

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Utah (Mr. HATCH), the Senator from Vermont (Mr. LEAHY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. RES. 107

At the request of Mr. INOUE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Res. 107, a resolution expressing the sense of the Senate to designate the month of November 2003 as "National Military Family Month".

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

AMENDMENT NO. 1196

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of amendment No. 1196 proposed to S. 925, an original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

AMENDMENT NO. 1197

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 1197 proposed to S. 925, an original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself, Mr. LEVIN, Mr. VOINOVICH, Ms. STABENOW, Mr. COLEMAN, Mr. DURBIN, Mrs. CLINTON, and Mr. SCHUMER):

S. 1398. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am pleased to introduce the "Great Lakes Environmental Restoration Act" with Senator DEWINE and our other bill sponsors. I also want to thank Representatives EMANUEL and REYNOLDS and the rest of the House members who are introducing similar Great Lakes

restoration legislation over in the House today.

Many of my colleagues are aware of the importance of the Great Lakes to the eight States which border them. The lakes provide our drinking water, they provide our largest recreational resource, they are tremendously important to our economy, and they impact our quality of life. Over time, we have seen numerous changes in the lakes from water levels to fish populations to water quality. Some of these changes are part of a natural cycle, but many of these changes are the direct result of management policies. For example, the Great Lakes Fishery Commission and its partners have been able to reduce sea lamprey populations by 90 percent. The lake sturgeon appear to be improving as a result of the efforts by Federal and State managers, fishermen, and other water users. As of April 2002, approximately 84 percent of high-level PCB wastes had been destroyed, up from approximately 40 percent in spring 1998. And the first U.S. Area of Concern—Presque Isle Bay, PA—has been upgraded to a "recovery area." While the Great Lakes have made strides in recovering after the environmental protections were put in place in the early 70s, there has been very slow progress in the last 10-15 years because the Federal commitment has not kept up with the needs of the Great Lakes.

This legislation that we are introducing today will provide the Federal commitment of funding and resources to keep pace with the restoration needs of the Great Lakes.

The Great Lakes face problems like beach closings, contaminated sediments, and invasive species, and the Federal Government needs to "jump start" our restoration efforts in the Great Lakes. I believe that with the help of the governors, the mayors, the wide array of nongovernmental organizations, and other interested parties, this legislation would provide some of the resources needed to keep pace with needs of the lakes.

In April, the GAO completed its study on Great Lakes Restoration efforts, and they reported that while there were many on-going restoration efforts from dozens of Federal and State Great Lakes programs, there was no over-arching, coordinated plan for the Great Lakes. GAO also reported that an environmental indicators and monitoring system needed to be developed in order to measure overall restoration progress. The report emphasizes that limited Great Lakes funding has always been a problem.

The legislation we are introducing today has three components to address the problems outlined by the April 2003 GAO report. First, the legislation authorizes \$600 million in annual funding for the EPA's Great Lakes National Program Office to provide grants to the Great Lakes States, municipalities and other applicants based on the recommendations and priorities of a Great Lakes Environmental Restoration Ad-

visory Board. These grants will require a 20 percent funding commitment from the region, and every State will receive at least 6 percent of the total amount of funding available for the year. The Great Lakes Environmental Restoration Advisory Board will be led by the Great Lakes governors, but it will include views of a whole range of people interested in the Great Lakes such as mayors, Federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This Advisory Board will provide priorities on restoration issues such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. By providing grant priorities, the region will shape the future of the Great Lakes.

Second, this legislation establishes a Great Lakes Federal Coordinating Council in order to coordinate Federal activities in the Great Lakes. According to the GAO study, environmental restoration activities in the Great Lakes are uncoordinated. EPA's Great Lakes National Program Office is equipped to serve as the Council leader, and Federal participants include NOAA, the Army Corps of Engineers, the Department of State, the Department of Health and Human Services, the Department of Agriculture and the Department of Interior. The Council would meet at least three times per year to ensure that the efforts of Federal agencies concerning environmental restoration and protection of the Great Lakes are coordinated, effective, complementary, and cost-efficient. The Council would also provide a list of its funding priorities to the Office of Management and Budget.

Third, this bill gives the Great Lakes National Program Office the mandate to work with other Federal agencies and Canada to identify and measure water quality and other environmental factors on a regular basis. The initial set of data collected through this network will serve as a benchmark against which to measure future improvements. Those measurements will help us make decisions on how to steer future restoration efforts. With a clearer picture of how the Great Lakes are changing, we can change course when needed and spend public funds on the most pressing demands. This provision will address GAO's finding that there is no data collected regularly throughout the Great Lakes, and that the existing data are inadequate to determine whether water quality and other environmental conditions are improving.

The Great Lakes are a unique and valuable resource, and we cannot afford to continuously underfund their protection. Congress must act to enhance their restoration and protection. As the current caretakers and beneficiaries, we owe nothing less to the region and the American people.

Mr. DEWINE. Mr. President, I am proud to join my fellow Great Lakes Task Force chair, Senator CARL LEVIN,

in introducing today the Great Lakes Environmental Restoration Act. I would like to thank our Senate cosponsors—Senators VOINOVICH, STABENOW, COLEMAN, DURBIN, SCHUMER, and CLINTON—for supporting this legislative effort.

The Great Lakes hold one-fifth of the world's surface freshwater, hold an estimated six quadrillion gallons of water, cover more than 94,000 square miles, and drain more than twice as much land. The Great Lakes ecosystem includes such diverse elements as northern evergreen forests, deciduous forests, lake plain prairies, and coastal wetlands. Over thirty of the basin's biological communities—and over 100 species—are globally rare or found only in the Great Lakes Basin. The 637 State parks in the region accommodate more than 250 million visitors each year. And, the Great Lakes Basin is home to more than 33 million people—that is one-tenth of our entire U.S. population.

The eight Great Lakes States comprise more than one-third of the national manufacturing output, and the lakes represent a critical shipping land for these States' manufactured goods and other natural resources. Ohio's nine ports on Lake Erie annually handle 70 million tons of cargo—that is almost seven tons of cargo for every Ohio resident, with a total value of over \$1.5 billion.

My colleagues in Congress and I understand the value of the Great Lakes as a natural resource to the region, and we have been making progress in improving the overall quality of the lakes. Over the last few years, I have worked to secure \$34 million for Ohio and the Great Lakes States to expand public access to the lakes. And now, I am working to address invasive species through the National Invasive Species Council Act, which I introduced, and the National Aquatic Invasive Species Act, which I cosponsored. Senator LEVIN and I have worked together as cochairs of the Great Lakes Task Force since 2000.

We have fought to secure needed Great Lakes funding for the NOAA water level gauges, the replacement ice-breaking vessel, the *Mackinaw*, and sea lamprey control money for the Great Lakes Fishery Commission. We both met with the U.S. Trade Representative in an effort to prevent water from the Great Lakes from being diverted abroad. And, we also worked together to authorize the Great Lakes Basin Soil Erosion and Sediment Control Program in the 2002 farm bill. Last fall, we passed the Great Lakes Legacy Act, which provides up to \$50 million per year to the EPA to clean up contaminated sediments at Areas of Concern. The President provided \$15 million in his fiscal year 2004 budget to get this program started.

These steps, in conjunction with the efforts by our States, are positive, but unfortunately—based on the Federal Government's current level of fund-

ing—we are not able to keep pace with the problems facing the Great Lakes. An April 2003 GAO report found that the Federal Government has spent about \$745 million over the last 10 years on Great Lakes restoration programs. Now, consider the fact that the GAO reported that the eight Great Lakes States spent \$956 million during that same 10-year period. The Federal Government is simply not spending enough to protect and improve the Great Lakes—one-fifth of the world's freshwater.

There is ample evidence to show that this current level of commitment is simply not enough. In 2001, there were nearly 600 beach closings as a result of *E. colie* bacteria, and State and local health authorities issued approximately 1,400 fish consumption advisories in the Great Lakes. In the years since the United States and Canada signed the Water Quality Agreement and agreed to give priority attention to the 43 designated Areas of Concern, the United States has not been able to remove any of the U.S. sites from the list of Areas of Concern.

For several years, I have been calling for a plan to restore the lakes and have been urging the Governors, mayors, the environmental community and other regional interests to agree on a vision for the future of the Great Lakes—not just the immediate future, but many years down the road. I have said that we must work together as partners to create and implement a long-term strategy on how we are going to restore and protect the lakes and that it is time for us to come together and develop a plan and put it in place.

This bill would build upon the efforts by the Great Lakes States, which have convened a Working Group to establish their Great Lakes goals and priorities. Many of our regional interest groups and agencies have prepared strategic plans and priorities. And, we have brought in the President's Council on Environmental Quality so that the President will better understand the value of a long-term plan for the Great Lakes. I can't emphasize how important it is to have all of these interests working toward the same goal.

A Great Lakes restoration program must be an equal partnership between the local, State, and Federal Governments and other interested citizens and organizations. I believe that this legislation would provide the tools needed for the long-term future of the Great Lakes. First, this legislation creates a \$6 billion Great Lakes restoration grant program to augment existing Federal and State efforts to cleanup, protect, and restore the Great Lakes. In the April 2003 GAO report, the GAO reported that insufficient funding is often cited as a limitation to restoration efforts. Therefore, an additional \$600 million in annual funding would be appropriated through the EPA's Great Lakes National Program Office, and the Program Office would provide grants to the Great Lakes States, Mu-

nicipalities, and other applicants in coordination with the Great Lakes Environmental Restoration Advisory Board. This funding would provide the extra resources that existing programs do not have.

While the Great lakes are a national and international resource, I believe that the region, not the bureaucrats in Washington, needs to be setting its priorities and guiding the future efforts on the lakes. This bill would require very close coordination between the EPA and the State and regional interests before grants are released. The Great Lakes Environmental Restoration Advisory Board, led by the Great Lakes Governors, would include mayors, Federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This advisory board, which would include all of the interests in the Great Lakes, would provide priorities on restoration issues, such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. Additionally, this advisory board would provide recommendations on which grant applications to fund. Ultimately, the input from the advisory board would mean that the region would be involved in determining the long-term future of the Great Lakes.

As the April 2003 GAO study reported, environmental restoration activities in the Great Lakes are uncoordinated. So, the second goal of this legislation is the establishment of a Great Lakes Federal coordinating council to coordinate Federal activities in the Great Lakes. The EPA's Great Lakes National Program Office would serve as the council leader, and participants would include the key Federal agencies involved in Great Lakes work, such as NOAA, the Army Corps of Engineers, the Department of Agriculture, and the Department of Interior. The council would meet at least three times per year to ensure that the efforts of Federal agencies concerning environmental restoration and protection of the Great Lakes are coordinated, effective, complementary, and cost-efficient. The council also would provide a list of its funding priorities to the Office of Management and Budget.

Finally, our bill would address the GAO's second recent finding that environmental indicators and a monitoring system for the Great Lakes need to be developed to measure progress on new and existing restoration programs.

The Great Lakes are threatened by many problems, and I have worked with Senator LEVIN and my other colleagues from the Great Lakes states to try to address those problems on an issue-by-issue basis. These programs are working to correct problems. However, the rate of our progress has not been able to keep pace with the growing number of threats. For those of my colleagues who know the problems facing Great Lakes and even other large watersheds like the Chesapeake Bay, the

gulf coast, or the Everglades, you will agree that we need to refocus and improve our efforts on the Great Lakes to help reverse the trend toward additional degradation.

The Great Lakes are a unique natural resource for Ohio and the entire region, and they need to be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. INOUE, and Mr. BREAUX:)

S. 1400. A bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Ocean and Coastal Observation Systems Act of 2003. This bill would help develop and formalize an integrated network of ocean observing systems around our Nation's coastlines, thereby fulfilling a critical information need that is essential in marine science, resource management, and maritime transportation and safety.

Like other coastal States, Maine has a strong and deep connection to our coastline and oceans. We are highly dependent on the fisheries resources and other essential services provided to us by the sea, and we understand that our lives and livelihoods are firmly rooted in how well we understand and adapt to ocean conditions. While we are able to predict tides and other cyclical changes with some accuracy, our best knowledge of the ocean has basically come through direct experience out on the water in often dangerous conditions—until recently.

In 2001, a new era in ocean and coastal observing began when the Gulf of Maine Ocean Observing System, or GoMOOS, deployed ten observation buoys in the Gulf of Maine. This prototype system has transformed how we gather information about the ocean and track ocean conditions over time. On the surface, these buoys take measurements of wind speed, wave height, temperature, and—for the first time—fog. Under the water's surface, these buoys measure currents, temperature, salinity, turbidity, dissolved oxygen, and other key environmental variables. By modifying the instrumentation, other data can be gathered from these platforms.

Scientists and seafarers have been gathering this kind of information for decades. What sets the GoMOOS observation buoy system apart from the traditional data gathering approach, how-

ever, is that it takes all these ocean and surface condition measurements on an hourly basis through a network of linked buoys, and these real-time measurements can be monitored and accessed by the general public through the internet. Not only do the Gulf of Maine buoys gather more data on more variables, but the unprecedented geographical distribution and greater frequency of these measurements has increased the range and timeliness of our ocean knowledge. By linking this comprehensive information with other data gathering systems and making it accessible via the internet, GoMOOS provides a tremendous public service and fills a critical information need in coastal regions.

The need for this type of access to ocean information is not limited to the Gulf of Maine. The U.S. coastline spans 95,000 miles, and all States that border our oceans and Great Lakes can and will benefit from this type of service. Ocean and coastal observing systems have been planned or developed for other coastal regions, many in conjunction with the National Oceanic and Atmospheric Administration, state coastal management agencies, universities, and other regional partners. As these systems evolve, they develop different approaches for collecting, managing, processing, and communicating data through their network. As is often the case, however, data from these regional systems are incompatible with data from other regions. When this occurs, we lose a valuable opportunity to link these systems and develop a comprehensive picture of coastal and ocean conditions around the Nation.

The Ocean and Coastal Observation Systems Act seeks to solve this problem by coordinating and institutionalizing ocean and coastal observation efforts with the support of the Federal Government. This Act would promote the ongoing development of these regional systems, link them through a network of compatible data systems, and provide a system which anyone could access to better understand and track regional and national ocean and coastal conditions. It would call on the National Ocean Research Leadership Council to design, operate, and improve a nation-wide ocean and coastal observation system, and to coordinate and administer an ocean data research and development program. This Council would plan these activities through a collaborative interagency planning office and carry them out through a joint operations center, led by the National Oceanic and Atmospheric Administration.

The American public—over half of which lives along our coastlines—will be very well served through the many uses and applications of this system. Fisheries scientists and managers can use this information to predict ocean conditions related to productivity and incorporate this information into their management system. Fishermen, sailors, Coast Guard search-and-rescue

units, the military, and others who venture out on the ocean can better predict sea conditions to know when and where to go out safely, and shippers can transport goods more efficiently. Ocean scientists and regulators can better understand, predict, and rapidly respond to the distribution and impacts of marine pollution. Educators and students can learn more about how and why oceans function as they do. Clearly, anyone who uses and depends upon the ocean stands to benefit from this integrated system.

As a coastal State Senator, I am very proud to introduce this bill. I would like to thank my co-sponsors, Senators KERRY, MCCAIN, HOLLINGS, INOUE and BREAUX, for contributing to this legislation and supporting this national initiative. I must also thank all the dedicated professionals in the ocean and coastal science, management, and research communities that have been instrumental in developing both the grassroots regional observation systems as well as this legislation. Their ongoing commitment gives me confidence that this bill, once enacted, will serve the public well by facilitating better understanding of our nation's oceans and coasts.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1400

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ocean Observation and Coastal Systems Act".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds the following:

(1) The 95,000-mile coastline of the United States is vital to the Nation's homeland security, transportation, trade, environmental and human health, recreation and tourism, food production, scientific research and education, historical and cultural heritage, and energy production.

(2) More than half the Nation's population lives and works in coastal communities that together make up 11 percent of its land and its most ecologically and economically important regions, supporting approximately 190 sea ports, containing most of our largest cities, and providing access to coastal waters rich in natural resources.

(3) More than 95 percent of the Nation's trade moves by sea and nearly half of all goods, including energy products, carried in maritime commerce are hazardous materials.

(4) The rich biodiversity of marine organisms provides society with essential food resources, a promising source of marine products with commercial and medical potential, and an important contribution to the national economy.

(5) The oceans drive climate and weather factors causing severe weather events and threatening the health of coastal ecosystems and communities by creating or affecting both natural and man-made coastal hazards such as hurricanes, tsunamis, erosion, oil spills, harmful algal blooms, and pollution, which can pose threats to human health.

(6) Each year, the United States Coast Guard relies on ocean information to save 4,380 people, conducts over 65,000 rescue missions, and carries out more than 11,680 environmental cleanups and responses to pollution.

(7) Safeguarding homeland security requires improved monitoring of the Nation's ports and coastline, including the ability to track vessels and to provide rapid response teams with real-time environmental conditions necessary for their work.

(8) Advances in ocean technologies and scientific understanding have made possible long-term and continuous observation from space and in situ of ocean characteristics and conditions.

(9) Many elements of an ocean and coastal observing system are in place, though in a patchwork manner that is fragmented, intermittent, incomplete, and not integrated.

(10) Important coastal uses, such as tourism, recreation, and fishing, require assurance of healthy coastal waters, and while the interagency National Coast Condition Report provides an annual assessment of the status and quality of coastal waters, substantial data gaps exist that could be reduced through measurement of coastal quality through a coordinated observing system that incorporates Federal, State, and local monitoring programs.

(11) National investment in a sustained and integrated ocean and coastal observing system and in coordinated programs of research would assist this Nation and the world in understanding the oceans and the global climate system, strengthen homeland security, improve weather and climate forecasts, strengthen management of marine resources, improve the safety and efficiency of maritime operations, and mitigate coastal hazards.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) development and maintenance of an integrated system that provides for sustained ocean and coastal observations from in situ, remote, and vessel platforms, and that promotes the national goals of assuring national security, advancing economic development, conserving living marine resources, protecting quality of life and the marine environment, and strengthening science education and communication through improved knowledge of the ocean;

(2) implementation of a research and development program to enhance security at United States ports and minimize security risks; and

(3) implementation of a data and information system required by all components of an integrated ocean and coastal observing system and related research.

### SEC. 3. INTEGRATED OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, (hereinafter referred to as the "Council"), shall establish and maintain an integrated system of marine monitoring, data communication and management, data analysis, and research designed to provide data and information for the rapid and timely detection and prediction of changes occurring in the marine environment that impact the Nation's social, economic, and ecological systems. Such an integrated ocean and coastal observing system shall provide for long-term and continuous observations of the oceans and coasts for the following purposes:

(1) Strengthening homeland security.

(2) Improving weather forecasts and public warnings of natural disasters and coastal hazards and mitigating such disasters and hazards.

(3) Understanding, assessing, and responding to human-induced and natural processes of global change.

(4) Enhancing the safety and efficiency of marine operations.

(5) Supporting efforts to protect, maintain, and restore the health of and manage coastal and marine ecosystems and living resources.

(6) Enhancing public health.

(7) Monitoring and evaluating the effectiveness of ocean and coastal environmental policies.

(8) Conducting focused research to enhance the national understanding of coastal and global ocean systems.

(9) Providing information that contributes to public awareness of the condition and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In carrying out responsibilities under this section, the Council shall—

(1) serve as the lead entity providing oversight of Federal ocean and coastal observing requirements and activities;

(2) adopt and maintain plans for the design, operation, and improvement of such system;

(3) establish an interagency planning office to carry out the duties described in subsection (c);

(4) coordinate and administer a program of research and development under the National Oceanographic Partnership Program (10 U.S.C. 7901) to support the operation of an integrated ocean and coastal observing system and advance the understanding of the oceans;

(5) establish a joint operations center to be maintained by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies; and

(6) provide, as appropriate, support for and representation on United States delegations to international meetings on ocean and coastal observing programs and in consultation with the Secretary of State to coordinate relevant Federal activities with those of other nations.

(c) INTERAGENCY PROGRAM OFFICE.—There is established under the Council an interagency planning office. It shall—

(1) promote collaboration among agencies;

(2) promote collaboration among regional coastal observing systems established pursuant to subsection (f);

(3) prepare annual and long-term plans for consideration by the Council for the design and implementation of an integrated ocean and coastal observing system, including the regional coastal observing systems and taking into account the science and technology advances considered ready for operational status;

(4) provide information for the development of agency budgets;

(5) identify requirements for a common set of measurements to be collected and distributed;

(6) establish standards and protocols for quality control and data management and communications, in consultation with the Joint Operations Center established pursuant to subsection (d);

(7) work with regional coastal observing entities, the National Sea Grant College Program, and other bodies as needed to assess user needs, develop data products, make effective use of existing capabilities, and incorporate new technologies, as appropriate; and

(8) coordinate program planning and implementation.

(d) JOINT OPERATIONS CENTER.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Oceanographer of the Navy, the Administrator of the National Aeronautics and

Space Administration, the Director of the National Science Foundation, the Commandant of the Coast Guard, the Under Secretary for Science and Technology of the Department of Homeland Security, and any other member of the National Ocean Research Leadership Council as the Council may, by memorandum of agreement, select—

(1) shall report to the National Ocean Research Leadership Council;

(2) shall maintain a joint operations center that reports to the Council; and

(3) is authorized, without limitation—

(A) to acquire, integrate, and deploy required technologies and provide support for an ocean and coastal observing system based on annual long-term plans developed by the interagency planning office;

(B) to implement standards and protocols developed in consultation with the interagency planning office for—

(i) network operations and data access;

(ii) quality control and assessment of data and design;

(iii) data access and management, including data transfer protocols and archiving;

(iv) testing and employment of forecast models for ocean conditions; and

(v) system products;

(C) to migrate science and technology advancements from research and development to operational deployment based on the annual and long-term plans of the interagency program office;

(D) to integrate and extend existing programs into an operating coastal and ocean and coastal observing system based on the annual and long-term plans of the interagency program office;

(E) to coordinate the data communication and management system;

(F) to provide products and services as specified by national, regional, and international users;

(G) to certify that regional coastal observing systems meet the standards established in subsection (f) and to ensure a periodic process for review and recertification of the regional coastal observing systems; and

(H) to implement standards to ensure compatibility and interoperability among existing and planned system components.

(e) SYSTEM ELEMENTS.—

(1) IN GENERAL.—The integrated ocean and coastal observing system shall consist of the following closely linked components:

(A) A global ocean system to make observations in all oceans (including chemical, physical, and biological observations) for the purpose of documenting, at a minimum, long-term trends in sea level change, ocean carbon sources and sinks, and heat uptake and release by the ocean; and to monitor ocean locations for signs of abrupt or long-term changes in ocean circulation leading to changes in climate.

(B) The national network of observations and data management that establishes reference and sentinel stations, links the global ocean system to local and regional observations, and provides data and information required by multiple regions.

(C) Regional coastal observing systems that provide information through the national network and detect and predict conditions and events on a regional scale through the measurement and dissemination of a common set of ocean and coastal observations and related products in a uniform manner and according to sound scientific practice using national standards and protocols.

(2) SUBSYSTEM LINKAGE.—The integrated ocean and coastal observing system shall link 3 subsystems for rapid access to data and information:

(A) An observing subsystem to measure, manage, and serve a common set of chemical, physical, geological, and biological

variables required to achieve the purpose of this Act on time scales required by users of the system.

(B) An ocean data management and assimilation subsystem that provides for organization, cataloging, and dissemination of data and information to ensure full use and long term archival.

(C) A data analysis and applications subsystem to translate data into products and services in response to user needs and requirements.

(3) RESEARCH AND DEVELOPMENT.—A research and development program for the integrated ocean and coastal observing system shall be conducted under the National Oceanographic Partnership Program and shall consist of the following elements:

(A) Coastal, relocatable, and cabled sea floor observatories.

(B) Focused research projects to improve understanding of the relationship between the oceans and human activities.

(C) Applied research to develop new observing technologies and techniques, including data management and dissemination.

(D) Large scale computing resources and research to improve ocean processes modeling.

(E) Programs to improve public education and awareness of the marine environment and its goods and services.

(f) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration, through the Joint Operations Center, shall work with representatives of entities in each region that provide ocean data and information to users to form regional associations. The regional associations shall be responsible for the development and operation of observing systems in the coastal regions extending to the seaward boundary of the United States Exclusive Economic Zone, including the Great Lakes. Participation in a regional association may consist of legal entities including, research institutions, institutions of higher learning, for-profit corporations, non-profit corporations, State, local, and regional agencies, and consortia of 2 or more such institutions or organizations that—

(1) have demonstrated an organizational structure capable of supporting and integrating all aspects of a coastal ocean observing system within a region or subregion;

(2) have prepared an acceptable business plan including research components and gained documented acceptance of its intended regional or sub-regional jurisdiction by users and other parties of interest within the region or sub-region to with the objectives of—

(A) delivering an integrated and sustained system that meets national goals;

(B) incorporating into the system existing and appropriate regional observations collected by Federal, State, regional, or local agencies;

(C) responding to the needs of the users, including the public, within the region;

(D) maintaining sustained, 24-hour-a-day operations and disseminating observations in a manner that is routine, predictable and, if necessary, in real-time or near real-time;

(E) providing services that include the collection and dissemination of data and data management for timely access to data and information;

(F) creating appropriate products that are delivered in a timely fashion to the public and others who use, or are affected by, the oceans;

(G) providing free and open access to the data collected with financial assistance under this Act; and

(H) adhering to national standards and protocols to ensure that data and related prod-

ucts can be fully exchanged among all of the regional coastal systems and will be accessible to any user in any part of the nation.

(3) For purposes of determining the civil liability under section 2671 of title 28, United States Code, any regional observing system and any employee thereof that is designated part of a regional association under this subsection shall be deemed to be an instrumentality of the United States with respect to any act or omission committed by any such system or any employee thereof in fulfilling the purposes of this Act.

(g) PILOT PROJECTS.—

(1) IN GENERAL.—The Administrator, in consultation with the interagency planning office, shall initiate pilot projects through the National Oceanographic Partnership Program. A pilot project is an organized, planned set of activities designed to provide an evaluation of technology, methods, or concepts within a defined schedule and having the goal of advancing the development of the sustained, integrated ocean observing system. The pilot projects will—

(A) develop protocols for coordinated implementation of the full system;

(B) design and implement regional coastal ocean observing systems;

(C) establish mechanisms for the exchange of data between and among regions and Federal agencies;

(D) specify products and services and related requirements for observations, data management, and analysis in collaboration with user groups; and

(E) develop and test new technologies and techniques to improve all three subsystems to more effectively meet the needs of users of the system.

(2) INFRASTRUCTURE CAPITAL PROJECTS.—The pilot projects shall include one or more projects to capitalize the infrastructure for the collection, management, analysis, and distribution of data and one or more projects where the basic infrastructure and institutional mechanisms already exist for ongoing coastal observations, to fund the operations necessary for the collection of the common set of observations approved by the interagency planning office.

#### SEC. 4. INTERAGENCY FINANCING.

The departments and agencies represented on the Council are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any member of the Council for the purposes of carrying out any administrative or programmatic project or activity under this Act or under the National Oceanographic Partnership Program (10 U.S.C. 7901), including support for a common infrastructure and system integration for an ocean and coastal observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Council member and the costs of the same.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) OBSERVING SYSTEM AUTHORIZATION.—For development and implementation of an integrated ocean and coastal observing system under section 3, including financial assistance to regional coastal ocean observing systems and in addition to any amounts previously authorized, there are authorized to be appropriated to—

(1) the National Oceanic and Atmospheric Administration, \$83,000,000 in fiscal year 2004, \$87,250,000 in fiscal year 2005, \$91,500,000 in fiscal year 2006, \$96,000,000 in fiscal year 2007, and \$100,000,000 in fiscal year 2008;

(2) the National Science Foundation, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(3) the National Aeronautics and Space Administration, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, and \$34,750,000 in each of fiscal years 2007 and 2008;

(4) the United States Coast Guard, \$8,000,000 in fiscal year 2004, \$8,400,000 in fiscal year 2005, \$9,700,000 in fiscal year 2006, \$9,500,000 in fiscal year 2007, and \$9,750,000 in fiscal year 2008;

(5) the Office of Naval Research, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(6) the Office of the Oceanographer of the Navy, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, \$34,750,000 in fiscal year 2007, and \$36,500,000 in fiscal year 2008; and

(7) other Federal agencies with operational coastal or ocean monitoring systems or which provide funds to States for such systems, \$15,000,000 in each of fiscal years 2004 through 2008.

(b) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration shall make at least 51 percent of the funds appropriated pursuant to subsection (a)(1) available as grants for the development and implementation of the regional coastal observing systems based on the plans adopted by the Council and may be used to leverage non-Federal funds.

(c) AVAILABILITY.—Sums authorized to be appropriated by this section shall remain available until expended.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1402. A bill to authorize appropriations for activities under the Federal railroad safety laws for fiscal year 2004 through 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Today, I am joined by Senator HOLLINGS in introducing the Federal Railroad Safety Improvement Act. This legislation would reauthorize the Federal rail safety program, which expired at the end of fiscal year 1998.

The rail safety program, which is administered by the Federal Railroad Administration, FRA, encompasses a range of inspection, research, education, and oversight initiatives aimed at protecting the safety of railroad employees; ensuring track and equipment are properly maintained; enhancing grade crossing safety; safeguarding the transportation of hazardous materials by rail; and overseeing the industry's safety practices and procedures. FRA also monitors Amtrak and, in the past two years, has assumed a more active role in protecting the investment of the taxpayers in that troubled enterprise.

There have been remarkable improvements in rail safety over the past 20 years, attributable to both the safety program and the Staggers Act, the landmark legislation enacted in 1980 to partially deregulate the freight railroads. According to FRA statistics, the rail industry's train accident rate has declined 68 percent since the Staggers Act was passed and the rate of employee injuries and fatalities has fallen 74 percent. The number of grade crossing collisions declined 72 percent from

1980 through 2002, while fatalities declined 57 percent.

The Federal Railroad Safety Improvement Act would renew our commitment to a strong rail safety program. The legislation would authorize \$166 million for rail safety in fiscal year 2004, the amount requested by the Administration, rising to \$200 million in fiscal year 2008. Included in these authorizations would be additional funds to continue initiatives to test and install positive train control, PTC, systems on passenger and freight railroad rights-of-way. Some federal support of PTC technology is warranted; PTC has been on the National Transportation Safety Board's "most wanted" list since 1990, but is cost-prohibitive for the railroads to install on a widespread basis.

Our proposed legislation also would make improvements to grade crossing safety by formally establishing a national crossing inventory, reauthorizing Operation Lifesaver, and requiring the development of model state legislation with penalties for drivers who violate crossing signs, signals, and gates. The legislation also would direct FRA to develop a plan for a joint initiative with states and municipalities to close 1 percent of all public and private grade crossings each year for a 10-year period. This is an ambitious goal but one that would clearly save lives.

The legislation we propose today also would address long-standing concerns about employee fatigue in the rail industry. The bill would require that a working group be convened within FRA's Railroad Safety Advisory Committee to consider what legislative or other changes may be appropriate to address fatigue management and report back to the Senate Commerce Committee and the House Committee on Transportation and Infrastructure within 18 months following enactment. While the railroads and rail labor organizations have initiated a number of discrete pilot projects to address fatigue, it is unclear whether real progress is being made. If a consensus cannot be reached by the working group, the Department of Transportation would be required to submit its own recommendations within 2 years following enactment.

I look forward to working with my colleagues in moving this bill through the legislative process in the weeks ahead. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Railroad Safety Improvement Act".

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

Except as otherwise expressly provided, whenever in this Act an amendment or re-

peal 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. 3. TABLE OF CONTENTS.**

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.

**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.

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

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

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

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter—

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

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

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

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

"(5) \$200,000,000 for the fiscal year ending September 30, 2008."

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

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

(a) In General.—Chapter 201 is amended by adding at the end the following:

**"§ 20154. National crossing inventory**

"(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act 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, as specified by the Secretary, concerning each previously unreported crossing through 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 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

"(A) report to the Secretary current information, as specified by the Secretary, concerning each crossing through 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 on or after the date of enactment of the Federal Railroad Safety Improvement Act, shall, not later than the date that is 18 months after the date of enactment of the 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.

"(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, 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 dedicated pedestrian pathway 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 Puerto Rico."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20153 the following:

"20154. National crossing inventory".

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

"(k) NATIONAL CROSSING INVENTORY.—

"(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, 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 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State

shall report to the Secretary current information, 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 section. The Secretary may enforce each provision of the Federal Railroad Administration’s Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this subsection.

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

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

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

(B) by inserting “section 20154 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 20154 of this title.” after the first sentence.

**SEC. 202. GRADE CROSSING ELIMINATION AND CONSOLIDATION.**

(a) CROSSING REDUCTION PLAN.—Within 24 months after the date of enactment of this Act, the Secretary of Transportation shall develop and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan for a joint initiative with States and municipalities to systematically reduce the number of public and private highway-rail grade crossings by 1 percent per year in each of the succeeding 10 years. The plan shall include—

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

(A) whether the crossing has been identified as high risk;

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

(C) the existing level of protection;

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

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

(b) CONSULTATION WITH STATES.—In preparing the plan required by subsection (a), the Secretary shall seek the advice of State officials, including highway, rail, and judicial officials, with jurisdiction over crossing safety, including crossing closures. The Secretary and State officials shall consider—

(1) the feasibility of consolidating and improving multiple crossings in a single community;

(2) the impact of closure on emergency vehicle response time, traffic delays, and public inconvenience; and

(3) the willingness of a municipality to participate in the elimination or consolidation of crossings.

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

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

(e) FUNDING FOR PLAN.—From amounts authorized by section 20117(a)(1) of title 49, United States Code, to the Secretary, there shall be available \$500,000 for fiscal year 2004 to prepare the plan required by this section, such sums to remain available until the plan is transmitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure as required by subsection (a).

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

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

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

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

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

(3) by striking the second sentence of subsection (a) and inserting “The evaluation and review shall be completed not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act.”; and

(4) by striking “LEGISLATION.—Within 18 months after November 2, 1994, the” in subsection (c) and inserting “LEGISLATION FOR VANDALISM AND TRESPASSING PENALTIES.—The”;

(5) by adding at the end the following:

“(d) MODEL LEGISLATION FOR GRADE-CROSSING VIOLATIONS.—Within 2 years after the date of the enactment of the Federal Railroad Safety Improvement Act, 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 signals.

“(e) VIOLATION DEFINED.—In this section, the term ‘violation of highway-rail grade crossing signals’ includes any action by a motorist, unless directed by an authorized safety officer—

“(1) to drive around or through 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 determining that the grade crossing could be safely crossed before any train arrived; and

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

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

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

**SEC. 204. OPERATION LIFESAVER.**

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

“(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, from the amounts authorized to be appropriated under subsection (a), there shall be available for railroad research and development \$1,250,000 for fiscal year 2004, \$1,300,000 for fiscal year 2005, \$1,350,000 for fiscal year 2006, \$1,400,000 for fiscal year 2007, and \$1,460,000 for fiscal year 2008 to support Operation Lifesaver, Inc.”.

**SEC. 205. TRANSPORTATION SECURITY.**

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this

Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

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

“(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety, including security, supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

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

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

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

**SEC. 207. 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 the following activities at reasonable times:

“(A) Intercepting a radio communication that is broadcast or transmitted over a frequency authorized for the use of one or more railroad carriers by the Federal Communications Commission, with or without making their presence known to the sender or other receivers of the communication and with or without obtaining the consent of the sender or other receivers of the communication.

“(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) LIMITATION.—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, including, but not limited to, accident investigation.

“(3) USE OF INFORMATION.—

“(A) Except as provided in subparagraph (F), information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except 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 sections 5122, 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 administrative justice.

“(C) 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.

“(D) 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).

“(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.

“(F) No information obtained by an activity authorized by paragraph (1)(A) that was undertaken solely for the purpose of accident investigation may be introduced into evidence in any administrative or judicial proceeding in which civil or criminal penalties may be imposed.

(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.

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

#### SEC. 208. RECOMMENDATIONS ON FATIGUE MANAGEMENT.

(a) WORKING GROUP ESTABLISHED.—The Railroad Safety Advisory Committee of the Federal Railroad Administration shall convene a working group to consider what legislative or other changes the Secretary of Transportation deems necessary to address fatigue management for railroad employees subject to chapter 211 of title 49, United States Code. The working group shall consider—

(1) the varying circumstances of rail carrier operations and appropriate fatigue countermeasures to address those varying circumstances, based on current and evolving scientific and medical research on circadian rhythms and human sleep and rest requirements;

(2) research considered by the Federal Motor Carrier Safety Administration in de-

vising new hours of service regulations for motor carriers;

(3) the benefits and costs of modifying the railroad hours of service statute or implementing other fatigue management countermeasures for railroad employees subject to chapter 211; and

(4) ongoing and planned initiatives by the railroads and rail labor organizations to address fatigue management.

(b) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the working group convened under subsection (a) shall submit a report containing its conclusions and recommendations to the Railroad Safety Advisory Committee and the Secretary of Transportation. The Secretary shall transmit the report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure.

(c) RECOMMENDATIONS.—If the Railroad Safety Advisory Committee does not reach a consensus on recommendations within 24 months after the date of enactment of this Act, the Secretary of Transportation shall, within 36 months after the date of enactment of this Act, submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure recommendations for legislative, regulatory, or other changes to address fatigue management for railroad employees.

#### SEC. 209. POSITIVE TRAIN CONTROL.

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

#### SEC. 210. POSITIVE TRAIN CONTROL IMPLEMENTATION.

(a) REPORT ON PILOT PROJECTS.—Within 3 months after completion of the North American Joint Positive Train Control Project, the Secretary of Transportation shall submit a report on the progress of on-going and completed projects to implement positive train control technology or other safety technologies that provide similar safety benefits to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure. The report shall include recommendations for future projects and any legislative or other changes the Secretary deems necessary.

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall establish a grant program with a 50 percent match requirement for the implementation of positive train control technology or other safety technologies that provide similar safety benefits. From the amounts authorized to be appropriated for each of fiscal years 2004 through 2008 under section 20117(a) of title 49, United States Code, there shall be made available for the grant program—

(1) \$16,000,000 for fiscal year 2004;

(2) \$18,000,000 for fiscal year 2005; and

(3) \$20,000,000 for each of fiscal years 2006 through 2008.

#### SEC. 211. SURVEY OF RAIL BRIDGE STRUCTURES.

The Secretary of Transportation shall conduct a safety survey of the structural integrity of railroad bridges and railroads' programs of inspection and maintenance of railroad bridges. The Secretary shall issue a report to Congress at the completion of the survey, including a finding by the Secretary concerning whether the Secretary should issue regulations governing the safety of railroad bridges.

#### SEC. 212. RAILROAD POLICE.

Section 28101 is amended by striking ‘‘the rail carrier’’ each place it appears and inserting ‘‘any rail carrier’’.

#### SEC. 213. FEDERAL RAILROAD ADMINISTRATION EMPLOYEE TRAINING.

From the amounts authorized to be appropriated for fiscal year 2004 by section 20117(a)(1) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$300,000 for the Federal Railroad Administration to perform a demonstration program to provide centralized training for its employees. The Secretary of Transportation shall report on the results of such training and provide further recommendations to the Congress.

#### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. TECHNICAL AMENDMENTS REGARDING ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) by inserting ‘‘this part, except for section 20109 of this title, or’’ in paragraph (1) after ‘‘enforce,’’;

(2) by striking ‘‘21301’’ in paragraph (2) and inserting ‘‘21301, 21302, or 21303’’;

(3) by striking ‘‘subpena’’ in paragraph (3) and inserting ‘‘subpena, request for production of documents or other tangible things, or request for testimony by deposition’’; and

(4) by striking ‘‘chapter.’’ in paragraph (3) and inserting ‘‘part.’’

#### SEC. 302. TECHNICAL AMENDMENTS TO CIVIL PENALTY PROVISIONS.

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

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

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

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—

(1) Section 21302(a)(2) is amended—

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

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

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

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

“(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”

(c) VIOLATIONS OF CHAPTER 211.—

(1) Section 21303(a)(2) is amended—

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

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

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

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

“(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

**SEC. 303. TECHNICAL AMENDMENTS TO ELIMINATE UNNECESSARY PROVISIONS.**

(a) IN GENERAL.—Chapter 201 is amended—  
(1) by striking the second sentence of section 20103(f);

- (2) by striking section 20145;  
(3) by striking section 20146; and  
(4) by striking section 20150.

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 201 is amended by striking the items relating to sections 20145, 20146, and 20150 and inserting at the appropriate place in the analysis the following:

- “20145. [Repealed].  
“20146. [Repealed]  
“20150. [Repealed]”.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, and Mr. AKAKA) (by request):

S.J. Res. 16. A joint resolution to approve the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia”, and the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands”, and otherwise to amend Public Law 99-239, and to appropriate for the purposes of amended Public Law 99-239 for fiscal years ending on or before September 30, 2023, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, on behalf of myself and Senators BINGAMAN, CRAIG and AKAKA—colleagues from the Committee on Energy and Natural Resources—I am pleased to introduce legislation recently transmitted by the Administration that would strengthen our Nation’s relationship with two Pacific Island nations with which we have a special bond—the Federated States of Micronesia, FSM, and the Republic of the Marshall Islands, RMI.

The United States has a long history of involvement in the islands of Micronesia in the Western Pacific—from 19th century voyages of Nantucket whaling ships, that inspired the literature of Herman Melville, to the development of nuclear weapons and missile defense systems that are cornerstones of our Nation’s military strength. In 1947, following the bloody battles of World War II on the beaches of Kwajalein and Saipan, our nation’s role changed fundamentally when the United States became Administrator of the region under the United Nation’s Trusteeship system. As Administrator of the U.N. Trust Territory of the Pacific Islands, the United States governed the islands for over forty years; not as an occupation force or as sovereign, but with the obligation to promote the political, economic, and social development of the inhabitants.

In 1986, the United States fulfilled its obligation to the U.N. with respect to the islands of Micronesia and the Marshall Islands following implementation

of the Compact of Free Association. The Compact formally ended U.S. Administration and allowed these countries to achieve self-government and recognition as full members of the community of nations. However, and most significantly, the Compact also allowed the United States and these new nations to maintain the special relationship forged during the Trusteeship. For seventeen years now, the Compact has continued to provide for mutual defense as well as political and economic stability in a region of vital interest to the United States.

The legislation being introduced today is necessary to update and extend various provisions of the Compact, particularly the economic assistance provisions that are due to expire on September 30 of this year. Representatives of Micronesia, the Marshall Islands and the United States have invested tremendous effort over the past four years in negotiating these amendments. We commend Al Short, Peter Christian, and Gerald Zackios, the U.S., FSM, and RMI negotiators, respectively, for their years of work to strengthen the Compact and the special relationship between our nations.

The agreements reached by the negotiators, as reflected by this legislation, would provide the resources needed to assure continued economic development and mutual security in the islands. Pursuant to those agreements, trust funds will be established to provide a mechanism for the eventual phase-out of annual financial assistance from the United States. The parties have also agreed to changes that will assure greater accountability and effectiveness in the use of U.S. financial and program assistance. Continued access to the vitally important Ronald Reagan Missile Test Site at Kwajalein Atoll is provided. The Compact’s immigration provisions have been updated to reduce threats to our country’s homeland security and to reduce the impact of migration on the neighboring islands of Hawaii, Guam, and the Northern Mariana Islands. These changes are made while continuing to allow citizens of the FSM and RMI the opportunity to migrate to the United States as non-immigrants for education, employment, and residence.

Congressional consideration of this legislation comes at a time when the issue of nation-building is receiving increased attention. Our 60 years of experience of nation-building in Micronesia and the Marshall Islands underscores the importance of partnership, planning, adequate resources, and sustained commitment. The task in the former Trust Territory has turned out to be neither easy nor quick. However, virtually all who have examined the Compact agree that it has successfully met its objectives of promoting self-government, mutual defense and economic stability. There is also agreement that there is much more to be done. The FSM and RMI still have tremendous challenges in improving health and

education and in further developing their economies so that they can provide health and education and in further developing their economies so that they can provide more resources to meet the basic needs of the people. This is a particularly daunting task given that each nation is dispersed over a vast area of the remote western Pacific Ocean.

We too face a considerable challenge given how little time we have to consider this package. The assistance provisions of the current Compact expire in just 11 weeks. While the negotiators have done an excellent job, it is our understanding that they, and the General Accounting Office, will present several issues to Congress for further consideration and we expect that there will be a need for fine-tuning the package.

We look forward to working with our colleagues in the Senate, House, and the Administration in trying to meet the demanding deadline, to consider these remaining issues, and to assure the continued success of the special relationship between the United States, Micronesia and the Marshall Islands.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 1215. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1216. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1217. Mr. STEVENS proposed an amendment to the bill H.R. 2658, supra.

SA 1218. Mr. MILLER submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1219. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1220. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1221. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1222. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1223. Mr. GRAHAM, of South Carolina (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1224. Mr. STEVENS (for Mr. INHOFE) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1225. Mr. STEVENS (for Mr. DODD) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1226. Mr. STEVENS (for Ms. SNOWE (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1227. Mr. STEVENS (for Mr. BREAU) proposed an amendment to amendment SA