or assisting in receiving the communication (or any information therein contained).

''(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

''(E) Recording the communication by any means, including writing and tape recording.

''(2) ACCIDENT PREVENTION AND ACCIDENT INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident prevention and accident investigation.

''(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

''(i) in a prosecution of a felony under Federal or State criminal law; or

''(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

''(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

''(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

''(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

''(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

''(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.''.

SEC. 306. EMERGENCY WAIVERS.

Section 20103 is amended—

(1) by striking subsection (e) and inserting the following:

''(e) HEARINGS.—Except as provided in subsection (g) of this section, the Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.''; and

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

''(g) EMERGENCY WAIVERS.—

''(1) IN GENERAL.—The Secretary shall prescribe procedures concerning the handling of requests for waivers of regulations prescribed or orders issued under this chapter in emergency situations and may prescribe temporary emergency waiver procedures without first providing an opportunity for public comment. The Secretary may grant a waiver request if the waiver is directly related to the emergency event or necessary to aid in any recovery efforts and is in the public interest and consistent with railroad safety. The relief shall not extend for a period of more than 9 months, including the period of the relief granted under any renewal of the waiver pursuant to the emergency waiver procedures. For matters that may impact the missions of the Department of Homeland Security, the Secretary of Transportation shall consult and coordinate with the Secretary of Homeland Security as soon as practicable.

''(2) WAIVER BEFORE HEARING.—If, under the emergency waiver procedures established under paragraph (1) of this subsection, the Secretary determines the public interest would be better served by addressing a request for waiver prior to providing an opportunity for a hearing under section 553 of title 5 and an oral presentation, the Secretary

may act on the waiver request and, if the request is granted, the Secretary shall subsequently provide notice and an opportunity for a hearing and oral presentation pursuant to procedures prescribed under paragraph (1) of this subsection. Should the Secretary receive comment or a request for oral presentation on a waiver request after granting the waiver, the Secretary may take any necessary action with regard to that waiver (including rescission or modification) based on the newly acquired information.

''(3) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms 'emergency situation' and 'emergency event' mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.''.

SEC. 307. FEDERAL RAIL SECURITY OFFICERS' ACCESS TO INFORMATION.

(a) AMENDMENT.—Chapter 281 is amended by adding at the end thereof the following:

''§ 28104. Federal rail security officers' access to information

''(a) ACCESS TO RECORDS OR DATABASE SYSTEMS BY THE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION.—

''(1) IN GENERAL.—The Administrator of the Federal Railroad Administration is authorized to have access to a system of documented criminal justice information maintained by the Department of Justice or by a State for the purpose of carrying out the civil and administrative responsibilities of the Administrator to protect the safety, including security, of railroad operations and for other purposes authorized by law, including the National Crime Prevention and Privacy Compact (42 U.S.C. 14611-14616). The Administrator shall be subject to the same conditions or procedures established by the Department of Justice or State for access to such an information system by other governmental agencies with access to the system.

''(2) LIMITATION.—The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

''(b) DESIGNATED EMPLOYEES OF THE FEDERAL RAILROAD ADMINISTRATION.—The Administrator shall, by order, designate each employee of the Administration whose primary responsibility is rail security who shall carry out the authority described in subsection (a). The Administrator shall strictly limit access to a system of documented criminal justice information to persons with security responsibilities and with appropriate security clearances. Such a designated employee may, insofar as authorized or permitted by the National Crime Prevention and Privacy Compact or other law or agreement governing an affected State with respect to such a State—

''(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or of any jurisdiction in a State in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

''(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has access and in the same manner as such police officer; or

''(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

''(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term 'system of documented criminal justice information' means any law enforcement database, systems, or communications containing information concerning identification, criminal history, arrests, convictions, arrest warrants, or wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Federal rail officers' access to information''.

SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRATION'S WEBSITE.

(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration's public website to better facilitate the ability of the public, including those individuals who are not regular users of the public website, to find current information regarding the Federal Railroad Administration's activities.

(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration's public website's home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations and orders to the Federal Railroad Administration.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

SEC. 401. EMPLOYEE TRAINING.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 208 of this Act, is further amended by adding at the end the following:

''§ 20162. Employee training

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe regulations requiring railroad carriers and railroad carrier contractors and subcontractors to develop training plans for crafts and classes of employees, as the Secretary determines appropriate.

''(b) CONTENTS.—The Secretary shall require that each training plan—

''(1) clearly identify the class of craft of employees to which the plan applies;

''(2) require that employees be trained on the requirements of relevant Federal railroad safety laws, regulations, and orders;

''(3) require employees to be tested or otherwise demonstrate their proficiency in the subject matter of the training; and

''(4) contain any other relevant information that the Secretary deems appropriate.

''(c) SUBMISSION FOR APPROVAL.—The Secretary shall require each railroad carrier, railroad carrier contractor, and railroad carrier subcontractor to submit its training plan to the Federal Railroad Administration for review and approval.

''(d) EXEMPTION.—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans covering employees for which the Secretary has issued training regulations before the date of enactment of the Railroad Safety Enhancement Act of 2008.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 208 of this Act, is further amended by adding at the end thereof the following:

''20162. Employee training''.

SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

(b) CRAFTS AND CLASSES TO BE CONSIDERED.—As part of the report, the Secretary shall consider—

(1) conductors;

(2) car repair and maintenance employees;

(3) onboard service workers;

(4) rail welders;

(5) dispatchers;

(6) signal repair and maintenance employees; and

(7) any other craft or class of employees that the Secretary determines appropriate.

(c) REGULATIONS.—The Secretary may prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines pursuant to the report required by subsection (a) are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

SEC. 403. TRACK INSPECTION TIME STUDY.

(a) STUDY.—Not later that 2 years after the date of enactment of this Act, the Secretary shall—

(1) complete a study to determine whether—

(A) the required intervals of track inspections for each class of track should be amended;

(B) track remedial action requirements should be amended;

(C) different track inspection and repair priorities or methods should be required; and

(2) issue recommendations for changes to the Federal track safety standards in part 213 of title 49, Code of Federal Regulations, based on the results of the study.

(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

(4) other relevant information, as determined by the Secretary.

(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by subsection (b), the Secretary shall prescribe regulations implementing the recommendations of the study.

SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT STATION PLATFORM GAPS.

Not later than 2 years after the enactment of this Act, the Secretary shall complete a study to determine the most safe, efficient, and cost-effective way to improve the safety of rail passenger station platforms gaps in order to increase compliance with the requirements under the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), including regulations issued pursuant to section

504 of such Act (42 U.S.C. 12204) and to minimize the safety risks associated with such gaps for railroad passengers and employees.

SEC. 405. LOCOMOTIVE CAB STUDIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices.

(b) LOCOMOTIVE CAB ENVIRONMENT.—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee's health and safety.

(c) REPORT.—Not later than 6 months after the completion of any study under this section, the Secretary shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) AUTHORITY.—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee's health and safety.

SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 401 of this Act, is further amended by adding at the end thereof the following:

"§ 20163. Railroad safety technology grants

''(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

''(b) GRANT CRITERIA.—

''(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described in subsection (a) that have a public benefit of improved safety and network efficiency.

''(2) CONSIDERATIONS.—Priority shall be given to projects that—

''(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

''(B) provide incentives for train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

''(C) benefit both passenger and freight safety and efficiency.

''(3) TECHNOLOGY IMPLEMENTATION PLAN.—Grants may not be awarded under this section to entities that fail to develop and submit to the Secretary a technology implementation plan as required by section 20157(d)(2).

''(4) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $10,000,000 for each of fiscal years 2008 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 401 of this Act, is further amended by inserting after the item relating to section 20163 the following:

''20163. Railroad safety technology grants''.

SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVEMENT GRANTS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 406 of this Act, is further amended by adding at the end thereof the following:

"§ 20164. Railroad safety infrastructure improvement grants

''(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for safety improvements to railroad infrastructure, including the acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities, including track, bridges, tunnels, yards, buildings, passenger stations, facilities, and maintenance and repair shops.

''(b) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, and State and local governments for projects described in subsection (a).

''(c) CONSIDERATIONS.—In awarding grants the Secretary shall consider, at a minimum—

''(1) the age and condition of the rail infrastructure of the applicant;

''(2) the railroad's safety record, including accident and incident numbers and rates;

''(3) the volume of hazardous materials transported by the railroad;

''(4) the operation of passenger trains over the railroad; and

''(5) whether the railroad has submitted a railroad safety risk reduction program, as required by section 20157.

''(d) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $7,500,000 for each of fiscal years 2008 through 2013 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 406 of this Act, is amended by inserting after the item relating to section 20163 the following:

''20164. Railroad safety infrastructure improvement grants''.

SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR PROVISION.

Section 20303 is amended by adding at the end the following:

''(d) ADDITIONAL CONDITIONS FOR MOVEMENT TO MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHICLES.—

''(1) IN GENERAL.—The Secretary of Transportation may impose conditions for the movement of a defective or insecure vehicle to make repairs in addition to those conditions set forth in subsection (a) by prescribing regulations or issuing orders as necessary.

''(2) NECESSITY OF MOVEMENT.—The movement of a defective or insecure vehicle from a location may be necessary to make repairs of the vehicle even though a mobile repair truck capable of making the repairs has gone to the location on an irregular basis (as specified in regulations prescribed by the Secretary).

''(e) DEFINITIONS.—In this section:

''(1) NEAREST.—The term 'nearest' means the closest in the forward direction of travel for the defective or insecure vehicle.

''(2) PLACE AT WHICH THE REPAIRS CAN BE MADE.—The term 'place at which the repairs can be made' means—

''(A) a location with a fixed facility for conducting the repairs that are necessary to bring the defective or insecure vehicle into compliance with this chapter; or

''(B) a location where a mobile repair truck capable of making the repairs that are necessary to bring the defective or insecure vehicle into compliance with this chapter makes the same kind of repair at the location regularly (as specified in regulations prescribed by the Secretary).''.

SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 407 of this Act, is further amended by adding at the end the following new section:

"§ 20165. Development and use of rail safety technology

''(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensures its safe operation, such as—

''(1) switch position monitoring devices;

''(2) radio, remote control or other power-assisted switches;

''(3) hot box, high water or earthquake detectors;

''(4) remote control locomotive zone limiting devices;

''(5) slide fences;

''(6) grade crossing video monitors;

''(7) track integrity warning systems;

''(8) or other similar rail safety technologies, as determined by the Secretary.

''(b) DARK TERRITORY DEFINED.—In this section, the term 'dark territory' means any territory in a railroad system that does not have a signal or train control system installed or operational.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 407 of this Act, is amended by inserting after the item relating to section 20164 the following:

''20165. Development and use of rail safety technology''.

SEC. 410. EMPLOYEE SLEEPING QUARTERS.

Section 21106 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''A railroad carrier'';

(2) by striking ''sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;'' in paragraph (1) and inserting ''sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;'' and

(3) by adding at the end the following:

''(b) CAMP CARS.—No later than 12 months after the date of enactment of the Railroad Safety Enhancement Act of 2008, the Secretary, in consultation with the Secretary of

Labor, shall prescribe regulations governing the use of camp cars, pursuant to subsection (a)(1), for employees and any individuals employed to maintain the right of way of a railroad carrier. The regulations may also prohibit the use of camp cars, if necessary, to protect the health and safety of the employees.''.

SEC. 411. EMPLOYEE PROTECTIONS.

Section 20109(a) is amended—

(1) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) to request that a railroad carrier provide first aid, prompt medical treatment, or transportation to an appropriate medical facility or hospital after being injured during the course of employment, or to comply with treatment prescribed by a physician or licensed health care professional, except that a railroad carrier's refusal to permit an employee to return to work upon that employee's release by his or her physician or licensed health care professional shall not be considered discrimination if the refusal is in compliance with the carrier's medical standards for fitness for duty;''.

SEC. 412. UNIFIED TREATMENT OF FAMILIES OF RAILROAD CARRIERS.

Section 20102(3), as redesignated by section 2(b) of this Act, is amended to read as follows:

''(3) 'railroad carrier' means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.''.

SEC. 413. STUDY OF REPEAL OF CONRAIL PROVISION.

Within 1 year after the date of enactment of this Act, the Secretary shall complete a study of the impacts of repealing section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j). Within 6 months after completing the study, the Secretary shall transmit a report with the Secretary's findings, conclusions, and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 414. LIMITATIONS ON NON-FEDERAL ALCOHOL AND DRUG TESTING BY RAILROAD CARRIERS.

(a) IN GENERAL.—Chapter 201, as amended by section 409, is further amended by adding at the end the following:

''§ 20166. Limitations on non-Federal alcohol and drug testing

''(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

''(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and receive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 409 of this Act, is further amended by inserting after the item relating to section 20165 the following:

''20166. Limitations on non-Federal alcohol and drug testing by railroad carriers''.

SEC. 415. CRITICAL INCIDENT STRESS PLAN.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

(2) upon the employee's request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to define the term ''critical incident'' for the purposes of this section.

SEC. 416. RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY.

(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) of title 49, United States Code), supplementing the report submitted under section 5101(b) of that title, which may include—

(1) an analysis of the potential application of ''as low as reasonably achievable'' principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

(4) a review of the effectiveness of the Department of Transportation packaging requirements for radioactive materials.

(b) REPORT.—No later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.

SEC. 417. ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.

Not later than 2 years following the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 11 is amended by adding at the end of subchapter III the following:

''§ 1139. Assistance to families of passengers involved in rail passenger accidents

''(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

''(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

''(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

''(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

''(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

''(2) communicating with the families of passengers involved in the accident as to the roles of—

''(A) the organization designated for an accident under subsection (a)(2);

''(B) Government agencies; and

''(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

''(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

''(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

''(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

''(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

''(4) To arrange a suitable memorial service, in consultation with the families.

''(d) PASSENGER LISTS.—

''(1) REQUESTS FOR PASSENGER LISTS.—

''(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

''(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

''(2) USE OF INFORMATION.—Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

''(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

''(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

''(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

''(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

''(g) PROHIBITED ACTIONS.—

''(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

''(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

''(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

''(h) DEFINITIONS.—In this section:

''(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster resulting in a major loss of life occurring in the provision of—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

''(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

''(3) PASSENGER.—The term 'passenger' includes—

''(A) an employee of a rail passenger carrier aboard a train;

''(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

''(C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

''(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

''(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

''(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

''(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1138 the following:

''1139. Assistance to families of passengers involved in rail passenger accidents''.

SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Railroad Safety Enhancement Act of 2008, a rail passenger carrier shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a rail passenger carrier intercity train and resulting in a major loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

''(1) A process by which a rail passenger carrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for a rail passenger carrier to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as a rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within a rail passenger carrier's control; that any possession of the passenger within a rail passenger carrier's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within a rail passenger carrier's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that a rail passenger carrier will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor a rail passenger carrier may release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or a rail passenger carrier considers appropriate.

''(d) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of a rail passenger carrier under this section in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by a rail passenger carrier under subsection (b), unless such liability was caused by a rail passenger carrier's gross negligence or extreme misconduct.

''(e) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) RAIL PASSENGER CARRIERS.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(2) INVESTIGATIONAL AUTHORITY OF BOARD AND SECRETARY.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including the development of information regarding the nature of injuries sustained and the manner in which they were sustained, for the purpose of determining compliance with existing laws and regulations or identifying means of preventing similar injuries in the future.

''(f) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A), there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2008 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. 503. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers (as defined in section 1139(h)(2) of title 49, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

SEC. 601. SHORT TITLE.

This title may be cited as the ''Clean Railroads Act of 2007''.

SEC. 602. CLARIFICATION OF GENERAL JURISDICTION OVER SOLID WASTE TRANSFER FACILITIES.

Section 10501(c)(2) is amended to read as follows:

''(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

''(A) mass transportation provided by a local government authority; or

''(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.

SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER FACILITIES.

(a) IN GENERAL.—Chapter 109 is amended by adding at the end thereof the following:

''§ 10908. Regulation of solid waste rail transfer facilities

''(a) IN GENERAL.—Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42 U.S.C. 6903(29)) that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter.

''(b) EXISTING FACILITIES.—

''(1) STATE LAWS AND STANDARDS.—Within 90 days after the date of enactment of the Clean Railroads Act of 2008, a solid waste rail transfer facility operating as of such date of enactment shall comply with all Federal and State requirements pursuant to subsection (a) other than those provisions requiring permits.

''(2) PERMIT REQUIREMENTS.—

''(A) STATE NON-SITING PERMITS.—Any solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a permit required pursuant to subsection (a), other than a siting permit for the facility, as of the date of enactment of the Clean Railroads Act of 2008 shall not be required to possess any such permits in order to operate the facility—

''(i) if, within 180 days after such date of enactment, the solid waste rail transfer facility has submitted, in good faith, a complete application for all permits, except siting permits, required pursuant to subsection (a) to the appropriate permitting agency authorized to grant such permits; and

''(ii) until the permitting agency has either approved or denied the solid waste rail transfer facility's application for each permit.

''(B) SITING PERMITS AND REQUIREMENTS.—A solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a State siting permit required pursuant to subsection (a) as of such date of enactment shall not be required to possess any siting permit to continue to operate or comply with any State land use requirements. The Governor of a State in which the facility is located or his or her designee may petition the Board to require the facility to apply for a land-use exemption pursuant to section 10909 of this chapter. The Board shall accept the petition, and the facility shall be required to have a Board-issued land-use exemption in order to continue to operate, pursuant to section 10909 of this chapter.

''(c) COMMON CARRIER OBLIGATION.—No prospective or current rail carrier customer may demand solid waste rail transfer service from a rail carrier at a solid waste rail transfer facility that does not already possess the necessary Federal land use exemption and State permits at the location where service is requested.

''(d) NON-WASTE COMMODITIES.—Nothing in this section or section 10909 of this chapter shall affect a rail carrier's ability to conduct transportation-related activities with respect to commodities other than solid waste.

''(e) DEFINITIONS.—

''(1) IN GENERAL.—In this section:

''(A) COMMERCIAL AND RETAIL WASTE.—The term 'commercial and retail waste' means material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities.

''(B) CONSTRUCTION AND DEMOLITION DEBRIS.—The term 'construction and demolition debris' means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

''(C) HOUSEHOLD WASTE.—The term 'household waste' means material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities.

''(D) INDUSTRIAL WASTE.—The term 'industrial waste' means the solid waste generated by manufacturing and industrial and research and development processes and operations, including contaminated soil, nonhazardous oil spill cleanup waste and dry nonhazardous pesticides and chemical waste, but does not include hazardous waste regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), mining or oil and gas waste.

''(E) INSTITUTIONAL WASTE.—The term 'institutional waste' means material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities.

''(F) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

''(i) household waste;

''(ii) commercial and retail waste; and

''(iii) institutional waste.

''(G) SOLID WASTE.—With the exception of waste generated by a rail carrier during track, track structure, or right-of-way construction, maintenance, or repair (including railroad ties and line-side poles) or waste generated as a result of a railroad accident, incident, or derailment, the term 'solid waste' means—

''(i) construction and demolition debris;
''(ii) municipal solid waste;
''(iii) household waste;
''(iv) commercial and retail waste;
''(v) institutional waste;
''(vi) sludge;
''(vii) industrial waste; and
''(viii) other solid waste, as determined appropriate by the Board.

''(H) SOLID WASTE RAIL TRANSFER FACILITY.—The term 'solid waste rail transfer facility'—

''(i) means the portion of a facility owned or operated by or on behalf of a rail carrier (as defined in section 10102 of this title) where solid waste, as a commodity to be transported for a charge, is collected, stored, separated, processed, treated, managed, disposed of, or transferred, when the activity takes place outside of original shipping containers; but

''(ii) does not include—

''(I) the portion of a facility to the extent that activities taking place at such portion are comprised solely of the railroad transportation of solid waste after the solid waste is loaded for shipment on or in a rail car, including railroad transportation for the purpose of interchanging railroad cars containing solid waste shipments; or

''(II) a facility where solid waste is solely transferred or transloaded from a tank truck directly to a rail tank car.

''(I) SLUDGE.—The term 'sludge' means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), the terms 'household waste', 'commercial and retail waste', and 'institutional waste' do not include—

''(A) yard waste and refuse-derived fuel;
''(B) used oil;
''(C) wood pallets;
''(D) clean wood;
''(E) medical or infectious waste; or
''(F) motor vehicles (including motor vehicle parts or vehicle fluff).

''(3) STATE REQUIREMENTS.—In this section the term 'State requirements' does not include the laws, regulations, ordinances, orders, or other requirements of a political subdivision of a State, including a locality or municipality, unless a State expressly delegates such authority to such political subdivision.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109 is amended by inserting after the item relating to section 10907 the following:

''10908. Regulation of solid waste rail transfer facilities''.

SEC. 604. SOLID WASTE RAIL TRANSFER FACILITY LAND-USE EXEMPTION AUTHORITY.

(a) IN GENERAL.—Chapter 109 is further amended by adding at the end thereof the following:

''§ 10909. Solid waste rail transfer facility land-use exemption

''(a) AUTHORITY.—The Board may issue a land-use exemption for a solid waste rail transfer facility that is or is proposed to be operated by or on behalf of a rail carrier if—

''(1) the Board finds that a State, local, or municipal law, regulation, order, or other requirement affecting the siting of such facility unreasonably burdens the interstate transportation of solid waste by railroad, discriminates against the railroad transportation of solid waste and a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility petitions the Board for such an exemption; or

''(2) the Governor of a State in which a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 is located, or his or her designee, petitions the Board to initiate a permit proceeding for that particular facility.

''(b) LAND-USE EXEMPTION PROCEDURES.—No later than 90 days after the date of enactment of the Clean Railroad Act of 2008, the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address—

''(1) the information that each application should contain to explain how the solid waste rail transfer facility will not pose an unreasonable risk to public health, safety or the environment;

''(2) the opportunity for public notice and comment including notification of the municipality, the State, and any relevant Federal or State regional planning entity in the jurisdiction of which the solid waste rail transfer facility is proposed to be located;

''(3) the timeline for Board review, including a requirement that the Board approve or deny an exemption within 90 days after the full record for the application is developed;

''(4) the expedited review timelines for petitions for modifications, amendments, or revocations of granted exemptions;

''(5) the process for a State to petition the Board to require a solid waste transfer facility or a rail carrier that owns or operates such a facility to apply for a siting permit; and

''(6) the process for a solid waste transfer facility or a rail carrier that owns or operates such a facility to petition the Board for a land-use exemption.

''(c) STANDARD FOR REVIEW.—

''(1) The Board may only issue a land use exemption if it determines that the facility at the existing or proposed location does not pose an unreasonable risk to public health, safety, or the environment. In deciding whether a solid waste rail transfer facility that is or proposed to be constructed or operated by or on behalf of a rail carrier poses an unreasonable risk to public health, safety, or the environment, the Board shall weigh the particular facility's potential benefits to and the adverse impacts on public health, public safety, the environment, interstate commerce, and transportation of solid waste by rail.

''(2) The Board may not grant a land-use exemption for a solid waste rail transfer facility proposed to be located on land within any unit of or land affiliated with the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Trails System, the National Wild and Scenic Rivers System, a National Reserve, a National Monument, or lands referenced in Public Law 108–421 for which a State has implemented a conservation management plan, if operation of the facility would be inconsistent with restrictions placed on such land.

''(d) CONSIDERATIONS.—When evaluating an application under this section, the Board shall consider and give due weight to the following, as applicable:

''(1) the land use, zoning, and siting regulations or solid waste planning requirements of the State or State subdivision in which the facility is or will be located that are applicable to solid waste transfer facilities, including those that are not owned or operated by or on behalf of a rail carrier;

''(2) the land use, zoning, and siting regulations or solid waste planning requirements applicable to the property where the solid waste rail transfer facility is proposed to be located;

''(3) regional transportation planning requirements developed pursuant to Federal and State law;

''(4) regional solid waste disposal plans developed pursuant to State or Federal law;

''(5) any Federal and State environmental protection laws or regulations applicable to the site;

''(6) any unreasonable burdens imposed on the interstate transportation of solid waste by railroad, or the potential for discrimination against the railroad transportation of solid waste, a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility; and

''(7) any other relevant factors, as determined by the Board.

(e) EXISTING FACILITIES.—Upon the granting of petition from the State in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

''(f) EFFECT OF LAND-USE EXEMPTION.—If the Board grants a land-use exemption to a solid waste rail transfer facility, all State laws, regulations, orders, or other requirements affecting the siting of a facility are preempted with regard to that facility. An exemption may require compliance with such State laws, regulations, orders, or other requirements.

''(g) INJUNCTIVE RELIEF.—Nothing in this section precludes a person from seeking an injunction to enjoin a solid waste rail transfer facility from being constructed or operated by or on behalf of a rail carrier if that facility has materially violated, or will materially violate, its land use exemption or if it failed to receive a valid land-use exemption under this section.

''(h) FEES.—The Board may charge permit applicants reasonable fees to implement this section, including the costs of third-party consultants.

''(i) DEFINITIONS.—In this section the terms 'solid waste', 'solid waste rail transfer facility', and 'State requirements' have the meaning given such terms in section 10908(e).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 603 of this Act, is amended by inserting after the item relating to section 10908 the following:

''10909. Solid waste rail transfer facility land-use exemption''.

SEC. 605. EFFECT ON OTHER STATUTES AND AUTHORITIES.

(a) IN GENERAL.—Chapter 109 is further amended by adding at the end thereof the following:

''§ 10910. Effect on other statutes and authorities

''Nothing in section 10908 or 10909 is intended to affect the traditional police powers of the State to require a rail carrier to comply with State and local environmental, public health, and public safety standards that are not unreasonably burdensome to interstate commerce and do not discriminate against rail carriers.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 109, as amended by section 604 of this Act, is amended by inserting after the item relating to section 10909 the following:

''10910. Effect on other statutes and authorities''.

TITLE VII—TECHNICAL CORRECTIONS

SEC. 701. TECHNICAL CORRECTIONS.

(a) LIMITATIONS ON FINANCIAL ASSISTANCE.—Section 22106 is amended—

(1) by striking the second sentence of subsection (a);

(2) by striking subsection (b) and inserting the following:

''(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any interest thereof shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.''; and

(3) by striking subsections (c) and (e) and redesignating subsection (d) as subsection (c).

(b) GRANTS FOR CLASS II AND III RAILROADS.—Section 22301(a)(1)(A)(iii) is amended by striking ''and'' and inserting ''or''.

(c) RAIL TRANSPORTATION OF RENEWABLE FUEL STUDY.—Section 245(a)(1) of the Energy Independence and Security Act of 2007 is amended by striking ''Secretary, in coordination with the Secretary of Transportation,'' and inserting ''Secretary and the Secretary of Transportation''.

(d) MOTOR CARRIER DEFINITION.—

Section 14504a of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''(except as provided in paragraph (5))'' after ''14506'';

(B) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle'—

''(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

''(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.''; and

(C) by striking paragraph (5) and inserting the following:

''(5) MOTOR CARRIER.—

''(A) THIS SECTION.—In this section:

''(i) IN GENERAL.—The term 'motor carrier' includes all carriers that are otherwise exempt from this part—

''(I) under subchapter I of chapter 135; or

''(II) through exemption actions by the former Interstate Commerce Commission under this title.

''(ii) EXCLUSIONS.—In this section, the term 'motor carrier' does not include—

''(I) any carrier subject to section 13504; or

''(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

''(B) SECTION 14506.—In section 14506, the term 'motor carrier' includes all carriers that are otherwise exempt from this part—

''(i) under subchapter I of chapter 135; or

''(ii) through exemption actions by the former Interstate Commerce Commission under this title.''; and

(2) in subsection (d)(4)(C), by inserting before the period at the end the following: '', except that a decision to approve the exclusion of carriers from the definition of the term 'motor carrier' under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors.''.

SA 5260. Ms. CANTWELL (for Mr. SMITH (for himself, Mr. KOHL, Mr. SPECTER, and Mr. CARDIN)) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SSI Extension for Elderly and Disabled Refugees Act''.

SEC. 2. SSI EXTENSIONS FOR HUMANITARIAN IMMIGRANTS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(M) SSI EXTENSIONS THROUGH FISCAL YEAR 2011.—

''(i) TWO-YEAR EXTENSION FOR CERTAIN ALIENS AND VICTIMS OF TRAFFICKING.—

''(I) IN GENERAL.—Subject to clause (ii), with respect to eligibility for benefits under subparagraph (A) for the specified Federal program described in paragraph (3)(A) of qualified aliens (as defined in section 431(b)) and victims of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years 2009 through 2011 in the case of such a qualified alien or victim of trafficking who furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable) and is described in subclause (III).

''(II) ALIENS AND VICTIMS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Subject to clause (ii), beginning on the date of the enactment of the SSI Extension for Elderly and Disabled Refugees Act, any qualified alien (as defined in section 431(b)) or victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act) rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this clause, if such qualified alien or victim of trafficking meets all other eligibility factors under title XVI of the Social Security Act, furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable), and is described in subclause (III).

''(III) ALIENS AND VICTIMS DESCRIBED.—For purposes of subclauses (I) and (II), a qualified alien or victim of trafficking described in this subclause is an alien or victim who—

''(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

''(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

''(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for purposes of the specified Federal program described in paragraph (3)(A);

''(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208), or whose removal is withheld under section 241(b)(3) of such Act;

''(ee) has not attained age 18; or

''(ff) has attained age 70.

''(IV) DECLARATION REQUIRED.—

''(aa) IN GENERAL.—For purposes of subclauses (I) and (II), the declaration required under this subclause of a qualified alien or victim of trafficking described in either such subclause is a declaration under penalty of perjury stating that the alien or victim has made a good faith effort to pursue United States citizenship, as determined by the Secretary of Homeland Security. The Commissioner of Social Security shall develop criteria as needed, in consultation with the Secretary of Homeland Security, for consideration of such declarations.

''(bb) EXCEPTION FOR CHILDREN.—A qualified alien or victim of trafficking described in subclause (I) or (II) who has not attained age 18 shall not be required to furnish to the Commissioner of Social Security a declaration described in item (aa) as a condition of being eligible for the specified Federal program described in paragraph (3)(A) for an additional 2-year period in accordance with this clause.

''(V) PAYMENT OF BENEFITS TO ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Benefits paid to a qualified alien or victim described in subclause (II) shall be paid prospectively over the duration of the qualified alien's or victim's renewed eligibility.

''(ii) SPECIAL RULE IN CASE OF PENDING OR APPROVED NATURALIZATION APPLICATION.—With respect to eligibility for benefits for the specified program described in paragraph (3)(A), paragraph (1) shall not apply during fiscal years 2009 through 2011 to an alien described in one of clauses (i) through (v) of subparagraph (A) or a victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), if such alien or victim (including any such alien or victim rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A)) has filed an application for naturalization that is pending before the Secretary of Homeland Security or a United States district court based on section 336(b) of the Immigration and Nationality Act, or has been approved for naturalization but not yet sworn in as a United States citizen, and the Commissioner of Social Security has verified, through procedures established in consultation with the Secretary of Homeland Security, that such application is pending or has been approved.''.

SEC. 3. COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code (relating to authority to make credits or refunds) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

''(f) COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.—

''(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

''(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

''(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

''(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

''(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

''(A) after such overpayment is reduced pursuant to—

''(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

''(ii) subsection (c) with respect to past-due support; and

''(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

''(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

''(3) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

''(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

''(A) notifies by certified mail with return receipt the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

''(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or due to fraud;

''(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and due to fraud; and

''(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

''(5) COVERED UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term 'covered unemployment compensation debt' means—

''(A) a past-due debt for erroneous payment of unemployment compensation due to fraud which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected for not more than 10 years;

''(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable due to fraud and which remain uncollected for not more than 10 years; and

''(C) any penalties and interest assessed on such debt.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

''(B) FEE PAYABLE TO SECRETARY.—The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

''(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR.—The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

''(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

''(8) TERMINATION.—This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.''.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT RESULTING FROM FRAUD.—

(1) GENERAL RULE.—Paragraph (3) of section 6103(a) of such Code is amended by inserting ''(10),'' after ''(6),''.

(2) DISCLOSURE TO DEPARTMENT OF LABOR AND ITS AGENT.—Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking ''(c), (d), or (e)'' each place it appears in the heading and text and inserting ''(c), (d), (e), or (f)'',

(B) in subparagraph (A) by inserting '', to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section 6402,'' after ''section 6402'', and

(C) in subparagraph (B)—

(i) by inserting ''(i)'' after ''(B)''; and

(ii) by adding at the end the following:

''(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.''.

(3) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code is amended—

(A) in the matter preceding subparagraph (A), by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(B) in subparagraph (F)(i), by striking ''(l)(16),'' and inserting ''(l)(10), (16),''; and

(C) in the matter following subparagraph (F)(iii)—

(i) in each of the first two places it appears, by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(ii) by inserting ''(10),'' after ''paragraph (6)(A),''; and

(iii) in each of the last two places it appears, by striking ''(l)(16)'' and inserting ''(l)(10) or (16)''.

(c) EXPENDITURES FROM STATE FUND.—Section 3304(a)(4) of such Code is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following new subparagraph:

''(G) with respect to amounts of covered unemployment compensation debt (as defined in section 6402(f)(4)) collected under section 6402(f)—

''(i) amounts may be deducted to pay any fees authorized under such section; and

''(ii) the penalties and interest described in section 6402(f)(4)(B) may be transferred to the appropriate State fund into which the State would have deposited such amounts had the person owing the debt paid such amounts directly to the State;''.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 of such Code is amended by striking ''(c), (d), and (e),'' and inserting ''(c), (d), (e), and (f)''.

(2) Paragraph (2) of section 6402(d) of such Code is amended by striking ''and before such overpayment is reduced pursuant to subsection (e)'' and inserting ''and before such overpayment is reduced pursuant to subsections (e) and (f)''.

(3) Paragraph (3) of section 6402(e) of such Code is amended in the last sentence by inserting ''or subsection (f)'' after ''paragraph (1)''.

(4) Subsection (g) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''(c), (d), or (e)'' and inserting ''(c), (d), (e), or (f)''.

(5) Subsection (i) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''subsection (c) or (e)'' and inserting ''subsection (c), (e), or (f)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment of this Act.

SA 5261. Ms. CANTWELL (for Mr. SMITH) proposed an amendment to the bill H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and

certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud; as follows:

Amend the title so as to read: ''An Act to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.''.

SA 5262. Ms. CANTWELL (for Mrs. HUTCHISON) proposed an amendment to the bill S. 2507, to address the digital television transition in border states; as follows:

On page 7, line 7, strike ''2014'' and insert ''2013''.

On page 10, line 18, strike the quotation mark and the second period and insert the following:

''(E) LIMITATION ON EXTENSION OF CERTAIN LICENSES.—The Commission shall not extend or renew a full-power television broadcast license that authorizes analog television service on or after February 17, 2013.''.

SA 5263. Ms. CANTWELL (for Mr. LEVIN) proposed an amendment in the joint resolution S.J. Res. 45, expressing the consent and approval of Congress to an inter-state compact regarding water resources in the Great Lakes-St. Lawrence River Basin; as follows:

On page 63, strike lines 4 through 11 and insert the following:

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

SA 5264. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5683, to make certain reforms with respect to the Government Accountability Office, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Government Accountability Office Act of 2008''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

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

SEC. 2. PROVISIONS RELATING TO FUTURE ANNUAL PAY ADJUSTMENTS.

(a) IN GENERAL.—Section 732 is amended by adding at the end the following:

''(j)(1) For purposes of this subsection—

''(A) the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

''(B) the term 'required minimum percentage', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

''(C) the term 'covered officer or employee', as used with respect to a pay increase, means any individual—

''(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

''(ii) whose performance is at least at a satisfactory level, as determined by the Comptroller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

''(D) the term 'nonpermanent merit pay' means any amount payable under section 731(b) which does not constitute basic pay.

''(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General shall provide for a further increase in the rate of basic pay of such officer or employee.

''(B) The further increase under this subsection—

''(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

''(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

''(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

''(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

''(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act.

SEC. 3. PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS.

(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1); and

(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

(b) PAY INCREASE DEFINED.—For purposes of this section, the term ''pay increase'', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e).

(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. Subject to subsection (e), such lump-sum payment shall be equal to—

(1)(A) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

(B) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in subparagraph (A); and

(2) increased by 4 percent of the amount calculated under paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

(1) the payment of any rate (or portion of the lump-sum amount as calculated under subsection (d)(1) based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term ''satisfactory'' includes a rating of ''meets expectations'' (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

(f) RETIREMENT.—

(1) IN GENERAL.—The portion of the lump-sum payment paid under subsection (d) to an officer or employee as calculated under subsection (d)(1) shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

(B) be allocated to the biweekly pay periods covered by subsection (d).

(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if the portion of the lump-sum payment as calculated under subsection (d)(1) had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period.

(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

(i) the amount of each deduction and withholding under subparagraph (A); and

(ii) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under clause (i).

(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.

SEC. 4. LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ''qualified individual'' means an individual who—

(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

(B) a Federal Wage System employee; and

(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''performance-based compensation'' has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

(2) the term ''permanent merit pay increase'' means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.

SEC. 5. INSPECTOR GENERAL.

(a) IN GENERAL.—Subchapter I of chapter 7 is amended by adding at the end the following:

''§ 705. Inspector General for the Government Accountability Office

''(a) ESTABLISHMENT OF OFFICE.—There is established an Office of the Inspector General in the Government Accountability Office, to—

''(1) conduct and supervise audits consistent with generally accepted government auditing standards and investigations relating to the Government Accountability Office;

''(2) provide leadership and coordination and recommend policies, to promote economy, efficiency, and effectiveness in the Government Accountability Office; and

''(3) keep the Comptroller General and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations of the Government Accountability Office.

''(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

''(1) The Office of the Inspector General shall be headed by an Inspector General, who shall be appointed by the Comptroller General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Comptroller General.

''(2) The Inspector General may be removed from office by the Comptroller General. The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

''(3) The Inspector General shall be paid at an annual rate of pay equal to $5,000 less than the annual rate of pay of the Comptroller General, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

''(c) AUTHORITY OF INSPECTOR GENERAL.—In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, may—

''(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that relate to programs and operations of the Government Accountability Office;

''(2) make such investigations and reports relating to the administration of the programs and operations of the Government Accountability Office as are, in the judgment of the Inspector General, necessary or desirable;

''(3) request such documents and information as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal agency;

''(4) in the performance of the functions assigned by this section, obtain all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence from a person not in the United States Government or from a Federal agency, to the same extent and in the same manner as the Comptroller General under the authority and procedures available to the Comptroller General in section 716 of this title;

''(5) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(6) have direct and prompt access to the Comptroller General when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

''(7) report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law; and

''(8) provide copies of all reports to the Audit Advisory Committee of the Government Accountability Office and provide such

additional information in connection with such reports as is requested by the Committee.

''(d) COMPLAINTS BY EMPLOYEES.—

''(1) The Inspector General—

''(A) subject to subparagraph (B), may receive, review, and investigate, as the Inspector General considers appropriate, complaints or information from an employee of the Government Accountability Office concerning the possible existence of an activity constituting a violation of any law, rule, or regulation, mismanagement, or a gross waste of funds; and

''(B) shall refer complaints or information concerning violations of personnel law, rules, or regulations to established investigative and adjudicative entities of the Government Accountability Office.

''(2) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

''(3) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(e) SEMIANNUAL REPORTS.—(1) The Inspector General shall submit semiannual reports summarizing the activities of the Office of the Inspector General to the Comptroller General. Such reports shall include, but need not be limited to—

''(A) a summary of each significant report made during the reporting period, including a description of significant problems, abuses, and deficiencies disclosed by such report;

''(B) a description of the recommendations for corrective action made with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

''(C) a summary of the progress made in implementing such corrective action described pursuant to subparagraph (B); and

''(D) information concerning any disagreement the Comptroller General has with a recommendation of the Inspector General.

''(2) The Comptroller General shall transmit the semiannual reports of the Inspector General, together with any comments the Comptroller General considers appropriate, to Congress within 30 days after receipt of such reports.

''(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—The Comptroller General may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

''(g) AUTHORITY FOR STAFF.—

''(1) IN GENERAL.—The Inspector General shall select, appoint, and employ (including fixing and adjusting the rates of pay of) such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment (including the fixing and adjusting the rates of pay) in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service, except that no personnel of the Office may be paid at an annual rate greater than $1,000 less than the annual rate of pay of the Inspector General.

''(2) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5 at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

''(3) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office of the Inspector General unless the individual is appointed by the Inspector General, or provides services obtained by the Inspector General, pursuant to this paragraph.

''(4) LIMITATION ON PROGRAM RESPONSIBILITIES.—The Inspector General and any individual carrying out any of the duties or responsibilities of the Office of the Inspector General are prohibited from performing any program responsibilities.

''(h) OFFICE SPACE.—The Comptroller General shall provide the Office of the Inspector General—

''(1) appropriate and adequate office space;

''(2) such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Office of the Inspector General;

''(3) necessary maintenance services for such office space, equipment, office supplies, and communications facilities; and

''(4) equipment and facilities located in such office space.

''(i) DEFINITION.—As used in this section, the term 'Federal agency' means a department, agency, instrumentality, or unit thereof, of the Federal Government.''.

(b) INCUMBENT.—The individual who serves in the position of Inspector General of the Government Accountability Office on the date of the enactment of this Act shall continue to serve in such position subject to removal in accordance with the amendments made by this section.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 is amended by inserting after the item relating to section 704 the following:

''705. Inspector General for the Government Accountability Office.''.

SEC. 6. REIMBURSEMENT OF AUDIT COSTS.

(a) IN GENERAL.—Section 3521 is amended by adding at the end the following:

''(i)(1) If the Government Accountability Office audits any financial statement or related schedule which is prepared under section 3515 by an executive agency (or component thereof) for a fiscal year beginning on or after October 1, 2009, such executive agency (or component) shall reimburse the Government Accountability Office for the cost of such audit, if the Government Accountability Office audited the statement or schedule of such executive agency (or component) for fiscal year 2007.

''(2) Any executive agency (or component thereof) that prepares a financial statement under section 3515 for a fiscal year beginning on or after October 1, 2009, and that requests, with the concurrence of the Inspector General of such agency, the Government Accountability Office to conduct the audit of such statement or any related schedule required by section 3521 may reimburse the Government Accountability Office for the cost of such audit.

''(3) For the audits conducted under paragraphs (1) and (2), the Government Accountability Office shall consult prior to the initiation of the audit with the relevant executive agency (or component) and the Inspector General of such agency on the scope, terms, and cost of such audit.

''(4) Any reimbursement under paragraph (1) or (2) shall be deposited to a special account in the Treasury and shall be available to the Government Accountability Office for such purposes and in such amounts as are specified in annual appropriations Acts.''.

(b) CONFORMING AMENDMENT.—Section 1401 of title I of Public Law 108–83 (31 U.S.C. 3523 note) is repealed, effective October 1, 2010.

SEC. 7. FINANCIAL DISCLOSURE REQUIREMENTS.

Section 109(13)(B) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (i), by inserting ''(except any officer or employee of the Government Accountability Office)'' after ''legislative branch'', and by striking ''and'' at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

''(ii) each officer or employee of the Government Accountability Office who, for at least 60 consecutive days, occupies a position for which the rate of basic pay, minus the amount of locality pay that would have been authorized under section 5304 of title 5, United States Code (had the officer or employee been paid under the General Schedule) for the locality within which the position of such officer or employee is located (as determined by the Comptroller General), is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and''.

SEC. 8. HIGHEST BASIC PAY RATE.

Section 732(c)(2) is amended by striking ''highest basic rate for GS–15;'' and inserting ''rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;''.

SEC. 9. ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 731 is amended—

(1) by repealing subsection (d);

(2) in subsection (e)—

(A) in the matter before paragraph (1), by striking ''maximum daily rate for GS–18 under section 5332 of such title'' and inserting ''daily rate for level IV of the Executive Schedule''; and

(B) by striking ''more than—'' and all that follows and inserting the following: ''more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable.''; and

(3) by adding at the end the following:

''(j) Funds appropriated to the Government Accountability Office for salaries and expenses are available for meals and other related reasonable expenses incurred in connection with recruitment.''.

(b) CONFORMING AMENDMENTS.—(1) Section 732a(b) is amended by striking ''section 731(d), (e)(1), or (e)(2)'' and inserting ''paragraph (1) or (2) of section 731(e)''.

(2) Section 733(c) is amended by striking ''(d),''.

(3) Section 735(a) is amended by striking ''731(c)–(e),'' and inserting ''731(c) and (e),''.

GOVERNMENT ACCOUNTABILITY OFFICE ACT OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 901, H.R. 5683.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5683) to make certain reforms with respect to the Government Accountability Office, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows: