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APPROVED
JUL 8 - 1976

8-7/8/76

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: July 10

July 7, 1976

Posted
7/9/76

archive
7/9/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

H.R. 11804 - Federal Railroad
Safety Authorization Act of 1976

Attached for your consideration is H.R. 11804, sponsored
by Representative Staggers.

The enrolled bill authorizes appropriations of \$35 million
for each of fiscal years 1977 and 1978 to carry out rail
safety programs; establishes safety standards for railroad
employees; places time limits on DOT proceedings; requires
the Federal Railroad Administration to have at least 8
regional offices; authorizes an evaluation of railroad
safety laws and increases penalties for violation of rail
safety provisions.

Additional information is provided in OMB's enrolled bill
report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I
recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 11804 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 2 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11804 - Federal Railroad Safety
Authorization Act of 1976
Sponsor - Rep. Staggers (D) W. Va.

Last Day for Action

July 10, 1976 - Saturday

Purpose

To authorize appropriations of \$35 million for each of fiscal years 1977 and 1978 to carry out rail safety programs; to establish safety standards for railroad employees; to place time limits on Department of Transportation proceedings; to require the Federal Railroad Administration to have at least 8 regional offices; to authorize an evaluation of railroad safety laws; and to increase penalties for violation of rail safety provisions.

Agency Recommendations

Office of Management and Budget

Approval

Department of Transportation

Approval

National Railroad Passenger Corporation

Approval

Department of Justice

No objection

Department of Labor

No objection (Informally)

National Transportation Safety Board

Defers to DOT

Interstate Commerce Commission

No recommendation

Discussion

H.R. 11804 would authorize appropriations of \$35 million for each of fiscal years 1977 and 1978 for the Department of Transportation to carry out the provisions of the Federal Railroad Safety Act of 1970. Under the Act, DOT prescribes and enforces regulations for the safe operation of railroad track, equipment, and facilities. These amounts are identical to the Administration's request.

However, H.R. 11804 would also continue the section in the current Act which places ceilings on the expenditure of funds for the major portions of Federal Railroad Administration (FRA) activities under the Rail Safety Act and would set an excessively high ceiling for the number of rail safety inspectors. In addition, the bill would continue to limit the amount that could be spent on rail safety research and development to no more than the amount spent on inspection and enforcement of the rail safety rules and regulations. We concur in DOT's position, contained in its attached views letter, that such limitations "create internal inflexibility in promoting and improving railroad safety." However, at current spending levels, these limitations will not present a practical administrative problem.

Section 4 of the enrolled bill would (a) establish maximum hours of service for crews of wreck or relief trains in emergency situations, (b) set standards for sleeping quarters for railroad employees, and (c) bring signalmen and hostlers (persons who move locomotives in yard and repair areas) within current limitations concerning employees' hours of duty.

Section 5(a) of H.R. 11804 would require the Secretary of DOT to establish, within 180 days of enactment, procedures placing time limits upon all proceedings under this Act, with a maximum time limit of one year. DOT believes this provision may cause problems on complex proceedings which require more than a year to handle. However, under your regulatory reform initiatives, the Administration has been urging similar time restraints upon the regulatory agencies and DOT states the time limit principle is consistent with what it has urged Congress to adopt for the Interstate Commerce Commission (ICC).

Section 5(b) would require the Secretary to issue regulations within 180 days of enactment regarding the visibility of rear cars of trains and preventing movement of trains onto tracks being repaired. DOT believes such matters would be better left to the regulatory process and indicates it already has adopted or is considering rules in these areas.

Section 6 would require the Federal Railroad Administration to have at least 8 regional offices. In January 1976, FRA was reorganized into 5 regional offices after study showed that would be a more efficient organizational structure. DOT opposed the provision for that reason and because it believed it unwise for Congress to legislate such a level of Departmental organization. However, in a letter to the Subcommittee on Transportation and Commerce of the House Interstate and Foreign Commerce Committee, DOT stated that its 5 new regions include 2 subregions and that

an additional regional office will be retained as headquarters for the Northwest area. Thus, DOT considers that it has already met the requirements for 8 regional offices and believes this provision is harmless.

Section 7 would authorize the congressional Office of Technology Assessment (OTA) to conduct an evaluation of the effectiveness of rail safety laws to be completed within 18 months of enactment. While the bill would authorize "such sums as are necessary" to conduct the study, it is expected OTA will have sufficient funds under its regular authorizations. Although DOT opposed this provision as unnecessary because an independent study of rail safety was recently completed, a new study would not present a major problem.

Finally, the enrolled bill would raise the range of penalties for violations of rail safety provisions from 0-\$250 to \$250-\$2500. DOT's authority to compromise penalties would also be limited to a minimum of \$250. The enrolled bill would also make the judicial review procedures of some activities of DOT conform with the review procedures of Interstate Commerce Commission orders, a provision supported by DOT.

* * * * *

We concur in DOT's conclusion that the undesirable provisions of H.R. 11804 noted above are not serious enough to warrant disapproval of the bill. We will be working with the Department to develop legislation proposing the deletion of these provisions to be submitted to the next Congress.

Naomi R Sweeney

Acting Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 8

Time: 7:30pm

FOR ACTION:

Judy Hope

Max Friedersdorf

Ken Lazarus

cc (for information):

Jack Marsh

Jim Cavanaugh

Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 55

Time: noon 80pm

SUBJECT:

H.R. 11804 - Federal Railroad Safety Authorization Act
of 1976

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

☒ For Your Comments

___ Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

JUN 30 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of the Department on H.R. 11804, an enrolled bill

"To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations and for other purposes."

Section 2 of H.R. 11804 amends the Federal Railroad Safety Act of 1970 ("Rail Safety Act") to authorize appropriations to carry out the provisions of that Act of not to exceed \$35,000,000 for each of the fiscal years 1977 and 1978. Authorization for appropriations to carry out the Department's efforts to promote railroad safety expires September 30, 1976. Accordingly, enactment of this legislation is necessary to continue our rail safety efforts.

Certain limitations are placed on the amounts authorized as follows:

1. Salaries and expenses of the Federal Railroad Administration's (FRA) Office of Safety,--\$18,000,000.
2. The State rail safety programs--\$3,500,000.
3. Other FRA salaries and expenses,--\$3,500,000.
4. FRA research and development,--\$10,000,000.

As has been provided in prior years, amounts obligated and expended for research and development in any fiscal year cannot exceed amounts expended for rail inspection and enforcement of railroad safety rules.

The Administration's proposal (H.R. 11837) sought the same authorization provided in this bill, and to that extent, this bill is consistent with that proposal. However, our proposal did not make any allocations of the amounts to be authorized, nor contain any limitation on safety research and development. The Department has consistently opposed such limitations as they create internal inflexibility in promoting and improving railroad safety.

Section 3 of the bill would amend the penalty provisions of the Safety Appliance Acts (45 U.S.C. 6, 13), the Locomotive Inspection Act (45 U.S.C. 34), and the Signal Inspection Act (49 U.S.C. 26) to conform to the penalty provisions of the Rail Safety Act. The penalties would be increased to a range of not less than \$250 nor more than \$2,500 for each violation. Penalties assessed under those Acts could not be compromised under the Federal Claims Collection Act for an amount less than \$250.

This range of penalties is a compromise from the range originally proposed in the bill (\$500 - \$5,000). While the Department does not favor the establishment of a minimum penalty or the injunction against compromising a claim below the minimum penalty, due to the inflexibility they impose on settling cases, this provision is not totally unreasonable under the circumstances and may have a positive impact on obtaining compliance with rail safety laws.

Section 4 of the bill would amend the Hours of Service Act (45 U.S.C. 61 et seq.) to make it unlawful for a railroad (1) to provide sleeping quarters for its employees which do not afford an opportunity for rest in clean, safe and sanitary quarters free from interruptions caused by noise under the control of the railroad, or (2) to begin construction or reconstruction of any sleeping quarters within the immediate vicinity of any area where railroad switching or humping operations are performed. In addition, the Hours of Service Act is amended to bring hostlers (persons who move locomotives in yard and repair areas) and signalmen within its limitations concerning employees' hours on duty. Both of these provisions are reasonable limitations on treatment of railroad employees and should contribute to some extent to improvement in rail safety.

Section 5 of the bill would amend the Rail Safety Act to require the Secretary to establish, within 180 days after enactment, rules of practice with respect to proceedings under that Act with specific time limits for the disposition of such proceedings. In no event could such time limits exceed 12 months from the date the proceeding is initiated. The Department is concerned about this requirement since it cannot control the number or complexity of the matters presented to it by petitioners under the Rail Safety Act. Based on the existing work levels and resources and the experience in previous years in handling these petitions, it is not at all clear that FRA can meet a 12 month time limit. Nevertheless, the principle of a time limit for such proceedings is not inconsistent with what we have urged Congress to adopt with respect to Interstate Commerce Commission proceedings.

The Rail Safety Act would be further amended by section 5(b) to require the Secretary to issue within 180 days after enactment, regulations requiring (1) the locking of switches where employees are working on, about or under rolling equipment, (2) the rear car of all passenger trains to have highly visible markers which are lighted during periods of darkness or limited visibility, and (3) the rear car of all freight trains to have highly visible markers during periods of darkness or limited visibility. Existing state laws or regulations concerning markers on the rear car of trains would not be preempted by the Federal regulations.

The Department has consistently opposed legislatively directed regulations such as these, which should be adopted only after an investigation and hearings by an administrative agency that has the requisite expertise in the area. In fact, FRA has issued final rules concerning protection of employees working on, about or under rolling equipment (41 FR 10904, March 15, 1976), and has under review and consideration proposed rules relating to protection of trains. (41 FR 13369, March 30, 1976).

Section 6 of the bill would require FRA to maintain eight field safety offices for purposes of administering and enforcing all Federal railroad safety laws. The utilization of the FRA field staff is a matter of internal management, and the Department does not favor legislative direction in this area. We believe that FRA is in the best position to determine the most effective utilization of its limited staff. Nevertheless, this provision is not inconsistent with existing organizational plans for FRA and, thus, apart from its precedential effect, it is harmless.

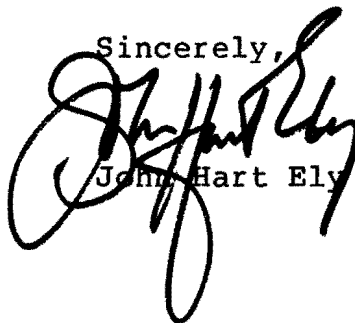
Section 7 of the bill would require the congressional Office of Technology Assessment to conduct a study of the Rail Safety Act and related Federal laws to evaluate their effectiveness in improving railroad safety. Such a study is to include a cost benefit analysis of rail safety research and development, of various Federal rail safety laws and regulations, and of the practices and methodology used by Federal and State safety inspectors. It will also consider trends in railroad safety, evaluate industry safety research and development, and consider the need for additional Federal expenditures for improvements in rail safety. The study, which is to be completed within 18 months after enactment, is not, in our opinion, necessary, but the information it develops may prove useful.

Section 8 of the bill would amend the Department of Transportation Act to conform the judicial review procedures applicable to functions, powers and duties transferred to the Secretary from the ICC, to the current procedures applicable to judicial review of ICC orders. This is a conforming technical amendment urged by the Department.

In sum, the enrolled bill, except for section 2 relating to authorization for appropriations, varies significantly from the Department's proposal. As previously noted, we do not favor some of the provisions urged by others and accepted by Congress over our objection. These provisions add administrative burdens, and will reduce FRA's flexibility in managing its rail safety programs and may prove to require some increase in resources. Nevertheless, these burdens are not so overwhelming as to justify recommending a veto when considered in light of the fact that the authorization is the same as proposed by the Administration and is needed to continue the rail safety program in the two succeeding fiscal years.

Accordingly, the Department recommends that the President sign the enrolled bill.

Sincerely,



John Hart Ely

July 1, 1976



Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C.

Dear Mr. Frey:

Amtrak supports H.R. 11804 as enacted by the Congress.

We appreciate the opportunity to comment on this legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce Pike", written in a cursive style.

Bruce Pike
Vice President
Government Affairs

BP/lm

Department of Justice
Washington, D.C. 20530

June 29, 1976

Honorable James T. Lynn
Office of Management and
Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 11804, "To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes."

We have no comment on the substantive issue of the effect of these amendments on existing Federal statutes, and take no position with respect to the advisability of the legislation.

The Department of Justice has no objection to Executive approval of this bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael M. Uhlmann", written in a cursive style.

MICHAEL M. UHLMANN
Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 7-9-76

TO: Bob Linder

FROM: Jim Frey

Attached are agency views
letters as follow:

Labor - H.R. 11804
GSA - S. 3168 - *To J. Johnson*
Treasury - H.R. 13680 *7/9/76*

Please have included in the appropriate enrolled bill files. Thanks.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

JUL 2 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for our views on H.R. 11804, an enrolled bill, to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

This bill would authorize \$35 million for each of the fiscal years 1977 and 1978 for the Federal Railroad Safety Program carried out under the Federal Railroad Safety Act of 1970.

This bill would also increase the monetary penalties for violations of certain existing railroad safety laws. The bill would provide a uniform penalty of not less than \$250 and not more than \$2,500 for violations of the Safety Appliance Acts, the Locomotive Inspection Act, and the safety appliance provisions of the Interstate Commerce Act. The current penalties for violations of those statutes are limited to \$250, except for the Interstate Commerce Act provision where the penalty is \$100.

This bill would also amend the Hours of Service Act to provide rules relating to employee working conditions. It would require that sleeping quarters provided to employees by railroads be clean, safe, and sanitary, and that such quarters afford employees an opportunity for rest free from interruptions caused by noise under the control of the railroad. The bill also prohibits the construction or reconstruction of sleeping quarters in the immediate vicinity of railroad switching or humping yards.

The Hours of Service Act would be further amended by deleting the current exemption for crews of wreck or relief trains from limitations on employees' hours of service. The bill would allow such crews to remain on duty not more than 16 hours in any 24 hour period when an emergency existed. The Act would also be amended to include hostlers and signalmen in the definition of employees covered by the Act.

The bill amends the Federal Railroad Safety Act to require the Secretary of Transportation to develop and publish within 180 days rules of practice for proceedings under the Act.

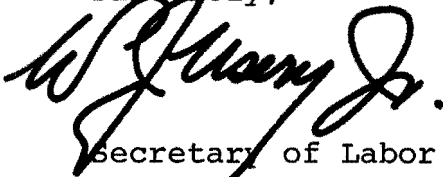
It would also require the Secretary of Transportation to issue regulations, within 180 days, (1) requiring highly visible, lighted markers on the rear car of all passenger and commuter trains and highly visible markers on the rear cars of freight trains during periods of darkness or poor visibility, and (2) requiring locking devices on manually operated switches in order to prevent access to the tracks on which employees are inspecting, repairing, testing or servicing equipment.

Finally the bill requires the Office of Technology Assessment to evaluate the Federal Railroad Safety Act of 1970 and related Federal laws and to evaluate their effectiveness in improving railroad safety.

The Department of Labor has no objections to Presidential approval of this bill.

We defer to the Department of Transportation on the question of whether specific, substantive rules should be legislated by the Congress rather than promulgated by regulatory agencies after evidence has been gathered, and interested parties have had an opportunity to present their views.

Sincerely,



Secretary of Labor



Office of
Chairman

National Transportation Safety Board

Washington, D.C. 20594

JUN 30 1976

Mr. James M. Frey
Assistant Director for Legislation
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Dear Mr. Frey:

This is in reply to your request for the National Transportation Safety Board's comments on H.R. 11804, an enrolled bill "To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes".

The Safety Board defers to the Department of Transportation with respect to comment on this bill.

Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Webster B. Todd, Jr.", written over a horizontal line.

Webster B. Todd, Jr.
Chairman

cc: Honorable Warren G. Magnuson
Honorable Birch Bayh
Honorable Robert E. Jones

Honorable John J. McFall
Honorable Harley O. Staggers
Honorable Jack Brooks

Interstate Commerce Commission

Washington, D.C. 20423

OFFICE OF THE CHAIRMAN

June 29, 1976

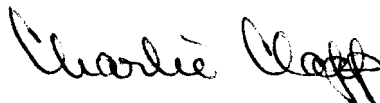
Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear ~~Mr.~~^{Jim} Frey:

This responds to your request of June 28 for the Commission's recommendations with regard to enrolled bill H.R. 11804, the "Federal Railroad Safety Authorization Act of 1976." The Commission did not participate in the development of this legislation, nor does the bill have any direct effect on the Commission. Accordingly, we have no recommendations to offer with regard to its enactment.

Thank you for the opportunity to comment on this bill.

Sincerely,



Charles L. Clapp
Acting Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 5

Time: 830am

FOR ACTION: Judy Hope
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 5

Time: 530pm

SUBJECT:

H.R. 11804 - Federal Railroad Safety Authorization Act
of 1976.

ACTION REQUESTED:

☐ For Necessary Action

☐ For Your Recommendations

☐ Prepare Agenda and Brief

☐ Draft Reply

☒ For Your Comments

☐ Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 7/6/76


PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE
WASHINGTON

July 6, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF 
SUBJECT:

H. R. 11804 - Federal Railroad Safety Authorization Act of 1976

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 5

Time: 830am

FOR ACTION: Judy Hope
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 5

Time: 530pm

SUBJECT:

H.R. 11804 - Federal Railroad Safety Authorization Act
of 1976

ACTION REQUESTED:

_____ For Necessary Action

_____ For Your Recommendations

_____ Prepare Agenda and Brief

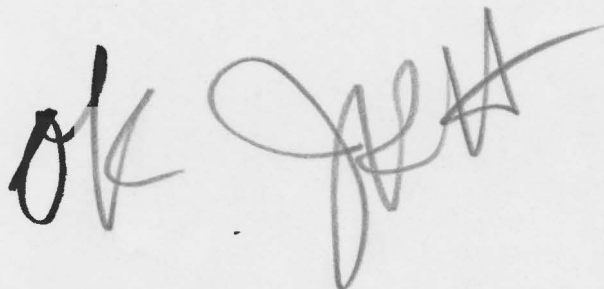
_____ Draft Reply

X For Your Comments

_____ Draft Remarks

REMARKS:

please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 2 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11804 - Federal Railroad Safety
Authorization Act of 1976
Sponsor - Rep. Staggers (D) W. Va.

Last Day for Action

July 10, 1976 - Saturday

Purpose

To authorize appropriations of \$35 million for each of fiscal years 1977 and 1978 to carry out rail safety programs; to establish safety standards for railroad employees; to place time limits on Department of Transportation proceedings; to require the Federal Railroad Administration to have at least 8 regional offices; to authorize an evaluation of railroad safety laws; and to increase penalties for violation of rail safety provisions.

Agency Recommendations

Office of Management and Budget

Approval

Department of Transportation

Approval

National Railroad Passenger Corporation

Approval

Department of Justice

No objection

Department of Labor

No objection (informally)

National Transportation Safety Board

Defers to DOT

Interstate Commerce Commission

No recommendation

Discussion

H.R. 11804 would authorize appropriations of \$35 million for each of fiscal years 1977 and 1978 for the Department of Transportation to carry out the provisions of the Federal Railroad Safety Act of 1970. Under the Act, DOT prescribes and enforces regulations for the safe operation of railroad track, equipment, and facilities. These amounts are identical to the Administration's request.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1976

MAY 15, 1976.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

together with

MINORITY VIEWS

[Including cost estimate and comparison of the Congressional Budget Office]

[To accompany H.R. 11804]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 11804) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1976".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. (a) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$35,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$35,000,000 for the fiscal year ending September 30, 1978.

"(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section for any fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 45 signal and train control inspectors, and (C) 110 clerical personnel, not to exceed \$18,000,000 in any fiscal year.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed \$3,500,000 in any fiscal year.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed \$3,500,000 in any fiscal year.

"(4) For conducting research and development activities under this Act, not to exceed \$10,000,000 in any fiscal year.

"(c) (1) The aggregate of the amounts obligated and expended for research and development activities under this Act in any fiscal year shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in the same fiscal year. For purposes of this paragraph and paragraph (4) of subsection (b) of this section, amounts made available under paragraph (2) of this subsection for expenditure for research and development activities under this Act in any fiscal year following the fiscal year in which such amounts were originally appropriated shall be considered to have been obligated and expended for such activities during the fiscal year in which such amounts were originally appropriated.

"(2) Of amounts appropriated under subsection (a) of this section and available for expenditure for conducting research and development activities under subsection (b) (4) of this section, and not to exceed \$5,000,000 of amounts so appropriated and made available for fiscal year 1977, and not to exceed \$7,000,000 of amounts so appropriated and made available for fiscal year 1978, are authorized to remain available until expended for conducting research and development activities under this Act."

PENALTIES

SEC. 3. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out "two hundred and fifty dollars" and inserting in lieu thereof "not less than \$250 and not more than \$2,500".

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13), is amended by striking out "two hundred and fifty dollars" and inserting in lieu thereof "not less than \$250 and not more than \$2,500".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out "two hundred and fifty dollars" and inserting in lieu thereof "not less than \$250 and not more than \$2,500".

(d) Section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)) is amended by striking out "\$100 for each such violation and \$100" and inserting in lieu thereof "not less than \$250 and not more than \$2,500 for each such violation and not less than \$250 and not more than \$2,500".

(e) Notwithstanding any provision of the Federal Claims Collection Act of 1906 (31 U.S.C. 951-953), no penalty assessed by the Secretary under any Act referred to in this section may be compromised by the Secretary for any amount less than the amount of the penalty originally assessed.

HOURS OF SERVICE

SEC. 4. (a) Section 2(a) of the Act of March 4, 1907 (45 U.S.C. 62) (a), commonly referred to as the Hours of Service Act, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

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

"(3) to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters; or

"(4) to begin construction or reconstruction of any sleeping quarters referred to in paragraph (3), on or after the date of enactment of this paragraph, within or in the immediate vicinity (as determined in accordance with rules prescribed by the Secretary) of any area where railroad switching or humping operations are performed."

(b) Section 2 of such Act (45 U.S.C. 62) is amended by striking out subsection (c), relating to the exemption of crews of wreck or relief trains from limitations on employees hours of service, and inserting in lieu thereof the following new subsection:

"(c) Notwithstanding subsection (a) of this section, the crew of a wreck or relief train may be permitted to be or remain on duty for not to exceed 4 addi-

tional hours in any period of 24 consecutive hours wherever an actual emergency exists and work of the crew is related to such emergency. For purposes of this subsection, an emergency ceases to exist when the track is cleared and the line is open for traffic."

(c) Subsection (b) (2) of the first section of such Act (45 U.S.C. 61(b)(2)), relating to the definition of the term "employee", is amended by inserting immediately before the period at the end thereof the following: ", including hostlers, and an individual engaged in installing, repairing, or maintaining signal systems".

SAFETY REGULATIONS

SEC. 5. (a) Section 202(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(d)) is amended to read as follows:

"(d) In prescribing rules, regulations, orders, and standards under this section, the Secretary shall consider relevant existing safety data and standards and shall, within 180 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1976, take such action as may be necessary to develop and publish rules of practice applicable to all proceedings under this Act. Such rules of practice shall take into consideration the varying nature of proceedings under this Act and shall include specific time limits upon the disposition of all proceedings initiated under this Act. In no event shall the time limit for any such proceeding extend for more than 12 months after the date such proceeding is initiated."

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, within 180 days after the date of enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to require that—

"(1) the rear car of all passenger and freight trains shall have highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

"(2) in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair, or service rolling equipment require such employees to work on, under, or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing."

REGIONAL ORGANIZATION OF FEDERAL RAILROAD ADMINISTRATION

SEC. 6. The Federal Railroad Administration shall be divided on a geographical basis into not less than 8 safety offices for purposes of administering and enforcing all Federal railroad safety laws. The Secretary shall retain full and final responsibility for all acts taken pursuant to Federal railroad safety laws and for the establishment of all policies with respect to implementation of such laws, and shall be responsible for insuring that all such laws are administered and enforced uniformly among such offices.

EVALUATION OF THE FEDERAL RAILROAD SAFETY PROGRAM

SEC. 7. (a) The Office of Technology Assessment shall conduct a study of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) and related Federal laws to evaluate their effectiveness in improving the safety of our Nation's railroads. Such study and evaluation shall include, but shall not be limited to—

(1) a cost-benefit analysis of the railroad safety research and development activities under the Federal Railroad Safety Act of 1970 and related Federal laws;

(2) an evaluation of trends with respect to railroad employee injuries and casualties, injuries and casualties to other persons, accidents by type and cause, and such other data as the Office of Technology Assessment considers necessary to determine any significant statistical relationship between safety practices, expenditures, penalties for violation of Federal railroad safety laws and regulations, and accident rates;

(3) a statistical comparison of railroad accidents reported by each railroad for the 10-year period preceding the date of enactment of this Act;

(4) the cost-benefit and effectiveness of accident prevention resulting from the methodology used and practices employed by Federal and State railroad safety inspectors under Federal railroad safety laws and regulations;

(5) an evaluation of safety inspection activities conducted by the railroad industry;

(6) an evaluation and analysis of industry research and development relating to railroad safety and accident prevention;

(7) a cost-benefit analysis of the various Federal laws and regulations relating to railroad safety; and

(8) the need for additional Federal expenditures for improvements in railroad safety.

(b) The Office of Technology Assessment shall, within 18 months after the date of enactment of this Act, submit a report to the Congress containing the results of the study conducted pursuant to this section, together with recommendations for such legislative or other action as such Office considers appropriate.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

UNIFORMITY OF JUDICIAL REVIEW

SEC. 8. Section 4(e) of the Department of Transportation Act (49 U.S.C. 1653(e)) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to functions, powers, and duties transferred to the Secretary from the Interstate Commerce Commission under sections 6(e) (1) through (4) and section 6(e) (6) (A) of this Act."

COMMITTEE ACTION

On February 9, 1976, H.R. 11804 was introduced by Chairman Staggers. On February 10, 1976, H.R. 11837 was introduced by Chairman Staggers, for himself and Mr. Devine, at the request of the Department of Transportation. On February 24, 25, and 26, 1976, the Subcommittee on Transportation and Commerce held three days of public hearings on H.R. 11804 and 11837 and received testimony from representatives of the Department of Transportation; the National Transportation Safety Board; the Railway Labor Executives' Associations; the National Railroad Passenger Corporation (Amtrak); the National Association of Regulatory Utility Commissioners; the Association of American Railroads; the Southern Railway Company; the Missouri-Pacific System; and the Florida East Coast Railway Company.

On April 8, 1976, the Subcommittee on Transportation and Commerce held an open markup session on H.R. 11804 and directed that a Subcommittee print be prepared for further consideration by the Subcommittee in a subsequent markup session.

On May 4, 1976, the Subcommittee considered the print in an open markup session, and by voice vote, the print was ordered reported to the full Committee.

On May 11, 1976, the Committee on Interstate and Foreign Commerce considered the Subcommittee print reported by the Subcommittee and; by voice vote, ordered H.R. 11804 reported to the House with an amendment in the nature of a substitute, set forth above, consisting of the text of the Subcommittee print as amended by the Committee.

WHAT THE BILL DOES

The primary purpose of this bill is to fund the operations of the Federal Railroad Administration, within the Department of Transportation, to implement and enforce the Federal Railroad Safety Act of 1970 for each of the fiscal years 1977 and 1978.

For this purpose, the bill authorizes \$35 million for each of the fiscal years 1977 and 1978. In each year, the \$35 million will be available as follows:

1. \$18 million for safety inspection and enforcement activities, including up to 500 safety inspectors, 45 signal and train control inspectors, and 110 clerical personnel.

2. \$3.5 million for grants-in-aid for State safety programs.

3. \$3.5 million for salaries and expenses of the FRA, not otherwise provided for.

4. \$10 million for railroad safety research and development activities.

Expenditures for safety research and development in any year are limited to not more than the total expenditures for safety inspection and enforcement activities. In case any research money is carried over from one fiscal year to another, amounts carried over are considered expended during the fiscal year in which they were appropriated.

The reported bill also makes several significant changes in the railroad safety laws, which may be briefly described as follows:

It provides for uniform penalties of not less than \$250 and not more than \$2500 for violation of penalty appliance acts, the Locomotive Inspection Act, and the safety appliance provisions of the Interstate Commerce Act. The Secretary of Transportation is prohibited from compromising any of these penalties for less than the amount assessed by him.

The Hours of Service Act is amended in several respects. The first amendment requires railroads to furnish employees sleeping quarters in which they will have an opportunity for rest, uninterrupted by noise under the control of the railroad, and prohibits new construction or reconstruction of old sleeping quarters within, or in the immediate vicinity of, any railroad switching or humping yard. Whether any such quarters are located in the "immediate vicinity" of any such yard, will be determined by the Secretary in accordance with rules prescribed by him. The second amendment deletes the exemption for crews of wreck or relief trains and provides that such crews cannot be permitted to remain on duty for more than 16 hours in any 24 hour period, and cannot exceed 12 hours except when an emergency exists and their work is related to that emergency. The emergency ceases to exist when the track is cleared and open for traffic. The third amendment adds hostlers and signalmen to the categories of employees covered by the Hours of Service Act.

The reported bill requires the Secretary of Transportation to prescribe rules of practice for all proceedings under the Federal Railroad Safety Act of 1970, including specific time limits on all such proceedings. This time limit cannot exceed 12 months after the initiation of any proceeding. Such rules of practice must be developed and published within 6 months after the date of enactment of this legislation. Within the same 6-month period; the Secretary is required to issue regulations requiring—

(1) that all passenger and freight trains have highly visible rearend markers which are lighted during periods of darkness or poor visibility; and

(2) that employees repairing or servicing rolling equipment (so-called "blue-flag" situations) must be protected by an effective locking device applied to each manually operated switch which must be aligned to prevent access to the track on which such equipment is located.

The reported bill also requires that the FRA must be divided into no less than 8 regional offices. Full responsibility for implementing and administering all railroad safety laws and related policies is retained in the Secretary and he is required to insure that such laws and policies are administered uniformly by all regional offices of his department.

The bill also requires the Office of Technology Assessment to evaluate the Federal Railroad Safety program and report to the Congress, within 18 months, the results of the study and recommendations for legislative or other action.

The reported bill also conforms the judicial review procedures applicable to functions, powers, and duties transferred to the Secretary from the ICC with the current judicial review procedures applicable to ICC orders. Under current practice, such judicial review will now occur first in the District Courts of the United States rather than in the United States Courts of Appeals.

BACKGROUND AND NEED

The Federal Railroad Safety Act of 1970 was signed into law on October 16, 1970 (Public Law 91-58). It was an attempt by the Congress to promote safety in railroad operation by granting the Secretary of Transportation broad regulatory powers and provide a comprehensive scheme of Federal regulation, coupled with Federal-State enforcement activities, in order to halt the increase in rail accidents which had doubled over the previous decade.

Despite enactment of the 1970 statute, rail accidents have continued to increase and the statistics showing property damage, dead, and injured are grim indeed.

Preliminary figures for calendar year 1975 show that train accidents again increased from 7,491 in 1974 to 7,532 in 1975. Because of revised reporting requirements, the only way in which the 1974 figures could be made comparable with the 1975 reports was by eliminating from the 1974 figures those accidents in the \$750 to \$1749 damage range. Also, because of revised reporting requirements, 1975 injury figures are not comparable with 1974 figures. The best that can be said for these statistics, is that the rate of increase in 1975 was lower than in 1974. The percentage increase for 1975 over 1974 was only about one-half of one percent. This compares to the increase in 1974 over 1973 of about 19 percent, and the increase in 1973 over 1972 of about 29 percent. The Committee finds any increase in rail accidents unacceptable, but perhaps there is some hope in the fact that the rate of increase is declining.

The final 1974 accident and casualty figures compared with the preliminary figures for calendar 1975 are summarized in the following table:

TRAIN ACCIDENT SUMMARY

	1975 estimate ¹	1974 ²	Percent change	1975 percent of total
Total train accidents.....	7,532	7,491	+0.5	100.0
Human factors.....	2,056	1,526	+34.7	27.3
Equipment failures.....	1,680	1,609	+4.4	22.3
Track failures.....	2,719	2,916	-6.8	36.1
Miscellaneous causes.....	1,077	1,440	-25.2	14.3
Millions of train miles.....	728.1	833.3	-12.9	
Accidents per million train miles.....	10.3	8.9	+15.7	
Human factors.....	2.8	1.8	+55.6	
Equipment.....	2.3	1.9	+21.0	
Track.....	3.7	3.5	+5.7	
Miscellaneous.....	1.5	1.7	-11.8	
Train accident casualties:				
Killed.....	73	99	-26.3	
Injured.....	1,151	812	(3)	
Employee casualties, all types of accidents:				
Killed.....	116	140	-17.1	
Injured.....	42,298	15,620	(3)	
Casualties at grade-crossing, all classes of persons:				
Killed.....	902	1,220	-26.1	
Injured.....	3,769	3,260	(3)	
Millions of man-hours worked.....	1,009.6	1,099.5	-8.2	

¹ Data shown for 1974 are final figures. Figures for 1975 have been estimated from preliminary data for the 1st 10 mo on a straight line basis.

² 1974 train accident figures have been made comparable with 1975 by eliminating accidents in the \$750 to \$1,749 damage range.

³ Because of revised reporting requirements for 1975 injury figures are not comparable.

The Committee feels, as it stated in its report on this legislation last year, that these statistics are telling the story that the Federal Railroad Administration (FRA) is not doing its job adequately. A major reason for this problem is that the FRA has consistently failed to avail itself of the safety inspectors and funds authorized by this Committee. The Committee continues the authorization for up to 500 safety inspectors. The 1977 budget of the Administration calls for 376 safety positions. In fiscal 1976, the budgeted position level was 386 total positions. Also, the Committee continues to authorize the same amount, \$35 million, as was authorized for fiscal year 1976, when only \$17.7 million was appropriated. For fiscal year 1977, only \$20.5 million is provided in the Administration budget.

Despite the frustrations and disappointments with the enforcement of railroad safety legislation by FRA, this Committee intends to pursue its efforts to assure that FRA receives sufficient authorization for funds needed to improve railroad safety.

With responsibility for conducting inspection activities for well over three hundred thousand miles of track, over one million freight cars and thousands of locomotives and passenger cars, it is obvious to the Committee that FRA should request adequate funds and hire a sufficient number of Federal inspectors to carry out that responsibility. The Committee firmly believes that adequate authority exists under present legislation to bring about a significant improvement in railroad safety.

Another area in which the Committee feels frustrated at the lack of progress by FRA is in the area of State safety inspections. Adequate authority exists under existing law for FRA to encourage State participation. In 1975, FRA testified that only 8 States with 14 inspectors,

were participating in the enforcement program under the authority originally enacted in 1970. This year, the FRA testified that there are now 12 States participating in this safety program, with a total of 22 State inspectors. The Committee feels that FRA should move expeditiously to encourage more States to participate in the enforcement of Federal rail safety regulations.

The following chart, submitted by FRA, summarizes FRA safety inspection activities for calendar years 1974 and 1975.

FRA SAFETY INSPECTORS' ACTIVITIES

Inspections	Calendar year—		Percent of total
	1974	1975	
Safety appliances:			
Cars.....		374,700	122
Locomotives.....		29,800	87
Locomotives:			
Number of inspections.....	5,248	4,232	
Units.....	34,890	29,328	86
Freight cars:			
Number of inspections.....	8,577	8,311	
Cars.....	59,898	58,180	13.4
Track:			
Number of inspections.....	1,273	3,679	
Miles.....	43,800	108,600	33.3
Hazardous materials; Number	2,514	3,832	
Signals:			
Inspections.....	19,000	21,000	
Applications.....	175	270	
Railroad operating records.....		41,799	
Railroad accident records.....		479,750	
Railroad hours of service records.....		296,694	
Complaints received.....	1,327	1,378	
Accident investigations:			
Train.....	145	77	
Fatalities.....	116	117	

¹ Fleet.

² Federal and State track inspectors during 1st 10 mo of 1975.

³ Track miles.

⁴ Fiscal year 1975.

As a result of the safety inspection activities summarized in the above chart, the FRA furnished the following information with respect to violation reports filed for fiscal year 1975:

Violation reports filed—fiscal year 1975

Type of violation:	
Track standard.....	4,489
Freight car inspection.....	5,206
Hours of service.....	831
Locomotive inspection.....	141
Signal inspection.....	187
Accident reports personal injury.....	104
Hazardous materials.....	234
Total.....	11,192

Source: Work measurement system; violations submitted by inspectors during fiscal year 1975 to the chief counsel.

As a result of the inspection activities and violation reports referred to above, the following is a summary of claims for alleged rail safety violations transmitted to railroads during fiscal year 1975:

A. Under Federal Claims Collection Act:

Amount—\$1,820,500.

Number of Claims—7,397.

Number of Cases—229.

B. Under Federal Railroad Safety Act of 1970:

Amount—\$861,500.

Number of Claims—1,044.

Number of Cases—37.

C. Combined Total:

Amount—\$2,682,000.

Number of Claims—8,441.

Number of Cases—266.

Further, as a result of the claims transmitted to the railroads, the following is a list of civil penalties collected for alleged rail safety violations during fiscal year 1975:

Fiscal year 1975:

A. Under Federal Claims Collection Act (FCCA):

Amount—\$635,821.

Claims—4,454.

B. Under Federal Railroad Safety Act of 1970 (FRSA):

Amount—\$161,300.

Claims—324.

C. Total amounts under FCCA and FRSA:

Amount—\$797,121.

Claims—4,778.

The Committee remains hopeful that the FRA will eventually live up to the spirit and the letter of the Federal Railroad Safety Act of 1970 and improve its administration and enforcement of all Federal railroad safety laws.

The Committee also remains hopeful that the railroad industry will become convinced that railroad safety is cost beneficial and will not continue to defer track and roadbed maintenance that is necessary to safe and efficient railroad transportation.

The Committee feels this legislation is necessary to assure adequate safety inspection and enforcement activities essential to an overall improvement in the railroad safety picture for the future.

Civil Penalties

Under the Federal Railroad Safety Act of 1970, the minimum penalty is \$250 and the maximum penalty is \$2,500. Secretary of Transportation has authority to compromise these penalties, prior to referral to the Attorney General for collection, but not for less than the minimum amount of the penalty applicable to a particular violation.

In addition to the Federal Railroad Safety Act of 1970, some railroad safety laws have been on the books for many years. For example, provisions relating to safety appliances were enacted in 1893 and 1910. Provisions providing for locomotive inspections were enacted in 1911. In each instance these laws provided for a penalty of \$100 for each violation. In 1957, the \$100 penalty was increased to \$250. The safety appliance provisions of the Interstate Commerce Act still provide for a penalty of \$100 for each violation and \$100 for each day such violation continues.

As pointed out above, the most recent enactment (the Federal Railroad Safety Act of 1970) provides a minimum penalty of \$250 and a maximum penalty of \$2,500 for each violation and each day such violation continues constitutes a separate violation.

In the opinion of the Committee, it is high time to update the penalty provisions of some of these old laws and bring about some uniformity in the penalties applicable to railroad safety violations.

Accordingly, the reported bill leaves the penalty provisions of the Federal Railroad Safety Act of 1970 unchanged, but does update the penalties applicable to violations of the Safety Appliance Acts, the Locomotive Inspection Act, and the safety appliance provisions of the Interstate Commerce Act. Under the reported bill, the minimum penalty for violations of these provisions will now be the same as the Federal Railroad Safety Act of 1970, that is, \$250 as a minimum penalty and \$2,500 as a maximum penalty for each violation and each day such violation continues will constitute a separate offense.

The Committee discovered that, under the Federal Claims Collection Act procedure, the FRA collected a total of approximately \$775,000 for approximately 5,000 claims. This computes out to an average fine of \$155. Further, the Committee discovered that, under the Federal Railroad Safety Act of 1970, the FRA collected approximately \$268,000 on approximately 556 claims. This computes out to an average fine of about \$482.

Accordingly, the Committee has included in the reported bill a provision that no penalty assessed by the Secretary of Transportation under any Act referred to in section 3 of the reported bill (Safety Appliance Acts, Locomotive Inspection Act, and safety appliance provisions of the Interstate Commerce Act) may be compromised by the Secretary for any amount less than the amount of the penalty originally assessed, notwithstanding any provision of the Federal Claims Collection Act of 1966.¹ The Committee feels, not only that the time has come to update the amount of penalties, but that it is also time to require strict enforcement of such penalty provisions and prohibit the exercise of any authority to compromise penalties to such ridiculously low figures.

Evaluation of Railroad Safety Programs

The reported bill requires the Office of Technology Assessment (OTA) to conduct a study of railroad safety laws to evaluate their effectiveness. Such evaluation is required to include a cost-benefit analysis of railroad safety research and development activities, and evaluation of whether any significant statistical relationship exists between safety practices, expenditures for safety purposes, penalties for violation of railroad safety laws and regulations, and the level of accident rates; a comparison of railroad accidents, reported by railroad, for the 10-year period before the enactment of this legislation; the cost-benefit and effectiveness of accident prevention resulting from methods and practices employed by railroad safety inspectors; a cost-benefit analysis of Federal laws and regulations relating to railroad safety; and the need for additional Federal expenditures for improving railroad safety.

The OTA is required to submit a report to the Congress, within 18 months after enactment of this legislation, containing the results of the study together with recommendations for legislative or other action considered appropriate.

¹ See Appendix A for text of 1966 Act.

This section contains an authorization for such sums as may be necessary to carry out the study. The Committee does not anticipate a need for this authorization. However, even though OTA expects to have adequate funds to carry out this study, the budget for OTA has not been firmly fixed for 1977 and the Committee feels it is appropriate to include this authorization in the event it is needed to carry out the study.

Crew Quarters

One of the most devastating accidents in railroad history occurred on July 19, 1974, at Decatur, Illinois, in the Norfolk and Western Railroad's yard. Seven employees were killed and over 100 were injured when an explosion demolished crew quarters and an eating facility in the middle of the yard. As a result of that explosion, the labor organizations filed a petition in August, 1974, with the FRA to require every railroad to move its sleeping quarters at least one mile away from its yards where switching or humping is performed. The FRA has taken no action on the petition. Because of FRA's inaction, the Committee feels it must take initiative to protect workers who are forced to sleep in the railroad yards. Section 4(2)(4) does not place a specific mileage limitation on the location of sleeping quarters. Rather, it prohibits a railroad from constructing or reconstructing any sleeping quarters within or in the immediate vicinity, as determined by the Secretary of Transportation, of any area where railroad switching or humping operations are performed. This section is intended to give the railroads some flexibility in constructing lodgings in the railroad yards, but these quarters must be far enough away from the switching or humping operations so that an explosion resulting from such an operation would not cause injury or death to employees inside the sleeping quarters.

The Secretary, after appropriate rulemaking, may determine that sleeping quarters shall be a specific distance away from the area of switching. The Committee is not in a position to know what the specific location should be, and that determination is better left to the Secretary.

Section 4(a)(3) amends the Hours of Service Act (42 U.S.C. 61, *et seq.*) and requires that sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) must be provided which afford such employees an opportunity for rest free from interruption caused by noise under the control of a railroad, and the quarters must be clean, safe, and sanitary.

The sleeping quarters intended to be covered by this section include company-owned or leased buildings or vehicles ranging from camp cars to highway living trailers which are in or alongside railroad yards.

The phrase "under the control of the railroad" is to hold a railroad responsible only for the noise its operations are creating. If the noise comes from an outside source over which the carrier has no control, this would not constitute a violation.

In order for the employee to have an "opportunity for uninterrupted rest", the quarters must be free from excessive noise and exposure to adverse conditions such as extreme heat or cold, or light. The appropriate noise level is not legislated here. However, the Committee

is aware of the HUD circular 1390.2 issued August 4, 1971, concerning interior noise levels in sleeping quarters. The noise level provided there is no more than 45 dba for 30 minutes during any eight-hour period. It is recommended that the railroads voluntarily adopt such a noise level standard with which to comply.

The matter of what is "clean, safe, and sanitary" needs little explanation. It means there should be modern toilets, showers, and lavatories for the worker and free from rats, roaches and other vermin.

This section deletes the words in the original bill, H.R. 11804, requiring all of the sleeping quarters to have "controlled temperatures". However, the Committee intends that controlled temperatures may be necessary in many sleeping quarters to provide an environment free from noise and which are clean, safe, and sanitary.

Wreck or Relief Train Crews

Section 1(c) of the Hours of Service Act (45 U.S.C. 62(c)) provides for an exemption under the Act for crews of wreck or relief trains. A wreck or relief train generally is one which is dispatched to perform emergency work in clearing the area where an accident resulted in damaged equipment and/or destroyed the trackage. It was brought to the Committee's attention that some railroads were attempting to apply this section to situations other than an emergency. For example, crews were dispatched to the scene of an accident several days or weeks after the main track had been cleared. The work of the crew in removing the debris was considered by the railroad to be a crew of a wreck or relief train. The Committee believes that such interpretation is not within the intent nor spirit of that section of the law. Therefore section 4(b) of this bill clarifies any uncertainty which heretofore may have existed. It brings the crews of wreck or relief trains within the 12 hour limits of the law. In addition it permits such crew members to work only up to 16 hours in any period of 24 consecutive hours whenever an actual emergency exists and the work of the crew is related to such emergency. An actual emergency ceases to exist when the track is cleared and the line is open for traffic.

Hostlers and Signalmen

The federal Hours of Service Act (45 U.S.C. 61 *et seq.*) presently covers all operating employees who are engaged in or connected with the movement of any train. In addition the Act covers telegraphers, operators and dispatchers.

Section 4(e) of the bill adds two more crafts of employees under the hours of service protection. The two crafts are hostlers and signalmen. The primary functions of hostlers are to move engines into and out of the shop areas and to service the locomotives by adding water, sand, and fuel to them.

The duties of signalmen encompass the construction, installation, repair, maintenance, testing and inspection of signal systems. These signal systems include automatic block signal systems, traffic control systems, train stop, train control and cab signal systems, interlocking systems, rail-highway grade crossing protection, automatic classification yards, hot box detectors, broken flange detectors, and other similar devices, appliances and systems.

The railroads have made many technological changes and improvements in railway signaling throughout the years. Recently there has

been a substantial increase in the installation of signal systems and devices. At the same time the signal work force have been reduced. There are approximately 9,300 signal employees responsible for covering over 49,000 track miles of traffic control systems. From 1963 to 1974 there was an increase of 87% in signal equipment installations. During this same period the number of signal employees has decreased 21%. The net effect is that the signal employee today is responsible for maintaining 75% more signal equipment than in 1963. This, coupled with the generally poor physical condition of the signaling systems, requires the signal maintenance employees in many cases to work excessive hours to the point of physical exhaustion. In 1974, for example, signal employees worked 1,771,000 hours of overtime, and it was even larger last year, but the final figures are not available yet.

It is of great importance that all aspects of signaling be properly constructed and maintained. It follows that no fatigued signalmen should be permitted to work on a signal system. His mistakes could result in signal failures or the display of improper aspects which could lead to catastrophic derailments or collisions. The most obvious example of a signal failure is one which displays a proceed indication when, because of the presence of another train on the track ahead, it should show a stop indication. Such a peril-laden situation could be brought about by the inadvertent switching of two wires which in the intricate and involved signaling circuits may be only a fraction of an inch apart.

The signalman's job must be performed with utmost accuracy. The facilities upon which he works, and the instruments with which he performs his tasks, are highly complicated and are becoming more so as time goes by. They demand of him not only a great degree of skills, but, what may be ever more important, a physical and mental state of constant alertness and attention to duty.

A signal system does not have inherent safety factors as a natural and inseparable quality. Any human error, particularly on the part of a signalman, can drastically affect the intent and purpose of a signal system. It is obvious then, that an employee must be in full possession of his facilities to safely install, maintain, and test such equipment. A signalman who worked excessive hours in either the construction or maintenance of signal systems may make errors in the intricate wiring or adjustment of those devices which would circumvent the safety functions of the system.

It should be pointed out that DOT has no objection to this section. It is supported by the railway labor organizations.

Rear Markers

Section 5(b) (1) is another area of safety regulation which the Committee felt needed prompt attention. One of the railway labor organizations over a year ago filed a petition with FRA to require lighted markers on the rear of all trains. That docket is designated as FRA Rulemaking Petition Docket No. 74-5. FRA still has not promulgated a rule covering rear markers.

Historically, trains had rear markers on them. In recent years the practice of many railroads has resulted in the discontinuance of this safety feature. The Committee was made aware of the difficulty of a

crew in many cases to tell whether or not a train is on the same track as another, or even if cars on a track are the actual rear of a train.

The problem of the lack of markers on the rear of trains was highlighted by the collision near Chicago in October, 1972, of two commuter trains on the Illinois Central Gulf Railroad. That accident resulted in heavy losses of life and many injuries. Investigation of the collision by the NTSB concluded that lack of train car end visibility may have contributed to the crash or its severity. A further consequence of the collision was a study on train visibility conducted by the Illinois Department of Transportation. That study among other things recommended that the rear of trains be provided with two 60 watt red marker lights with lenses of at least 6 inches in diameter. The Committee is not stating what specific kinds of lighting should be on the rear. This will be determined by the Secretary of Transportation under appropriate rulemaking.

Blue Flag Protection

The problem of adequate safety protection for employees engaged in the inspection testing and repairs of trains in the yards is acute. There are many reports of employees being injured or killed in the yards because of moving equipment coming in contact with them. An example of the consequences of the lack of adequate blue flag protection is shown in the first Railroad Employee Accident Investigation by the Federal Railroad Administration.¹ That report indicates that the particular railroad had a "blue flag" rule but the railroad's managerial policy did not allow the protection to be used in the classification yards.

On March 15, 1976, the FRA issued a notice of Proposed Rulemaking covering the "blue flag" rule which is reprinted in the Federal Register at pages 10904-10909. The Committee feels that the FRA simply did not go far enough to protect the workers. Therefore section 5(b)(2) of the bill requires that whenever employees (other than train or yard crews) are working on, under or between cars during tests, inspections or repairs, each switch must be lined against movement in the particular track and the said switch must be secured by an effective locking device.

COST ESTIMATE

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of this legislation.

The reported bill authorizes appropriations totaling \$35 million for railroad safety programs for the fiscal year 1977 and an additional \$35 million for these programs for fiscal year 1978. Any additional appropriations for fiscal year 1979 and later fiscal years must be authorized by the Congress in subsequent legislation.

The Committee does not anticipate that the full amount of this authorization will be expended. It cannot, however, at this time accurately estimate the amount that will be expended. It is noted that the same amount (\$35 million) was authorized for fiscal year 1976 but only \$17.7 million was appropriated. Similarly, only \$20.5 million is provided in the Federal budget for fiscal year 1977. The Committee

¹ See Appendix B for text of report.

is authorizing more funds than have been requested because it believes that in order to reduce the number of railroad accidents below the presently unacceptable number, more safety inspection should be performed by the Department. The Committee further believes that expenditures for railroad safety are cost effective considering the present high cost of property and personal injury presently being incurred as a result of a large number of accidents.

In regard to Clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives, the Congressional Budget Office submitted the following cost estimate relative to the provisions of H.R. 11804.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 14, 1976.

1. Bill number: H.R. 11804.
2. Bill title: Federal Railroad Safety Authorization Act of 1976.
3. Purpose of bill: The bill amends the Federal Railroad Safety Act of 1970 to authorize appropriations not to exceed \$35 million for fiscal year 1977 and the same amount for fiscal year 1978 to carry out the provisions of that Act. Subject to certain conditions, the expenditures from each year's appropriation are limited to:
 - (a) \$18.0 million for the Office of Safety.
 - (b) \$3.5 million for grants-in-aid to states.
 - (c) \$3.5 million for salaries and expenses of the Federal Railroad Administration (FRA).
 - (d) \$10.0 million for research and development.

In addition, the bill makes the following changes in penalties for violations of safety codes:

45 U.S.C. 6, 13, 34: Present penalty, \$250; proposed penalty, \$250 to \$2,500.

49 U.S.C. 26(h): Present penalty, \$100 per violation per day; proposed penalty, \$250 to \$2,500 per violation per day.

The bill makes a number of changes in laws governing hours of service of railroad employees, safety regulations, and the organization of the FRA.

The bill also mandates a study by the Office of Technology Assessment (OTA) of the effectiveness of federal rail safety laws in improving railroad safety. It authorizes the appropriation of such sums as may be necessary to carry out this study.

4. Cost estimate: The budget impact of this bill is estimated as follows:

BUDGET EFFECTS					
(In millions of dollars; fiscal year)					
	1977	1978	1979	1980	1981
Authorization amount	35.0	35.0			
Estimated cost	25.3	35.0	9.7		
Estimated income		1.6	1.6	1.6	1.6

5. Basis for estimate: There are three sections of the bill which must be analyzed as to budget impact: Section 2—the authorization of appropriations for safety programs; Section 3—changes in penalties for

safety violations; and Section 7—the requirement for the OTA study of rail safety laws.

Section 2.—It is estimated that 85 percent of the \$21.5 million authorized each year for the Office of Safety and for FRA salaries and expenses will be expended in the year authorized and the remaining 15 percent in the following year. With the exception of the Automated Track Inspection Program, most of these funds are for personnel salaries and related expenses.

Outlays for grants-in-aid to states lag authorizations by a year, and are therefore assumed to occur totally in the year following the year of authorization.

It is estimated that 70 percent of the \$10.0 million authorized each year for research and development will be expended in the year for which is it authorized, and the remaining 30 percent in the following year.

Section 3.—Based on experience under the Federal Railroad Safety Act of 1970, which also specifies penalties of \$250 to \$2,500, it is estimated that the average fine collected for violations governed by the proposed penalty schedule would be \$400. The authorized increase in funding would result in an increase in inspection capability of approximately 50 percent, which would at least offset any reduction in claims resulting from the deterrent value of the increased penalties. It was therefore assumed that the number of claims for violations affected by the bill will remain at approximately the FY 1975 level of 5,559. Thus, income from fines would total \$2.2 million a year, an increase of \$1.6 million over estimated 1975 levels. Because of the time required to process these cases, the increase will first be realized about twelve months following enactment of the new penalties.

Section 7.—The study by the Office of Technology Assessment can be performed at its normal funding levels, and will incur no significant additional costs.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: Robert Sunshine.

9. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

OVERSIGHT FINDINGS

Pursuant to Clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee issues the following oversight findings:

As has been stated in previous years, the Committee believes that the Federal Railroad Administration of the Department of Transportation has been reluctant to implement and enforce the Federal Railroad Safety Act of 1970. The FRA has consistently failed to employ the full complement of rail safety inspectors authorized by the Committee which are believed necessary to adequate safety enforcement and inspection activities. In addition, the FRA has failed to issue safety regulations on a number of important matters and the regulations that have been issued were issued only after unreasonable time periods of deliberations. Although the FRA has shown improvement

in its program to discourage increased participation by States, the Committee feels that considerably more improvement is necessary. The Committee is encouraged by the fact that in response to Committee directives the FRA has lessened its emphasis on research and development activities. In the past these activities were overemphasized to the detriment of safety and enforcement activities.

In regard to Clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to Clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee makes the following statement in regard to the inflationary impact of the reported bill:

The reported bill authorizes appropriations totaling \$70 million; \$35 million for fiscal year 1977 and \$35 million for fiscal year 1978.

The reported bill authorizes appropriations totaling \$70 million; \$35 million for fiscal year 1977 and \$35 million for fiscal year 1978.

The Committee is convinced that, if appropriated, the expenditure of these funds will not have an adverse inflationary impact on the national economy. The amounts authorized by the reported bill for each fiscal year are the same as authorized for fiscal years 1975 and 1976. Moreover, as previously stated in this report, railroad safety programs are cost beneficial and when properly implemented will have an anti-inflationary impact through prevention of rail accidents and saving millions of dollars in property damage, thereby increasing productivity and gross national output. Admittedly, although the funds authorized by the reported bill are the same as in previous years, there would be an increase in expenditures as compared to previous fiscal years if all of the funds authorized were appropriated and expended. These additional expenditures, however, will not have an adverse inflationary impact because they will result in a direct increase in (1) Federal employment in the area of rail safety inspection and enforcement activities, (2) State employment in the same area through State participation in the Federal enforcement program, and (3) employment in private industry in the area of railroad safety research and development activities through the development of new safety equipment and facilities.

SECTION-BY-SECTION SUMMARY

SECTION 1—SHORT TITLE

This section provides for the short title, "Federal Railroad Safety Authorization Act of 1976".

SECTION 2—APPROPRIATIONS AUTHORIZATION

This section authorizes funds for the Federal Railroad Safety Program as follows:

(1) \$35 million for each of the fiscal years 1977 and 1978.

(2) In each year the \$35 million will be available as follows:

(A) \$18 million for salaries and expenses of the Office of Safety, including not more than 500 safety inspectors, 45 signal and train control inspectors, and 110 clerical personnel.

(B) \$3.5 million for State safety programs.

(C) \$3.5 million for salaries and expenses of the Federal Railroad Administration, not otherwise provided for.

(D) \$10 million for research and development activities.

(3) The total amounts expended for research and development in any fiscal year cannot exceed the total amount expended for inspection, investigation, and enforcement of railroad safety rules. For this purpose, any amounts made available by the Appropriations Committee for expenditure in any fiscal year following the year in which such amounts were originally appropriated are considered to have been expended for such activities during the fiscal year in which they were originally appropriated.

(4) Of the \$10 million authorized to be appropriated for research and development for each fiscal year, \$5 million of the 1977 authorization and \$7 million of 1978 authorization are authorized to remain available until expended for research and development activities.

SECTION 3—PENALTIES

This section provides for the uniform penalty of not less than \$250 and not more than \$2,500 for violation of the following railroad safety laws:

(1) Safety appliance Acts.

(2) Locomotive Inspection Act.

(3) Safety Appliance provisions of the Interstate Commerce Act.

This section also provides that, notwithstanding any provision of the Federal Claims Collection Act of 1966, no penalty assessed by the Secretary under any Act referred to in this section may be compromised for an amount less than the assessed amount of the penalty.

SECTION 4—CREW QUARTERS; WRECK TRAIN CREWS; SIGNALMEN AND HOSTLERS

Subsection (a) of this section amends the Hours of Service Act to require railroads to furnish employees' sleeping quarters in which such employees will have an opportunity for rest in clean, safe, and sanitary quarters, free from interruptions caused by noise under the control of the railroad, and prohibits new construction or reconstruction of old sleeping quarters within, or in the immediate vicinity of, any area where railroad switching or humping operations are performed. What is the "immediate vicinity" of railroad switching or humping yards will be determined in accordance with rules prescribed by the Secretary.

Subsection (b) of this section amends the Hours of Service Act to strike out the existing exemption for crews of wreck or relief trains and provides that such crews may be permitted to remain on duty for not more than sixteen hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to that emergency. It also provides that an emergency ceases to exist when the track is cleared and open for traffic.

Subsection (c) amends the Hours of Service Act to include hostlers and signalmen in the definition of employees covered by the Hours of Service Act.

SECTION 5—TIME LIMITS ON FRA PROCEEDINGS; REAR END MARKERS AND BLUE FLAG PROTECTION

Subsection (a) of this section amends the Federal Railroad Safety Act of 1970 to require the Secretary of Transportation within 180 days after date of enactment of this legislation to develop and publish rules of practice, including specific time limits on all proceedings under the Act. Such time limit cannot exceed 12 months after the date any proceeding is initiated.

Subsection (b) of this section requires the Secretary of Transportation to issue regulations, within 180 days after date of enactment of this legislation, requiring that—

(1) highly visible rear-end markers on all passenger and freight trains which are lighted during darkness or whenever weather restricts clear visibility; and

(2) each manually operated switch must be aligned and secured by an effective locking device which may not be removed except by the class or craft of employees performing inspection, testing, repair and servicing of rolling equipment, in order to prevent access to the track on which such equipment is located and protect the employees working thereon.

SECTION 6—REGIONAL ORGANIZATION OF FRA

This section provides that the Federal Railroad Administration will be divided into not less than eight regional offices to administer all Federal Railroad Safety laws. Under this section, the Secretary of Transportation retains full responsibility for all actions under Federal railroad safety laws and for all policies implementing such laws, and he is required to insure that such laws are administered and enforced uniformly among the regional offices of his department.

SECTION 7—RAIL SAFETY STUDY

This section requires the Office of Technology Assessment to evaluate the Federal Railroad Safety program and report to the Congress within 18 months after the date of enactment of this legislation the results of such study, together with such recommendations for legislative or other action the Office may deem appropriate.

SECTION 8—UNIFORM JUDICIAL REVIEW

This section amends section 4(c) of the Department of Transportation Act to provide for uniformity of the judicial review process applicable to functions, powers, and duties transferred to the Secretary of Transportation from the Interstate Commerce Commission. At the time of the enactment of the Department of Transportation Act, ICC orders were reviewed in the Courts of Appeal in the United States. Section 4(c) of the Department of Transportation Act preserved this method of judicial review for the functions, powers, and duties of the ICC which were transferred to the Secretary of Transportation. After the enactment of the Department of Transportation Act, the review procedures for orders of the ICC have been changed and such review now occurs first in the District Courts of the United

States. This section conforms the judicial review procedures applicable to functions, powers, and duties transferred to the Secretary from ICC by providing that the provisions of such section 4(c) will no longer apply with respect to the ICC functions, powers, and duties transferred to the Secretary. Judicial review of the functions, powers, and duties of the Secretary now occur first in the District Courts of the United States in the same manner as in the case of ICC orders.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL RAILROAD SAFETY ACT OF 1970

TITLE II—RAILROAD SAFETY

SEC. 202. RAIL SAFETY REGULATIONS.

(a) * * *

(d) In prescribing rules, regulations, orders, and standards under this section, the Secretary shall consider relevant existing safety data and standards, and shall within 180 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1976, take such action as may be necessary to develop and publish rules of practice applicable to all proceedings under this Act. Such rules of practice shall take into consideration the varying nature of proceedings under this Act and shall include specific time limits upon the disposition of all proceedings initiated under this Act. In no event shall the time limit for any such proceeding extend for more than 12 months after the date such proceeding is initiated.

(g) The Secretary shall, within 180 days after the date of enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to require that—

(1) the rear car of all passenger and freight trains shall have highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

(2) in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair, or service rolling equipment require such employees to work on, under, or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing.

SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

[(a) There are authorized to be appropriated to carry out the provisions of this title not to exceed \$35,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$8,750,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the 'transition period').

[(b) Except as otherwise provided in subsection (c) of this section amounts appropriated under subsection (a) of this section shall be available for expenditure as follows:

[(1) For the Office of Safety, including salaries and expenses for up to 500 safety inspectors and up to 110 clerical personnel, not to exceed \$18,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$4,500,000 for the transition period.

[(2) To carry out the provisions of section 206(d) of this title, not to exceed \$3,500,000 for the fiscal year ending June 30, 1976; and not to exceed \$875,000 for the transition period.

[(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed \$3,500,000 for the fiscal year ending June 30, 1976; and not to exceed \$875,000 for the transition period.

[(4) For conducting research and development activities under this title, not to exceed \$10,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$2,500,000 for the transition period.

[(c) The aggregate of the amounts obligated and expended for research and development under this title in the fiscal year ending June 30, 1976, and in the transition period, shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this title in such fiscal year, and in the transition period, respectively].

SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$35,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$35,000,000 for the fiscal year ending September 30, 1978.

(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section for any fiscal year shall be available for expenditure in such fiscal year as follows:

(1) For the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 45 signal and train control inspectors, and (C) 110 clerical personnel, not to exceed \$18,000,000 in any fiscal year.

(2) To carry out the provisions of section 206(d) of this Act, redating to State safety programs, not to exceed 3,500,000 in any fiscal year.

(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed 3,500,000 in any fiscal year.

(4) For conducting research and development activities under this Act, not to exceed \$10,000,000 in any fiscal year.

(c) (1) *The aggregate of the amounts obligated and expended for research and development activities under this Act in any fiscal year shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in the same fiscal year. For purposes of this paragraph and paragraph (4) of subsection (b) of this section, amounts made available under paragraph (2) of this subsection for expenditure for research and development activities under this Act in any fiscal year following the fiscal year in which such amounts were originally appropriated shall be considered to have been obligated and expended for such activities during the fiscal year in which such amounts were originally appropriated.*

(2) *Of amounts appropriated under subsection (a) of this section and available for expenditure for conducting research and development activities under subsection (b) (4) of this section, not to exceed \$5,000,000 of amounts so appropriated and made available for fiscal year 1977, and not to exceed \$7,000,000 of amounts so appropriated and made available for fiscal year 1978, are authorized to remain available until expended for conducting research and development activities under this Act.*

SECTION 6 OF THE ACT OF MARCH 2, 1893

AN ACT To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes

SEC. 6. That any such common carrier using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty of [two hundred and fifty dollars] *not less than \$250 and not more than \$2,500* for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge: *Provided*, That nothing in this Act contained shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs.

SECTION 4 OF THE ACT OF APRIL 14, 1910

AN ACT To supplement "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce

to equip their cars with automatic couplers and continuous brakes and their locomotives with driving wheel brakes and for other purposes," and other safety appliance Acts, and for other purposes

SEC. 4. That any common carrier subject to this Act using, hauling, or permitting to be used or hauled on its line any car subject to the requirements of this Act not equipped as provided in this Act shall be liable to a penalty of [two hundred and fifty dollars] *not less than \$250 and not more than \$2,500* for each and every such violation, to be recovered as provided in section six of the Act of March second, eighteen hundred and ninety-three, as amended April first, eighteen hundred and ninety-six: *Provided*, That where any car shall have been properly equipped, as provided in this Act and the other Acts mentioned herein, and such equipment shall have become defective or insecure while such car was being used by such carrier upon its line of railroad, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car can be repaired, without liability for the penalties imposed by section four of this Act or section six of the Act of March second, eighteen hundred and ninety-three, as amended by the Act of April first, eighteen hundred and ninety-six, if such movement is necessary to make such repairs and such repairs cannot be made except at such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier, and nothing in this section shall be construed to relieve such carrier from liability in any remedial action for the death or injury of any railroad employee caused to such employee by reason of or in connection with the movement or hauling of such car with equipment which is defective or insecure or which is not maintained in accordance with the requirements of this Act and the other Acts herein referred to; and nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead of drawbars, in revenue trains or in association with other cars that are commercially used, unless such defective cars contain live stock or "perishable" freight.

SECTION 9 OF THE ACT OF FEBRUARY 17, 1911

AN ACT To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto

SEC. 9. That any common carrier violating this Act or any rule or regulation made under its provisions or any lawful order of any inspector shall be liable to a penalty of [two hundred and fifty dollars] *not less than \$250 and not more than \$2,500* for each and every such violation, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such attorneys, subject to the direction of the Attorney General, to bring such suits upon duly verified information being lodged with them, respectively, of such violations having occurred; and it shall be the duty of the director of locomotive inspec-

tion to give information to the proper United States attorney of all violations coming to his knowledge.

SECTION 25 OF THE INTERSTATE COMMERCE ACT

SAFETY APPLIANCES, METHODS, AND SYSTEMS

SEC. 25.

(a) * * *

(h) Any carrier which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty of [\$100 for each violation and \$100] *not less than \$250 and not more than \$2,500 for each such violation and not less than \$250 and not more than \$2,500 for each and every day such violation, refusal, or neglect continues, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed. It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred; and it shall be the duty of the Commission to lodge with the proper United States attorneys information of any violations of this section coming to its knowledge.*

ACT OF MARCH 4, 1907

AN ACT To amend the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act shall apply to any common carrier or carriers, their officers, agents, and employees, engaged in the transportation of passengers or property by railroad in the District of Columbia or any territory of the United States, or from one State or territory of the United States or the District of Columbia to any other State or territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States.

(b) For the purposes of this Act—

(1) The term "railroad" includes all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease.

(2) The term "employee" means an individual actually engaged in or connected with the movement of any train, *including hostlers, and an individual engaged in installing, repairing, or maintaining signal systems.*

SEC. 2. (a) It shall be unlawful for any common carrier, its officers or agents, subject to this Act—

(1) to require or permit an employee, in case such employee shall have been continuously on duty for fourteen hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty, except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours; [or]

(2) to require or permit an employee to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hours [.] ;

(3) to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad in clean, safe, and sanitary quarters; or

(4) to begin construction or reconstruction of any sleeping quarters referred to in paragraph (3), on or after the date of enactment of this paragraph, within or in the immediate vicinity (as determined in accordance with rules prescribed by the Secretary) of any area where railroad switching orumping operations are performed.

[(c) The provisions of this Act shall not apply to the crews of wreck or relief trains.] (c) *Notwithstanding subsection (a) of this section, the crew of a wreck or relief train may be permitted to be or remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the crew is related to such emergency. For purposes of this subsection, an emergency ceases to exist when the track is cleared and the line is open for traffic.*

SECTION 4 OF THE DEPARTMENT OF TRANSPORTATION ACT

GENERAL PROVISIONS

SEC. 4. (a) * * *

(c) Orders and actions of the Secretary in the exercise of functions, powers, and duties transferred under this Act, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this Act, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such functions by the Secretary or the Administrators. *This subsection shall not apply to functions, powers, and duties transferred to the Secretary from the Interstate Commerce Commission under section 6 (e) (d) through (4) and section 6 (e) (6) (A) of this Act.*

AGENCY COMMENTS

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 30, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a proposed bill "To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations."

Authorization for appropriations to fund the rail safety program under the Federal Railroad Safety Act of 1970 expires September 30, 1976. This proposed bill would extend authorizations for appropriations for the Department's rail safety program for fiscal years 1977 and 1978.

Promoting, improving and enforcing rail safety is a continuing task. Section 1202 of the Rail Safety Improvement Act of 1974 (Title II of Public Law 93-633) provides:

"The Congress finds that more effective realization of the purposes of the Federal Railroad Safety Act of 1970 requires that Act to be amended to mandate comprehensive analysis and evaluation of the rail safety program, to increase the amount and percentage of available resources for inspection, investigation, and enforcement, and to increase the enforcement powers of the Secretary of Transportation."

Pursuant to this declaration of policy, the Federal Railroad Administration (FRA) has continued to expand its regulatory and enforcement efforts. The FRA has revised its Accident Reports regulations to improve its analysis of the level of rail safety. New safety rules have been proposed with respect to passenger train visibility. The FRA has established a Railroad Operating Rules Advisory Committee to study the impact of operating rules, signal systems and human factors on the relative level of rail safety. Further, the state participation program under section 206 of the Act has been substantially implemented with respect to the initial standards promulgated under the Act. As of December, 1975, 10 States are participating in this program in the track area. Seven applications for participation are under review, and discussions are being held with five other States which have expressed an intent to participate. Regulations dealing with certain aspects of the transportation of hazardous materials have been issued, and proposed rules designed to cover railroad occupational safety standards are being developed.

In order to improve our rail safety program and to combat increasing numbers of employee injuries, FRA is now developing, through a number of studies, both a short-term action plan and a longer-range plan to provide a basis for directing the Federal safety program. These studies will provide the basis for reviewing our current approach to the safety problem and setting new goals and policies. To maximize our safety efforts within available resources, we are undertaking the following actions pursuant to the recently adopted Safety Improvement Plan:

(1) Continuing inspection and surveillance efforts to insure that all carriers are properly reporting accidents and operating in compliance with our regulations;

(2) Focusing our major enforcement efforts on the ten target railroads having the poorest safety records;

(3) Increasing the enforcement powers of our inspectors to enable them to remove unsafe cars from service and reduce speeds on defective track;

(4) Utilizing more sophisticated track inspection equipment;

(5) Investigating operating procedures and conditions of safely operated railroads for purposes of comparison with railroads with poor safety records;

(6) Developing better training materials to improve understanding of Federal safety requirements;

(7) Improving procedures for investigating complaints;

(8) Reviewing employee casualty statistics to identify the problem areas;

(9) Developing qualification standards for railroad inspectors to insure that they have the knowledge and ability to inspect track and equipment for compliance with Federal requirements; and

(10) Reviewing regional boundaries to determine whether a more equitable distribution of areas of responsibility can be achieved.

The importance of the railroad industry as a transporter of freight and passengers requires a continuing effort to promote railroad safety. Accordingly, the enclosed draft bill would authorize the appropriation of \$35 million in each of the fiscal years 1977 and 1978 for operations under the Federal Railroad Safety Act of 1970.

The proposed legislation will not have an adverse impact on the environment nor will it have an inflationary impact on the economy.

The Office of Management and Budget advises that the submission of this proposed bill to the Congress is consistent with the President's program.

Sincerely,

WILLIAM T. COLEMAN, Jr.

A BILL To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations¹

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS

"There are authorized to be appropriated to carry out the provisions of this title not to exceed \$35,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978."

¹ This draft was introduced on February 10, 1976, as H.R. 11337.

(c) A compromise effected pursuant to authority conferred by sub-section (b) of this section shall be final and conclusive on the debtor and on all officials, agencies, and courts of the United States, except if procured by fraud, misrepresentation, or the presentation of a false claim, or mutual mistake of fact. No accountable officer shall be liable for any amount paid or for any amount of property lost, damaged, or destroyed, where the recovery of such amount or value may not be had because of a compromise effected pursuant to authority conferred by sub-section (b) of this section.

APPENDIX A

FEDERAL CLAIMS COLLECTION ACT OF 1966

AN ACT To avoid unnecessary litigation by providing for the collection of claims of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Claims Collection Act of 1966".

SEC. 2. In this Act—

(a) "agency" means any department, office, commission, board, service, Government corporation, instrumentality, or other establishment or body in either the executive or legislative branch of the Federal Government;

(b) "head of any agency" includes, where applicable, commission, board, or other group of individuals having the decision-making responsibility for the agency.

SEC. 3. (a) The head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, shall attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to, his agency.

(b) with respect to such claims of the United States that have not been referred to another agency, including the General Accounting Office, for further collection action and that do not exceed \$20,000, exclusive of interest, the head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, may (1) compromise any such claim, or (2) cause collection action on any such claim to be terminated or suspended where it appears that no person liable on the claim has the present or prospective financial ability to pay any significant sum thereon or that the cost of collecting the claim is likely to exceed the amount of recovery. The Comptroller General or his designee shall have the foregoing authority with respect to claims referred to the General Accounting Office by another agency for further collection action. The head of an agency or his designee shall not exercise the foregoing authority with respect to a claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or a claim based in whole or in part on conduct in violation of the antitrust laws; nor shall the head of an agency, other than the Comptroller General of the United States, have authority to compromise a claim that arises from an exception made by the General Accounting Office in the account of an accountable officer.

(3) Focusing our major enforcement efforts on the ten largest railroads having the poorest safety records;

(4) Increasing the enforcement powers of our inspectors to enable them to remove unsafe cars from service and reduce speeds on defective track;

(5) Utilizing more sophisticated track inspection equipment;

(6) Investigating operating procedures and conditions of safety on railroads for purposes of comparison with railroads with poor safety records;

(7) Developing better training materials to improve understanding of Federal safety requirements;

(8) Improving procedures for investigating complaints;

(9) Increasing employee safety standards to identify the problem areas;

(10) Developing qualification standards for railroad inspectors to insure that they have the knowledge and ability to inspect track and equipment for compliance with Federal requirements; and

(11) Reviewing regional boundaries to determine whether a more equitable distribution of areas of responsibility can be achieved.

The importance of the railroad industry as a transporter of freight and passengers requires a continuing effort to promote railroad safety. Accordingly, the enclosed draft bill would authorize the appropriation of \$25 million in each of the fiscal years 1977 and 1978 for operations under the Federal Railroad Safety Act of 1970.

The proposed legislation will not have an adverse impact on the environment nor will it have an inflationary impact on the economy.

The Office of Management and Budget advises that the submission of this proposed bill to the Congress is consistent with the President's program.

The FRA has established a Railroad Operating Rules Committee to study and recommend operating rules, signals, and other matters to the Interstate Commerce Commission.

WILLIAM T. COLLINS JR.

A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional investigations and to require the Secretary of Transportation to submit a report to the Senate and the House of Representatives of the United States on the progress of the investigation. The bill is numbered H.R. 1327.

The Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

SEC. 2. AUTHORIZATION FOR REPORTS.

There are authorized to be appropriated to carry out the provisions of this title not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978.

The bill was introduced on February 10, 1976 as H.R. 1327.

These studies will provide the basis for reviewing our current approach to the safety problem and setting new goals and policies. To maximize our safety efforts within available resources, we are undertaking the following actions pursuant to the recently adopted Safety Improvement Plan:

(1) Continuing inspection and surveillance efforts to insure that all carriers are properly reporting accidents and operating in compliance with our regulations;

(c) A compromise effected pursuant to authority conferred by subsection (b) of this section shall be final and conclusive on the debtor and on all officials, agencies, and courts of the United States, except if procured by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact. No accountable officer shall be liable for any amount paid or for the value of property lost, damaged, or destroyed, where the recovery of such amount or value may not be had because of a compromise with a person primarily responsible under subsection (b).

Sec. 4. Nothing in this Act shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.

Sec. 5. This Act shall become effective on the one hundred and eightieth day following the date of its enactment.

Approved July 19, 1966.

APPENDIX B

NOVEMBER 9, 1972.

FEDERAL RAILROAD ADMINISTRATION—OFFICE OF SAFETY

RAILROAD EMPLOYEE ACCIDENT INVESTIGATION: REPORT NO. 1, RICHMOND, FREDERICKSBURG & POTOMAC RAILROAD CO., ALEXANDRIA, VA.

The Accident

On November 9, 1972, at approximately 11:30 p.m., a Richmond, Fredericksburg and Potomac car inspector was struck by a freight car moving northward on track No. 30 in the Northbound Classification Yard of Potomac Yard at Alexandria, Va. The car inspector had both legs severed and extensive internal injuries which resulted in his death at approximately 5:30 a.m., the following morning. The weather at the time of the accident was clear.

Circumstances Involved in Accident

Potomac yard consists of northbound and southbound receiving and classification yards. Automatic humping is performed on two humps located between the receiving and classification yards. The switches and retarders on the hump end of the classification yard tracks are remotely controlled.

The duties of car inspectors preparing trains for departure from the classification yards include the closing of journal box lids, coupling air hoses and performing air brake tests. With the exception of the air brake test, many of these functions are performed before trains are completely assembled and while cars which are being classified over the hump are still entering the tracks on which the inspectors are working. Because of the recognized hazard, car inspectors are provided with tools called "coupling irons" for coupling air hoses.

The car inspector involved in the accident reported for duty at 4:00 p.m. and was assigned to work in the Northbound Classification Yard with his regular partner. As a team, the two men worked two trains after which they went to lunch. After lunch, they worked together until about 11:10 p.m., when they separated. At that time, the subject car inspector informed his partner that he intended to work cars that had been classified into track No. 30. He then proceeded to the east side of track No. 30 where he talked with a yard employee at about 11:25 p.m. Several minutes later a radio transmission was received from the subject car inspector reporting that he had been injured.

RF&P Safety Rule

58. A blue signal, displayed at one or both ends of an engine, car or train, indicates that workmen are under or about it; when thus protected it must not be coupled to or moved. Each class of workmen will display the blue signals and the same workmen or another authorized by the supervisor can remove them. Other equipment must not be

placed on the same track so as to obstruct the view of the blue signals without first notifying the workmen.

Analysis

At the time the subject car inspector was last seen by a yard employee, records indicate there were seven cars classified into track No. 30 which had not been worked. Records further indicate a four car cut was switched into track No. 30 at 11:30 p.m. It was shortly after this movement that the distress call from the injured party was received.

The critically injured car inspector was found lying on the west side of track No. 30 and had been run over by the second car from the north end. This indicates that at the time the four car cut struck the standing cars on track No. 30 the inspector was between the first and second cars.

The provisions of Safety Rule No. 58 are intended to protect against the hazards encountered in working under or about trains and cars. This rule, however, as a matter of managerial policy, does not receive general application in Potomac Yard. Blue signals are not used in the classification tracks.

Cause

This accident was caused by failure of the Richmond, Fredericksburg and Potomac Railroad to enforce an adequate safety rule or rules which would provide protection from moving equipment for car inspectors working under, between or about cars.

MAC E. ROGERS,

Associate Administrator, Office of Safety.

MINORITY VIEWS ON H.R. 11804, FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1976

OVERVIEW

The matter of railroad safety has been of great concern to every Congress since 1893. Over the years, Congress has initiated meaningful legislation designed to prevent railroad accidents. The Safety Appliance Acts made certain that railroad rolling stock had safety built in with proper couplers, handholds, and grab bars. The Boiler Inspection Acts made certain that the chance of boiler explosion were minimized. An employee injury from excess steam was avoided. Other acts ensured the safety of signal systems and power brakes.

In 1970, Congress entered a new era of railroad safety legislation. The 1970 Railroad Safety Act granted broad authority to the Secretary of Transportation to propose and promulgate whatever rules and regulations were necessary to ensure railroad safety.

There has not been a significant improvement in railroad accident prevention since the enactment of the Federal Railroad Safety Act of 1970. Unfortunately, H.R. 11804, as reported, is not designed to improve railroad safety, but rather to penalize—which was never the intent of the law, although penalties are provided the main objective is to provide safety. It is our view that the failure of this bill to promote railroad safety is caused for the following reasons:

- (1) Inappropriate use of penalties
- (2) Inappropriate collective bargaining intrusions;
- (3) Inappropriate safety regulation intrusions;
- (4) Weakening of broadly based rulemaking.

Without correction of the defects pointed out herein, enactment of H.R. 11804 would set back railroad safety. This setback would come at a time when there is hope that railroad safety will improve because of the Railroad Revitalization and Regulatory Reform Act (P. L. 94-210) which was passed by Congress last February. Under that law, over \$6.5 billion is being pumped into the railroad industry and substantial regulatory freedom, both with respect to prices and mergers, is taking place. Once the railroad industry is in a sounder financial position, significant improvement can be made with respect to accident prevention.

INAPPROPRIATE USE OF PENALTIES

Section 3 of the bill contained a number of penalty increases, mostly for obsolete laws. The penalties contained in the bill are inappropriate because they (a) represent increases on non-relevant or obsolete provisions of law; (b) act as invitations to litigation; and (c) waste money which could be used for promoting railroad safety.

The penalty increases as contained in the bill relate mostly to obsolete or non-relevant provisions of law. For example, the Safety Appliance Acts of 1893, 1903, and 1910 are for the most part designed to

ensure that rolling stock is constructed in a manner that includes such safety features as handholds and grab bars. Likewise, the penalties are increased with respect to the Boiler Inspection Acts, again matters related more to construction than to utilization.

The Committee did remove the penalty increase for the Ashpan Act of 1908 since railroads no longer used either wood-burning or coal-burning steam locomotives. Increases in penalties up to \$250 minimum penalty for each day of each violation and \$2,500 maximum penalty seemed to be misdirected and have only a nuisance value as applied to some of these old statutes.

As it now stands, however, the penalties contained in Sec. 3 of the bill represent an invitation to litigation. Section 3 now prevents any compromise of penalties assessed with the exception of the Federal Railroad Safety Act and the Hours of Service Act. Under existing law, any civil penalty may be compromised under the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953). The effect of prohibiting such compromise will be that railroads which are assessed a penalty under the Act will protest the penalty in Federal Court. This additional litigation will further overcrowd the courts and will often result in no penalty being collected because the U.S. Attorney will not have the resources nor time to prosecute the case.

Finally, the bill contains an inappropriate use of penalties because it continues the practice of siphoning money off from the railroads who most need to improve their track and right-of-way in order to avoid accidents. The Committee refused to consider an amendment offered by Mr. Skubitz which would have established a new and innovative use of fines and penalties assessed under the railroad safety acts. The Skubitz amendment would have permitted the Secretary of Transportation to enter into agreement with penalized railroads to use an amount equivalent to their fine or penalty for the purpose of making improvements of track, signal systems, or rolling stock related to safety. Such improvement would have been over and above the improvement necessary for correcting the defect for which the penalty had originally been assessed. In 1975, slightly over \$1 million was collected from the railroad industry in the form of fines and penalties. With the new provision preventing the compromise of most penalties, that amount will be doubled or tripled in the years to come. The Skubitz proposal for putting penalties to a more constructive use with respect to railroad safety has been endorsed by the Federal Railroad Administration and Mr. Stephen Ailes, President of the Association of American Railroads. (Copies of their letters appear below). Moreover, the labor brotherhoods have endorsed the amendment in principle.

DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington, D.C., May 13, 1976.

HON. JOE SKUBITZ,
House of Representatives, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. SKUBITZ: This is in response to your letter of May 13 asking the Federal Railroad Administration to comment on your proposed amendment to the Federal Railroad Safety Act of 1970, which

was considered by the subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce on May 11, 1976.

The amendment would authorize the Secretary of Transportation to designate the expenditure of penalties assessed under Section 209 of the Federal Railroad Safety Act to correct deficiencies which lead to unsafe and hazardous operations on the nation's railroads. The Federal Railroad Administration would support such an amendment.

We believe that this amendment would further the FRA's goal of promoting railroad safety and reducing deaths and injuries to persons and damage to property. It would allow the FRA the alternative of providing funds to promote safety in the operations of railroads in an era of financial difficulty for the industry.

It also provides the FRA a workable mechanism for channeling penalty funds in a positive direction. Instead of penalties being diverted into the Department of the Treasury's miscellaneous fund, the moneys collected could be used for projects for the immediate improvement of railroad safety. These expenditures would be carefully monitored by the Office of the Comptroller General and the Secretary of Transportation.

The amendment will in no way impair our continuing efforts to promote safety on the nation's railroads. In appropriate cases, the Administrator or his delegate could continue to assess penalties as may be necessary.

Sincerely,

ASAPH H. HALL,
Administrator.

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., May 12, 1976.

HON. JOE SKUBITZ,
Subcommittee on Transportation and Commerce
Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. SKUBITZ: The purpose of this letter is to give the endorsement of the Association of American Railroads to the principle contained in an amendment proposed by you to the pending bill, H.R. 11804, known as the "Federal Railroad Safety Authorization Act of 1976".

The particular amendment to which I refer is the one which would authorize the Secretary of Transportation to enter into voluntary agreements with railroads pursuant to which the amount of penalties assessed against them for certain safety violations (or the amount agreed in compromise of such penalties) would be spent by the railroads to promote safety instead of being paid into the Treasury of the United States.

We realize that the program for handling penalties under this proposal might involve administrative problems and details that would have to be worked out in the future. It would be important that the program should not be used by the Department of Transportation to escalate safety penalties in order to bring about increased expenditures by the railroads. However, the underlying principle of your

amendment is that the mere imposition of penalties does not forward the cause of safety, and we think the idea is salutary.

Sincerely,

STEPHEN AILES.

Section 3 of H.R. 11804 represents an inappropriate use of civil penalties.

INAPPROPRIATE COLLECTIVE BARGAINING INTRUSIONS

SEC. 4 of the bill amends the Hours of Service Act of 1907 (45 U.S.C. 62(a)). There are two general areas of amendment under this Section. First are provisions relating to crew quarters, and second are provisions on inclusion of additional employees under the Act's coverage. With respect to crew quarters, the Committee accepted an amendment by Mr. Skubitz which struck from the provision relating to the condition of crew quarters the fact that they must be "temperature-controlled." Such a provision would have led to the air-conditioning of all crew quarters whether or not such crew quarters were located in warm climates. The second part of the Skubitz amendment related to the provision spelling out the location of crew quarters. Specifically, it provided that the term "immediate vicinity" would be "as determined in accordance with rules prescribed by the Secretary" for any area where railroad switching or humping operations are performed. These two amendments clarified provisions relating to crew quarters. Nevertheless, the entire subject matter of crew quarters is something that is best left to collective bargaining. Once Congress becomes involved in resolving issues such as the condition of crew quarters, it becomes very difficult for the collective bargaining process to work. In the future, both labor and management will rely on working with Congress rather than with each other.

The provision is therefore inappropriate in that it represents an unnecessary intrusion into the collective bargaining process.

The other matter contained in Sec. 4 of the bill is the inclusion of signalmen and hostlers within the coverage of the hours of Service Act. This action was taken by the Committee based solely on a request by a labor organization. No hearings were held to determine the nature of the work performed by signalmen and hostlers, nor were any hearings held to determine the necessity for including signalmen or hostlers under the Hours of Service Act. Both groups could have utilized the collective bargaining process to come within the scope of the Act if in fact safety is the issue involved. If, on the other hand, there is some other issue, such as increasing the labor work force in the rail industry, then that also should have been squarely addressed using the hearing process.

The detailed requirements for crew quarters and the inclusion of signalmen and hostlers under the Hours of Service Act represent an inappropriate collective bargaining intrusion by Congress.

INAPPROPRIATE SAFETY REGULATION INTRUSIONS

SEC. 5 of the bill contains two provisions whereby Congress directly enters the field of specific safety rulemaking. Unfortunately, in both instances, less safety rather than more safety may result.

The bill requires the Secretary to issue rules that the rear car of all passenger and freight trains shall have highly-visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility. This provision, on its face, would seem to make sense if the railroad industry was still operating the way it did around the turn of the century. The fact of the matter is, however, that much of the railroad traffic in the country moves in automatic block or traffic controlled system territory. There is no evidence that highly-visible rear end markers would reduce the frequency of rear-end collisions. An analysis has been made of rear end collisions in 1974, a typical year for railroad safety. A table showing the details of that analysis is attached to these views. In 1974 there were:

(1) 10,691 Reported Train Accidents (accidents in which there was \$750 or more damage to track and equipment);

(2) Of these, 40 were reported as rear-end collisions. However, one was a head-end collision but was miscoded;

(3) In the 10,691 train accidents, there was 23 fatalities and 464 injuries;

(4) In the 40 rear-end collisions, there was one reported fatality and 38 injuries. Two of the injuries occurred in the one miscoded collision note in (2) above.

Table 1 lists cause code, numbers of accidents or casualties, reported dollar costs, and where available, information on the time of day and conditions affecting visibility.

In the 39 rear-end collisions, analysis of the events suggests that none of them would have been prevented by improved visibility of the rear of the train. The present systems for identifying the rear end of the train work quite well considering all of the instances of potential overtaking collisions. There are very few rear-end collisions.

Most of the rear end collisions occur because of reported failure to comply with present safety rules. Therefore, a new requirement for new high-visibility markers on the rear car of trains to make them highly-visible would not increase safety and could, in fact, act to distract the attention of the crew from present safety signaling systems, thus decreasing safety.

In addition to the potential that illuminated markers will detract from the respect paid to signal indications—because markers used as warning lights allow the assumption that signals need not be rigidly adhered to—there are other railroad safety/operating rules which may be adversely affected.

The most obvious is Rule 99 of the Standard Code of Operating Rules which provides for the protection of the rear end of slowly moving or stopped trains in other than Automatic Block or Traffic Control System territory. Rule 99 requires that, when a train is moving so slowly that it may be overtaken by another train, a member of the crew must drop lighted fuses "at proper intervals", i.e., at intervals to ensure that a following train will be able to stop in time. When a train is stopped, a member of the crew must go back along the track to provide protection. When recalled, the crewmember must leave fuses (and torpedoes if the carrier's rules so state) before returning to the train. Rule 11 of the Standard Code requires that a

train finding a fusee burning must stop and may then proceed "at reduced speed for not less than one mile."

Just as with signal indications, if the crew of a following train sees a fusee but "knows" that markers (used as warning lights) will indicate where the preceding train "really" is, there may exist a tendency to proceed until the markers are in view. This is a detriment to safety because the following train may not proceed slowly enough to stop in time, especially if the train being protected is obscured by weather or is hidden in a cut or around a curve.

In addition to Standard Code Rules 99 and 11, Rule 19 requires that markers be extinguished when a train is in a siding, "clear of the main track". If the railroads could no longer follow Rule 19, a train seeing markers down the track would have no way of knowing—especially at night—whether the train ahead was on the mainline or not. If there were sufficient time for a gradual stop, only a delay would result, but if the siding were just around a curve, the following engineer would have no choice but to put his train into an emergency brake application and emergency stops have a very real potential for leading to derailments as the slack runs in violently.

The illustrated detriments to Rules 99, 11 and 19 described above are not only reasons against enacting a law which would require that markers be displayed as warning lights, they are also illustrations of the kinds of complications which can better be resolved in the course of administrative agency rulemaking. A proceeding by FRA to modify Rule 99—for greater clarity, with no change to affect the discussion above—was published in the Federal Register March 30, 1976. A hearing will be held May 14, 1976 and written comments are required to be filed by June 14, 1976.

Unfortunately, it appears that the requirement for the rear-car marking of passenger and freight trains has more to do with employment opportunities than safety. Some have argued that the train caboose could easily be equipped with markers. However, modern railroading shows a trend away from the use of the caboose. For example, the Denver and Rio Grande Western, the Seaboard Coast Line, the Southern Pacific, and the Louisville and Nashville Railroads do not use a caboose in road switcher service. In a survey done for this report, the National Railway Labor Conference found that many other railroads also do not use a caboose for switching and branch line operations. While there has been no showing that the rear car markings with a light would decrease rear end collisions (of which there are very few) it can be shown that the cost of operating a railroad will increase from this provision.

Sec. 5 also pushes Congress further into the nitty-gritty of rulemaking by requiring the locking of all manual switches whenever a blue flag is used. The blue flag rule following three years of lengthy hearings and rulemaking procedures was recently promulgated by the Federal Railroad Administration. Within three weeks of its promulgation, this bill enters into a serious modification of that rule. By attempting to specify that the rear car of all trains shall be lighting and that manual switches should be locked, the bill represents an inappropriate safety regulation intrusion. We in Congress in 1970 delegated such rulemaking procedures to the Secretary of Transportation. Now, we appear to be taking them back.

WEAKENING OF BROADLY-BASED RULEMAKING

The time limit placed on the Federal Railroad Administration for the purpose of rulemaking represents a good idea that has gone awry. The Committee rightfully placed a time limit on the rulemaking proceedings by the Federal Railroad Administration. This action was consistent with the action we took with respect to the Interstate Commerce Commission when we passed the Railroad Revitalization and Regulatory Reform Act last February.

In order to dramatize the action that we were taking the Subcommittee placed a 12 month time limitation in our Committee Print. The need for time limit was apparent to all of us. The Blue Flag Rule, for example, had been under consideration for over three years before it was finally promulgated.

The effect that a 12 month limitation will have, however, is not necessarily one which we had intended. The Federal Railroad Administration now files a Notice of Advance Rulemaking so as to alert the public to the fact that it is considering a certain subject area. For a period of 90 to 100 days the public then submits comments to the Federal Railroad Administration. This practice is generally considered to be one of the better administrative practices followed by government. One of the problems with the 12 month limitation is that the advanced rulemaking procedure would be the first to go.

This defect in the time limitation can be corrected by simply making the 12 month limitation an 18 month limitation. We have been assured by the Federal Railroad Administration that with the 18 month limitation, the practice and procedure of advanced rulemaking would continue.

Railroad Safety is a subject which should be of concern to every Member of Congress, to every member in a railroad labor organization, to every member of railroad management and to the general public. H.R. 11804 has as its goal the improvement of railroad safety. Unless a number of provisions presently contained in the bill are corrected; H.R. 11804 will miss its mark, and in fact could erase whatever progress has been made toward improving railroad safety in the last decade.

SAMUEL L. DEVINE.

JOE SKUBITZ.

JAMES M. COLLINS.

CARLOS J. MOORHEAD.

REPORTED REAR-END TRAIN COLLISIONS—1974

[Ranked by dollar costs]

Cause code	Cause	Amount	Injuries	Fatalities	Time (*a.m.; †p.m.)	Conditions	Date
1307	Stop signal or board, disregard of.	\$329,605	1		*7:25	Light/foggy	October 1974.
1902	Excessive speed in other than yard limits.	361,847	3	1		Dark	April 1974.
1910	Failure to keep proper lookout.	157,509			†10:15	Dark/cloudy	March 1974.
1915	Improper handling.	146,175	1		*5:06	Dark/clear	December 1974.
1604	Improper handling of independent air brakes.	126,701					
1902	Excessive speed in other than yard limits.	86,989			†1:15	Light/clear	May 1974.

REPORTED REAR-END TRAIN COLLISIONS—1974—Continued

[Ranked by dollar costs]

Cause code	Cause	Amount	Injuries	Fatalities	Time (*a.m.; tp.m.)	Conditions	Date
1915	Improper handling.	76,662	10		*7:00	Light/foggy	October 1974.
1910	Failure to keep proper lookout.	74,250			*8:30	Light/snowing	March 1974.
4604	Unable to control locomotive or cars on grade.	66,947					
1901	Excessive speed in yard limits.	45,500	3				
1902	Excessive speed in other than yard limits.	40,052				Light	September 1974.
1901	Excessive speed in yard limits.	39,800					
1802	Switch improperly set.	38,850					
1910	Failure to keep proper lookout (improperly coded) (head-end collision).	35,000	2				April 1974.
1917	Absence of man on or at leading car being pushed.	29,000	1+3				
4687	Accident investigated—other ascertained cause.	22,800	2				
1910	Excessive speed in yard limits.	20,500			†12:30	Dark/clear	June 1974.
1910	do.	19,500	2		†7:25	do	December 1974.
1308	Restricting signal—disregard of.	13,000			†1:50	Light/clear	January 1974.
1901	Excessive speed in yard limits.	12,845	3				
1902	Excessive speed in other than yard limits.	10,050			†7:05	Dark/cloudy	Do.
1915	Improper handling.	9,925			*6:45	Dark	February 1974.
1910	Failure to keep proper lookout.	8,950				Light	December 1974.
1802	Switch improperly set.	7,250					
1802	do.	7,200					
1917	Absence of man on or at leading car being pushed.	6,205					
1307	Stop signal or board, disregard of.	5,850	2		*10:10	Light/clear	May 1974.
1404	Failure to stop when hand signal could not be seen.	5,379				Dark/cloudy	June 1974.
4203	Other tampering with switch or derail.	5,285					
1935	Improper handling of switch.	4,810					
1910	Failure to keep proper lookout.	4,600	1		*9:10	Light/clear	October 1974.
1006	Improper handling by crew (train orders).	4,500			*5:50	Dark/clear	March 1974.
1917	Absence of man on or at leading car being pushed.	4,100					
4611	Vision obscured by smoke, steam, etc.	3,375	2				January 1974.
1802	Switch improperly set.	3,300					
2702	Body bolster.	2,000					
1901	Excessive speed in yard limits.	1,975					
4607	Slack action, not otherwise classifiable.	1,700					
1901	Excessive speed in yard limits.	1,000	2				
1702	Failure to secure by handbrakes.	800					
Totals			38	1			

FEDERAL RAILROAD SAFETY ACT AMENDMENTS OF 1976

MAY 13, 1976.—Ordered to be printed

Mr. HARTKE, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 3119]

The Committee on Commerce, to which was referred the bill (S. 3119) to amend the Federal Railroad Safety Act of 1970, to authorize additional appropriations and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SUMMARY AND DESCRIPTION

The purpose of this legislation is to authorize additional appropriations to implement the Federal Railroad Safety Act of 1970 including the State grant-in-aid program. The legislation would authorize to be appropriated to carry out the provisions of the act, not to exceed \$35 million for the fiscal year ending September 30, 1977. Of those amounts, not more than \$18 million would be available for the Office of Safety, including salaries and expenses for not more than 500 safety inspectors, 45 signal and train control inspectors, and 110 clerical personnel. Additionally, an amount not to exceed \$3,500,000 would be available to implement the State grant-in-aid program under section 206(d) of the act, not to exceed \$3,500,000 would be available for the Federal Railroad Administration (FRA) for salaries and expenses for the safety program; and not to exceed \$10 million would be available for conducting research and development activities under the Federal Railroad Safety Act. The authorization further provides that the aggregate of the amounts obligated and expended for research and development in the fiscal year ending September 30, 1977, shall not exceed the aggregate of the amounts expended for rail inspection and

for the investigation and enforcement of railroad safety rules, regulations, orders and standards under the act during fiscal year 1977.

S. 3119 would also reenact the authorizations for the fiscal year transition period enacted into law by Public Law 94-56.

BACKGROUND AND NEED

The inability of the Federal Railroad Administration and the Nation's railroads to make major safety gains continues to be a source of great frustration to the committee. While some may take comfort in the fact that the rate of increase in train accidents declined in 1975 over 1974, other safety statistics tell a different story. While the percentage increase in train accidents for 1975 over 1974 was about 5 percent, and the comparable figure for 1974 over 1973 was 19 percent, the fact remains that there were 7,895 train accidents in 1975—404 more than the previous year. To put this increase in perspective, it was accompanied by a 12.9 percent decrease in the number of train miles traveled during the year. Thus, there was an increase of 21.1 percent in the accident per million train miles rate from 9 in 1974 to 10.9 in 1975. More than 60 percent of the train accidents were due to equipment or track failures.

There are several disturbing aspects concerning the Federal Railroad Administration's administration of the safety program in the past year. According to comments submitted to the committee by the Railway Labor Executives Association, there are now only 78 inspectors throughout the United States responsible for inspecting for compliance approximately 1.7 million freight cars, 34,000 locomotives and 6,800 passenger cars. FRA's reports show that there were fewer locomotive and freight car inspections in calendar year 1975 than in 1974. The Railway Labor Executives Association further noted that during 1975, the freight cars inspected for freight car standards defects were 25.9 percent defective. Thirteen percent had safety appliance defects—the highest percentage in more than 18 years.

FRA's statistics also show a drastic reduction in the number of locomotive inspections. While there were 5,248 such inspections in 1974, there were only 4,232 inspections in 1975. Of the locomotives inspected in fiscal year 1975, 17.7 percent had defects, which is the highest percentage found defective in over 30 years.

In addition to the authorization of appropriations which the committee is reporting, S. 3119, as introduced, would have made several substantive amendments to the rail safety statutes. As introduced, S. 3119 would have—

(a) Increased the statutory penalties from a minimum of \$200 and a maximum of \$500, to a minimum of \$500 and a maximum of \$5,000 for violation of various federal rail safety statutes and regulations;

(b) Amended the Federal Hours of Service Act to specify that employees be provided with sleeping quarters which allow opportunity for uninterrupted rest and which have controlled temperatures, and are located away from switching and humping yards;

(c) Amended the Federal Hours of Service Act to provide that hours of work on wreck trains are exempt from the law only dur-

ing the period of time when an emergency exists and until the track is cleared and opened to traffic;

(d) Provided a statutory rule requiring rear end flag protection for stopped or slowly moving trains;

(e) Provided a statutory rule for "blue flag" protection for employees working on, under, or about railroad ontrack equipment;

(f) Provided statutory rule "highly visible" rear end markers on passenger and freight trains; and

(g) Required that the Federal Railroad Administration be divided into the regional offices for the administration of the Federal railroad safety laws and that such regional offices be under direct control of the FRA Associate Administrator for Safety.

Because of the Budget Act's statutory deadline to report all authorizations for fiscal year 1977 by May 15, 1976, the committee did not have the opportunity to address fully the merits of these amendments. Thus, the committee is not in a position to report either favorably or unfavorably on the specific amendments.

Many of the amendments contained in S. 3119 could be accomplished under the existing regulatory powers of the Federal Railroad Administration. Petitions regarding many of the matters contained in the amendments have been filed with the FRA but it has not responded to the petitions in a timely manner.

With respect to the proposed amendments to the Federal Hours of Service Act on sleeping quarters, the railway brotherhoods filed a petition with FRA in August 1974, to require that sleeping quarters be located at least 1 mile from switching and humping yards. While the FRA received comments on this petition, no further action was taken.

A similar situation exists with respect to the proposed amendment to require rear end flag protection for slow moving trains (rule 99). On January 10, 1975, the Railway Labor Executives Association filed a petition with the Federal Railroad Administration seeking such a rule. Almost 15 months passed before the FRA even published a notice of proposed rulemaking.

The same situation is true with respect to the proposed amendments to require highly visible rear end markers on passenger and freight trains. On September 20, 1974, the United Transportation Union filed a petition to require such markers on the rear of trains. Five months later, comments were requested from the general public. Other than extending the comment period, there has been no action from the FRA with respect to this proposed rulemaking proceeding.

These amendments appear to be more appropriate for administrative rather than legislative action. However, if the agency which is responsible for implementing the Federal Railroad Safety Act is going to remain unresponsive to public petitions for rulemaking, then Congress may be forced to act. Congress could require, as it has done for other agencies, that the Federal Railroad Administration respond within a limited period of time to petitions for rulemaking filed with the agency. In the alternative, if the agency continues to be unresponsive, Congress could enact, and from time to time revise, specific safety regulations.

SECTION-BY-SECTION ANALYSIS

Section 212 of the Federal Railroad Safety Act of 1970 would be amended to authorize to be appropriated to carry out the provisions of the act not to exceed \$18,750,000 for the fiscal year transition period of July 1, 1976 through September 30, 1976, and not to exceed \$35 million for the fiscal year ending September 30, 1977. Amounts appropriated would be available for expenditure as follows:

(1) \$4,500,000 for the transition period and \$18 million for fiscal year 1977 for the Office of Safety, including salaries and expenses for not more than 500 safety inspectors, 54 signal and train control inspectors and 110 clerical personnel;

(2) \$875,000 for the transition period and \$3,500,000 for fiscal year 1977 to carry out the provisions of section 206(d) relating to State grant-in-aid programs;

(3) \$875,000 for the transition period and \$3,500,000 for fiscal year 1977 for the Federal Railroad Administration for salaries and expenses not otherwise provided for; and

(4) \$2,500,000 for the transition period and \$10 million for fiscal year 1977 for conducting research and development activities under the Federal Railroad Safety Act.

The aggregate of amounts obligated and expended for research and development in the transition period and in fiscal year 1977 shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders and standards under the Federal Railroad Safety Act.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

[§ 212 Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this title not to exceed \$35,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$8,750,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the "transition period").

(b) Except as otherwise provided in subsection (c) of this section amounts appropriated under subsection (a) of this section shall be available for expenditure as follows:

(1) For the Office of Safety, including salaries and expenses for up to 500 safety inspectors and up to 110 clerical personnel, not to exceed \$18,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$4,500,000 for the transition period.

(2) To carry out the provisions of section 206(d) of this Act, not to exceed \$3,500,000 for the fiscal year ending June 30, 1976; and not to exceed \$875,000 for the transition period.

(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed \$3,500,000 for the fiscal year ending June 30, 1976; and not to exceed \$875,000 for the transition period.

(4) For conducting research and development activities under this subchapter not to exceed \$10,000,000 for the fiscal year ending June 30, 1976; and not to exceed \$2,500,000 for the transition period.

(c) The aggregate of the amounts obligated and expended for research and development under this subchapter in the fiscal year ending June 30, 1976, and in the transition period, shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this subchapter in such fiscal year, and in the transition period, respectively.]

SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

(a) *There are authorized to be appropriated to carry out the provisions of this title not to exceed \$8,750,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the 'transition period') and not to exceed \$35,000,000 for the fiscal year ending September 30, 1977.*

(b) *Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section shall be available for expenditures as follows:*

(1) *not to exceed \$4,500,000 for the transition period, and not to exceed \$18,000,000 for the fiscal year ending September 30, 1977, for the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 54 signal and train control inspectors, and (C) 110 clerical personnel;*

(2) *not to exceed \$875,000 for the transition period, and not to exceed \$3,500,000 for the fiscal year ending September 30, 1977, to carry out the provisions of section 206(d) of this Act;*

(3) *not to exceed \$875,000 for the transition period, and not to exceed \$3,500,000 for the fiscal year ending September 30, 1977, for the Federal Railroad Administration, for salaries and expenses not otherwise provided for; and*

(4) *not to exceed \$2,500,000 for the transition period, and not to exceed \$10,000,000 for the fiscal year ending September 30, 1977, for conducting research and development activities under this Act.*

(c) *The aggregate of the amounts obligated and expended for research and development in the transition period and in the fiscal year ending September 30, 1977, shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in such transition period and in such fiscal year, respectively.*

ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510) the cost of the legislation in the form of new authorization for appropriations, is \$35,000,000 for the fiscal year ending September 30, 1977.

TEXT OF S. 3119, AS REPORTED

A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS

"(a) There are authorized to be appropriated to carry out the provisions of this title not to exceed \$8,750,000 for the transition period of July 1, 1976, through September 30, 1976 (hereafter in this section referred to as the 'transition period') and not to exceed \$35,000,000 for the fiscal year ending September 30, 1977.

"(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section shall be available for expenditures as follows:

"(1) not to exceed \$4,500,000 for the transition period, and not to exceed \$18,000,000 for the fiscal year ending September 30, 1977, for the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 54 signal and train control inspectors, and (C) 110 clerical personnel;

"(2) not to exceed \$875,000 for the transition period, and not to exceed \$3,500,000 for the fiscal year ending September 30, 1977, to carry out the provisions of section 206(d) of this Act;

"(3) not to exceed \$875,000 for the transition period, and not to exceed \$3,500,000 for the fiscal year ending September 30, 1977, for the Federal Railroad Administration, for salaries and expenses not otherwise provided for; and

"(4) not to exceed \$2,500,000 for the transition period, and not to exceed \$10,000,000 for the fiscal year ending September 30, 1977, for conducting research and development activities under this Act.

"(c) The aggregate of the amounts obligated and expended for research and development in the transition period and in the fiscal year ending September 30, 1977, shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in such transition period and in such fiscal year, respectively."

AGENCY COMMENTS

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., May 3, 1976.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your letter of March 23, 1976, inviting the comments of the National Transportation Safety Board on S. 3118, a bill, to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations; and on S. 3119, a bill, to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

S. 3118 would authorize \$35 million each for fiscal years ending September 30, 1977 and September 30, 1978; S. 3119 authorizes \$35

million for the fiscal year ending September 30, 1977 only. We believe that the 2-year provision of S. 3118 is clearly advantageous from a management point of view, and would give the Federal Railroad Administration more latitude and flexibility in their planning and programming.

Section 4 of S. 3119 would require sleeping quarters for train crews for uninterrupted sleep away from yard switching. In the accident which occurred at Decatur, Ill., on July 18, 1974, a fire and explosion of hazardous materials being switched at a yard caused seven fatalities among railroad employees who fled from a bunkhouse located within a railroad yard. This provision of S. 3119 has a safety effect as well as a comfort effect. The Safety Board favors the provision.

Section 6 of S. 3119 would enact as Federal law two present operating rules in the form most used by the industry. These are the flagging rule (Rule 99) and so-called blue flag rules. The Safety Board opposes the practice of legislating on detailed regulatory matters, subject to improvement and change, for which the Congress has given necessary regulatory authority to the Department of Transportation.

Further, the specific words of the flagging rule proposed for enactment (sec. 6(g)) have technical shortcomings. Because it is ambiguous, the section does not have a logic for objective enforcement. The rule effectively requires flagging only according to the judgment of the flagman, and he is given no more specific guidance.

Rule 99 is a so-called hanging rule. It may be evident that flagging was required after an accident occurs, but it is very difficult for a flagman or anyone else to comply consistently with the rule's requirement. In fact, railroads, with all their experience, have never produced a definitive list of necessary criteria for flagging. The flagman would violate this proposed Federal law if, on a given occasion, he failed to diagnose this need for flagging from the circumstance before an accident or potential accident. Such a vague incomplete rule tends to make it appear that a problem is solved, thus diverting effort, when in reality the problem has merely been converted into an unfulfilled responsibility.

This portion of S. 3119 is also difficult to enforce because it attempts to place responsibility on "a crew member". The effect may be that all crew members are made responsible. The identity of the crew position responsible is not ascertainable from this language.

The problem of ambiguity in long-standing rules was first expressed by the safety board in a special study, Signals and Operating Rules as Causal Factors in Train Accidents, issued February 7, 1972. It is an extremely important problem because such rules do not insure safe operation and they are unfair to employees. The board is therefore opposed to enactment of section 6(g).

The safety board believes that there is a need for protection or employees as provided by section 6 (h), but believes it should be left to the Federal Railroad Administration's regulatory authority.

The safety board has expressed itself in favor of having the rear of trains marked in a conspicuous manner. A recommendation to that effect has been made and studies are under way. We believe, however, it should be accomplished by regulations rather than by law.

Section 6 (j) would require by law that FRA be divided into 10 regional offices under the direct control of the Associate Administrator for Safety for the purpose of administering and enforcing all Federal railroad safety laws. We believe that such matters should be left to the discretion of the Administrator.

Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely yours,

WEBSTER B. TODD, Jr.,
Chairman.

STATEMENT OF THE FEDERAL RAILROAD ADMINISTRATION FOR THE
SENATE COMMITTEE ON COMMERCE ON S. 3118 AND S. 3119

The Federal Railroad Administration, Department of Transportation appreciates the opportunity to present, for the record, its views on S. 3118 and S. 3119, bills to amend the Federal Railroad Safety Act of 1970, to authorize additional appropriations.

The Department's proposal S. 3118 would authorize appropriations for fiscal years 1977 and 1978 to enable the Federal Railroad Administration to continue its efforts to promote a higher level of safety on our Nation's railroads.

FRA would like to take this opportunity to discuss with you the need for this legislation, and FRA's safety program under the Railroad Safety Act of 1970.

CURRENT TRENDS IN RAILROAD SAFETY

Based on figures for 1975, and adjusted figures for 1974 (damage above \$1,750), the rate of increase in train accidents continued to decline in 1975. The percentage increase for 1975 over 1974 was about 5 percent; for 1974 over 1973, the increase was just over 19 percent; and for 1973 over 1972, the increase was almost 29 percent.

Employee fatalities were down 17.1 percent from 140 in 1974 to 113 in 1975. Fatalities at grade crossings declined significantly, by 26 percent, from 1221 to 910.

The final 1974 accident and casualty figures compared with figures for 1975 are summarized in attachment 1.

The FRA Accident Reporting Regulations became effective January 1, 1975. This revision established new casualty reporting criteria designed to provide full comparability for the first time between the employee safety records of the railroad industry and industries which report to the Department of Labor under the Occupational Safety and Health Act. The new criteria encompass many injuries and occupational illnesses which were not reported to FRA in the past because they did not result in at least one day's lost time. Now all injuries requiring more than first aid treatment must be reported to FRA. Consequently, more injuries are being reported in calendar year 1975 than were reported in calendar year 1974 under the former reporting criteria. I would emphasize that this does not necessarily mean the number of injuries is increasing; it simply means that more are being reported under our new regulations.

FRA ENFORCEMENT EFFORTS

FRA safety inspectors increased their inspection efforts during calendar year 1975. During the first 10 months of 1975, Federal and State inspectors made 3,679 inspections of 108,600 miles of track; during 1975, 8,311 inspections were made for our new equipment standards; and 3,832 hazardous materials inspections were made. Safety appliance inspections were made representing approximately 87 percent of the total locomotive fleet and 22 percent of the car fleet. Inspector activity is summarized in attachment 2.

During fiscal year 1975, FRA transmitted 8,441 claims totaling \$2,682,000 for alleged rail safety violations. A total of \$797,121 was collected for 4,788 claims. For the first half of fiscal year 1976, FRA settled 2,087 claims for \$522,894. The figures for claims transmitted during this 6-month period are not yet available. Attachment 3 summarizes FRA enforcement actions.

MAJOR ACTIONS DURING 1975

Over the last year, additional actions taken by the Federal Railroad Administration under section 203 of the Railroad Safety Act of 1970 have resulted in furthering railroad safety. Emergency Order No. 5, prohibited the free rolling switching of certain tank cars filled with high pressure compressed gas. We have experienced no fires or explosions with these cars through switching accidents since the order was placed in force in late 1974. Positive action produced positive results.

Last year FRA published a notice advising that it intended to delegate additional enforcement powers to its Inspectors and certified State inspectors. The additional powers will enable FRA and participating State inspectors to (1) control certain serious hazards by requiring that proper repairs be made before unsafe railroad cars are returned to service, and (2) reduce risks created by operation at excessive speed over deficient track by reducing that track in class. Rulemaking procedures have been completed and a final rule was signed on April 29, 1976. It will be published in the Federal Register during the week of May 2, 1976.

A developing part of FRA's enforcement program is the State participation program. There are now 13 States participating in the rail safety track program under section 206 of the Federal Railroad Safety Act with a total of 28 inspectors. They are Alabama, Arizona, Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, Ohio, Oregon, Pennsylvania, Vermont, and Washington. At present, FRA is reviewing applications submitted by the States of Connecticut, Kansas, Kentucky, New Jersey, Rhode Island, Utah, and West Virginia. In addition, FRA has had discussions with representatives of the States of New Hampshire, North Carolina, and South Carolina, all of which have expressed an intent to participate in this program. Three States are participating in the rail equipment program. They are Arizona, Oregon, and Washington.

Fiscal year 1975 was the first year in which FRA was funded for the Federal share of grants for the State participation program, and

in which States joined with us in our track safety efforts. However, we have been hampered in expanding participation to a greater number of States chiefly because of the prescribed inspector qualifications. Only a few States employ inspectors with sufficient track experience, and, because of the lower level of State salaries, some States have not been able to recruit qualified candidates. FRA requires State track inspectors to meet the same qualifications as FRA's Federal track inspectors. Uniformity of qualifications for State and Federal inspectors is essential to an effective and uniform enforcement program.

As a result of discussions and several meetings with National Association of Regulatory Utility Commissioners (NARUC), the FRA issued revised State participation regulations in November 1975. Rather than lowering the inspector qualification requirements, under these revised rules, FRA has initiated an intensive training program combining both on-the-job training and classroom instruction which will develop the skills necessary for an effective state track inspection program. The revised regulations also expand the scope of the State participation program by the addition of specifications for State participation under the Railroad Freight Car Safety Standards, with a training program for equipment inspector trainees similar to that established in the track area. The regulations also clarify the working relationship between State agencies and FRA.

With the freight car inspection program, and the training program in both track and equipment, we expect to see a significant increase in the number of States, and number of State inspectors, participating in this rail safety program during fiscal years 1977 and 1978. At the present time we anticipate having 34 State inspectors by June 30, 1976, 155 by the end of fiscal year 1977 and 180 by the end of 1978.

Another promising aspect of our enforcement effort is our automated track inspection program which provides FRA with an automated track inspection capability. FRA currently has a single track geometry measuring vehicle which has been used as both a research device and a safety enforcement tool. Using technology developed by our Office of Research and Development, two additional FRA track inspection vehicles are being fabricated during fiscal year 1976 and a fourth system will be completed in fiscal year 1977. The three new systems will be used solely for enforcing track safety standards and the existing system will be used part-time for this purpose and part-time for R. & D. Approximately 90,000 miles of track will be inspected in fiscal year 1977, and the total is expected to rise rapidly thereafter. Automated track inspection cars can provide the larger data base required for more effective safety enforcement with essentially 100 percent track geometry inspection coverage of passenger train routes, and a large sampling of main line freight routes. Rail flaw detection equipment on one of the vehicles will provide the track inspection with a statistically significant sample of internal rail defects.

SAFETY RESEARCH AND DEVELOPMENT

The FRA technological research effort has been redirected and more sharply focused on near and intermediate term conventional rail problems. Efforts in this area have already resulted in significant pro-

gram redirection. We have placed highest priority on safety and now have efficient internal interface between our rulemakers, inspection, and technical R. & D. support personnel.

The Office of Rail Safety Research, which was formed in fiscal year 1975, conducts research in three areas:

- (1) Improved track structures;
- (2) Rail vehicle safety, and;
- (3) Safety inspection, defect detection, and testing of track and rail vehicle components and systems.

Track research is concentrated on the reduction of train accidents caused by the two major deficiencies that account for 67 percent of derailments. These are failure of track system components (rails, fastenings and crossties) and excessive dynamic responses of trains moving over rough track.

The construction of a facility for accelerated service test (FAST) has begun at the Transportation Test Center. The facility will be used to provide safety life-cycle data in a compressed time period by virtually continuous operation of a test train over a closed loop track. Track and vehicle components will be subjected to the equivalent of about 10 years of in-service usage in 1 year of testing.

We completed the demonstration tests of the ballast consolidator, a machine used to compact ballast loosened during track resmoothing operations. Substantially on the basis of improved track performance data derived from this demonstration project, several railroads have acquired these machines.

The goal of the rolling stock program is to improve railroad safety through the development of: (a) guidelines for vehicles and vehicle components which are less prone to failures; (b) techniques and mechanisms for predicting, detecting, and reacting to the failures which do occur; (c) improvements to increase the accident survivability of vehicle occupants; and (d) safety control systems. To establish safety criteria for new and existing vehicles and components, FRA is investigating the effect of forces exerted on critical components such as wheels, axles, brakes and couplers, under emergency conditions.

We are also involved in research activities directed toward reducing injuries and fatalities of occupants in rail vehicles. Computer models were developed to simulate accidents and to analyze countermeasures to increase occupant protection.

In the area of the rail transportation of hazardous materials, work has progressed to the point that several promising safety improvements have been developed to reduce the catastrophic consequences of accidents involving these cars. FRA, in cooperation with the Association of American Railroads (AAR) and the Railway Progress Institute (RPI), is evaluating these improvements in simulated accident situations. In the Track-Train Dynamics Project (jointly sponsored by FRA, AAR, and RPI) the interaction between rail vehicles and the track are being investigated. This work will result in the development of vehicle and track performance specifications and design guidelines to assure the safety of operations in the entire life cycle spectrum.

Past work in the human factors program was devoted primarily to basic research (e.g., problem definition, analysis of job requirements

and system analysis). The program has now matured to the point where experiments simulating inservice conditions are needed to verify and build upon prior accomplishments. These experiments will involve evaluation of the performance of the locomotive engineman under various conditions. The design specifications for the research locomotive cab and train handling evaluator are being prepared as the first step to conduct studies on man/machine interfacing under realistic, controlled, safe experimental conditions. Other FRA-sponsored human factors studies include new cab control concepts, determining the presence of noxious gases and noise levels in locomotive cabs, and testing and evaluating train handling aids.

The success of our automated inspection car program was noted in our earlier comments. We intend to continue an improvement program to extend the automated inspection capability for both the large rail cars and the smaller high-rail vehicles. Particular emphasis will be placed on improving detection of small rail flaws—the present system is limited to large flaw detection. Research will also continue to find automated methods to measure rail wear, rail-end mismatch, rotted ties, loose spikes and track structure modulus (stiffness or elasticity).

Further support for our safety research efforts will be derived from the newly established Railroad Safety Research Committee which was formed under the joint auspices of AAR, RPI, FRA, and rail labor. This board, which is co-chaired by the president of the United Transportation Union and the vice president-operations of one of our major railroads, will look at problems, try to determine what changes need to be made in safety and accident prevention programs, and generally attempt to bring into sharp focus the safety research projects being conducted in and for the industry.

REGULATIONS

FRA has undertaken several regulatory and enforcement actions during the past year as part of our continuing effort to improve the level of railroad safety. Several new Federal railroad safety rules were issued and became effective during 1975. These included the following:

Railroad accident/incident rules which greatly expanded the scope of railroad accident and incident reporting, including occupational illness.

Operating rules and practices rules which require each carrier to file with FRA copies of its code of operating rules, timetables, and special instructions, and to instruct and test its employees to assure their understanding of the operating rules.

Track safety standards amendment which encouraged carriers to operate their own track inspection vehicles.

Civil penalties—freight car safety standards which prescribed the amount of penalty to be assessed for violation of specific requirements of the Standards.

Freight car safety standards amendments which restrict defective railroad freight car movements.

Safety appliance standards amendment which requires newly constructed box and other house cars to be equipped with end platforms and associated end handholds.

State participation regulations revision which established a program for State participation in inspections under the Railroad Freight Car Safety Standards, and a training program for State inspector trainees in both track and equipment.

Blue flag protection requirements which requires the display of blue signals to indicate the presence of workmen on, under or between railroad equipment.

In addition, several notices of proposed rulemaking were published which proposed additional railroad safety standards and requested public comment on their merits. Each of these proceedings is still in progress and FRA is reviewing the input received through public comments and hearings. These proceedings include:

Special notice and emergency order procedures which would delegate additional enforcement powers to FRA and qualified State inspectors as I mentioned earlier in my statement. This regulation will be published in the Federal Register during the week of May 2, 1976.

Stop-and-proceed procedures which would strengthen our regulation of operating practices in this area.

Radio standards and procedures governing the use of radio communications in connection with the conduct of railroad operations.

FRA also issued a number of advance notices of proposed rulemaking which identified areas of concern to FRA and requested public comment on the need for regulation as well as possible methods of regulation. The publication of these notices was in keeping with the DOT policy of involving the public in the rulemaking process at an early stage to assure full public participation in agency regulatory decisions. These advance notices included:

Railroad occupational safety standards covered adoption of Department of Labor OSHA standards for the railroad industry.

Protection of railroad maintenance-of-way-and-structures employees would require railroads to take protective measures to prevent rail equipment from striking railroad employees working on track or signal system components.

Signal systems on commuter railroads and rapid transit lines would require the installation of automatic train stop, train control, or comparable systems to assure these passenger operations are conducted in accordance with signal indications. We also have in final stage for issuance notices of proposed rulemaking on three operating rules which have been recommended by the Railroad Operating Rules Advisory Committee (rules 34, 93 and 99).

REVIEW OF SAFETY PROGRAM

FRA is now developing, through a number of studies, a short term action plan and a longer range plan to provide a basis for directing the Federal safety program. These studies will provide the basis for reviewing our current approach to the safety problem and setting new goals and policies.

In spite of the fact that the primary cause of deterioration in railroad safety is due to the industry's economic posture, it is hoped that by FRA's use of two safety improvement plans, an improvement in the overall picture will emerge. In brief, these two plans are: first, a

short-term effort now underway to obtain remedial action by the industry itself so as to achieve a tangible improvement over the next 2 years; and second, a more basic method which consists of changes in the FRA's approach to safety which should give us continuing betterments over the long term.

Our short term safety improvement plan focuses on specialized target areas for the carriers and ourselves to concentrate existing resources for the highest payoff. This entails a major enforcement effort by the carriers to improve themselves in the critical high-cause areas called to their attention. In addition, we are attempting to streamline our own operations to provide field inspectors with more time to devote to industry problem areas.

Problems areas are defined by analyzing accident statistics in relation to geographic locations, individual railroads, general cause categories, the application of FRA regulations to various categories of accidents, and accident rates per million train miles and per billion gross ton miles.

Under this plan, a major enforcement effort was focused on 10 target railroads which, according to our 1974 accident statistics, had an accident rate of more than 25 accidents per million train miles. During the 10-month period of January to October 1975, three of the target carriers showed some decline in their total accident rate. One carrier experienced a reduction in its human factors accident rate, three had reduced equipment accident rates, and five carriers experienced a reduction in their derailment rates. The full impact of this program will not be evident for another year.

The long term plan consists in the main of decentralized FRA regions, hazard identification and analysis systems, safety management information systems, expansion in State cooperative enforcement programs, and consideration of a unit concept by which a principal inspector would be assigned to each major carrier.

We think it important to mention that although we are taking new approaches wherever practical to remedying the safety situation in the industry, more than 80 percent of our available man-hours are still applied to standard operations provided for in our basic legislation.

MARCH 1976 REPORT

Complementing the development of our long term safety improvement plans is the completion of a comprehensive railroad safety report as required by section 203 of the Rail Safety Improvement Act of 1974. FRA submitted this report to the Congress on March 17, 1976. As this committee is aware, that report deals extensively with the State participation program for railroad safety which was established in section 206 of the Federal Railroad Safety Act of 1970. In the preparation of the report, FRA conducted an extensive survey of the States, through which we have isolated several issues which have contributed in one way or another, to the slow development of State participation in the Federal railroad safety effort. A detailed explanation of each of these issues is contained in the report. However, I would like to briefly highlight them.

State safety program

As I mentioned earlier in my statement, one of the most significant problems to date has been the general inability of the States to recruit

or employ, at present State salary levels, inspection personnel who meet the prescribed experience requirements. Other problems identified by the States involve the lack of State authority to issue more stringent rail safety rules in addition to Federal standards, or to enforce existing Federal rules in their own right rather than by referral to the FRA. The States also identified several operational problems with respect to the administration of the program in the field once a State begins participating. These problems involve the development of an effective Federal/State relationship, and are not unlike problems encountered in the early stages of the development of other cooperative Federal/State programs.

The States also noted the limited scope of their participation in the Federal rail safety effort in that the concept of State participation applies only to rules, regulations, orders and standards issued under the 1970 act, and not to those issued under the pre-1970 rail safety statutes such as the Safety Appliance Acts, the Locomotive Inspection Act, the Signal Inspection Act, and the Hours of Service Act.

The impact of this distinction in jurisdiction upon the relative authority of a Federal and State inspector will require some duplication of inspection efforts and resulting inefficiency in the utilization of limited inspector resources. There may be merit to the States' position with respect to the pre-1970 rail safety statutes. The participation of the States in the investigative and surveillance activities pursuant to those acts would greatly increase not only the number of inspections possible, but also the efficiency and cost-effectiveness of individual inspectors since duplication could be eliminated.

In the process of our consultations with interested organizations during the development of the report, the National Association of Regulatory Utility Commissioners (NARUC) suggested the creation of a statutory advisory committee to be composed of a number of State representatives, as well as carrier, labor, and consumer representatives. Such a group would bring together all parties interested in the future of the State participation program and establish a formal channel of communication for the transmittal of advice and recommendations to the administrator. We are now considering this recommendation and believe such a body could greatly enhance the State input into the future development of the Federal/State partnership in rail safety.

Despite the several problems identified by the States during the survey conducted as a basis for the report, it was evident that there is a considerable degree of interest in the railroad safety program among the States. For purposes of the survey FRA identified five major categories in which it expects to issue regulations between now and fiscal year 1981. For each of these categories the States expressed an interest or intent to participate as follows:

Rail safety category	State intentions	
	Will participate	May participate
Track safety.....	29	5
Freight car safety.....	22	7
Occupational safety.....	20	6
Operating practices safety.....	20	6
Passenger car safety.....	15	6

The FRA believes that the present statutory structure of State participation in section 206 of the act is a workable mechanism which fully recognizes the national interest in preserving uniformity of regulation in an industry which is basically interstate in nature, while also recognizing a proper role and important function for the States in the investigative and surveillance activities to assist in the enforcement of those uniform Federal standards at the local level. Therefore, the FRA does not contemplate recommending any major legislative changes which would affect the present functions and jurisdictions of the Federal and State governments with respect to the Federal railroad safety program. The report does, however contain recommendations for some legislative changes to section 206 of the act in order to facilitate increased State involvement, to improve communication between the States and FRA, and to rationalize the inspection efforts and eliminate inefficient inspector utilization.

Number of inspectors

In addition to the analysis of State Participation, the March report contains estimates of the number of inspectors needed at the Federal, State and carrier levels through fiscal year 1981. These estimates were developed in broad ranges to reflect the general uncertainties inherent in all projections of future activities and to account for the limitation of the data available as a basis for the estimates.

The development of the figures for these projections was a difficult task since there is no existing data base common to all three of the categories for which projections were required which could be utilized as a basis for our calculations. It was necessary, therefore, to develop each projection separately, and to build upon a number of assumptions in each case. The March report explains at length the assumptions utilized in the development of the figures, and these should be carefully analyzed before the projections are utilized for any purpose.

Hazardous materials

The March report contains a description of DOT regulations for the handling of radioactive materials transported by rail, and projections of the amount of such materials which will be transported by rail through fiscal year 1980. In addition, the report cites several changes in the regulations governing radioactive materials which are expected to be issued shortly. Some of these changes relate specifically to the rail mode, such as revised placarding requirements and in-train placement requirements. On April 15, 1976, the first of these amendments was published in the Federal Register. In addition, a number of changes are based upon recent changes made by the International Atomic Energy Agency (IAEA). All major countries and international transport organizations use the IAEA standards as the basis of their own regulations. DOT will use any future revisions made by IAEA as a basis for revising its regulations.

FIELD REORGANIZATION

Based on a review and an analysis of our safety effort which takes into account the additional responsibilities given FRA by Congress in recent legislation, we have developed a regional reorganization plan which we believe will enable us to improve our effectiveness.

To improve our effectiveness, we see the need for developing a broader based regional capability to assume our new responsibilities which include the administration of grant and loan programs, branch line subsidy programs with the States and other transportation authorities, and overall transportation planning on the regional level. With this in mind, we plan to establish a new position of regional administrator to provide the type of top level decentralized management that will be needed in the future. In addition, we are reducing the number of our regional offices from eight to five in order to produce a more efficient span of control within FRA. The objective of this reorganization will be to increase our capability in the field for other than safety activities without interfering at all with the current level and effort of our existing regional safety directors and their staffs. However, the number of regional safety offices will remain at eight.

We strongly believe that this reorganization will allow FRA to delegate as much authority as possible to the local level for conduct of the daily safety activities including enforcement, accident investigation, handling of complaints, violations, and local contact with carrier and labor officials. These are functions that can be handled better in the field than it can by headquarters personnel in Washington.

Complementing this, however, we also believe that the headquarters' safety office should have overall responsibility and authority for developing policy, priorities, guidelines, and technical support within which the field safety operations are to be conducted. This means a strengthening of the headquarters' safety staff in these areas and a shift in emphasis from attempting to handle local activities toward looking at fundamental safety problems and how to set in motion programs to eliminate these problems. There is no intention to sever the relationship between Washington and the field organization. In fact, closer coordination will be maintained. In summary, the reorganization envisions policy and technical guidance from headquarters, with operational responsibilities delegated to the field which we strongly believe will improve FRA's effectiveness.

S. 3118 AND S. 3119

As between the two proposals, for the reasons discussed below, we prefer the administration's bill, S. 3118, which provides general authorizations for fiscal years 1977 and 1978 to carry out our ongoing programs.

FRA views with great concern the introduction of S. 3119 which would amend the Federal Railroad Safety Act to authorize, among other things, additional appropriations for fiscal year 1977, and make specified allocations of the amounts authorized. We do not favor the specified allocations of authorized amounts as provided by this bill because it would unnecessarily create administrative inflexibility, at a time when we are attempting to expand and reorganize our safety efforts.

Further, authorization for appropriations for only fiscal year 1977 would be inconsistent with the policy of Congress of developing authorization proposals for 2 years instead of 1 year, as required by the Budget and Impoundment Control Act of 1974.

As you are aware, it was less than a year ago that we appeared before the authorizing committee for authorization of appropriations for fiscal year 1976. Rather than make an annual appearance for this purpose, it would be preferable to provide authorization for appropriations for at least a 2-year period. Thus, we could effectively plan and organize our safety efforts over the longer term which is especially important in our rail safety research and development program when long range planning is required to insure its success. This request is not an attempt to evade congressional oversight which can be obtained at any time Congress deems it warranted.

Section 3 of S. 3119 increases the penalty for each violation of the safety acts administered by FRA to not less than \$500 nor more than \$5,000. In some cases this would constitute an increase of well over 100 percent of the amount of the penalty for each violation. We have serious reservations as to the effectiveness of such increases in promoting safety. However, if changes in current penalty provisions are to be made, they should go in the direction of more flexibility. We would recommend that the minimum penalties be eliminated completely, as we feel that any minimum, and certainly the proposed higher minimum, is not appropriate with respect to many violations. We would recommend providing more flexibility in the range of penalties so that fines may be levied to match the seriousness of each individual case.

Section 4 of the bill would amend the Hours of Service Act to cover crew lodging requirements. The location and type of sleeping quarters afforded employees traditionally has been a matter of collective bargaining and should not be established by legislation. As we interpret the wording of section 4 of S. 3119, it would make it unlawful for a railroad not to provide employees with sleeping quarters which provide an opportunity for uninterrupted rest. Therefore, this provision would require railroads to provide sleeping quarters, which is not an obligation under the Hours of Service Act. We strongly recommend that the proposed requirements be applicable only when the railroad voluntarily takes it upon itself to provide such quarters. We believe the location requirements would be unenforceable as a railroad could not determine where the quarters must be located to be away from a switching yard. Such distances should be determined in accordance with rules prescribed by the Secretary. Since the provisions of section 4 are inappropriate and in certain respects unenforceable and would result in unnecessary litigation, we strongly recommend that section 4 be stricken.

Section 6 of the bill would amend the Federal Railroad Safety Act to add various new regulations of railroad operations and specify the field organization of the FRA.

These provisions of the bill are in the nature of regulations and are a radical departure from the traditional form of legislating whereby the administrative agency, within the parameters established by Congress, promulgates, after appropriate investigation, regulations implementing the statute. With all due respect to the Congress, we believe that it is more appropriate for FRA, with its expertise, and after an appropriate investigation, to develop the detailed regulations necessary to achieve safety in rail operations. Rather than legislate regulations, we recommend that such proposals be left to the prescribed regulatory process.

To demonstrate the appropriateness of our position we are pleased to advise that FRA has underway several rulemaking proceedings covering the areas proposed in this bill.

On August 9, 1973, FRA published in the Federal Register an ANPRM advising that it was considering initiation of rulemaking with respect to rule 99 (flag protection) and three other rules in the AAR standard code of operating rules. Public comment was invited by October 15, 1973. On January 15, 1974, CRU filed a rulemaking petition to require a standard rule 99 flagging rule on all railroads. After considering all the comments filed in response to the ANPRM, FRA referred this matter to its Railroad Operating Rules Advisory Committee for further consideration. This committee was established on September 20, 1974, and is composed of twelve members representing Rail Labor, Rail Management and State Regulatory Agencies. At its meetings in July, August, and September 1975, the Advisory Committee reviewed this matter and recommended numerous changes in the present Rule 99. FRA published the NPRM on March 30, 1976 and will be accepting public comment until May 15, 1976.

On March 30, 1976, FRA published in the Federal Register a regulation requiring railroads to display blue flags and take other protective measures to protect workmen working on, under, or about, rolling equipment. In addition to public hearings, the Railroad Operating Rules Advisory Committee reviewed this Public Docket in its proceedings in November and made additional comments on the proposed rule. FRA issued the final regulation fully confident it properly addresses the safety issues raised.

On September 20, 1974, the United Transportation Union filed a rulemaking petition to require highly visible markers on the rear of every train. A public notice inviting comments on this petition was published in the February 18, 1975 issue of the Federal Register (40 FR 7001). At the request of the Brotherhood of Locomotive Engineers, the comments period was extended to April 15, 1975. FRA is also considering the comments filed in response to an NPRM proposing issuance of a regulation to require highly conspicuous marking of the rear end of passenger trains and has devoted considerable effort in field testing of strobe lights and other devices under typical operating conditions. In the course of this field testing, deficiencies in the system proposed in the NPRM were uncovered. FRA is now engaged in developing a second NPRM, which will invite public comment on a modified system.

Finally, S. 3119 would provide that FRA field organization be divided into 10 regional offices and under the direct control of the Associate Administrator for Safety. This is contrary to the previously mentioned reorganization plan which reduces the number of FRA regions from eight to five, but makes no basic changes to our existing regional safety offices. It is also contrary to the Department's regional organization in which regional supervisory personnel report directly to their various modal administrators.

Again, we do not believe it is appropriate for the Congress to legislate internal organizational structures of Federal agencies at this level and therefore we strongly oppose this provision.

Mr. Chairman, we appreciate the opportunity to present our views on this important subject.

ATTACHMENT 1

	1975 estimate ¹	1974 ²	Percent change	1975 percent of total
Total train accidents.....	7,895	7,491	+5.4	100.0
Human factors.....	1,846	1,526	21.0	20.4
Equipment failures.....	1,873	1,609	16.4	21.5
Track failures.....	3,059	2,916	4.9	38.9
Miscellaneous causes.....	1,117	1,440	-22.4	19.2
Millions of train-miles.....	725,706	833,261	-12.9	
Accidents per million train miles.....	10.9	9.0	+21.1	
Human factors.....	2.5	1.8	38.9	
Equipment.....	2.6	1.9	36.8	
Track.....	4.2	3.5	20.0	
Miscellaneous.....	1.5	1.7	-11.8	
Train accident casualties:				
Killed.....	80	99	-19.2	
Injured.....	1,111	812	(³)	
Employee casualties, all types of accidents:				
Killed.....	113	140	-19.3	
Injured.....	42,898	15,620	(³)	
Casualties at grade-crossings, all classes of persons:				
Killed.....	910	1,220	-25.4	
Injured.....	3,978	3,260	(³)	

¹ Data shown for 1974 are final figures. Figures for 1975 are preliminary.

² 1974 train accident figures have been made comparable with 1975 by eliminating accidents in the \$750 to \$1,749 damage range.

³ Because of revised reporting requirements for 1975, injury figures are not comparable.

ATTACHMENT 2

INSPECTORS' ACTIVITIES

The vast expansion of FRA's safety inspectors responsibility under the Federal Railroad Safety Act of 1970 has had the effect of increasing the safety inspection activity. Inspections made of the total freight car, as opposed to the pre-Safety Act procedure of inspecting only brakes and safety appliances, has actually increased the effectiveness of our field inspections. Greater numbers of track and hazardous materials inspections were made in 1975.

LOCOMOTIVE, SAFETY APPLIANCE AND FREIGHT CAR STANDARDS INSPECTIONS

During calendar year 1975, Federal inspectors performed safety appliance inspections on 29,800 locomotive units and 374,700 cars. These inspections disclosed 934 locomotive and 47,131 car safety defects which were corrected by railroad personnel. Prosecution has been recommended on 4,924 cases.

These inspections represent 86.8 percent of the locomotive fleet and 21.7 percent of the car fleet inspected for safety appliances.

A total number of 4,232 locomotive inspections and 8,311 freight car standard inspections were conducted during calendar year 1975 covering 29,328 locomotive units and 58,180 cars. These inspections led to the discovery of 5,190 defective locomotive units and 15,079 cars which were corrected by the railroads and recommendations for prosecutions on 423 cases.

The inspections disclosed a defect ratio of 17.7 percent for locomotives and 25.9 percent for cars.

These inspections represent 85.5 percent of the locomotive fleet and 3.4 percent of the car fleet inspected.

TRACK INSPECTION

During calendar year 1974, Federal track safety inspectors with participating State track inspectors conducted a combined total of 1,273 inspections covering 43,800 miles of track, 18,170 turnouts, and examination of 35,120 records of carrier track inspections. These inspections led to the discovery of 11,754 defects which were corrected by the railroads and recommendations for prosecution in 132 cases.

During the first 10 months of 1975, Federal and State track inspectors have conducted 3,679 inspections on 108,600 miles of track, 46,900 turnouts, and examined 88,800 carrier records. During these inspections 31,000 defects were identified by our inspection force and were corrected by railroad personnel. Prosecution has been recommended in 162 cases.

HAZARDOUS MATERIALS

The Federal Railroad Administration conducted 132 field accident investigations during calendar year 1975 in which the presence of hazardous materials was an important aspect of the accident. Likewise, the Federal Railroad Administration assisted the National Transportation Safety Board in their investigations into six serious rail accidents involving hazardous materials. In addition, 527 special inspections of shipper facilities were conducted as a result of receiving Hazardous Materials Incident reports and Department of Defense "DISREP" reports.

During 1975, personnel of the Federal Railroad Administration performed 3,832 inspections of rail carrier, rail shipper, and specification container manufacturer facilities. This was a 50 percent increase over the effort expended in 1974. Prosecution has been recommended on 234 cases.

SIGNALS AND TRAIN CONTROL

A total of 270 applications for approval of proposed modifications of signaling systems and relief from the requirements of the rules, standards and instructions governing block signaling systems, interlockings, automatic train stop, train control and cab signal systems were processed during the year ending December 31, 1975. This compares with 175 handled in 1974.

In 1975 approximately 21,000 inspections of signal equipment were made by 21 inspectors and 7 supervisors compared with 19,000 inspections made by approximately the same force during the year 1974. The reduction of complaints involving signals during the year 1975 permitted the signal inspectors to devote more time to signal inspections.

These 21,000 inspections in 1975 involved the inspection of approximately 141,000 pieces of apparatus. The defective equipment found is called to the attention of the management for correction before any serious trouble occurs. This is indicated by the small number of accidents attributed to the malfunction of the signaling systems. Prosecutions were recommended on 187 cases.

OPERATING PRACTICES

The FRA operating practices inspectors during fiscal year 1975 inspected 1,799 Railroad operating records; 79,750 accident records and 296,694 hours of service records. Prosecutions were recommended on 104 cases involving accident reporting and 831 hours of service cases.

ALL INSPECTORS

A total of 1,378 complaints were investigated during calendar year 1975, an increase of 51 complaints over the previous year.

The Federal Railroad Administration investigated 77 serious train accidents and 117 fatalities of railroad employees during calendar year 1975.

FRA SAFETY INSPECTORS' ACTIVITIES

Inspections	Calendar year—		Percent of total
	1974	1975	
Safety appliances:			
Cars.....		374,700	22 percent of fleet.
Locomotives.....		29,800	87 percent of fleet.
Locomotives:			
Number of inspections.....	5,248	4,232	
Units.....	34,890	29,328	86 percent of fleet.
Freight cars:			
Number of inspections.....	8,577	8,311	
Cars.....	59,898	58,180	3.4 percent of fleet.
Track:			
Number of inspections.....	1,273	1,379	
Miles.....	43,800	108,600	33.3 percent of track miles.
Hazardous materials: Number.....	2,514	3,832	
Signals:			
Inspections.....	19,000	21,000	
Applications.....	175	270	
Railroad operating records.....		1,799	
Railroad accident records.....		79,750	
Railroad hours of service records.....		296,694	
Complaints received.....	1,327	1,378	
Accident investigations:			
Train.....	145	77	
Fatalities.....	116	117	

¹ Federal and State track inspectors during 1st 10 mo of 1975.

² Fiscal year 1975.

Violation reports filed, fiscal year 1975

Type of violation:	
Track standard.....	4,489
Freight car inspection.....	5,206
Hours of service.....	831
Locomotive inspection.....	141
Signal inspection.....	187
Accident reports:	
Personal injury.....	104
Hazardous materials.....	234
Total	11,192

Source: Work measurement system violations submitted by inspectors during fiscal year 1975 to Chief Counsel.

ATTACHMENT

CIVIL PENALTIES COLLECTED FOR ALLEGED RAIL SAFETY VIOLATIONS
DURING FISCAL YEAR 1975 AND CALENDAR YEAR 1975

Fiscal year 1975:

A. Under Federal Claims Collection Act (FCCA):

Amount, \$635,821

Claims, 4,454

B. Under Federal Railroad Safety Act of 1970 (FRSA):

Amount, \$161,300

Claims, 324

C. Total Amounts Under FCCA and FRSA:

Amount, \$797,121

Claims, 4,778

Calendar year 1975:

A. Under Federal Claims Collection Act (FCCA):

Amount, \$775,880

Claims, 5,116

B. Under Federal Railroad Safety Act of 1970 (FRSA):

Amounts, \$267,980

Claims, 556

C. Total Amounts Under FCCA and FRSA:

Amount, \$1,043,860

Claims, 5,682

CLAIMS FOR ALLEGED RAIL SAFETY VIOLATIONS TRANSMITTED TO
RAILROADS DURING FISCAL YEAR 1975

A. Under Federal Claims Collection Act:

Amount, \$1,820,500

Number of claims, 7,397

Number of cases, 229

B. Under Federal Railroad Safety Act of 1970:

Amount, \$861,500

Number of claims, 1,044

Number of cases, 37

C. Combined Total:

Amount, \$2,682,000

Number of claims, 8,441

Number of cases, 266

○

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1976".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. (a) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$35,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$35,000,000 for the fiscal year ending September 30, 1978.

"(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section for any fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 45 signal and train control inspectors, and (C) 110 clerical personnel, not to exceed \$18,000,000 in any fiscal year.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed \$3,500,000 in any fiscal year.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed \$3,500,000 in any fiscal year.

"(4) For conducting research and development activities under this Act, not to exceed \$10,000,000 in any fiscal year.

"(c) (1) The aggregate of the amounts obligated and expended for research and development activities under this Act in any fiscal year shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in the same fiscal year. For purposes of this paragraph and paragraph (4) of subsection (b) of this section, amounts made available under paragraph (2) of this subsection for expenditure for research and development activities under this Act in any fiscal year following the fiscal year in which such amounts were originally appropriated shall be considered to have been obligated and expended for such activities during the fiscal year in which such amounts were originally appropriated.

"(2) Of amounts appropriated under subsection (a) of this section and available for expenditure for conducting research and development activities under subsection (b) (4) of this section, not to exceed

\$5,000,000 of amounts so appropriated and made available for fiscal year 1977, and not to exceed \$7,000,000 of amounts so appropriated and made available for fiscal year 1978, are authorized to remain available until expended for conducting research and development activities under this Act.”.

PENALTIES

SEC. 3. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(d) Section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)) is amended by striking out “\$100 for each such violation and \$100” and inserting in lieu thereof “not less than \$250 and not more than \$2,500 for each such violation and not less than \$250 and not more than \$2,500”.

(e) Notwithstanding any provision of the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953), no penalty arising under a statute amended by this section shall be compromised by the Secretary for an amount less than \$250.

HOURS OF SERVICE

SEC. 4. (a) Section 2(a) of the Act of March 4, 1907 (45 U.S.C. 62(a)), commonly referred to as the Hours of Service Act, is amended—

(1) by striking out “or” at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

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

“(3) to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters; or

“(4) to begin construction or reconstruction of any sleeping quarters referred to in paragraph (3), on or after the date of enactment of this paragraph, within or in the immediate vicinity (as determined in accordance with rules prescribed by the Secretary) of any area where railroad switching or humping operations are performed.”.

(b) Section 2 of such Act (45 U.S.C. 62) is amended by striking out subsection (c), relating to the exemption of crews of wreck or relief trains from limitations on employees hours of service, and inserting in lieu thereof the following new subsection:

“(c) Notwithstanding subsection (a) of this section, the crew of a wreck or relief train may be permitted to be or remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the crew is related to such emergency. For purposes of this subsection, an emergency ceases to exist when the track is cleared and the line is open for traffic.”.

(c) Subsection (b) (2) of the first section of such Act (45 U.S.C. 61 (b) (2)), relating to the definition of the term “employee”, is amended

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by inserting immediately before the period at the end thereof the following: “, including hostlers”.

(d) The Act of March 4, 1907 (45 U.S.C. 61-64b) is further amended by adding a new section 3A to read as follows:

“SEC. 3A. (a) It shall be unlawful for any common carrier, its officers or agents, subject to this Act—

“(1) to require or permit an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems, in case such individual shall have been continuously on duty for twelve hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty; or

“(2) to require or permit an individual described in paragraph (1) to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hours.

“(b) In determining for the purposes of subsection (a) the number of hours an individual is on duty, there shall be counted, in addition to the time such individual is actually engaged in installing, repairing or maintaining signal systems, all time on duty in other service performed for the common carrier during the twenty-four hour period involved.

“(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when the individual is finally released from duty.

“(d) As used in sections 2(a) (3), 4, and 5 of this Act, the term ‘employee’ shall be deemed to include an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems.

“(e) The provisions of this section shall not apply to an individual during such period of time as the provisions of section 3 apply to his duty and off-duty periods.

“(f) Notwithstanding subsection (a) of this section, an individual engaged in installing, repairing, or maintaining signal systems may be permitted to be or remain on duty for not to exceed four additional hours in any period of twenty-four consecutive hours whenever an actual emergency exists and work of the individual is related to such emergency. For purposes of this subsection with respect to the on-duty time of an individual engaged in installing, repairing, or maintaining signal systems, an emergency ceases to exist when the signal systems are restored to service.”

(e) Section 5(a) of such Act (45 U.S.C. 64a(a)) is amended by deleting the words “section 2 or section 3 of this Act” and by inserting in lieu thereof the following: “section 2, section 3 or section 3A of this Act”.

SAFETY REGULATIONS

SEC. 5. (a) Section 202(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(d)) is amended to read as follows:

“(d) In prescribing rules, regulations, orders, and standards under this section, the Secretary shall consider relevant existing safety data and standards and shall, within 180 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1976, take such action as may be necessary to develop and publish rules of practice applicable to all proceedings under this Act. Such rules of practice shall take into consideration the varying nature of proceedings under this Act and shall include specific time limits upon the disposition of all proceedings initiated under this Act. In no event shall the time

limit for any such proceeding extend for more than 12 months after the date such proceeding is initiated.”.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

“(g) The Secretary shall, within 180 days after the date of enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to require that—

“(1) in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair, or service rolling equipment require such employees to work on, under, or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing.

“(2) the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

“(3) the rear car of all freight trains shall have highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility.

Notwithstanding the provisions of section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), nothing in paragraphs (2) and (3) of this subsection shall prohibit a State from continuing in force any law, rule, regulation, order or standard in effect on the date of enactment of the Federal Railroad Safety Authorization Act of 1976 relating to lighted markers on the rear car of freight trains except to the extent that such law, rule, regulation, order, or standard would cause such cars to be in violation of this section.”.

REGIONAL ORGANIZATION OF FEDERAL RAILROAD ADMINISTRATION

SEC. 6. The Federal Railroad Administration shall be divided on a geographical basis into not less than 8 safety offices for purposes of administering and enforcing all Federal railroad safety laws. The Secretary shall retain full and final responsibility for all acts taken pursuant to Federal railroad safety laws and for the establishment of all policies with respect to implementation of such laws, and shall be responsible for insuring that all such laws are administered and enforced uniformly among such offices.

EVALUATION OF THE FEDERAL RAILROAD SAFETY PROGRAM

SEC. 7. (a) The Office of Technology Assessment shall conduct a study of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) and related Federal laws to evaluate their effectiveness in improving the safety of our Nation's railroads. Such study and evaluation shall include, but shall not be limited to—

(1) a cost-benefit analysis of the railroad safety research and development activities under the Federal Railroad Safety Act of 1970 and related Federal laws;

(2) an evaluation of trends with respect to railroad employee injuries and casualties, injuries and casualties to other persons, accidents by type and cause, and such other data as the Office of Technology Assessment considers necessary to determine any

significant statistical relationship between safety practices, expenditures, penalties for violation of Federal railroad safety laws and regulations, and accident rates;

(3) a statistical comparison of railroad accidents reported by each railroad for the 10-year period preceding the date of enactment of this Act;

(4) the cost-benefit and effectiveness of accident prevention resulting from the methodology used and practices employed by Federal and State railroad safety inspectors under Federal railroad safety laws and regulations;

(5) an evaluation of safety inspection activities conducted by the railroad industry;

(6) an evaluation and analysis of industry research and development relating to railroad safety and accident prevention;

(7) a cost-benefit analysis of the various Federal laws and regulations relating to railroad safety; and

(8) the need for additional Federal expenditures for improvements in railroad safety.

(b) The Office of Technology Assessment shall, within 18 months after the date of enactment of this Act, submit a report to the Congress containing the results of the study conducted pursuant to this section, together with recommendations for such legislative or other action as such Office considers appropriate.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

UNIFORMITY OF JUDICIAL REVIEW

SEC. 8. Section 4(c) of the Department of Transportation Act (49 U.S.C. 1653(c)) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to functions, powers, and duties transferred to the Secretary from the Interstate Commerce Commission under sections 6(e) (1) through (4) and section 6(e) (6) (A) of this Act."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*