

Calendar No. 358

108TH CONGRESS
1ST SESSION**S. 1402****[Report No. 108–182]**

To authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2003

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

OCTOBER 30, 2003

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in *italic*]**A BILL**

To authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or a repeal of, a section or other
 5 provision, the reference shall be considered to be made to
 6 a section or other provision of title 49, United States
 7 Code.

8 **SEC. 3. TABLE OF CONTENTS.**

9 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Amendment of title 49, United States Code.

Sec. 3. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations.

TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND
PLANNING AUTHORITY

Sec. 201. National crossing inventory.

Sec. 202. Grade crossing elimination and consolidation.

Sec. 203. Model legislation for driver behavior.

Sec. 204. Operation Lifesaver.

Sec. 205. Transportation security.

Sec. 206. Railroad accident and incident reporting.

Sec. 207. Railroad radio monitoring authority.

Sec. 208. Recommendations on fatigue management.

Sec. 209. Positive train control.

Sec. 210. Positive train control implementation.

Sec. 211. Survey of rail bridge structures.

Sec. 212. Railroad police.

Sec. 213. Federal Railroad Administration employee training.

Sec. 214. *Report regarding impact on public safety of train travel in commu-
nities without grade separation.*

Sec. 215. *Runaway trains emergency response.*

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. *Technical amendments regarding enforcement by the Attorney General.*

Sec. 302. *Technical amendments to civil penalty provisions.*

Sec. 303. *Technical amendments to eliminate unnecessary provisions.*

1 **TITLE I—AUTHORIZATION OF**
 2 **APPROPRIATIONS**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

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

5 “(a) GENERAL.—There are authorized to be appro-
 6 priated to the Secretary of Transportation to carry out
 7 this chapter—

8 “(1) \$166,000,000 for the fiscal year ending
 9 September 30, 2004;

10 “(2) \$176,000,000 for the fiscal year ending
 11 September 30, 2005;

12 “(3) \$185,000,000 for the fiscal year ending
 13 September 30, 2006;

14 “(4) \$192,000,000 for the fiscal year ending
 15 September 30, 2007; and

16 “(5) \$200,000,000 for the fiscal year ending
 17 September 30, 2008.”.

18 **TITLE II—RULEMAKING, INSPEC-**
 19 **TION, ENFORCEMENT, AND**
 20 **PLANNING AUTHORITY**

21 **SEC. 201. NATIONAL CROSSING INVENTORY.**

22 (a) IN GENERAL.—Chapter 201 is amended by add-
 23 ing at the end the following:

1 **“§ 20154. National crossing inventory**

2 “(a) INITIAL REPORTING OF INFORMATION ABOUT
3 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than
4 6 months after the date of enactment of the Federal Rail-
5 road Safety Improvement Act or 6 months after a new
6 crossing becomes operational, whichever occurs later, each
7 railroad carrier shall—

8 “(1) report to the Secretary of Transportation
9 current information, as specified by the Secretary,
10 concerning each previously unreported crossing
11 through which it operates; or

12 “(2) ensure that the information has been re-
13 ported to the Secretary by another railroad carrier
14 that operates through the crossing.

15 “(b) UPDATING OF CROSSING INFORMATION.—(1)
16 On a periodic basis beginning not later than 18 months
17 after the date of enactment of the Federal Railroad Safety
18 Improvement Act and on or before September 30 of every
19 third year thereafter, or as otherwise specified by the Sec-
20 retary, each railroad carrier shall—

21 “(A) report to the Secretary current informa-
22 tion, as specified by the Secretary, concerning each
23 crossing through which it operates; or

24 “(B) ensure that the information has been re-
25 ported to the Secretary by another railroad carrier
26 that operates through the crossing.

1 “(2) A railroad carrier that sells a crossing on or
 2 after the date of enactment of the Federal Railroad Safety
 3 Improvement Act, shall, not later than the date that is
 4 18 months after the date of enactment of the Act or 3
 5 months after the sale, whichever occurs later, or as other-
 6 wise specified by the Secretary, report to the Secretary
 7 current information, as specified by the Secretary, con-
 8 cerning the change in ownership of the crossing.

9 “(c) RULEMAKING AUTHORITY.—The Secretary shall
 10 prescribe the regulations necessary to implement this sec-
 11 tion. The Secretary may enforce each provision of the Fed-
 12 eral Railroad Administration’s Highway-Rail Crossing In-
 13 ventory Instructions and Procedures Manual that is in ef-
 14 fect on the date of enactment of the Federal Railroad
 15 Safety Improvement Act, until such provision is super-
 16 seded by a regulation issued under this section.

17 “(d) DEFINITIONS.—In this section:

18 “(1) CROSSING.—The term ‘crossing’ means a
 19 location within a State, other than a location where
 20 one or more railroad tracks cross one or more rail-
 21 road tracks either at grade or grade-separated,
 22 where—

23 “(A) a public highway, road, or street, or
 24 a private roadway, including associated side-
 25 walks and pathways, crosses one or more rail-

1 road tracks either at grade or grade-separated;
 2 or

3 “(B) a dedicated pedestrian pathway that
 4 is not associated with a public highway, road,
 5 or street, or a private roadway, crosses one or
 6 more railroad tracks either at grade or grade-
 7 separated.

8 “(2) STATE.—The term ‘State’ means a State
 9 of the United States, the District of Columbia, or
 10 Puerto Rico.”.

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

“20154. National crossing inventory.”.

14 (c) REPORTING AND UPDATING.—Section 130 of title
 15 23, United States Code, is amended by adding at the end
 16 the following:

17 “(k) NATIONAL CROSSING INVENTORY.—

18 “(1) INITIAL REPORTING OF CROSSING INFOR-
 19 MATION.—Not later than 6 months after the date of
 20 enactment of the Federal Railroad Safety Improve-
 21 ment Act or within 6 months of a new crossing be-
 22 coming operational, whichever occurs later, each
 23 State shall report to the Secretary of Transportation
 24 current information, as specified by the Secretary,

1 concerning each previously unreported crossing lo-
2 cated within its borders.

3 “(2) PERIODIC UPDATING OF CROSSING INFOR-
4 MATION.—On a periodic basis beginning not later
5 than 18 months after the date of enactment of the
6 Federal Railroad Safety Improvement Act and on or
7 before September 30 of every third year thereafter,
8 or as otherwise specified by the Secretary, each
9 State shall report to the Secretary current informa-
10 tion, as specified by the Secretary, concerning each
11 crossing located within its borders.

12 “(3) RULEMAKING AUTHORITY.—The Secretary
13 shall prescribe the regulations necessary to imple-
14 ment this section. The Secretary may enforce each
15 provision of the Federal Railroad Administration’s
16 Highway-Rail Crossing Inventory Instructions and
17 Procedures Manual that is in effect on the date of
18 enactment of the Federal Railroad Safety Improve-
19 ment Act, until such provision is superseded by a
20 regulation issued under this subsection.

21 “(4) DEFINITIONS.—In this subsection, the
22 terms ‘crossing’ and ‘State’ have the meaning given
23 those terms by section 20154(d)(1) and (2), respec-
24 tively, of title 49.”.

25 (d) CIVIL PENALTIES.—

1 (1) Section 21301(a)(1) is amended—

2 (A) by inserting “with section 20154 or ”
3 after “comply” in the first sentence; and

4 (B) by inserting “section 20154 of this
5 title or” after “violating” in the second sen-
6 tence.

7 (2) Section 21301(a)(2) is amended by insert-
8 ing “The Secretary shall impose a civil penalty for
9 a violation of section 20154 of this title.” after the
10 first sentence.

11 **SEC. 202. GRADE CROSSING ELIMINATION AND CONSOLIDA-**
12 **TION.**

13 (a) **CROSSING REDUCTION PLAN.**—Within 24
14 months after the date of enactment of this Act, the Sec-
15 retary of Transportation shall develop and transmit to the
16 Senate Committee on Commerce, Science, and Transpor-
17 tation and the House of Representatives Committee on
18 Transportation and Infrastructure a plan for a joint initia-
19 tive with States and municipalities to systematically re-
20 duce the number of public and private highway-rail grade
21 crossings by 1 percent per year in each of the succeeding
22 10 years. The plan shall include—

23 (1) a prioritization of crossings for elimination
24 or consolidation, based on considerations including—

1 (A) whether the crossing has been identi-
2 fied as high risk;

3 (B) whether the crossing is located on a
4 designated high-speed corridor or on a railroad
5 right-of-way utilized for the provision of inter-
6 city or commuter passenger rail service; and

7 (C) the existing level of protection;

8 (2) suggested guidelines for the establishment
9 of new public and private highway-rail grade cross-
10 ings, with the goal of avoiding unnecessary new
11 crossings through careful traffic, zoning, and land
12 use planning; and

13 (3) an estimate of the costs of implementing the
14 plan and suggested funding sources.

15 (b) CONSULTATION WITH STATES.—In preparing the
16 plan required by subsection (a), the Secretary shall seek
17 the advice of State officials, including highway, rail, and
18 judicial officials, with jurisdiction over crossing safety, in-
19 cluding crossing closures. The Secretary and State offi-
20 cials shall consider—

21 (1) the feasibility of consolidating and improv-
22 ing multiple crossings in a single community;

23 (2) the impact of closure on emergency vehicle
24 response time, traffic delays, and public inconven-
25 ience; and

1 (3) the willingness of a municipality to partici-
2 pate in the elimination or consolidation of crossings.

3 (c) GUIDE TO CROSSING CONSOLIDATION AND CLO-
4 SURE.—Within 1 year after the date of enactment of this
5 Act, the Secretary shall update, reissue, and distribute the
6 publication entitled “A Guide to Crossing Consolidation
7 and Closure”.

8 (d) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING
9 CLOSURES.—Section 130(i)(3)(B) of title 23, United
10 States Code is amended by striking “\$7,500.” and insert-
11 ing “\$15,000.”.

12 (e) FUNDING FOR PLAN.—From amounts authorized
13 by section 20117(a)(1) of title 49, United States Code,
14 to the Secretary, there shall be available \$500,000 for fis-
15 cal year 2004 to prepare the plan required by this section,
16 such sums to remain available until the plan is trans-
17 mitted to the Senate Committee on Commerce, Science,
18 and Transportation and the House of Representatives
19 Committee on Transportation and Infrastructure as re-
20 quired by subsection (a).

21 **SEC. 203. MODEL LEGISLATION FOR DRIVER BEHAVIOR.**

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

23 (1) by striking the section caption and inserting
24 the following:

1 **“§ 20151. Strategy to prevent railroad trespassing and**
 2 **vandalism and violation of grade crossing**
 3 **signals”;**

4 (2) by striking “safety,” in subsection (a) and
 5 inserting “safety and violations of highway-rail
 6 grade crossing signals,”;

7 (3) by striking the second sentence of sub-
 8 section (a) and inserting “The evaluation and review
 9 shall be completed not later than 1 year after the
 10 date of enactment of the Federal Railroad Safety
 11 Improvement Act.”; and

12 (4) by striking “MODEL LEGISLATION.—Within
 13 18 months after November 2, 1994, the” in sub-
 14 section (c) and inserting “LEGISLATION FOR VAN-
 15 DALISM AND TRESPASSING PENALTIES.—The”; and

16 (5) by adding at the end the following:

17 “(d) MODEL LEGISLATION FOR GRADE-CROSSING
 18 VIOLATIONS.—Within 2 years after the date of the enact-
 19 ment of the Federal Railroad Safety Improvement Act, the
 20 Secretary, after consultation with State and local govern-
 21 ments and railroad carriers, shall develop and make avail-
 22 able to State and local governments model State legisla-
 23 tion providing for civil or criminal penalties, or both, for
 24 violations of highway-rail grade crossing signals.

25 “(e) VIOLATION DEFINED.—In this section, the term
 26 ‘violation of highway-rail grade crossing signals’ includes

1 any action by a motorist, unless directed by an authorized
 2 safety officer—

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

6 “(2) to drive through a flashing grade crossing
 7 signal;

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

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

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

“20151. Strategy to prevent railroad trespassing and vandalism and viola-
 tion of grade crossing signals.”.

18 **SEC. 204. OPERATION LIFESAVER.**

19 Section 20117(e) is amended to read as follows:

20 “(e) OPERATION LIFESAVER.—In addition to
 21 amounts otherwise authorized by law, from the amounts
 22 authorized to be appropriated under subsection (a), there
 23 shall be available for railroad research and development
 24 \$1,250,000 for fiscal year 2004, \$1,300,000 for fiscal year

1 2005, \$1,350,000 for fiscal year 2006, \$1,400,000 for fis-
2 cal year 2007, and \$1,460,000 for fiscal year 2008 to sup-
3 port Operation Lifesaver, Inc.”.

4 **SEC. 205. TRANSPORTATION SECURITY.**

5 (a) MEMORANDUM OF AGREEMENT.—Within 60 days
6 after the date of enactment of this Act, the Secretary of
7 Transportation and the Secretary of Homeland Security
8 shall execute a memorandum of agreement governing the
9 roles and responsibilities of the Department of Transpor-
10 tation and the Department of Homeland Security, respec-
11 tively, in addressing railroad transportation security mat-
12 ters, including the processes the departments will follow
13 to promote communications, efficiency, and nonduplication
14 of effort.

15 (b) RAIL SAFETY REGULATIONS.—Section 20103(a)
16 is amended to read as follows:

17 “(a) REGULATIONS AND ORDERS.—The Secretary of
18 Transportation, as necessary, shall prescribe regulations
19 and issue orders for every area of railroad safety, includ-
20 ing security, supplementing laws and regulations in effect
21 on October 16, 1970. When prescribing a security regula-
22 tion or issuing a security order that affects the safety of
23 railroad operations, the Secretary of Homeland Security
24 shall consult with the Secretary of Transportation.”.

1 **SEC. 206. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

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

3 “(a) GENERAL REQUIREMENTS.—On a periodic basis
4 specified by the Secretary of Transportation but not less
5 frequently than quarterly, a railroad carrier shall file a
6 report with the Secretary on all accidents and incidents
7 resulting in injury or death to an individual or damage
8 to equipment or a roadbed arising from the carrier’s oper-
9 ations during the specified period. The report shall state
10 the nature, cause, and circumstances of each reported ac-
11 cident or incident. If a railroad carrier assigns human
12 error as a cause, the report shall include, at the option
13 of each employee whose error is alleged, a statement by
14 the employee explaining any factors the employee alleges
15 contributed to the accident or incident.”.

16 **SEC. 207. RAILROAD RADIO MONITORING AUTHORITY.**

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

19 “(c) RAILROAD RADIO COMMUNICATIONS.—

20 “(1) IN GENERAL.—To carry out the Sec-
21 retary’s responsibilities under this part and under
22 chapter 51, the Secretary may authorize officers,
23 employees, or agents of the Secretary to conduct the
24 following activities at reasonable times:

25 “(A) Intercepting a radio communication
26 that is broadcast or transmitted over a fre-

1 quency authorized for the use of one or more
2 railroad carriers by the Federal Communica-
3 tions Commission, with or without making their
4 presence known to the sender or other receivers
5 of the communication and with or without ob-
6 taining the consent of the sender or other re-
7 ceivers of the communication.

8 “(B) Communicating the existence, con-
9 tents, substance, purport, effect, or meaning of
10 the communication, subject to the restrictions
11 in paragraph (3).

12 “(C) Receiving or assisting in receiving the
13 communication (or any information therein con-
14 tained).

15 “(D) Disclosing the contents, substance,
16 purport, effect, or meaning of the communica-
17 tion (or any part thereof of such communica-
18 tion) or using the communication (or any infor-
19 mation contained therein), subject to the re-
20 strictions in paragraph (3), after having re-
21 ceived the communication or acquired knowl-
22 edge of the contents, substance, purport, effect,
23 or meaning of the communication (or any part
24 thereof).

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

3 “(2) LIMITATION.—The Secretary, and officers,
4 employees, and agents of the Department of Trans-
5 portation authorized by the Secretary may engage in
6 the activities authorized by paragraph (1) for the
7 purpose of accident prevention, including, but not
8 limited to, accident investigation.

9 “(3) USE OF INFORMATION.—

10 “(A) Except as provided in subparagraph
11 (F), information obtained through activities au-
12 thorized by paragraphs (1) and (2) shall not be
13 admitted into evidence in any administrative or
14 judicial proceeding except to impeach evidence
15 offered by a party other than the Federal Gov-
16 ernment regarding the existence, electronic
17 characteristics, content, substance, purport, ef-
18 fect, meaning, or timing of, or identity of par-
19 ties to, a communication intercepted pursuant
20 to paragraphs (1) and (2) in proceedings pursu-
21 ant to sections 5122, 20702(b), 20111, 20112,
22 20113, or 20114 of this title.

23 “(B) If information obtained through ac-
24 tivities set forth in paragraphs (1) and (2) is
25 admitted into evidence for impeachment pur-

1 poses in accordance with subparagraph (A), the
2 court, administrative law judge, or other officer
3 before whom the proceeding is conducted may
4 make such protective orders regarding the con-
5 fidentiality or use of the information as may be
6 appropriate in the circumstances to protect pri-
7 vacy and administer justice.

8 “(C) Information obtained through activi-
9 ties set forth in paragraphs (1) and (2) shall
10 not be subject to publication or disclosure, or
11 search or review in connection therewith, under
12 section 552 of title 5.

13 “(D) No evidence shall be excluded in an
14 administrative or judicial proceeding solely be-
15 cause the government would not have learned of
16 the existence of or obtained such evidence but
17 for the interception of information that is not
18 admissible in such proceeding under subpara-
19 graph (A).

20 “(E) Nothing in this subsection shall be
21 construed to impair or otherwise affect the au-
22 thority of the United States to intercept a com-
23 munication, and collect, retain, analyze, use,
24 and disseminate the information obtained there-

1 by, under a provision of law other than this
2 subsection.

3 “(F) No information obtained by an activ-
4 ity authorized by paragraph (1)(A) that was
5 undertaken solely for the purpose of accident
6 investigation may be introduced into evidence in
7 any administrative or judicial proceeding in
8 which civil or criminal penalties may be im-
9 posed.

10 “(4) APPLICATION WITH OTHER LAW.—Section
11 705 of the Communications Act of 1934 (47 U.S.C.
12 605) and chapter 119 of title 18 shall not apply to
13 conduct authorized by and pursuant to this sub-
14 section.

15 “(d) REASONABLE TIME DEFINED.—In this section,
16 the term ‘at reasonable times’ means at any time that the
17 railroad carrier being inspected or investigated is per-
18 forming its rail transportation business.”.

19 **SEC. 208. RECOMMENDATIONS ON FATIGUE MANAGEMENT.**

20 (a) WORKING GROUP ESTABLISHED.—The Railroad
21 Safety Advisory Committee of the Federal Railroad Ad-
22 ministration shall convene a working group to consider
23 what legislative or other changes the Secretary of Trans-
24 portation deems necessary to address fatigue management

1 for railroad employees subject to chapter 211 of title 49,
2 United States Code. The working group shall consider—

3 (1) the varying circumstances of rail carrier op-
4 erations and appropriate fatigue countermeasures to
5 address those varying circumstances, based on cur-
6 rent and evolving scientific and medical research on
7 circadian rhythms and human sleep and rest re-
8 quirements;

9 (2) research considered by the Federal Motor
10 Carrier Safety Administration in devising new hours
11 of service regulations for motor carriers;

12 (3) the benefits and costs of modifying the rail-
13 road hours of service statute or implementing other
14 fatigue management countermeasures for railroad
15 employees subject to chapter 211; and

16 (4) ongoing and planned initiatives by the rail-
17 roads and rail labor organizations to address fatigue
18 management.

19 (b) REPORT TO CONGRESS.—Not later than 24
20 months after the date of enactment of this Act, the work-
21 ing group convened under subsection (a) shall submit a
22 report containing its conclusions and recommendations to
23 the Railroad Safety Advisory Committee and the Secretary
24 of Transportation. The Secretary shall transmit the report
25 to the Senate Committee on Commerce, Science, and

1 Transportation and to the House Committee on Transpor-
2 tation and Infrastructure.

3 (c) RECOMMENDATIONS.—If the Railroad Safety Ad-
4 visory Committee does not reach a consensus on rec-
5 ommendations within 24 months after the date of enact-
6 ment of this Act, the Secretary of Transportation shall,
7 within 36 months after the date of enactment of this Act,
8 submit to the Senate Committee on Commerce, Science,
9 and Transportation and to the House Committee on
10 Transportation and Infrastructure recommendations for
11 legislative, regulatory, or other changes to address fatigue
12 management for railroad employees.

13 **SEC. 209. POSITIVE TRAIN CONTROL.**

14 Within 6 months after the date of enactment of this
15 Act, the Secretary of Transportation shall prescribe a final
16 rule addressing safety standards for positive train control
17 systems or other safety technologies that provide similar
18 safety benefits.

19 **SEC. 210. POSITIVE TRAIN CONTROL IMPLEMENTATION.**

20 (a) REPORT ON PILOT PROJECTS.—Within 3 months
21 after completion of the North American Joint Positive
22 Train Control Project, the Secretary of Transportation
23 shall submit a report on the progress of on-going and com-
24 pleted projects to implement positive train control tech-
25 nology or other safety technologies that provide similar

1 safety benefits to the Senate Committee on Commerce,
 2 Science, and Transportation and to the House Committee
 3 on Transportation and Infrastructure. The report shall in-
 4 clude recommendations for future projects and any legisla-
 5 tive or other changes the Secretary deems necessary.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—The Sec-
 7 retary shall establish a grant program with a 50 percent
 8 match requirement for the implementation of positive
 9 train control technology or other safety technologies that
 10 provide similar safety benefits. From the amounts author-
 11 ized to be appropriated for each of fiscal years 2004
 12 through 2008 under section 20117(a) of title 49, United
 13 States Code, there shall be made available for the grant
 14 program—

- 15 (1) \$16,000,000 for fiscal year 2004;
- 16 (2) \$18,000,000 for fiscal year 2005; and
- 17 (3) \$20,000,000 for each of fiscal years 2006
- 18 through 2008.

19 **SEC. 211. SURVEY OF RAIL BRIDGE STRUCTURES.**

20 The Secretary of Transportation shall conduct a safe-
 21 ty survey of the structural integrity of railroad bridges and
 22 railroads' programs of inspection and maintenance of rail-
 23 road bridges. The Secretary shall issue a report to Con-
 24 gress at the completion of the survey, including a finding

1 by the Secretary concerning whether the Secretary should
 2 issue regulations governing the safety of railroad bridges.

3 **SEC. 212. RAILROAD POLICE.**

4 Section 28101 is amended by striking “the rail car-
 5 rier” each place it appears and inserting “any rail car-
 6 rier”.

7 **SEC. 213. FEDERAL RAILROAD ADMINISTRATION EM-**
 8 **PLOYEE TRAINING.**

9 From the amounts authorized to be appropriated for
 10 fiscal year 2004 by section 20117(a)(1) of title 49, United
 11 States Code, there shall be made available to the Secretary
 12 of Transportation \$300,000 for the Federal Railroad Ad-
 13 ministration to perform a demonstration program to pro-
 14 vide centralized training for its employees. The Secretary
 15 of Transportation shall report on the results of such train-
 16 ing and provide further recommendations to the Congress.

17 **SEC. 214. REPORT REGARDING IMPACT ON PUBLIC SAFETY**
 18 **OF TRAIN TRAVEL IN COMMUNITIES WITH-**
 19 **OUT GRADE SEPARATION.**

20 *(a) STUDY.—The Secretary of Transportation shall, in*
 21 *consultation with State and local government officials, con-*
 22 *duct a study of the impact of blocked highway-railroad*
 23 *grade crossings on the ability of emergency responders to*
 24 *perform public safety and security duties.*

1 (b) *REPORT ON THE IMPACT OF BLOCKED HIGHWAY-*
 2 *RAILROAD GRADE CROSSINGS ON EMERGENCY RESPOND-*
 3 *ERS.*—Not later than 1 year after the date of enactment
 4 of this Act, the Secretary shall submit the results of the
 5 study and recommendations for reducing the impact of
 6 blocked crossings on emergency response to the Senate Com-
 7 mittee on Commerce, Science, and Transportation and the
 8 House of Representatives Committee on Transportation and
 9 Infrastructure.

10 **SEC. 215. RUNAWAY TRAINS EMERGENCY RESPONSE.**

11 (a) *NOTIFICATION PROCEDURES.*—

12 (1) *REGULATIONS.*—The Secretary of Transpor-
 13 tation shall prescribe regulations setting forth proce-
 14 dures for a railroad to immediately notify first re-
 15 sponders in communities that lie in the path of a
 16 runaway train.

17 (2) *TIME FOR ISSUANCE OF REGULATIONS.*—The
 18 Secretary shall issue the final regulations under this
 19 section not later than 120 days after the date of en-
 20 actment of this Act.

21 (3) *DEFINITIONS.*—In this section, the term
 22 “runaway train” means a locomotive, train, rail car,
 23 or other item of railroad equipment that, at a par-
 24 ticular moment in time, is rolling on tracks outside

1 *the operations limits of a railroad and is not under*
 2 *the control of the railroad.*

3 *(b) RESPONSE PROCEDURES.—Not later than 60 days*
 4 *after the Secretary prescribes the regulations under sub-*
 5 *section (a), each railroad shall submit to the Department*
 6 *of Transportation for the Secretary’s approval the proce-*
 7 *dures proposed by the railroad for providing the notice de-*
 8 *scribed in such subsection.*

9 *(c) REPORTING OF INCIDENTS REQUIRED.—The Sec-*
 10 *retary shall require railroads to report to the Department*
 11 *of Transportation each incident of a runaway train.*

12 **TITLE III—MISCELLANEOUS** 13 **PROVISIONS**

14 **SEC. 301. TECHNICAL AMENDMENTS REGARDING EN-** 15 **FORCEMENT BY THE ATTORNEY GENERAL.**

16 Section 20112(a) is amended—

17 (1) by inserting “this part, except for section
 18 20109 of this title, or” in paragraph (1) after “en-
 19 force,”;

20 (2) by striking “21301” in paragraph (2) and
 21 inserting “21301, 21302, or 21303”;

22 (3) by striking “subpena” in paragraph (3) and
 23 inserting “subpena, request for production of docu-
 24 ments or other tangible things, or request for testi-
 25 mony by deposition”; and

1 (4) by striking “chapter.” in paragraph (3) and
 2 inserting “part.”.

3 **SEC. 302. TECHNICAL AMENDMENTS TO CIVIL PENALTY**
 4 **PROVISIONS.**

5 (a) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-
 6 tion 21301(a)(2) is amended—

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

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

17 (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-
 18 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
 19 209.—

20 (1) Section 21302(a)(2) is amended—

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

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

6 (2) Section 21302 is amended by adding at the
 7 end the following:

8 “(c) SETOFF.—The Government may deduct the
 9 amount of a civil penalty imposed or compromised under
 10 this section from amounts it owes the person liable for
 11 the penalty.

12 “(d) DEPOSIT IN TREASURY.—A civil penalty col-
 13 lected under this section shall be deposited in the Treasury
 14 as miscellaneous receipts.”.

15 (c) VIOLATIONS OF CHAPTER 211.—

16 (1) Section 21303(a)(2) is amended—

17 (A) by striking “\$10,000.” and inserting
 18 “\$10,000 or the amount to which the stated
 19 maximum penalty is adjusted if required by the
 20 Federal Civil Penalties Inflation Adjustment
 21 Act of 1990 (28 U.S.C. 2461 note).”; and

22 (B) by striking “\$20,000.” and inserting
 23 “\$20,000 or the amount to which the stated
 24 maximum penalty is adjusted if required by the

1 Federal Civil Penalties Inflation Adjustment
 2 Act of 1990 (28 U.S.C. 2461 note).”.

3 (2) Section 21303 is amended by adding at the
 4 end the following:

5 “~~(e)~~ (d) SETOFF.—The Government may deduct the
 6 amount of a civil penalty imposed or compromised under
 7 this section from amounts it owes the person liable for
 8 the penalty.

9 “~~(d)~~ (e) DEPOSIT IN TREASURY.—A civil penalty col-
 10 lected under this section shall be deposited in the Treasury
 11 as miscellaneous receipts.”.

12 **SEC. 303. TECHNICAL AMENDMENTS TO ELIMINATE UNNEC-**
 13 **CESSARY PROVISIONS.**

14 (a) IN GENERAL.—Chapter 201 is amended—

15 (1) by striking the second sentence of section
 16 20103(f);

17 (2) by striking section 20145;

18 (3) by striking section 20146; and

19 (4) by striking section 20150.

20 (b) CONFORMING AMENDMENTS.—The chapter anal-
 21 ysis for chapter 201 is amended by striking the items re-
 22 lating to sections 20145, 20146, and 20150 and inserting
 23 at the appropriate place in the analysis the following:

“20145. [Repealed].

“20146. [Repealed].

“20150. [Repealed].”.

Calendar No. 358

108TH CONGRESS
1ST SESSION

S. 1402

[Report No. 108-182]

A BILL

To authorize appropriations for activities under the
Federal railroad safety laws for fiscal years 2004
through 2008, and for other purposes.

OCTOBER 30, 2003

Reported with amendments