its candidates since 1995. That is about 80 percent of their total, according to new data analyzed by this report. Nearly 40 percent consisted of soft money donations to the majority party. Senate leaders have established an intimate iron triangle working relationship with two leading health benefits coalition donor lobbyists, Blue Cross/Blue Shield and, as I said, NFIB.

The Blues, which comprise the Nation's largest provider of managed care services have dispatched lobbyist Brenda Becker, their national PAC coordinator and key lobbyist, to serve as one of a small number of cochairs for the majority party fund-raising. She has responsibility for soliciting millions of dollars from the health care industry and other businesses. She has cochaired the annual GOP House-Senate fund-raising dinner for the last several years. She cochaired the majority fund in 1997 and again this year. She has personally orchestrated leadership PAC fund-raisers for Senate leaders, as well as golf tourney fund-raisers, including the upcoming Senate leader sponsored event in July.

There is an appendix to this report that my colleagues can look up on the Internet that details this. NFIB, sadly, chairs the health benefits coalition. As I said, I think they have worked on a daily basis with the Senate leadership and the Senate leadership staff to develop legislative strategy to kill strong patient protections.

According to interviews with congressional staff and lobbyists, Senate leaders have employed a variety of strong pressures, including social ostracism on majority Senators to create near unanimous Republican support on the Senate for a weak patient rights bill. Those Senate leaders pressured four independent-minded Senators.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The Chair must remind all Members that under the rules and precedents of the House it is not in order to cast reflections on the Senate or its members individually or collectively.

□ 1930

Mr. GANSKE. Mr. Speaker, I appreciate the advice.

Let me talk about a parable. There is a book down in the lobby. It is called House Mouse, Senate Mouse. It is a little book that I take to grade schools, usually about third-graders, and I read this story about the House mouse and the Senate mouse in the Congress. They have, for instance, the oldest mouse in the Senate is Senator Thurmouse.

Well, let us just talk about this mouse Senate. It seems to me that this report is very similar to what may be going on in the mouse Senate, where senior mouse senators from Rhode Island who tried to work in an independent manner, bipartisan fashion, were ostracized by those other mouse majority senators.

Or how about the senior mouse senator from Arizona who tried to work with the junior mouse senator from Illinois.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The gentleman will suspend. The Chair kindly reminds the gentleman from Iowa (Mr. GANSKE) that, under the rules and the precedents of the House, it is not in order to cast reflections on the Senate or its members, even by innuendo.

Mr. GANSKE. Mr. Speaker, I would ask a question.

Do you think that when I am referring to a mouse Senate that I am actually referring to the actual Senate?

The SPEAKER pro tempore. Would the gentleman just kindly refrain from casting reflections upon the Senate or Members of the Senate individually or collectively. The gentleman may proceed in order.

Mr. GANSKE. Well, I appreciate the discretion of the Speaker.

Mr. Speaker, and even though we are talking about some diminutive legislative activities, just what I think I will do is I will simply recommend again to my colleagues that they look up this report. It details connections between lobbyists and legislation related to patient protection legislation that is going on here in Washington, and I think it does establish an unsavory connection between campaign contributions and public policy. I highly recommend it.

Let me once again point out that on the Internet this is under http://www.citizen.org/Congress/reform/HMO-Senate.htm.

That report concludes that there is a strong body of evidence linking pro-managed care industry campaign contributions with, in my opinion, what is going on in the conference.

We need to break that iron triangle. That is one of the reasons why the House passed the Shays-Meehan campaign finance bill. It needs to be dealt with, both campaign finance reform, and also getting real pro-consumer Patients' Bill of Rights in order to address the tragedies that occur due to HMOs making medical decisions that harm patients and a Federal law that prevents those HMOs from being responsible for those decisions and a lack of a Federal law that would set up a mechanism to prevent those tragedies from happening before they occur.

That is what we passed on the floor of the House, a strong bipartisan patient protection bill, the bipartisan consensus Managed Care Reform Act, the Norwood-Dingell-Ganske bill.

I would beg the conferees not to give up, to bring forward from the conference committee a real patients' protection bill so that we do not have to continue to deal with these tragedies.

Mr. Speaker, I appreciate your indulgence.

FEDERAL RAILROAD ADMINISTRATION PROPOSED RULE ON USE OF LOCOMOTIVE HORNS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, first of all, I want to congratulate the previous speaker in his special order. I thought he did a magnificent job in numerous areas. I am proud to have had the opportunity of sitting here and listening to him, and I certainly plan on supporting many of the pieces of legislation that he spoke about.

Now, Mr. Speaker, I rise tonight to highlight a serious problem that all of America will soon experience. As early as next January, thousands of cities, towns, villages and hamlets will be deafened by the wail of a train whistle.

That is right. If the Federal Railroad Administration's proposed rule on the sounding of locomotive horns at every highway rail crossing goes into effect, the ear-splitting sounds of train whistles will wake people at night and generally disrupt people's lives.

Unfortunately, few Members of Congress know about the problem that confronts us. As mandated by the Swift Rail Act of 1994, the FRA came up with rules on train horns; and in January, the FRA came out with their proposed rule.

While I understand that the rule is intended to save people's lives, the way in which the rule was written will severely impact millions of people in a very negative way.

At this point, I would like to suspend my remarks and yield to one of my colleagues, the gentlewoman from Illinois (Ms. SCHAKOWSKY), and then I will resume my comments in regards to this matter.

Ms. SCHAKOWSKY. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. LIPINSKI) for the opportunity today to speak on this very important subject and raise my concerns about the Federal Railroad Administration's proposed rule on the use of locomotive horns.

All of us, the Federal Railroad Administration and the gentleman from Illinois (Mr. LIPINSKI) and I, are very concerned about safety at railroad crossings. No one wants to see any more accidents involving trains and school buses full of children. However, the rule as written will cause undue harm in Northeastern Illinois and may even undermine safety.

I had the opportunity to raise these concerns when the Federal Railroad Administration came to the Chicago land area to conduct four hearings, and I would like to reiterate some of the concerns that I raised and to point out that I think that there are other far less disruptive means to improve safety here.

We have a long history of dealing with rail crossing safety issues. Over the past 12 years, injuries and fatalities

in Northeast Illinois have declined by over 60 percent. At the same time, the train traffic has increased by nearly 50 percent.

As a result of cooperation between advocates and transportation officials, safety at rail crossings has dramatically increased. While more must be done, we are clearly headed in the right direction.

The FRA's proposed rule would require mandatory whistleblowing at all grade-crossings unless significant upgrades are made. I believe there are several reasons why the FRA's proposed rule is not the appropriate approach for Northeast Illinois.

First, there is the question of safety. Because of technological and cost impediments to the specific upgrades, the FRA's proposed rule would require mandatory whistleblowing in many areas.

While it is clear that this would have a profound negative impact on quality of life in our area, there also remains serious questions as to whether whistleblowing actually reduces collisions.

Many experts have pointed to what is called the ''Chicago anomaly'' where the data shows that there are actually fewer collisions at gated crossings where whistles are banned than where whistles are blown.

The Chicago anomaly strongly suggests that at least there are alternatives that can better increase safety. Mandatory whistleblowing may actually undermine our efforts.

Illinois is focusing its efforts and resources on addressing the most dangerous rail crossings based on safety records. The FRA approach would require expensive and time-consuming technological enhancement at all at-grade rail crossings even if safety records demonstrate no problems at those crossings. This would divert resources from making safety improvements at extremely dangerous crossings.

I think we ought to take a very hard look at such a dramatic switch in strategies, particularly since the rules for upgrades may be unaffordable and unworkable.

While all are committed to rail safety, there are wide discrepancies in the cost estimates of complying with the proposed rule. These concerns are legitimate.

The FRA estimates that the cost of implementing this program nationwide would be $116 million. But the Chicago Area Transportation Study estimates that the true cost will be more than that in Illinois alone, a total in our State of $170 million to $234 million.

We need to increase spending on rail safety. I want to commend my colleague the gentleman from Illinois (Mr. LIPINSKI) for his leadership on rail safety and his commitment to finding additional Federal resources to achieve that goal.

I am proud to be a cosponsor of his legislation, H.R. 2060, the Railway Safety and Funding Equity Act of 1999, which would double Federal spending for State grade crossing programs. We will work hard to get the necessary funding, but we need to make sure that the resources are there.

Even if we succeed in providing the needed resources, there are serious technological barriers to compliance with the FRA proposal. The first is time. The proposed rule gives communities now operating with whistle bans 2 to 3 years to adopt supplemental or alternative safety measures in order to avoid mandatory whistleblowing.

We have nearly 1,000 at-grade rail crossings in Illinois that have whistle bans and would have to be physically ungraded within that very short time period in order to avoid lifting the bans. The Chicago Area Transportation Study, again, estimates that it would actually take about 10 years to accomplish this massive job.

Unfortunately, the proposed rule does not provide adequate time to begin with, let alone allow flexibility for logistical delays.

There is also a real suspicion that the required upgrades required in the proposed rule are impossible. For example, barriers along the side of roads that lead up to gated rail crossings would prevent cars from driving around the gates to cross the tracks, but they would also prevent snow blowing, a significant problem in an area like Chicago.

Another example is the requirement of photo enforcement, which just happens to be illegal under Illinois State law.

Quad gating is also illegal in the State because of the concern that otherwise law-abiding motorists may get trapped on the tracks by closing gates if we close all access to and from the tracks with quad gates.

Last, but by no means least, I want to discuss what happens if we do not adopt alternatives to mandatory whistleblowing because of safety, technological, or cost issues.

As I mentioned, 2.5 million people live within one quarter mile of rail crossings in Chicago, 75,000 in my own district. Children attend school near rail crossings. They would be subjected to repeated train whistleblowing at levels between 84 and 144 decibels at all hours of the day and night. Eighty-four decibels is well above the Illinois Department of Transportation's trigger for noise abatement procedures, and 144 decibels is above the pain threshold. Their lives would literally be disrupted.

Given the ''Chicago anomaly'' and given the strong argument that Illinois can pursue alternative means to accomplish the same or even higher safety goals and given the fact that millions of people would be harmed, I believe that we have to find alternatives to the current rule as it is proposed.

I think we need to revisit the rule, think of better solutions. And my sense from the Federal Railroad Administration is that there was some willingness to consider these alternatives.

Such action, in conjunction with the passage of H.R. 2060, is what is needed to truly provide for improved safety and quality of life in my district throughout the State and throughout the Nation.

Again, I thank the gentleman from Illinois (Mr. LIPINSKI) for his help on this important initiative.

☐ 1945

Mr. LIPINSKI. Mr. Speaker, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) for her superb statement. I have been working on this issue for a long time but there are several items that she made mention of in her statement that I was not aware of in regards to the four quadrant gates in Illinois and a couple of other things she made mention of. So I appreciate her contribution very much.

GENERAL LEAVE

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIPINSKI. Mr. Speaker, the gentlewoman from Illinois (Ms. SCHAKOWSKY) made mention of the hearings that took place.

Let me interrupt myself for a moment once again. I see I have been joined here by my colleague, the gentleman from Illinois (Mr. RUSH), and I would now like to yield to him.

Mr. RUSH. Mr. Speaker, I certainly want to applaud commend and thank the gentleman from Illinois (Mr. LIPINSKI) for this special order. It is a very, very important special order and it is very timely.

Mr. Speaker, requiring trains to blow horns at railroad crossings is not a bad idea, in theory. This small action may prevent accidents and it may prevent deaths at railroad crossings, but in practice the train whistle rule does not apply to my State of Illinois where railroad crossing accidents have decreased by 52 percent since 1989.

Once enacted, the Railroad Administration rule requiring trains to sound their horns at all rail crossings will greatly reduce the quality of life for Illinois residents. We in Illinois have already succeeded in drastically reducing railroad crossing fatalities. In my district alone, nearly 200,000 residents will be affected by the whistle blowing rule and more than 66,000 of those residents, my residents, will be severely impacted. Of the approximately 2,000 crossings identified by the FRA, 899 are located in Illinois, putting my home State at a severe disadvantage when FRA finally enforces the whistle rule. Installing alternative safety measures that meet FRA requirements could cost Illinois an estimated $590 million, which will require right-away acquisitions and other infrastructure improvements in order to put these, quote,

quiet zones, end quote, measures into place.

In short, Mr. Speaker, to comply with the FRA rule, which is not needed in Illinois, our constituents must pay either with the loss of peace and quiet, sleep and rest, or with the loss of their tax dollars. Certainly we in Illinois want to save lives and we have saved lives. There is no question about this, but we must address this issue regionally. Illinois should be left to handle railroad crossing safety on its own.

The numbers clearly show what we are doing is working. Why fix it? It is not broke.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Illinois (Mr. RUSH) for his comments. I appreciate his contribution to our special order. He certainly was right on target. I hope that we will be joined later by a few more Members from Illinois and from other parts of the country but in light of the fact that I am the only other speaker I will start again.

As I mentioned, and the gentleman from Illinois (Mr. RUSH) mentioned and the gentlewoman from Illinois (Ms. SCHAKOWSKY), there were four hearings held in Chicago and to show how much this affects the City of Chicago and the Chicago-land area, there were 12 hearings held nationwide. Four of the 12 hearings were held within the Chicagoland area. The hearings were attended by the Federal Railroad administrator, Administrator Jolene Molitoris, and we certainly appreciate that but that once again shows how significant she thinks the Chicago-land area will be affected by this notice of proposed rulemaking.

The four hearings in Chicago were extremely well attended. Over 200 people testified in opposition to this rule as it is constituted at the present time. I do want to say that the Federal Railroad Administration, underneath the leadership of the administrator, has been very understanding, has been very cooperative, because they recognize the huge impact this rule has on the City of Chicago, the County of Cook, the surrounding counties and the State of Illinois.

I would like to mention this law, when it was passed back in 1992, it was a law that was not debated in the House. It was not passed in the House. It was not debated in the Senate. It was not passed in the Senate. It was placed in a conference report on another bill. It became known as the Swift Rail Act, but this was not a bill that went through the normal process that we have here on Capitol Hill. It was put in, as I say, in conference. It was under the jurisdiction of the Committee on Commerce at the time. Now it is under the jurisdiction of the Committee on Transportation and Infrastructure.

Now, as I say, this was passed back in 1992. In 1995, I did get an amendment put on an FRA bill that granted communities one year to implement this in the event this rule came down. Fortunately, the Federal Railroad Administration did extend that to 2 or 3 years, that would be 2 to 3 years from January of 2000 when this notice of proposed rulemaking was announced.

Now, Chicago, as I mentioned earlier, is very unique. It is unique because it is the center of the railroad industry in North America, has been probably since the time the first railroad train pulled in to Chicago. That is good and it is bad. It is very good because it creates a lot of jobs, it creates a lot of economic development in the City of Chicago. It is bad because it causes us to have an enormous number of grade crossings within the Chicago-land area.

Illinois has 899 whistle bans as allowed under the Illinois Commerce Commission, which is almost half of all the whistle bans in the United States of America. In fact, it comes down to being 46 percent of all the grade crossings in this country that will be affected by this rule are within the State of Illinois. Of those 899 grade crossings, 780 of those are located within the six counties that make up the Chicagoland area; 355 of those are within the City of Chicago itself. The new proposed rule will give these communities only, as I mentioned earlier, 2 to 3 years to come up with supplemental safety measures.

Now I believe that it is absolutely necessary that the Federal Railroad Administration grant us a minimum of 10 years to implement what they want this rule to implement. As the rule is presently constituted, we need at least 10 years to implement this rule because it is going to cost an enormous amount of money in the State of Illinois. On top of that, it is highly questionable whether or not the equipment can be manufactured quickly enough and it can be installed by railroad crews that have to install it in a 2 to 3 year period of time. All the estimates that I have received say it is going to take financially and equipment-wise and installation-wise at least 10 years to do it, underneath the present rule.

Now 64 percent of all Illinois population live within one mile of public highway crossings, 64 percent. Forty-six percent of all residents of Illinois will be severely negatively impacted by this rule. That comes directly from the Federal Railroad Administration.

Yet in Illinois, collisions at public grade crossings have declined by 52 percent since 1989. In northeastern Illinois, injuries have declined by 70 percent. In northeastern Illinois, fatalities have declined by 65 percent. So obviously Illinois is doing a great deal right when it comes to railroad safety.

The FRA states that 177,000 people in Illinois would be impacted by the rule, of which 74,000 would be severely impacted. The Chicago area transportation study estimates that 1,644,000 people in Illinois would be impacted, of which over 1 million people would be severely impacted by this rule.

The FRA estimates the cost at $116 million for whistle-ban communities, based on assumptions that every community will install the lowest cost alternatives to whistles. The Chicago area transportation study estimates the cost of a reality-based alternative to be between $440 million and $590 million for whistle-ban communities. That is an awful lot of money. Illinois will spend $95 million in the year 2000 making improvements at roughly 200 crossings. If the proposed rule goes into effect, the State of Illinois will be forced to spend money at an already safe crossing instead of at bad crossings in down-state Illinois which account for only 1.5 percent of daily traffic but 33 percent of the accidents and 40 percent of the fatalities in Illinois.

The FRA's analysis indicates that whistle-ban crossings, without gates, are the biggest danger to the public and are the primary targets for this proposed rule. Since 77 percent of the crossings in northeast Illinois have gates and all of the whistle bans in northeast Illinois have gates, why should northeastern Illinois be a target of this one-size-fits-all rule?

The FRA study admits to an anomaly in the Chicago area, as the gentlewoman from Illinois (Ms. SCHAKOWSKY) mentioned, where collisions were 16 percent less frequent. The FRA claims it was caused by an outdated inventory of crossings, but using a complete inventory of crossings and FRA methodology CAT still found, that is the Chicago area transportation study, they still found that the collisions are 4.5 percent less frequent at whistle-ban crossings.

Now we have made, I think, significant progress with the Federal Railroad Administration in modifying the rule they were originally going to propose a number of years ago. We cannot negotiate with the Federal Railroad Administration until the first part of next month because up until the close of the comment period they are prohibited by law from negotiating.

□ 2000

Administrator Molitoris, I believe, is open to further compromise. I think that this is going to be absolutely necessary, because there are a number of people here in the House who do not believe that this law is needed at all, particularly not in the State of Illinois, where the State of Illinois is doing such a significant job. If we do not get significant compromise out of the Federal Railroad Administration, I believe that there will be a move afoot to repeal this law entirely.

As I mentioned earlier, I believe it is imperative that we get at least 10 years to implement this rule, with further modifications, not where we have to put up four gates, but where two gates will definitely be acceptable to the Federal railroad administration.

Right now approximately $150 million is spent each year in this country by the Federal Government on upgrading railroad crossings. With this rule going into effect, there is going to be a much greater need for funds from the

Federal Government, as well as funds from state governments and from local municipalities.

I have a bill at the present time that I have introduced that would bring in approximately $160 million more each year to the Federal Government for upgrading grade crossings. That bill takes the 4.3 cents that railroads now pay on their diesel fuel tax that goes to deficit reduction. Based upon all of the statements that I hear out here in Washington throughout the country, we no longer have a deficit in this country, we have a significant surplus in this country, so I do not believe that we should be taking the 4.3 cents that the railroads pay for deficit reduction any longer and putting it into the general revenue of this country.

I believe that we should take that 4.3 cents and put it into a trust fund to upgrade rail crossings in this country. As I say, it would increase the total amount available to over $300 million. We would certainly have to add a portion from the state and a portion from the local municipalities, something like 75 percent from the Federal Government, 15 percent from the state, or 20 percent from the state and 5 percent from the local municipalities. This money thereby would be helping out railroads, it would be helping out citizens, it would be helping out safety in this country.

I would also like to say that this rule, I understand, originally was passed into law because the railroads were interested in reducing their liability as much as possible. I can understand that, I can appreciate that, but, because of that, I think it would be wise for the railroads to join in supporting my bill that would utilize their 4.3 cents now routed for deficit reduction, which apparently we no longer need it for, to upgrade rail crossings. I would also say part of my bill would say that when we pass the next highway transportation bill in this Congress, which will be in 3 or 4 years, that the 4.3 cents would revert back to the railroads and they would no longer have to be paying it.

Mr. Speaker, in conclusion, I want to thank all the Members that have spoken here this evening. I want to thank the individuals who have submitted statements for the record, particularly the Speaker of the House. This is an enormous problem for the country, but it is a gigantic problem for the State of Illinois, and particularly for Northeastern Illinois. The money is not available, the time is not available, the resources are not available to do what the Federal Railroad Administration wants us to do underneath the existing rule.

On top of that, Northeastern Illinois probably has done more and the State of Illinois has probably done more than any state in the union to upgrade railroad safety. We simply must have this rule amended so that many of the very worthwhile things that have been done by the State of Illinois and Northeastern Illinois will suffice as far as the Federal railroad administration is concerned to bring us up to a superb safety standard.

Certainly we do not want to see anyone lose their life at a grade crossing, but I think that we in Illinois have done an outstanding job in resolving this problem, and if we can get some further help from the Federal Government in regard to funding, I think that we will even do a better job.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Illinois (Mr. LIPINSKI) for arranging a special order today on the preservation of rail safety in the State of Illinois. I would also like to thank the gentleman for his continued work on rail safety throughout the nation, and his efforts over the last several years in making sure that any proposed rule on the use of locomotive horns does not adversely affect rail safety in Illinois.

Mr. Speaker, I rise today to speak on behalf of rail safety in the State of Illinois and the potentially adverse impacts of the recent Federal Railroad Administration's (FRA) Proposed Rulemaking on the Use of Locomotive Horns at Highway-Rail Grade Crossings.

As the Representative of the 14th District of Illinois, which covers portions of five counties and contains approximately 18% of all highway public-at-grade crossings in the state, I have intently followed this issue since I was first elected to Congress, and have witnessed firsthand Illinois' history with mandatory whistles. In fact, when the Illinois Legislature passed a mandatory whistle law in 1988, it met with such intense public backlash that it resulted in a court order to stop the whistles.

On January 12, 2000, the FRA published their Proposed Rule which will require all freight and passenger trains to sound the train's air horn when approaching and entering a public at-grade highway-rail crossing. According to the proposed rule, each train horn must be sounded with a series of two long, one short, and one long horn blasts to signify the locomotive's approach to a crossing. The timing is a combination of state laws with minimum federal requirements.

There is currently no federal law requiring horn sounding, however many states, including Illinois, currently require trains to sound their horns at all public at-grade crossings unless specifically exempted by the Illinois Commerce Commission (ICC). The grade crossings in Northeast Illinois that currently do not have air horns routinely sounded may have them sounded every time a train approaches a grade crossing if the new regulations are put into place. This occurs up to 140 times a day at the region's busiest grade crossings, and, at 66 of the crossings in Northeast Illinois, 101 or more trains per day pass through. Within my district, Auroa (50, Elgin (25) and West Chicago (22) rank #2, #11, and #14 respectively in the number of grade crossings per city in the state. In fact, should this rule go into effect as drafted, 80 of 148 crossings in DuPage County alone would have to change operating practices. Thus, the direct impact on Illinois, and the unique nature of the state with respect to this issue is clear.

In Illinois, rail safety is the responsibility of the ICC, which may exempt crossings from routine horn sounding if they have automatic flashing lights, bells and gates and have experienced less than three accidents in the past five years. The state of Illinois currently has 899 whistle ban rail crossings.

Mr. Speaker, the history of increased rail safety in Illinois is a proud one. Illinois has a proven program of substantially improving rail crossing safety at an annual average cost of approximately $40 million. In 1998 alone, the state of Illinois spent over $60 million on grade crossing improvements. In fact, between the ICC and Illinois Department of Transportation (IDOT), Illinois has invested hundreds of millions of dollars over the years to install modern safety devices at grade crossings throughout the state. Illinois is also well along in a program to install innovative remote monitoring devices at every active grade crossing (Illinois is the only state where this is happening).

I am pleased to report that these investments in safety have paid off. In Illinois, collisions at public grade crossings have declined by 52% since 1989. In Northeast Illinois, injuries have declined by 77% and fatalities have declined from 26 in 1988 to 9 in 1997, a 65% decrease. The large rate of decline is more impressive when you consider that between 1980 and 1999, train traffic and average vehicle miles traveled by motor vehicles, have both increased by approximately 45%. My primary concern with the FRA's proposed rule is that it would preempt the responsibility of the ICC, which has a demonstrated history of improving grade crossing safety. In fact, I am concerned that the proposed rule could have the unintended consequence of decreasing rail safety in the State of Illinois.

As you are well aware, Mr. Speaker, the State of Illinois is the hub of rail activity in North America. Nowhere is the issue of rail safety more important. Citizens of Illinois appreciate the need for, and support efforts to, increase rail safety. The question addressed by this proposed rule, therefore, is not whether we should try to decrease the number of rail collisions, we can all agree on that, but how this can be best accomplished.

People in Northeast Illinois are constantly reminded of the need for rail safety. In the last several years, Illinois has suffered several high profile accidents, most notably in Bradley-Bourbannais and Fox River Grove. Both of these tragic accidents resulted in significant loss of life, and the people of Illinois are committed to making these tragedies a thing of the past. It should be noted for the record, however, that none of these accidents can be attributed to the lack of a horn being sounded.

As I stated earlier, we can all agree that increasing rail safety is a laudable goal and that even one death on the nation's rail system is one death too many. Let me assure you that the ICC, IDOT and the people of Illinois work towards this goal every single day. I believe the data show that their efforts have paid off—rail crossings in Illinois are safer today than they were yesterday and will be safer tomorrow than they are today.

Unfortunately, the proposed rule offered by the FRA threatens the progress we have already made in Illinois. While offering little, if any, benefit in safety, this rule becomes an extraordinary unfunded mandate on local communities and the State, who will have to divert a large portion of their resources to upgrade already safe crossings in order to maintain their quiet zones; otherwise they will face the specter of incessant horn blasts at all hours of the day and night.

Thus, I believe this rule is fatally flawed in that it preempts already proven and effective State control. It is a ''one size fits all solution'' that does not fit Illinois. I believe that, at a minimum, this rule should not be finalized without recognizing Illinois is unique with respect to its rail crossing environment and that a more-tailored approach, which does not undermine state control, is developed.

In summary, I believe that after hearing all of the evidence delivered to the FRA at the public hearings held in the Chicagoland Area last week, they are essentially left with only two reasonable options: (1) The FRA can conclude that their study, upon which the proposed rule relies, is fatally flawed and, given the extraordinary costs and quality of life issues at stake, determine that additional studies need to be undertaken before publication of the final rule; or (2) The FRA can recognize that Illinois is unique with respect to its rail crossing environment and safety record, and alter the final rule in such a way as to preserve Illinois' authority over rail crossing safety.

Again, I thank the gentleman for the opportunity to address this issue. And I look forward to working with the FRA in the future to bring a solution to the state of Illinois that continues the strong safety record that has been demonstrated over the last 10 years and does not devote resources away from these efforts.

Mr. PETRI. Mr. Speaker, I wish to voice my concerns, and those of my constituents, about the current situation in many of our communities—as a result of the long-pending Federal Railroad Administration requirements for improved grade-crossing safety equipment as a condition of escaping 24-hour-a-day locomotive horn noise. When the law requiring these regulations was enacted in 1994, railroad jurisdiction resided in the Commerce Committee. According to the terms of the statute, FRA was to adopt regulations making universal sounding of horns the ''default'' rule—that is, the requirement in the absence of FRA-specified equipment. FRA was to issue the regulations specifying the horn requirements and the equipment requirements in two phases—one by November 1996, and the other by November 1998. In fact, FRA did not even propose regulations until January 2000. Meanwhile, many railroads—in an understandable attempt to minimize liability for grade-crossing accidents, have adopted policies of universal horn-blowing at grade crossings. This leaves cites and towns in a ''Catch–22'' situation'': The horns are blowing, but the FRA has given no guidance on what it takes to avoid the noise.

I submit for the RECORD at this point a newspaper editorial about what this means in practical terms to the affected communities.

[From the Oshkosh Northwestern, Thurs. Apr. 13, 2000]

EDITORIAL.—RAIL CROSSING RULES ONE MORE MANDATE

The Federal Railroad Administration is again showing how bureaucrats can twist sensible Congressional intentions into expensive new regulations that are shoved down the throats of local communities.

Oshkosh will be forced to spend $320,000 on median barriers at railroad crossings if the federal bureaucrats have their way. This is another example of federal funding that is not as freely flowing as the rules that are spawned.

If the city does not comply with the proposed rules, trains will blast their whistles almost continuously as they make their way through the city's 16 railroad crossings.

Fortunately, there still is time for the public to speak out against this mandate madness.

The Swift Rail Development Act was passed by Congress in 1994 and requires train whistles be sounded upon approaching every public grade crossing, unless there is no risk to persons, it is not practical or if safety measures have been taken to fully compensate for the absence of an audible warning.

Like many communities throughout the nation, Oshkosh has a ban on locomotives sounding their whistles within the city limits unless an emergency situation develops.

The ban recognizes that constant locomotive whistles would be a major irritation as trains rumble through 25 to 30 times a day (and night) through the city's most densely populated areas.

FRA officials drafted proposed regulations to comply with the law—regulations that still are under review and subject to a public comment period.

Our problem with the proposed regulations is they take railroad crossing safety measures to unnecessary extremes based on data that does not apply to Oshkosh.

Requiring trains to blow whistles at crossings without gates is not an unreasonable regulation. It stands to reason that the additional warning of a horn blast could help prevent accidents.

However, the FRA rules take the intention of the law to an unreasonable extreme because they say gates at crossings are not good enough to warrant honoring local whistle bans.

The rules allow the Transportation Secretary to determine what are acceptable safety measures at crossings. The secretary has determined that median barriers are essential because they prevent vehicles from getting around crossing gates lowered as trains pass through.

That's a barrier too far for two reasons.

First, the federal government wants to protect the public but has not provided any additional funding for the improvements apart from existing highway grants. Second, the FRA is relying on statistics in a misleading fashion. The agency concludes there is an average of 62 percent more collisions at gated crossings with whistle bans in place.

However convincing that figure may appear, it leaves out two important facts: of the crashes at intersections with gates in non-whistle communities, 55 percent of the collisions occurred because motorists deliberately drove around the lowered gates. Another 18 percent happened because motorists were stopped on the crossings.

So nearly three-quarters of the accidents happened because drivers chose to break the law or ignore basic safety precautions.

Concrete barriers and other extravagant measures are not going to protect people from themselves if they have a death wish.

Nor has Oshkosh seen increased carnage at its crossings. In fact, the addition of gates in 1998 has turned the city from one of the deadliest to one of the safest in the state.

Our accident totals are at zero and counting with a whistle ban in place. And Oshkosh meets all of the other criteria set by the agency to continue the whistle ban, including long-term law enforcement initiatives at crossings and targeted public education programs.

Rep. Tom Petri, R-Fond du Lac, should exercise his considerable rank on the House Transportation Committee to encourage the FRA to reconsider its barrier requirements before allowing for a quiet zone.

In addition, the public can send comments on the proposal to Docket Clerk, DOT Central Docket Management Facility, 400 Seventh Street, S.W., Plaza-401, Washington, DC 20590–0001. Comments will be accepted through May 26 and should include the reference ''Docket Number FRA–1999–6439.''

Let's hope it's not too late to get the FRA to change its mind.

Certainly, FRA's complete failure to adhere to the schedule in the statute has been a major contributing factor in this unfortunate situation. At the same time, it appears that there may be some overreaching by some railroads in adopting across-the-board horn-blowing requirements. I want to resolve this situation as rapidly as possible. To that end, I have sent to the FRA a letter requesting a formal legal opinion on the exact degree of federal pre-emption of state and local noise regulations, in the current situation—that is, where there are as yet no final and effective FRA regulations in place. No matter what policy decisions are to be made here, it is in the interest of all parties to know what the current legal situation really is.

At this point, I submit for the RECORD a copy of the April 28 letter sent by Mr. LIPINSKI of Illinois and myself to FRA Administrator Jolene Molitoris, requesting a formal legal opinion on the degree of legal pre-emption that obtains while the FRA rulemaking is still pending.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 28, 2000.

HON. JOLENE MOLITORIS,
Administrator, Federal Railroad Administration, Washington, DC.

DEAR ADMINISTRATOR MOLITORIS: We are writing to request an official legal opinion from the Federal Railroad Administration on an important issue of rail safety regulation—the pre-emptive reach of the ''whistle-ban'' provision in current rail safety law, 49 U.S.C. 20153.

As you know, this provision was enacted as part of the 1994 FRA rail safety reauthorization. Section 20153 in general requires FRA to adopt rules requiring the sounding of horns or whistles at all grade crossings, except where safety measures specified in final FRA regulations have been applied to the individual crossing in question. Although final regulations were to be issued in two phases (one by November 2, 1996, and the other by November 2, 1998), FRA has thus far only issued proposed regulations, which were not promulgated until January 13, 2000. Section 20153 further provides that final regulations, when issued, may not take effect for 1 year after issuance.

Section 20153 does not in itself appear to address explicitly the pre-emptive effect of the statute in the current situation, where final regulations have not yet been issued or taken effect. However, the language in subsection (b) strongly implies that federal pre-emption of existing requirements occurs only when FRA has actually issued rules requiring the sounding of horns or whistles: ''The Secretary of Transportation *shall prescribe regulations, requiring* that a locomotive horn or whistle shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing'' (emphasis added). Since no such regulations have been issued, it would seem that Section 20153 alone does not yet have any current pre-emptive effect.

The issue is further complicated, however, by the general pre-emption provision of the FRA rail safety statutes, 49 U.S.C. 20106, which antedates the whistle-ban provision by a number of years. Section 20106 provides in pertinent part that ''[a] State may adopt or continue in force a law, regulation, or order

related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement.'' Since this limitation on federal regulatory pre-emption is limited by its terms to ''state'' rail safety requirements, it could be argued that it implicitly precludes rail safety requirements (including whistle-ban ordinances) adopted by local governmental authorities below the state level.

We understand that some railroads have taken one or two legal positions on this subject: either (1) the very enactment of Section 20153 immediately displaced all state and local authority to adopt and enforce grade-crossing whistle bans; or (2) that Section 20106 independently precludes locally enacted whistle bans, and allows only state-promulgated requirements in this area, prior to adoption and effectiveness of final FRA regulations.

This is an issue of immediate and pressing concern to our states. As FRA acknowledged in its proposed regulations [65 Fed. Reg. 2230, 2234 (Jan. 13, 2000)], well over half of all whistle-banned grade crossing in the United States are located in Wisconsin and Illinois. It is our understanding that many, if not most, of the bans now being ignored by some railroads were promulgated by local rather than state governmental units.

We are therefore requesting the formal legal opinion of the ERA on the following questions:

(1) Does Section 20153, Title 49, United States Code, pre-empt adoption and enforcement of state-issued or locally issued whistle bans prior to promulgation and legal effectiveness of final regulations issued by FRA under that section?

(2) Does Section 20106, Title 49, United States Code, pre-empt the adoption or enforcement of whistle bans issued by local governments prior to promulgation and legal effectiveness of final regulations issued by FRA under Section 20153 of that title?

Thank you for your prompt assistance on this important matter of rail safety policy.

Sincerely,

WILLIAM O. LIPINSKI,
Ranking Member, Aviation Subcommittee.
THOMAS E. PETRI,
Chairman, Ground Transportation Subcommittee.

Second, I have also prepared legislation which would spell out the ground rules governing local, state, and federal jurisdiction in this area, while the FRA rulemaking is still pending, and no fully effective regulations are in place. As with the request for the legal opinion, this legislation may prove to be an important option in clarifying the authority of state and local governments in the field of railroad noise abatement at grade crossings.

Finally, I want to commend the gentleman from Illinois, Mr. LIPINSKI, for arranging this evening's discussion of this important transportation safety issue. I look forward to working with him as we address this problem.

Mr. PORTER. Mr. Speaker, I rise today as one of the many Members of Congress opposed to the Federal Railroad Administration's proposed rule for trains to sound their horns at public crossings. Let me first state that I do not oppose efforts by the FRA or any other part of the Department of Transportation to improve safety. Each year there are over 35,000 transportation related deaths in America. We must reduce this terrible statistic. In fact, safer travel is the basis for my opposition to this proposed regulation.

In my opinion, the approach taken by the FRA to prevent train crossing accidents is extreme. I believe that the spending mandated by this regulation would be wasteful and ultimately not improve safety. These scarce dollars and resources can be used more effectively, saving more lives, if spent in other areas. Implementing this rule would draw funds away from other important safety measures for drivers, pedestrians, and other travelers on Americas roads in Illinois and elsewhere.

The main parts of the proposed rule are now well known: trains must blow their horns at all public grade crossings unless a new level of safety measures is installed. While there is flexibility in the types of safety measures and the time in which they must be installed, this sweeping regulation is flawed for several reasons.

First, the FRA data used to conclude that blowing horns at crossings reduces accidents fails to count a significant number of crossings and fails to properly classify and incorporate the nature of the accident. In fact, data has been compiled which indicates that in certain regions of the country, my district being one of them, there is a decrease in the number of accidents in places where train horns are prohibited from sounding. Further, the data does not account for the vast differences in vehicular traffic at the rail crossings where information was gathered.

Second, the majority of the data used by the FRA to formulate this proposal came from a multiyear study of areas in Florida that had implemented and then repealed bans on train horns at crossings. In my opinion, the specific data from the Florida crossings is neither applicable nor appropriate to determine the need for horn bans in the majority of the other states. In Cook County, Illinois there are more gate crossings than in the majority of states in the country.

Third, a recent Illinois study of detailed data compiled between 1988 and 1998 highlights several important facts that should be considered by the FRA. For example, train accidents involving vehicles remains a rare occurrence resulting in less than one percent of highway fatalities. Further, the study found that of train related vehicular accidents, over forty percent occurred because the driver circumvented the existing safety measures. Of the remaining accidents, a significant percentage occurred when a vehicle impacted against the side of a train, rather than the train striking a vehicle. From these facts, we can conclude that in many cases the safety measures currently in place are adequate for those citizens who chose to use them, and expenditures to further improve these safety measures would be better spent.

Mr. Speaker, little consensus exists on whether the data and analysis used by the FRA to support their position is correct, and whether the proposed rule is good public policy from any standpoint. Before forcing states and communities to pay for massive investments in rail crossing safety measures, this issue must be resolved. I ask the Federal Railroad Administration to consider the tens of thousands of citizens in Illinois and millions across the country that would be greatly impacted both financially and physically by this onerous proposal and to change the rule. At a minimum, the individual states should have much more flexibility to decide where they need to spend funds for transportation safety.

RECESS

The SPEAKER pro tempore (Mr. HAYES). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□

□ 2253

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 o'clock and 53 minutes p.m.

□

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–605) on the resolution (H. Res. 488) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

□

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Ms. STABENOW, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. WICKER) to revise and extend their remarks and include extraneous material:)

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. WHITFIELD, for 5 minutes, May 4.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BROWN of Ohio for 5 minutes today; and,

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. STEARNS for 5 minutes today.

□

SENATE CONCURRENT RESOLUTION

A concurrent resolution of the Senate of the following title was taken