

109TH CONGRESS
1ST SESSION

S. 1052

To improve transportation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2005

Mr. STEVENS (for himself, Mr. INOUE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve transportation security, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Transportation Security Improvement Act of 2005”.

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

TITLE I—AUTHORIZATIONS

- Sec. 101. Transportation Security Administration authorization.
- Sec. 102. Department of Transportation authorization.
- Sec. 103. Certain personnel limitations not to apply.
- Sec. 104. Intermodal regional security managers.

- Sec. 105. Security threat assessment coordination policy.
- Sec. 106. Reorganizations.

TITLE II—IMPROVED AVIATION SECURITY

- Sec. 201. Post-fiscal year 2006 air carrier security fees.
- Sec. 202. Alternative collection methods for passenger security fee.
- Sec. 203. Screener training review.
- Sec. 204. Employee retention internship program.
- Sec. 205. Repair station security.
- Sec. 206. Waiver process for certain employment disqualifications.

TITLE III—IMPROVED RAIL SECURITY

- Sec. 301. Short title.
- Sec. 302. Rail transportation security risk assessment.
- Sec. 303. Systemwide Amtrak security upgrades.
- Sec. 304. Fire and life-safety improvements.
- Sec. 305. Freight and passenger rail security upgrades.
- Sec. 306. Rail security research and development.
- Sec. 307. Oversight and grant procedures.
- Sec. 308. Amtrak plan to assist families of passengers involved in rail passenger accidents.
- Sec. 309. Northern Border rail passenger report.
- Sec. 310. Rail worker security training program.
- Sec. 311. Whistleblower protection program.
- Sec. 312. High hazard material security threat mitigation plans.
- Sec. 313. Memorandum of agreement.
- Sec. 314. Rail security enhancements.
- Sec. 315. Welded rail and tank car safety improvements.
- Sec. 316. Report regarding impact on security of train travel in communities without grade separation.
- Sec. 317. Study of foreign rail transport security programs.
- Sec. 318. Passenger, baggage, and cargo screening.
- Sec. 319. Public awareness.
- Sec. 320. Railroad high hazard material tracking.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

- Sec. 401. Background checks for drivers hauling hazardous materials.
- Sec. 402. Written plans for hazardous materials highway routing.
- Sec. 403. Motor carrier high hazard material tracking.
- Sec. 404. Truck leasing security training guidelines.
- Sec. 405. Hazardous materials security inspections and enforcement.
- Sec. 406. Pipeline security and incident recovery plan.
- Sec. 407. Pipeline security inspections and enforcement.
- Sec. 408. Memorandum of agreement.
- Sec. 409. National public sector response system.
- Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

- Sec. 501. Establishment of additional joint operational centers for port security.
- Sec. 502. AMTS plan to include salvage response plan.
- Sec. 503. Priority to certain vessels in post-incident resumption of trade.

- Sec. 504. Assistance for foreign ports.
 Sec. 505. Improved data used for targeted cargo searches.
 Sec. 506. Increase in number of customs inspectors assigned overseas.
 Sec. 507. Random inspection of containers.
 Sec. 508. Cargo security.
 Sec. 509. Secure systems of international intermodal transportation.
 Sec. 510. Technology for maritime transportation security.
 Sec. 511. Deadline for transportation security cards.
 Sec. 512. Evaluation and report.
 Sec. 513. Port security grants.
 Sec. 514. Work stoppages and employee-employer disputes.
 Sec. 515. Appeal of denial of waiver for transportation security card.

1 **TITLE I—AUTHORIZATIONS**

2 **SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION**

3 **AUTHORIZATION.**

4 Section 114 of title 49, United States Code, is
 5 amended by adding at the end thereof the following:

6 “(u) **AUTHORIZATION OF APPROPRIATIONS.**—There
 7 are authorized to be appropriated to the Secretary of
 8 Homeland Security, (Transportation Security Administra-
 9 tion)—

10 “(1) for Aviation Security—

11 “(A) \$5,000,000,000 for fiscal year 2006;

12 “(B) \$5,250,000,000 for fiscal year 2007;

13 and

14 “(C) \$5,500,000,000 for fiscal year 2008;

15 “(2) for Maritime and Land Security—

16 “(A) \$394,000,000 for fiscal year 2006;

17 “(B) \$354,000,000 for fiscal year 2007;

18 and

19 “(C) \$354,000,000 for fiscal year 2008;

20 “(3) for Intelligence—

1 “(A) \$30,000,000 for fiscal year 2006;
 2 “(B) \$32,000,000 for fiscal year 2007; and
 3 “(C) \$34,000,000 for fiscal year 2008;
 4 “(4) for Research and Development—
 5 “(A) \$30,000,000 for fiscal year 2006;
 6 “(B) \$32,000,000 for fiscal year 2007; and
 7 “(C) \$34,000,000 for fiscal year 2008; and
 8 “(5) for Administration—
 9 “(A) \$530,000,000 for fiscal year 2006;
 10 “(B) \$535,000,000 for fiscal year 2007;
 11 and
 12 “(C) \$540,000,000 for fiscal year 2008.”.

13 **SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZA-**
 14 **TION.**

15 There are authorized to be appropriated to the Sec-
 16 retary of Transportation to carry out title III of this Act
 17 and sections 20118 and 24316 of title 49, United States
 18 Code, as added by title III of this Act—

- 19 (1) \$261,000,000 for fiscal year 2006;
 20 (2) \$258,000,000 for fiscal year 2007; and
 21 (3) \$258,000,000 for fiscal year 2008.

22 **SEC. 103. CERTAIN PERSONNEL LIMITATIONS NOT TO**
 23 **APPLY.**

24 (a) IN GENERAL.—Any statutory limitation on the
 25 number of employees in the Transportation Security Ad-

1 ministration of the Department of Transportation, before
2 or after its transfer to the Department of Homeland Secu-
3 rity, does not apply to the extent that any such employees
4 are responsible for implementing the provisions of this
5 Act.

6 (b) AVIATION SECURITY.—Notwithstanding any
7 provision of law imposing a limitation on the recruiting
8 or hiring of personnel into the Transportation Security
9 Administration to a maximum number of permanent posi-
10 tions, the Secretary of Homeland Security shall recruit
11 and hire such personnel into the Administration as may
12 be necessary—

13 (1) to provide appropriate levels of aviation se-
14 curity; and

15 (2) to accomplish that goal in such a manner
16 that the average aviation security-related delay expe-
17 rienced by airline passengers is reduced.

18 **SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.**

19 (a) ESTABLISHMENT, DESIGNATION, AND STA-
20 TIONING.—The Under Secretary of Homeland Security for
21 Border and Transportation Security, acting through the
22 Transportation Security Administration, is authorized to
23 establish the position of Intermodal Manager within each
24 of at least 8 regional areas of the nation, as divided on
25 a geographical basis. The Under Secretary shall designate

1 individuals as Managers for, and station those Managers
2 within, those regions.

3 (b) DUTIES AND POWERS.—The regional offices
4 shall—

5 (1) receive intelligence information related to
6 maritime and land security within the region;

7 (2) assist in the development and implementa-
8 tion of vulnerability, threat, and risk assessments,
9 security plans, the identification of critical infra-
10 structure for the region undertaken by the Trans-
11 portation Security Administration and the Depart-
12 ment of Homeland Security, or other public or pri-
13 vate entity when appropriate;

14 (3) serve as the regional coordinator of the As-
15 sistant Secretary's response to terrorist incidents
16 and threats to maritime and land assets, operations
17 and infrastructure within the region;

18 (4) coordinate efforts related to maritime and
19 land security with other Department officials, State
20 and local law enforcement, and other public and pri-
21 vate entities;

22 (5) coordinate with other regional managers;

23 (6) assist the Assistant Secretary in prioritizing
24 maritime and land security improvements, grants,
25 and other efforts funded by the Transportation Se-

1 security Administration or the Department of Home-
2 land Security within the region; and

3 (7) engage in outreach and promote public
4 awareness of maritime and land security efforts
5 when appropriate.

6 **SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION**

7 **POLICY.**

8 (a) IN GENERAL.—The Secretary of Homeland Secu-
9 rity shall transmit to the Senate Committee on Commerce,
10 Science, and Transportation and the House of Represent-
11 atives Committee on Transportation and Infrastructure a
12 copy of the report on comprehensive terrorist-related
13 screening procedures required by Homeland Security
14 Presidential Directive 11 issued on August 27, 2004.

15 (b) FORMAT.—The Secretary may submit the report
16 in both classified and redacted formats if the Secretary
17 determines that such action is appropriate or necessary.

18 **SEC. 106. REORGANIZATIONS.**

19 The Secretary of Homeland Security shall notify the
20 Senate Committee on Commerce, Science, and Transpor-
21 tation, the Senate Committee on Homeland Security and
22 Governmental Affairs, and the House of Representatives
23 Committee on Homeland Security in writing not less than
24 15 days before—

25 (1) reorganizing or renaming offices;

- 1 (2) reorganizing programs or activities; or
2 (3) contracting out or privatizing any functions
3 or activities presently performed by Federal employ-
4 ees.

5 **TITLE II—IMPROVED AVIATION**
6 **SECURITY**

7 **SEC. 201. POST-FISCAL YEAR 2006 AIR CARRIER SECURITY**
8 **FEES.**

9 (a) AIR CARRIER SECURITY SERVICE FEES SUBJECT
10 TO CONGRESSIONAL REVIEW.—Section 44940(a)(2) of
11 title 49, United States Code, is amended by adding at the
12 end the following:

13 “(D) FISCAL YEARS 2007 AND LATER.—
14 The Under Secretary may not impose a fee
15 under subparagraph (A) after September 30,
16 2006, unless—

17 “(i) the fee is imposed by rule promul-
18 gated by the Under Secretary; and

19 “(ii) the Under Secretary submits the
20 rule to the Senate Committee on Com-
21 merce, Science, and Transportation and
22 the House of Representatives Committee
23 on Transportation and Infrastructure not
24 less than 60 days before its proposed effec-
25 tive date.

1 “(E) APPLICATION OF CHAPTER 8 OF
2 TITLE 5.—Chapter 8 of title 5 applies to any
3 rule promulgated by the Under Secretary im-
4 posing a fee under subparagraph (A) after Sep-
5 tember 30, 2006.”.

6 (b) REPORT ON TRANSPORTATION SECURITY SERV-
7 ICE FEES.—Each year, beginning with calendar year
8 2006, the Secretary of Homeland Security, shall transmit
9 a report to the Senate Committee on Commerce, Science,
10 and Transportation and the House of Representatives
11 Committee on Transportation and Infrastructure on fees,
12 substantially similar to the fee imposed under section
13 44940(a)(2) of title 49, United States Code, that are im-
14 posed under authority of law on competing modes of regu-
15 larly-scheduled commercial passenger transportation by
16 rail, vessel, or over-the-road bus to pay for the difference
17 between the Transportation Security Administration’s
18 costs of providing transportation security services in con-
19 nection with those modes of transportation and amounts
20 collected from fees imposed under authority of law on pas-
21 sengers using those modes of transportation, taking into
22 account costs that are the same as or similar to the costs
23 described in 44940(a)(1) of that title that are appropriate
24 to the respective modes of transportation.

1 **SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PAS-**
2 **SENGER SECURITY FEE.**

3 (a) IN GENERAL.—

4 (1) STUDY.—The Assistant Secretary of Home-
5 land Security (Transportation Security Administra-
6 tion) shall study the feasibility of collecting the pas-
7 senger security service fee authorized by section
8 44940(a) of title 49, United States Code, directly
9 from passengers at, or before they reach, the airport
10 through a system developed or approved by the As-
11 sistant Secretary, including the use of vending ki-
12 osks, other automated vending devices, the Internet,
13 or other remote vending sites.

14 (2) SOLICITATION OF PROPOSALS.—In carrying
15 out this subsection the Secretary shall solicit pro-
16 posals for such alternative collection mechanisms.

17 (3) DEVELOPMENT OF ALTERNATIVES.—Based
18 on the study conducted under paragraph (1) and an
19 evaluation of proposals submitted pursuant to the
20 solicitation under paragraph (2), the Assistant Sec-
21 retary shall develop such alternative collection sys-
22 tems as the Assistant Secretary determines to be
23 feasible, including schedules and methods to ensure
24 the efficiency of such systems.

25 (b) REPORT.—The Secretary shall report the results
26 of the study, together with any recommendations the Sec-

1 reary deems appropriate, to the Congress within 6
2 months after the date of enactment of this Act.

3 (c) DEMONSTRATION PROJECTS.—If the Secretary
4 determines that a system of direct collection of such fees
5 from passengers at airports is feasible, the Secretary shall
6 conduct demonstration projects at no fewer than 3 air-
7 ports within 1 year after submitting the report required
8 by subsection (b) to the Congress.

9 **SEC. 203. SCREENER TRAINING REVIEW.**

10 Within 6 months after the date of enactment of this
11 Act, the Assistant Secretary of Homeland Security
12 (Transportation Security Administration), shall transmit
13 a report on the adequacy of training for Transportation
14 Security Administration screeners to the Congress. In ad-
15 dition to other issues, the Assistant Secretary shall specifi-
16 cally address any multi-hour weekly training requirement
17 for such screeners, including an assessment of the degree
18 to which such a requirement is observed and whether the
19 requirement is appropriate, workable, and desirable. The
20 Inspector General of the Department of Homeland Secu-
21 rity shall review the report submitted under this section.

22 **SEC. 204. EMPLOYEE RETENTION INTERNSHIP PROGRAM.**

23 The Assistant Secretary of Homeland Security
24 (Transportation Security Administration), shall establish
25 a pilot program at no fewer than 3 airports for training

1 students to perform screening of passengers and property
2 under section 44901 of title 49, United States Code. The
3 program shall be an internship for pre-employment train-
4 ing of final-year students from public and private sec-
5 ondary schools located in nearby communities. Under the
6 program, participants—

7 (1) shall be compensated for training and serv-
8 ices time while participating in the program, and

9 (2) shall be required to agree, as a condition of
10 participation in the program, to accept employment
11 as a screener upon successful completion of the in-
12 ternship and upon graduation from the secondary
13 school.

14 **SEC. 205. REPAIR STATION SECURITY.**

15 (a) CERTIFICATION OF FOREIGN REPAIR STATIONS
16 SUSPENSION.—If the Under Secretary of Homeland Secu-
17 rity for Border and Transportation Security does not issue
18 the regulations required by section 44924(e) of title 49,
19 United States Code, within 90 days after the date of en-
20 actment of this Act, the Administrator of the Federal
21 Aviation Administration may not certify any foreign repair
22 station under part 145 of title 14, Code of Federal Regu-
23 lations after such 90th day.

24 (b) 6-MONTH DEADLINE FOR SECURITY REVIEW
25 AND AUDIT.—Subsections (a) and (d) of section 44924

1 of title 49, United States Code, are each amended by strik-
2 ing “18 months” and inserting “6 months”.

3 **SEC. 206. WAIVER PROCESS FOR CERTAIN EMPLOYMENT**
4 **DISQUALIFICATIONS.**

5 Section 44936 of title 49, United States Code, is
6 amended by adding at the end the following:

7 “(f) WAIVER PROCESS.—

8 “(1) IN GENERAL.—The Under Secretary for
9 Border and Transportation Security of the Depart-
10 ment of Homeland Security shall establish a process
11 to permit an individual who was convicted of a crime
12 listed in subsection (b) to obtain a waiver from the
13 Under Secretary to permit that individual’s employ-
14 ment.

15 “(2) FACTORS.—In deciding whether to grant a
16 waiver under this subsection, the Under Secretary
17 shall give consideration to the circumstances of the
18 disqualifying crime, restitution made by the indi-
19 vidual, and other factors that would tend to indicate
20 that the individual does not pose a security or ter-
21 rorism risk.

22 “(3) APPEALS PROCESS.—The Under Secretary
23 shall establish a process that includes an opportunity
24 for a hearing for individuals who are denied waivers
25 under this subsection.

1 “(4) RESTRICTIONS ON USE AND MAINTENANCE
2 OF INFORMATION.—

3 “(A) Information submitted to or obtained
4 by the Attorney General or the Secretary under
5 this section about an individual may not be
6 made available to the public, including the indi-
7 vidual’s employer.

8 “(B) Any information submitted to or ob-
9 tained under this section shall be maintained
10 confidentially by the Under Secretary and may
11 be used only for making determinations under
12 this section. The Under Secretary may share
13 any such information with other Federal law
14 enforcement agencies. An individual’s employer
15 may only be informed whether or not the indi-
16 vidual has been granted unescorted access
17 under this section.

18 “(5) APPEAL.—An individual denied a waiver
19 under this subsection may file a civil action appeal-
20 ing that denial in any United States District Court
21 and those courts shall have jurisdiction of the ap-
22 peal.”.

1 **TITLE III—IMPROVED RAIL**
2 **SECURITY**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Rail Security Act of
5 2005”.

6 **SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
7 **MENT.**

8 (a) IN GENERAL.—

9 (1) VULNERABILITY AND RISK ASSESSMENT.—

10 The Secretary of Homeland Security shall establish
11 a task force, including the Transportation Security
12 Administration, the Department of Transportation,
13 and other appropriate agencies, to complete a vul-
14 nerability and risk assessment of freight and pas-
15 senger rail transportation (encompassing railroads,
16 as that term is defined in section 20102(1) of title
17 49, United States Code). The assessment shall in-
18 clude—

19 (A) identification and evaluation of critical
20 assets and infrastructures;

21 (B) identification of vulnerabilities and
22 risks to those assets and infrastructures;

23 (C) identification of vulnerabilities and
24 risks that are specific to the transportation of
25 hazardous materials via railroad; and

1 (D) identification of security weaknesses in
2 passenger and cargo security, transportation in-
3 frastructure, protection systems, procedural
4 policies, communications systems, employee
5 training, emergency response planning, and any
6 other area identified by the assessment.

7 (2) EXISTING PRIVATE AND PUBLIC SECTOR
8 EFFORTS.—The assessment shall take into account
9 actions taken or planned by both public and private
10 entities to address identified security issues and as-
11 sess the effective integration of such actions.

12 (3) RECOMMENDATIONS.—Based on the assess-
13 ment conducted under paragraph (1), the Secretary,
14 in consultation with the Secretary of Transportation,
15 shall develop prioritized recommendations for im-
16 proving rail security, including any recommendations
17 the Secretary has for—

18 (A) improving the security of rail tunnels,
19 rail bridges, rail switching and car storage
20 areas, other rail infrastructure and facilities, in-
21 formation systems, and other areas identified
22 by the Secretary as posing significant rail-re-
23 lated risks to public safety and the movement
24 of interstate commerce, taking into account the

1 impact that any proposed security measure
2 might have on the provision of rail service;

3 (B) deploying equipment to detect explo-
4 sives and hazardous chemical, biological, and
5 radioactive substances, and any appropriate
6 countermeasures;

7 (C) training appropriate railroad or rail-
8 road shipper employees in terrorism prevention,
9 passenger evacuation, and response activities;

10 (D) conducting public outreach campaigns
11 on passenger railroads;

12 (E) deploying surveillance equipment; and

13 (F) identifying the immediate and long-
14 term costs of measures that may be required to
15 address those risks.

16 (4) PLANS.—The report required by subsection
17 (c) shall include—

18 (A) a plan, developed in consultation with
19 the freight and intercity passenger railroads,
20 and State and local governments, for the Fed-
21 eral government to provide increased security
22 support at high or severe threat levels of alert;

23 (B) a plan for coordinating existing and
24 planned rail security initiatives undertaken by
25 the public and private sectors; and

1 (C) a contingency plan, developed in con-
2 junction with freight and intercity and com-
3 muter passenger railroads, to ensure the contin-
4 ued movement of freight and passengers in the
5 event of an attack affecting the railroad system,
6 which shall contemplate—

7 (i) the possibility of rerouting traffic
8 due to the loss of critical infrastructure,
9 such as a bridge, tunnel, yard, or station;
10 and

11 (ii) methods of continuing railroad
12 service in the Northeast Corridor in the
13 event of a commercial power loss, or catas-
14 trophe affecting a critical bridge, tunnel,
15 yard, or station.

16 (b) CONSULTATION; USE OF EXISTING RE-
17 SOURCES.—In carrying out the assessment and developing
18 the recommendations and plans required by subsection
19 (a), the Secretary of Homeland Security shall consult with
20 rail management, rail labor, owners or lessors of rail cars
21 used to transport hazardous materials, first responders,
22 shippers of hazardous materials, public safety officials,
23 and other relevant parties.

24 (c) REPORT.—

1 (1) CONTENTS.—Within 180 days after the
2 date of enactment of this Act, the Secretary shall
3 transmit to the Senate Committee on Commerce,
4 Science, and Transportation and the House of Rep-
5 resentatives Committee on Transportation and In-
6 frastructure a report containing the assessment,
7 prioritized recommendations, and plans required by
8 subsection (a) and an estimate of the cost to imple-
9 ment such recommendations.

10 (2) FORMAT.—The Secretary may submit the
11 report in both classified and redacted formats if the
12 Secretary determines that such action is appropriate
13 or necessary.

14 (d) ANNUAL UPDATES.—The Secretary, in consulta-
15 tion with the Secretary of Transportation, shall update the
16 assessment and recommendations each year and transmit
17 a report, which may be submitted in both classified and
18 redacted formats, to the Committees named in subsection
19 (c)(1), containing the updated assessment and rec-
20 ommendations.

21 (e) FUNDING.—Out of funds appropriated pursuant
22 to section 114(u)(2) of title 49, United States Code, there
23 shall be made available to the Secretary of Homeland Se-
24 curity to carry out this section \$5,000,000 for fiscal year
25 2006.

1 **SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

2 (a) IN GENERAL—Subject to subsection (c) the Sec-
3 retary of Homeland Security, in consultation with the As-
4 sistant Secretary of Homeland Security (Transportation
5 Security Administration), is authorized to make grants to
6 Amtrak—

7 (1) to secure major tunnel access points and en-
8 sure tunnel integrity in New York, Baltimore, and
9 Washington, DC;

10 (2) to secure Amtrak trains;

11 (3) to secure Amtrak stations;

12 (4) to obtain a watch list identification system
13 approved by the Secretary;

14 (5) to obtain train tracking and interoperable
15 communications systems that are coordinated to the
16 maximum extent possible;

17 (6) to hire additional police and security offi-
18 cers, including canine units; and

19 (7) to expand emergency preparedness efforts.

20 (b) CONDITIONS.—The Secretary of Transportation
21 shall disburse funds to Amtrak provided under subsection
22 (a) for projects contained in a systemwide security plan
23 approved by the Secretary of Homeland Security. The
24 plan shall include appropriate measures to address secu-
25 rity awareness, emergency response, and passenger evacu-
26 ation training.

1 (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The
2 Secretary shall ensure that, subject to meeting the highest
3 security needs on Amtrak’s entire system, stations and fa-
4 cilities located outside of the Northeast Corridor receive
5 an equitable share of the security funds authorized by this
6 section.

7 (d) **AVAILABILITY OF FUNDS.**—Out of funds appro-
8 priated pursuant to section 114(u)(2) of title 49, United
9 States Code, there shall be made available to the Secretary
10 of Homeland Security and the Assistant Secretary of
11 Homeland Security (Transportation Security Administra-
12 tion) to carry out this section—

13 (1) \$63,500,000 for fiscal year 2006;

14 (2) \$30,000,000 for fiscal year 2007; and

15 (3) \$30,000,000 for fiscal year 2008.

16 Amounts appropriated pursuant to this subsection shall
17 remain available until expended.

18 **SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

19 (a) **LIFE-SAFETY NEEDS.**—The Secretary of Trans-
20 portation is authorized to make grants to Amtrak for the
21 purpose of making fire and life-safety improvements to
22 Amtrak tunnels on the Northeast Corridor in New York,
23 NY, Baltimore, MD, and Washington, DC.

24 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Out of
25 funds appropriated pursuant to section 102 of this Act,

1 there shall be made available to the Secretary of Transpor-
2 tation for the purposes of carrying out subsection (a) the
3 following amounts:

4 (1) For the 6 New York tunnels to provide ven-
5 tilation, electrical, and fire safety technology up-
6 grades, emergency communication and lighting sys-
7 tems, and emergency access and egress for pas-
8 sengers—

9 (A) \$190,000,000 for fiscal year 2006;

10 (B) \$190,000,000 for fiscal year 2007; and

11 (C) \$190,000,000 for fiscal year 2008.

12 (2) For the Baltimore & Potomac tunnel and
13 the Union tunnel, together, to provide adequate
14 drainage, ventilation, communication, lighting, and
15 passenger egress upgrades—

16 (A) \$19,000,000 for fiscal year 2006;

17 (B) \$19,000,000 for fiscal year 2007; and

18 (C) \$19,000,000 for fiscal year 2008.

19 (3) For the Washington, DC, Union Station
20 tunnels to improve ventilation, communication, light-
21 ing, and passenger egress upgrades—

22 (A) \$13,333,000 for fiscal year 2006;

23 (B) \$13,333,000 for fiscal year 2007; and

24 (C) \$13,333,000 for fiscal year 2008.

1 (c) INFRASTRUCTURE UPGRADES.—Out of funds ap-
2 propriated pursuant to section 102 of this Act, there shall
3 be made available to the Secretary of Transportation for
4 fiscal year 2006 \$3,000,000 for the preliminary design of
5 options for a new tunnel on a different alignment to aug-
6 ment the capacity of the existing Baltimore tunnels.

7 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
8 Amounts made available pursuant to this section shall re-
9 main available until expended.

10 (e) PLANS REQUIRED.—The Secretary may not make
11 amounts available to Amtrak for obligation or expenditure
12 under subsection (a)—

13 (1) until Amtrak has submitted to the Sec-
14 retary, and the Secretary has approved, an engineer-
15 ing and financial plan for such projects; and

16 (2) unless, for each project funded pursuant to
17 this section, the Secretary has approved a project
18 management plan prepared by Amtrak addressing
19 appropriate project budget, construction schedule,
20 recipient staff organization, document control and
21 record keeping, change order procedure, quality con-
22 trol and assurance, periodic plan updates, and peri-
23 odic status reports.

24 (f) REVIEW OF PLANS.—The Secretary of Transpor-
25 tation shall complete the review of the plans required by

1 paragraphs (1) and (2) of subsection (e) and approve or
2 disapprove the plans within 45 days after the date on
3 which each such plan is submitted by Amtrak. If the Sec-
4 retary determines that a plan is incomplete or deficient,
5 the Secretary shall notify Amtrak of the incomplete items
6 or deficiencies and Amtrak shall, within 30 days after re-
7 ceiving the Secretary's notification, submit a modified
8 plan for the Secretary's review. Within 15 days after re-
9 ceiving additional information on items previously included
10 in the plan, and within 45 days after receiving items newly
11 included in a modified plan, the Secretary shall either ap-
12 prove the modified plan, or, if the Secretary finds the plan
13 is still incomplete or deficient, the Secretary shall identify
14 in writing to the Senate Committee on Commerce, Science,
15 and Transportation and the House of Representatives
16 Committee on Transportation and Infrastructure the por-
17 tions of the plan the Secretary finds incomplete or defi-
18 cient, approve all other portions of the plan, obligate the
19 funds associated with those other portions, and execute
20 an agreement with Amtrak within 15 days thereafter on
21 a process for resolving the remaining portions of the plan.

22 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-
23 NEL USERS.—The Secretary shall, taking into account the
24 need for the timely completion of all portions of the tunnel
25 projects described in subsection (a)—

1 (1) consider the extent to which rail carriers
2 other than Amtrak use or plan to use the tunnels;

3 (2) consider the feasibility of seeking a financial
4 contribution from those other rail carriers toward
5 the costs of the projects; and

6 (3) obtain financial contributions or commit-
7 ments from such other rail carriers at levels reflect-
8 ing the extent of their use or planned use of the tun-
9 nels, if feasible.

10 **SEC. 305. FREIGHT AND PASSENGER RAIL SECURITY UP-**
11 **GRADES.**

12 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
13 retary of Homeland Security, through the Assistant Sec-
14 retary of Homeland Security (Transportation Security Ad-
15 ministration) and other appropriate agencies, is author-
16 ized to make grants to freight railroads, the Alaska Rail-
17 road, hazardous materials shippers, owners of rail cars
18 used in the transportation of hazardous materials, univer-
19 sities, colleges and research centers, State and local gov-
20 ernments (for rail passenger facilities and infrastructure
21 not owned by Amtrak), and, through the Secretary of
22 Transportation, to Amtrak, for full or partial reimburse-
23 ment of costs incurred in the conduct of activities to pre-
24 vent or respond to acts of terrorism, sabotage, or other
25 intercity passenger rail and freight rail security

1 vulnerabilities and risks identified under section 302, in-
2 cluding—

3 (1) security and redundancy for critical commu-
4 nications, computer, and train control systems essen-
5 tial for secure rail operations;

6 (2) accommodation of cargo or passenger
7 screening equipment at the United States-Mexico
8 border or the United States-Canada border;

9 (3) the security of hazardous material transpor-
10 tation by rail;

11 (4) secure intercity passenger rail stations,
12 trains, and infrastructure;

13 (5) structural modification or replacement of
14 rail cars transporting high hazard materials to im-
15 prove their resistance to acts of terrorism;

16 (6) employee security awareness, preparedness,
17 passenger evacuation, and emergency response train-
18 ing;

19 (7) public security awareness campaigns for
20 passenger train operations;

21 (8) the sharing of intelligence and information
22 about security threats;

23 (9) to obtain train tracking and interoperable
24 communications systems that are coordinated to the
25 maximum extent possible;

1 (10) to hire additional police and security offi-
2 cers, including canine units; and

3 (11) other improvements recommended by the
4 report required by section 302, including infrastruc-
5 ture, facilities, and equipment upgrades.

6 (b) ACCOUNTABILITY.—The Secretary shall adopt
7 necessary procedures, including audits, to ensure that
8 grants made under this section are expended in accord-
9 ance with the purposes of this Act and the priorities and
10 other criteria developed by the Secretary.

11 (c) ALLOCATION.—The Secretary shall distribute the
12 funds authorized by this section based on risk and vulner-
13 ability as determined under section 302, and shall encour-
14 age non-Federal financial participation in awarding
15 grants. With respect to grants for passenger rail security,
16 the Secretary shall also take into account passenger vol-
17 ume and whether a station is used by commuter rail pas-
18 sengers as well as intercity rail passengers.

19 (d) CONDITIONS.—The Secretary of Transportation
20 may not disburse funds to Amtrak under subsection (a)
21 unless Amtrak meets the conditions set forth in section
22 303(b) of this Act.

23 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
24 ERS.—Unless as a result of the assessment required by
25 section 302 the Secretary of Homeland Security deter-

1 mines that critical rail transportation security needs re-
2 quire reimbursement in greater amounts to any eligible
3 entity, no grants under this section may be made—

4 (1) in excess of \$65,000,000 to Amtrak; or

5 (2) in excess of \$100,000,000 for the purposes
6 described in paragraphs (3) and (5) of subsection
7 (a).

8 (f) AUTHORIZATION OF APPROPRIATIONS.—Out of
9 funds appropriated pursuant to section 114(u)(2) of title
10 49, United States Code, there shall be made available to
11 the Secretary of Homeland Security to carry out this sec-
12 tion—

13 (1) \$120,000,000 for fiscal year 2006;

14 (2) \$120,000,000 for fiscal year 2007; and

15 (3) \$120,000,000 for fiscal year 2008.

16 Amounts made available pursuant to this subsection shall
17 remain available until expended.

18 (g) HIGH HAZARD MATERIALS DEFINED.—In this
19 section, the term “high hazard materials” means quan-
20 tities of poison inhalation hazard materials, Class 2.3
21 gases, Class 6.1 materials, and anhydrous ammonia that
22 the Secretary, in consultation with the Secretary of Trans-
23 portation, determines pose a security risk.

1 **SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

2 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
3 MENT PROGRAM.—The Secretary of Transportation, in
4 conjunction with the Under Secretary of Homeland Secu-
5 rity for Science and Technology and the Assistant Sec-
6 retary of Homeland Security (Transportation Security Ad-
7 ministration), shall carry out a research and development
8 program for the purpose of improving freight and intercity
9 passenger rail security that may include research and de-
10 velopment projects to—

11 (1) reduce the vulnerability of passenger trains,
12 stations, and equipment to explosives and hazardous
13 chemical, biological, and radioactive substances;

14 (2) test new emergency response techniques and
15 technologies;

16 (3) develop improved freight technologies, in-
17 cluding—

18 (A) technologies for sealing rail cars;

19 (B) automatic inspection of rail cars;

20 (C) communication-based train controls;

21 and

22 (D) emergency response training;

23 (4) test wayside detectors that can detect tam-
24 pering with railroad equipment;

25 (5) support enhanced security for the transpor-
26 tation of hazardous materials by rail, including—

1 (A) technologies to detect a breach in a
2 tank car or other rail car used to transport haz-
3 arduous materials and transmit information
4 about the integrity of cars to the train crew or
5 dispatcher;

6 (B) research to improve tank car integrity,
7 with a focus on tank cars that carry high haz-
8 ard materials (as defined in section 305(g) of
9 this Act; and

10 (C) techniques to transfer hazardous mate-
11 rials from rail cars that are damaged or other-
12 wise represent an unreasonable risk to human
13 life or public safety; and

14 (6) other projects that address vulnerabilities
15 and risks identified under section 302.

16 (b) COORDINATION WITH OTHER RESEARCH INITIA-
17 TIVES.—The Secretary of Transportation shall ensure
18 that the research and development program authorized by
19 this section is coordinated with other research and devel-
20 opment initiatives at the Department of Transportation
21 and the Department of Homeland Security. The Secretary
22 shall carry out any research and development project au-
23 thorized by this section through a reimbursable agreement
24 with the Under Secretary of Homeland Security for
25 Science and Technology, if the Under Secretary—

1 (1) is already sponsoring a research and devel-
2 opment project in a similar area; or

3 (2) has a unique facility or capability that
4 would be useful in carrying out the project.

5 (c) GRANTS AND ACCOUNTABILITY.—To carry out
6 the research and development program, the Secretary may
7 award grants to the entities described in section 305(a)
8 and shall adopt necessary procedures, including audits, to
9 ensure that grants made under this section are expended
10 in accordance with the purposes of this Act and the prior-
11 ities and other criteria developed by the Secretary.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—Out of
13 funds appropriated pursuant to section 102 of this Act,
14 there shall be made available to the Secretary of Transpor-
15 tation to carry out this section—

16 (1) \$35,000,000 for fiscal year 2006;

17 (2) \$35,000,000 for fiscal year 2007; and

18 (3) \$35,000,000 for fiscal year 2008.

19 Amounts made available pursuant to this subsection shall
20 remain available until expended.

21 **SEC. 307. OVERSIGHT AND GRANT PROCEDURES.**

22 (a) SECRETARIAL OVERSIGHT.—The Secretary of
23 Homeland Security, in consultation with the Assistant
24 Secretary of Homeland Security (Transportation Security
25 Administration), may use up to 0.5 percent of amounts

1 made available for capital projects under the Rail Security
2 Act of 2005 to enter into contracts for the review of pro-
3 posed capital projects and related program management
4 plans and to oversee construction of such projects.

5 (b) USE OF FUNDS.—The Secretary may use
6 amounts available under subsection (a) of this subsection
7 to make contracts for safety, procurement, management,
8 and financial compliance reviews and audits of a recipient
9 of amounts under this Act.

10 (c) PROCEDURES FOR GRANT AWARD.—The Sec-
11 retary shall prescribe procedures and schedules for the
12 awarding of grants under this Act, including application
13 and qualification procedures (including a requirement that
14 the applicant have a security plan), and a record of deci-
15 sion on applicant eligibility. The procedures shall include
16 the execution of a grant agreement between the grant re-
17 cipient and the Secretary and shall be consistent, to the
18 extent practicable, with the grant procedures established
19 under section 70107 of title 46, United States Code. The
20 Secretary shall issue a final rule establishing the proce-
21 dures not later than 90 days after the date of enactment
22 of this Act.

1 **SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
2 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
3 **CIDENTS.**

4 (a) IN GENERAL.—Chapter 243 of title 49, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 24316. Plans to address needs of families of pas-**
8 **sengers involved in rail passenger acci-**
9 **dents**

10 “(a) SUBMISSION OF PLAN.—Not later than 6
11 months after the date of the enactment of the Rail Secu-
12 rity Act of 2005, Amtrak shall submit to the Chairman
13 of the National Transportation Safety Board and the Sec-
14 retary of Transportation a plan for addressing the needs
15 of the families of passengers involved in any rail passenger
16 accident involving an Amtrak intercity train and resulting
17 in a loss of life.

18 “(b) CONTENTS OF PLANS.—The plan to be sub-
19 mitted by Amtrak under subsection (a) shall include, at
20 a minimum, the following:

21 “(1) A process by which Amtrak will maintain
22 and provide to the National Transportation Safety
23 Board and the Secretary of Transportation, imme-
24 diately upon request, a list (which is based on the
25 best available information at the time of the request)
26 of the names of the passengers aboard the train

1 (whether or not such names have been verified), and
2 will periodically update the list. The plan shall in-
3 clude a procedure, with respect to unreserved trains
4 and passengers not holding reservations on other
5 trains, for Amtrak to use reasonable efforts to ascer-
6 tain the number and names of passengers aboard a
7 train involved in an accident.

8 “(2) A plan for creating and publicizing a reli-
9 able, toll-free telephone number within 4 hours after
10 such an accident occurs, and for providing staff, to
11 handle calls from the families of the passengers.

12 “(3) A process for notifying the families of the
13 passengers, before providing any public notice of the
14 names of the passengers, by suitably trained individ-
15 uals.

16 “(4) A process for providing the notice de-
17 scribed in paragraph (2) to the family of a pas-
18 senger as soon as Amtrak has verified that the pas-
19 senger was aboard the train (whether or not the
20 names of all of the passengers have been verified).

21 “(5) A process by which the family of each pas-
22 senger will be consulted about the disposition of all
23 remains and personal effects of the passenger within
24 Amtrak’s control; that any possession of the pas-
25 senger within Amtrak’s control will be returned to

1 the family unless the possession is needed for the ac-
2 cident investigation or any criminal investigation;
3 and that any unclaimed possession of a passenger
4 within Amtrak's control will be retained by the rail
5 passenger carrier for at least 18 months.

6 “(6) A process by which the treatment of the
7 families of nonrevenue passengers will be the same
8 as the treatment of the families of revenue pas-
9 sengers.

10 “(7) An assurance that Amtrak will provide
11 adequate training to its employees and agents to
12 meet the needs of survivors and family members fol-
13 lowing an accident.

14 “(c) USE OF INFORMATION.—The National Trans-
15 portation Safety Board, the Secretary of Transportation,
16 and Amtrak may not release to any person information
17 on a list obtained under subsection (b)(1) but may provide
18 information on the list about a passenger to the family
19 of the passenger to the extent that the Board or Amtrak
20 considers appropriate.

21 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
22 be liable for damages in any action brought in a Federal
23 or State court arising out of the performance of Amtrak
24 in preparing or providing a passenger list, or in providing
25 information concerning a train reservation, pursuant to a

1 plan submitted by Amtrak under subsection (b), unless
 2 such liability was caused by Amtrak’s conduct.

3 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
 4 Nothing in this section may be construed as limiting the
 5 actions that Amtrak may take, or the obligations that Am-
 6 trak may have, in providing assistance to the families of
 7 passengers involved in a rail passenger accident.

8 “(f) FUNDING.—Out of funds appropriated pursuant
 9 to section 102 of the Rail Security Act of 2005, there shall
 10 be made available to the Secretary of Transportation for
 11 the use of Amtrak \$500,000 for fiscal year 2006 to carry
 12 out this section. Amounts made available pursuant to this
 13 subsection shall remain available until expended.”.

14 (b) CONFORMING AMENDMENT.—The chapter anal-
 15 ysis for chapter 243 of title 49, United States Code, is
 16 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
 dents.”.

17 **SEC. 309. NORTHERN BORDER RAIL PASSENGER REPORT.**

18 Within 180 days after the date of enactment of this
 19 Act, the Secretary of Transportation, in consultation with
 20 the Secretary of Homeland Security, the Assistant Sec-
 21 retary of Homeland Security (Transportation Security Ad-
 22 ministration), heads of other appropriate Federal depart-
 23 ments, and agencies and the National Railroad Passenger
 24 Corporation, shall transmit a report to the Senate Com-

1 mittee on Commerce, Science, and Transportation and the
2 House of Representatives Committee on Transportation
3 and Infrastructure that contains—

4 (1) a description of the current system for
5 screening passengers and baggage on passenger rail
6 service between the United States and Canada;

7 (2) an assessment of the current program to
8 provide preclearance of airline passengers between
9 the United States and Canada as outlined in “The
10 Agreement on Air Transport Preclearance between
11 the Government of Canada and the Government of
12 the United States of America”, dated January 18,
13 2001;

14 (3) an assessment of the current program to
15 provide preclearance of freight railroad traffic be-
16 tween the United States and Canada as outlined in
17 the “Declaration of Principle for the Improved Secu-
18 rity of Rail Shipments by Canadian National Rail-
19 way and Canadian Pacific Railway from Canada to
20 the United States”, dated April 2, 2003;

21 (4) information on progress by the Department
22 of Homeland Security and other Federal agencies to-
23 wards finalizing a bilateral protocol with Canada
24 that would provide for preclearance of passengers on

1 trains operating between the United States and Can-
2 ada;

3 (5) a description of legislative, regulatory,
4 budgetary, or policy barriers within the United
5 States Government to providing pre-screened pas-
6 senger lists for rail passengers traveling between the
7 United States and Canada to the Department of
8 Homeland Security;

9 (6) a description of the position of the Govern-
10 ment of Canada and relevant Canadian agencies
11 with respect to preclearance of such passengers;

12 (7) a draft of any changes in existing Federal
13 law necessary to provide for pre-screening of such
14 passengers and providing pre-screened passenger
15 lists to the Department of Homeland Security; and

16 (8) an analysis of the feasibility of reinstating
17 United States Customs and Border Patrol rolling in-
18 spections onboard international Amtrak trains.

19 **SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.**

20 (a) IN GENERAL.—Not later than 60 days after the
21 date of enactment of this Act, the Secretary of Homeland
22 Security and the Secretary of Transportation, in consulta-
23 tion with appropriate law enforcement, security, and ter-
24 rorism experts, representatives of railroad carriers, and
25 nonprofit employee organizations that represent rail work-

1 ers, shall develop and issue detailed guidance for a rail
2 worker security training program to prepare front-line
3 workers for potential threat conditions.

4 (b) PROGRAM ELEMENTS.—The guidance developed
5 under subsection (a) shall require such a program to in-
6 clude, at a minimum, elements as appropriate to pas-
7 senger and freight rail service, that address the following:

8 (1) Determination of the seriousness of any oc-
9 currence.

10 (2) Crew communication and coordination.

11 (3) Appropriate responses to defend oneself.

12 (4) Use of protective devices.

13 (5) Evacuation procedures.

14 (6) Psychology of terrorists to cope with hi-
15 jacker behavior and passenger responses.

16 (7) Live situational training exercises regarding
17 various threat conditions, including tunnel evacu-
18 ation procedures.

19 (8) Any other subject the Secretary considers
20 appropriate.

21 (c) RAILROAD CARRIER PROGRAMS.—Not later than
22 60 days after the Secretary issues guidance under sub-
23 section (a) in final form, each railroad carrier shall develop
24 a rail worker security training program in accordance with
25 that guidance and submit it to the Secretary for approval.

1 Not later than 30 days after receiving a railroad carrier’s
2 program under this subsection, the Secretary shall review
3 the program and approve it or require the railroad carrier
4 to make any revisions the Secretary considers necessary
5 for the program to meet the guidance requirements.

6 (d) TRAINING.—Not later than 180 days after the
7 Secretary approves the training program developed by a
8 railroad carrier under this section, the railroad carrier
9 shall complete the training of all front-line workers in ac-
10 cordance with that program.

11 (e) UPDATES.—The Secretary shall update the train-
12 ing guidance issued under subsection (a) from time to
13 time to reflect new or different security threats, and re-
14 quire railroad carriers to revise their programs accordingly
15 and provide additional training to their front-line workers.

16 (f) FRONT-LINE WORKERS DEFINED.—In this sec-
17 tion, the term “front-line workers” means security per-
18 sonnel, dispatchers, train operators, other onboard em-
19 ployees, maintenance and support personnel, bridge
20 tenders, and other appropriate employees of railroad car-
21 riers.

22 (g) OTHER EMPLOYEES.—The Secretary of Home-
23 land Security shall issue guidance and best practices for
24 a rail shipper employee security program containing the
25 elements listed under subsection (b) as appropriate.

1 **SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.**

2 (a) IN GENERAL.—Subchapter A of chapter 201 of
3 title 49, United States Code, is amended by inserting after
4 section 20117 the following:

5 **“§ 20118. Whistleblower protection for rail security**
6 **matters**

7 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail
8 carrier engaged in interstate or foreign commerce may dis-
9 charge a railroad employee or otherwise discriminate
10 against a railroad employee because the employee (or any
11 person acting pursuant to a request of the employee)—

12 “(1) provided, caused to be provided, or is
13 about to provide or cause to be provided, to the em-
14 ployer or the Federal Government information relat-
15 ing to a perceived threat to security; or

16 “(2) provided, caused to be provided, or is
17 about to provide or cause to be provided, testimony
18 before Congress or at any Federal or State pro-
19 ceeding regarding a perceived threat to security; or

20 “(3) refused to violate or assist in the violation
21 of any law, rule or regulation related to rail security.

22 “(b) DISPUTE RESOLUTION.—A dispute, grievance,
23 or claim arising under this section is subject to resolution
24 under section 3 of the Railway Labor Act (45 U.S.C. 153).
25 In a proceeding by the National Railroad Adjustment
26 Board, a division or delegate of the Board, or another

1 board of adjustment established under section 3 to resolve
2 the dispute, grievance, or claim the proceeding shall be
3 expedited and the dispute, grievance, or claim shall be re-
4 solved not later than 180 days after it is filed. If the viola-
5 tion is a form of discrimination that does not involve dis-
6 charge, suspension, or another action affecting pay, and
7 no other remedy is available under this subsection, the
8 Board, division, delegate, or other board of adjustment
9 may award the employee reasonable damages, including
10 punitive damages, of not more than \$20,000.

11 “(c) PROCEDURAL REQUIREMENTS.—Except as pro-
12 vided in subsection (b), the procedure set forth in section
13 42121(b)(2)(B) of this title, including the burdens of
14 proof, applies to any complaint brought under this section.

15 “(d) ELECTION OF REMEDIES.—An employee of a
16 railroad carrier may not seek protection under both this
17 section and another provision of law for the same allegedly
18 unlawful act of the carrier.

19 “(e) DISCLOSURE OF IDENTITY.—

20 “(1) Except as provided in paragraph (2) of
21 this subsection, or with the written consent of the
22 employee, the Secretary of Transportation may not
23 disclose the name of an employee of a railroad car-
24 rier who has provided information about an alleged
25 violation of this section.

1 by rail on the rail carrier's right-of-way when the threat
2 levels of the Homeland Security Advisory System are high
3 or severe and specific intelligence of probable or imminent
4 threat exists towards—

5 (1) a high-consequence target that is within the
6 catastrophic impact zone of a railroad right-of-way
7 used to transport high hazardous material; or

8 (2) rail infrastructure or operations within the
9 immediate vicinity of a high-consequence target.

10 (c) COMPLETION AND REVIEW OF PLANS.—

11 (1) PLANS REQUIRED.—Each rail carrier
12 shall—

13 (A) submit a list of routes used to trans-
14 port high hazard materials to the Secretary of
15 Homeland Security within 60 days after the
16 date of enactment of this Act; and

17 (B) develop and submit a high hazard ma-
18 terial security threat mitigation plan to the Sec-
19 retary within 180 days after it receives the no-
20 tice of high consequence targets on such routes
21 by the Secretary.

22 (2) REVIEW AND UPDATES.—The Secretary,
23 with assistance of the Secretary of Transportation,
24 shall review and approve the plans. Each rail carrier

1 shall update and resubmit its plan for review not
2 less than every 2 years.

3 (d) DEFINITIONS.—In this section:

4 (1) The term “high-consequence target” means
5 a building, buildings, infrastructure, public space, or
6 natural resource designated by the Secretary of
7 Homeland Security that is viable terrorist target of
8 national significance, the attack of which could re-
9 sult in—

10 (A) catastrophic loss of life; and

11 (B) significantly damaged national security
12 and defense capabilities; or

13 (C) national economic harm.

14 (2) The term “catastrophic impact zone” means
15 the area immediately adjacent to, under, or above an
16 active railroad right-of-way used to ship high hazard
17 materials in which the potential release or explosion
18 of the high hazard material being transported would
19 likely cause—

20 (A) loss of life; or

21 (B) significant damage to property or
22 structures.

23 (3) The term “rail carrier” has the meaning
24 given that term by section 10102(5) of title 49,
25 United States Code.

1 **SEC. 313. MEMORANDUM OF AGREEMENT.**

2 (a) MEMORANDUM OF AGREEMENT.—Within 1 year
3 after the date of enactment of this Act, the Secretary of
4 Transportation and the Secretary of Homeland Security
5 shall execute and develop an annex to the memorandum
6 of agreement between the two departments signed on Sep-
7 tember 28, 2004, governing the specific roles, delineations
8 of responsibilities, resources and commitments of the De-
9 partment of Transportation and the Department of Home-
10 land Security, respectively, in addressing railroad trans-
11 portation security matters, including the processes the de-
12 partments will follow to promote communications, effi-
13 ciency, and nonduplication of effort.

14 (b) RAIL SAFETY REGULATIONS.—Section 20103(a)
15 of title 49, United States Code, is amended by striking
16 “safety” the first place it appears, and inserting “safety,
17 including security,”.

18 **SEC. 314. RAIL SECURITY ENHANCEMENTS.**

19 (a) RAIL POLICE OFFICERS.—Section 28101 of title
20 49, United States Code, is amended—

21 (1) by inserting “(a) IN GENERAL.—” before
22 “Under”;

23 (2) by striking “the rail carrier” each place it
24 appears and inserting “any rail carrier”; and

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

1 “(b) LIMITATION.—Except to the extent necessary to
2 carry out subsection (a), a rail police officer employed by
3 a Class I or Class II railroad as identified by the Surface
4 Transportation Board has no authority to enforce any
5 rule, policy, or practice of, or labor agreement by, a rail
6 carrier relating to personnel management or labor rela-
7 tions other than those involving safety or security. Noth-
8 ing in this subsection shall preclude a rail police officer
9 from performing any activities not covered by subsection
10 (a) that may be performed by any other employee of a
11 railroad, provided that the rail police officer does not use
12 his or her position as a rail police officer in performing
13 such activities.”.

14 (b) REVIEW OF RAIL REGULATIONS.—Within 1 year
15 after the date of enactment of this Act, the Secretary of
16 Transportation, in consultation with the Secretary of
17 Homeland Security and the Assistant Secretary of Home-
18 land Security (Transportation Security Administration),
19 shall review existing rail regulations of the Department
20 of Transportation for the purpose of identifying areas in
21 which those regulations need to be revised to improve rail
22 security.

23 **SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**
24 **MENTS.**

25 (a) TRACK STANDARDS.—

1 (1) IN GENERAL.—Within 90 days after the
2 date of enactment of this Act, the Federal Railroad
3 Administration shall—

4 (A) require each track owner using contin-
5 uous welded rail track to include procedures (in
6 its procedures filed with the Administration
7 pursuant to section 213.119 of title 49, Code of
8 Federal Regulations) to improve the identifica-
9 tion of cracks in rail joint bars;

10 (B) instruct Administration track inspec-
11 tors to obtain copies of the most recent contin-
12 uous welded rail programs of each railroad
13 within the inspectors' areas of responsibility
14 and require that inspectors use those programs
15 when conducting track inspections; and

16 (C) establish a program to review contin-
17 uous welded rail joint bar inspection data from
18 railroads and Administration track inspectors
19 periodically.

20 (2) INSPECTION.—Whenever the Administration
21 determines that it is necessary or appropriate the
22 Administration may require railroads to increase the
23 frequency of inspection, or improve the methods of
24 inspection, of joint bars in continuous welded rail.

1 (b) TANK CAR STANDARDS.—The Federal Railroad
2 Administration shall—

3 (1) validate a predictive model to quantify the
4 relevant dynamic forces acting on railroad tank cars
5 under accident conditions within 1 year after the
6 date of enactment of this Act; and

7 (2) initiate a rulemaking to develop and imple-
8 ment appropriate design standards for pressurized
9 tank cars within 18 months after the date of enact-
10 ment of this Act.

11 (c) OLDER TANK CAR IMPACT RESISTANCE ANAL-
12 YSIS AND REPORT.—Within 1 year after the date of enact-
13 ment of this Act the Federal Railroad Administration shall
14 conduct a comprehensive analysis to determine the impact
15 resistance of the steels in the shells of pressure tank cars
16 constructed before 1989. Within 6 months after com-
17 pleting that analysis the Administration shall—

18 (1) establish a program to rank those cars ac-
19 cording to their risk of catastrophic fracture and
20 separation;

21 (2) implement measures to eliminate or miti-
22 gate this risk; and

23 (3) transmit a report to the Senate Committee
24 on Commerce, Science, and Transportation and the
25 House of Representatives Committee on Transpor-

1 tation and Infrastructure setting forth the measures
2 implemented.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Federal Railroad
5 Administration \$1,000,000 for fiscal year 2006 to carry
6 out this section, such sums to remain available until ex-
7 pended.

8 **SEC. 316. REPORT REGARDING IMPACT ON SECURITY OF**
9 **TRAIN TRAVEL IN COMMUNITIES WITHOUT**
10 **GRADE SEPARATION.**

11 (a) STUDY.—The Secretary of Transportation, in
12 consultation with the Secretary of Homeland Security, the
13 Assistant Secretary of Homeland Security (Transpor-
14 tation Security Administration), and State and local gov-
15 ernment officials, shall conduct a study on the impact of
16 blocked highway-railroad grade crossings on the ability of
17 emergency responders, including ambulances and police,
18 fire, and other emergency vehicles, to perform public safe-
19 ty and security duties in the event of a terrorist attack.

20 (b) REPORT.—Not later than 1 year after the date
21 of enactment of this Act, the Secretary shall submit a re-
22 port to the Committee on Transportation and Infrastruc-
23 ture of the House of Representatives and the Committee
24 on Commerce, Science, and Transportation of the Senate
25 on the findings of the study conducted under subsection

1 (a) and recommendations for reducing the impact of
2 blocked crossings on emergency response capabilities.

3 **SEC. 317. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**
4 **PROGRAMS.**

5 (a) REQUIREMENT FOR STUDY.—Within one year
6 after the date of enactment of the Rail Security Act of
7 2005, the Comptroller General shall complete a study of
8 the rail passenger transportation security programs that
9 are carried out for rail transportation systems in Japan,
10 member nations of the European Union, and other foreign
11 countries.

12 (b) PURPOSE.—The purpose of the study shall be to
13 identify effective rail transportation security measures
14 that are in use in foreign rail transportation systems, in-
15 cluding innovative measures and screening procedures de-
16 termined effective.

17 (c) REPORT.—The Comptroller General shall submit
18 a report on the results of the study to the Senate Com-
19 mittee on Commerce, Science, and Transportation and the
20 House of Representatives Committee on Transportation
21 and Infrastructure. The report shall include the Comp-
22 troller General's assessment regarding whether it is fea-
23 sible to implement within the United States any of the
24 same or similar security measures that are determined ef-
25 fective under the study.

1 **SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

2 (a) REQUIREMENT FOR STUDY AND REPORT.—The
3 Secretary of Homeland Security, in cooperation with the
4 Secretary of Transportation through the Assistant Sec-
5 retary of Homeland Security (Transportation Security Ad-
6 ministration) and other appropriate agencies, shall—

7 (1) study the cost and feasibility of requiring
8 security screening for passengers, baggage, and
9 cargo on passenger trains including an analysis of
10 any passenger train screening pilot programs under-
11 taken by the Department of Homeland Security; and

12 (2) report the results of the study, together
13 with any recommendations that the Secretary of
14 Homeland Security may have for implementing a
15 rail security screening program to the Senate Com-
16 mittee on Commerce, Science, and Transportation
17 and the House of Representatives Committee on
18 Transportation and Infrastructure within 1 year
19 after the date of enactment of this Act.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of
21 funds appropriated pursuant to section 114(u)(2) of title
22 49, United States Code, there shall be made available to
23 the Secretary of Homeland Security to carry out this sec-
24 tion \$1,000,000 for fiscal year 2006.

1 **SEC. 319. PUBLIC AWARENESS.**

2 Not later than 90 days after the date of enactment
3 of this Act, the Secretary of Homeland Security, in con-
4 sultation with the Secretary of Transportation, shall de-
5 velop a national plan for public outreach and awareness.
6 Such plan shall be designed to increase awareness of
7 measures that the general public, railroad passengers, and
8 railroad employees can take to increase railroad system
9 security. Such plan shall also provide outreach to railroad
10 carriers and their employees to improve their awareness
11 of available technologies, ongoing research and develop-
12 ment efforts, and available Federal funding sources to im-
13 prove railroad security. Not later than 9 months after the
14 date of enactment of this Act, the Secretary of Transpor-
15 tation shall implement the plan developed under this sec-
16 tion.

17 **SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

18 (a) WIRELESS COMMUNICATIONS.—

19 (1) IN GENERAL.—Within 6 months after the
20 date of enactment of this Act, the Secretary of
21 Transportation shall develop a program that will en-
22 courage the equipping of rail cars transporting high
23 hazard materials (as defined in section 305(g) of
24 this Act) in quantities equal to or greater than the
25 quantities specified in subpart 171.800 of title 49,
26 Code of Federal Regulations, with wireless terres-

1 trial or satellite communications technology that pro-
2 vides—

3 (A) car position location and tracking ca-
4 pabilities;

5 (B) notification of rail car depressuriza-
6 tion, breach, or unsafe temperature; and

7 (C) notification of hazardous material re-
8 lease.

9 (2) COORDINATION.—In developing the pro-
10 gram required by paragraph (1), the Secretary
11 shall—

12 (A) consult with the Secretary of Home-
13 land Security and the Assistant Secretary of
14 Homeland Security (Transportation Security
15 Administration) to coordinate the program with
16 any ongoing or planned efforts for rail car
17 tracking at the Department of Homeland Secu-
18 rity; and

19 (B) ensure that the program is consistent
20 with recommendations and findings of the De-
21 partment of Homeland Security’s hazardous
22 material tank rail car tracking pilot programs.

23 (b) FUNDING.—Out of funds appropriated pursuant
24 to section 102 of this Act, there shall be made available
25 to the Secretary of Homeland Security through the Assist-

1 ant Secretary of Homeland Security (Transportation Se-
2 curity Administration) to carry out this section
3 \$3,000,000 for each of fiscal years 2006, 2007, and 2008.

4 **TITLE IV—IMPROVED MOTOR**
5 **CARRIER, BUS, AND HAZ-**
6 **ARDOUS MATERIAL SECURITY**

7 **SEC. 401. BACKGROUND CHECKS FOR DRIVERS HAULING**
8 **HAZARDOUS MATERIALS.**

9 (a) FOREIGN DRIVERS.—

10 (1) IN GENERAL.—No commercial motor vehicle
11 operator registered to operate in Mexico or Canada
12 may operate a commercial motor vehicle trans-
13 porting a hazardous material in commerce in the
14 United States until the operator has undergone a
15 background records check similar to the background
16 records check required for commercial motor vehicle
17 operators licensed in the United States to transport
18 hazardous materials in commerce.

19 (2) DEFINITIONS.—In this subsection:

20 (A) HAZARDOUS MATERIALS.—The term
21 “hazardous material” has the meaning given
22 that term in section 5102(2) of title 49, United
23 States Code.

24 (B) COMMERCIAL MOTOR VEHICLE.—The
25 term “commercial motor vehicle” has the mean-

1 ing given that term by section 31101 of title
2 49, United States Code.

3 (b) OTHER DRIVERS.—

4 (1) EMPLOYER NOTIFICATION.—Within 90 days
5 after the date of enactment of this Act, the Assist-
6 ant Secretary of Homeland Security (Transportation
7 Security Administration), shall develop and imple-
8 ment a process for the notification of a hazmat em-
9 ployer (as defined in section 5102(4) of title 49,
10 United States Code), if appropriate considering the
11 potential security implications, designated by an ap-
12 plicant seeking a threat assessment under part 1572
13 of title 49, Code of Federal Regulations, if the
14 Transportation Security Administration, in an initial
15 notification of threat assessment or a final notifica-
16 tion of threat assessment, served on the applicant
17 determines that the applicant does not meet the
18 standards set forth in section 1572.5(d) of title 49,
19 Code of Federal Regulations.

20 (2) RELATIONSHIP TO OTHER BACKGROUND
21 RECORDS CHECKS.—

22 (A) ELIMINATION OF REDUNDANT
23 CHECKS.—An individual with respect to whom
24 the Transportation Security Administration—

1 (i) has performed a security threat as-
2 sessment under part 1572 of title 49, Code
3 of Federal Regulations, and

4 (ii) has issued a notification of no se-
5 curity threat under section 1572.5(g) of
6 that title,

7 is deemed to have met the requirements of any
8 other background check that is equivalent to, or
9 less stringent than, the background check per-
10 formed under section 5103a of title 49, United
11 States Code, that is required for purposes of
12 any Federal law applicable to transportation
13 workers.

14 (B) DETERMINATION BY ASSISTANT SEC-
15 RETARY.—Within 30 days after the date of en-
16 actment of this Act, the Assistant Secretary of
17 Homeland Security (Transportation Security
18 Administration) shall initiate a rulemaking pro-
19 ceeding, including notice and opportunity for
20 comment, that sets forth the background checks
21 and other similar security or threat assessment
22 requirements applicable to transportation work-
23 ers under Federal law to which subparagraph
24 (A) applies.

1 (C) FUTURE RULEMAKINGS.—The Assist-
2 ant Secretary shall make a determination under
3 the criteria established under subparagraph (B)
4 with respect to any rulemaking proceeding to
5 establish or modify required background checks
6 for transportation workers initiated after the
7 date of enactment of this Act.

8 (c) APPEALS PROCESS FOR MORE STRINGENT STATE
9 PROCEDURES.—If a State establishes standards for appli-
10 cants for a hazardous materials endorsement to a commer-
11 cial driver’s license that, as determined by the Secretary
12 of Homeland Security, are more stringent than the stand-
13 ards set forth in section 1572.5(d) of title 49, Code of
14 Federal Regulations, then the State shall also provide an
15 appeals process similar to the process provided under sec-
16 tion 1572.141 of title 49, Code of Federal Regulations,
17 by which an applicant denied a hazardous materials en-
18 dorsement to a commercial driver’s license by that State
19 may appeal that denial in a manner substantially similar
20 to, and to the same extent as, an individual who received
21 an initial notification of threat assessment under part
22 1572 of that title.

23 (d) CLARIFICATION OF TERM DEFINED IN REGULA-
24 TIONS.—The term “severe transportation security inci-
25 dent”, as defined in section 1572.3 of title 49, Code of

1 Federal Regulations, does not include a work stoppage or
2 other nonviolent employee-related action resulting from an
3 employer-employee dispute. Within 30 days after the date
4 of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the
5 preceding sentence.

7 (e) **BACKGROUND CHECK CAPACITY.**—The Assistant
8 Secretary of Homeland Security (Transportation Security
9 Administration) shall transmit a report by October 1,
10 2005, to the Senate Committee on Commerce, Science,
11 and Transportation and the House of Representatives
12 Committee on Homeland Security on the implementation
13 of fingerprint-based security threat assessments and the
14 adequacy of fingerprinting locations, personnel, and re-
15 sources to accomplish the timely processing of fingerprint-
16 based security threat assessments for individuals holding
17 commercial driver’s licenses who are applying to renew
18 hazardous materials endorsements.

19 **SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS**
20 **HIGHWAY ROUTING.**

21 Within 180 days after the date of enactment of this
22 Act, the Secretary of Transportation shall require each
23 motor carrier that is required to have a hazardous mate-
24 rial safety permit under part 385 of title 49, Code of Fed-
25 eral Regulations, to maintain a written route plan that

1 meets the requirements of section 397.101 of that title
2 when transporting the type and quantity of hazardous ma-
3 terials described in section 385.403 of that title.

4 **SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIAL**
5 **TRACKING.**

6 (a) WIRELESS COMMUNICATIONS.—Within 2 years
7 after the date of enactment of this Act, the Assistant Sec-
8 retary of Homeland Security (Transportation Security Ad-
9 ministration), in consultation with the Secretary of Trans-
10 portation, shall require, consistent with the recommenda-
11 tions and finding contained in the report on the Haz-
12 ardous Material Safety and Security Operation Field Test
13 released by the Federal Motor Carrier Safety Administra-
14 tion on November 11, 2004, commercial motor vehicles
15 transporting high hazard materials (as defined in section
16 305(g) of this Act) in quantities equal to or greater than
17 the quantities specified in subpart 171.800 of title 49,
18 Code of Federal Regulations, to be equipped with wireless
19 terrestrial or satellite communications technology that
20 provides—

- 21 (1) continuous communications;
- 22 (2) vehicle position location and tracking capa-
23 bilities; and
- 24 (3) a feature that allows a driver of such vehi-
25 cles to broadcast an emergency message.

1 (b) EXEMPTIONS.—The Assistant Secretary may
2 grant a 2-year waiver of this requirement for a motor car-
3 rier for the commercial motor vehicles it operates if—

4 (1) adequate technology is not readily available;

5 (2) available technology is not sufficiently reli-
6 able; or

7 (3) the size of a motor carrier or the infre-
8 quency with which it transports high hazard mate-
9 rial shipments makes the requirement overly burden-
10 some.

11 (c) ASSISTANCE PROGRAM.—The Assistant Secretary
12 may develop an assistance program to provide technical
13 guidance and grants to motor carriers who receive waivers
14 under subsection (b)(3) to expedite compliance with sub-
15 section (a) of this section.

16 **SEC. 404. TRUCK LEASING SECURITY TRAINING GUIDE-**
17 **LINES.**

18 (a) IN GENERAL.—Within 180 days after the date
19 of enactment of this Act the Assistant Secretary of Home-
20 land Security (Transportation Security Administration),
21 in consultation with the Federal Motor Carrier Safety Ad-
22 ministration, shall develop and make available in written
23 or electronic form security training guidelines for short-
24 term truck leasing operations.

1 (b) CONTENTS.—The truck leasing security training
2 guidelines shall—

3 (1) include information for short-term truck
4 leasing companies on the appropriate contents of
5 employee security training efforts designed to enable
6 employees to recognize terrorist threats and criminal
7 activity; and

8 (2) contain a list of best practices developed by
9 the Assistant Secretary.

10 (c) OUTREACH.—The Assistant Secretary, through
11 each Federal maritime and land regional security man-
12 ager, shall hold public information and outreach sessions
13 to present the truck leasing security training guidelines
14 to short-term truck leasing companies.

15 (d) FUNDING.—Out of funds appropriated pursuant
16 to section 114(u)(2) of title 49, United States Code, there
17 shall be made available to the Assistant Secretary of
18 Homeland Security (Transportation Security Administra-
19 tion), to carry out this section \$1,000,000 for fiscal year
20 2006.

21 **SEC. 405. HAZARDOUS MATERIALS SECURITY INSPECTIONS**

22 **AND ENFORCEMENT.**

23 (a) IN GENERAL.—The Assistant Secretary of Home-
24 land Security (Transportation Security Administration)
25 shall establish a program within the Transportation Secu-

1 rity Administration, in consultation with the Secretary of
2 Transportation, for reviewing hazardous materials secu-
3 rity plans required under part 172, title 49, Code of Fed-
4 eral Regulations, within 180 days after the date of enact-
5 ment of this Act.

6 (b) CIVIL PENALTY.—The failure, by a shipper, car-
7 rier, or other person subject to part 172 of title 49, Code
8 of Federal Regulations, to comply with any applicable sec-
9 tion of that part within 180 days after being notified by
10 the Assistant Secretary of such failure to comply, is pun-
11 ishable by a civil penalty imposed by the Assistant Sec-
12 retary under title 49, United States Code. For purposes
13 of this subsection, each day of noncompliance after the
14 181st day following the date on which the pipeline oper-
15 ator received notice of the failure shall constitute a sepa-
16 rate failure.

17 (c) COMPLIANCE REVIEW.—In reviewing the compli-
18 ance of hazardous materials shippers, carriers, or other
19 persons subject to part 172 of title 49, Code of Federal
20 Regulations, with the provisions of that part, the Assistant
21 Secretary shall utilize risk assessment methodologies to
22 prioritize vulnerabilities and to target review and enforce-
23 ment actions to the most vulnerable and critical hazardous
24 materials transportation operations.

1 (d) FUNDING.—Out of funds appropriated pursuant
2 to section 114(u)(2) of title 49, United States Code, there
3 shall be made available to the Assistant Secretary of
4 Homeland Security (Transportation Security Administra-
5 tion), to carry out this section—

6 (1) \$2,000,000 for fiscal year 2006;

7 (2) \$2,000,000 for fiscal year 2007; and

8 (3) \$2,000,000 for fiscal year 2008.

9 **SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY**

10 **PLAN.**

11 (a) IN GENERAL.—The Secretary of Homeland Secu-
12 rity, in consultation with the Secretary of Transportation
13 and the Pipeline and Hazardous Materials Safety Admin-
14 istration, and in accordance with the Memorandum of Un-
15 derstanding Annex executed under section 408, shall de-
16 velop a Pipeline Security and Incident Recovery Protocols
17 Plan. The plan shall include—

18 (1) a plan for the Federal Government to pro-
19 vide increased security support to the most critical
20 interstate and intrastate natural gas and hazardous
21 liquid transmission pipeline infrastructure and oper-
22 ations as determined under section 407—

23 (A) at high or severe security threat levels
24 of alert; and

1 (B) when specific security threat informa-
2 tion relating to such pipeline infrastructure or
3 operations exists; and

4 (2) an incident recovery protocol plan, devel-
5 oped in conjunction with interstate and intrastate
6 transmission and distribution pipeline operators and
7 terminals and facilities operators connected to pipe-
8 lines, to develop protocols to ensure the continued
9 transportation of natural gas and hazardous liquids
10 to essential markets and for essential public health
11 or national defense uses in the event of an incident
12 affecting the interstate and intrastate natural gas
13 and hazardous liquid transmission and distribution
14 pipeline system, which shall include protocols for
15 granting access to pipeline operators for pipeline in-
16 frastructure repair, replacement or bypass following
17 an incident.

18 (b) EXISTING PRIVATE AND PUBLIC SECTOR EF-
19 FORTS.—The plan shall take into account actions taken
20 or planned by both public and private entities to address
21 identified pipeline security issues and assess the effective
22 integration of such actions.

23 (c) CONSULTATION.—In developing the plan under
24 subsection (a), the Secretary shall consult with interstate
25 and intrastate transmission and distribution pipeline oper-

1 ators, pipeline labor, first responders, shippers of haz-
2 ardous materials, State Departments of Transportation,
3 public safety officials, and other relevant parties.

4 (d) REPORT.—

5 (1) CONTENTS.—Not later than 180 days after
6 the date of enactment of this Act, the Secretary
7 shall transmit to the Committee on Commerce,
8 Science, and Transportation of the Senate, the Com-
9 mittee on Homeland Security of the House of Rep-
10 resentatives, and the Committee on Transportation
11 and Infrastructure of the House of Representatives
12 a report containing the plan required by subsection
13 (a), along with an estimate of the cost to implement
14 any recommendations.

15 (2) FORMAT.—The Secretary may submit the
16 report in both classified and redacted formats if the
17 Secretary determines that such action is appropriate
18 or necessary.

19 (e) FUNDING.—Out of funds appropriated pursuant
20 to section 114(u)(2) of title 49, United States Code, there
21 shall be made available to the Secretary of Homeland Se-
22 curity to carry out this section \$1,000,000 for fiscal year
23 2006.

1 **SEC. 407. PIPELINE SECURITY INSPECTIONS AND EN-**
2 **FORCEMENT.**

3 (a) **IN GENERAL.**—Within 180 days after the date
4 of enactment of this Act the Assistant Secretary of Home-
5 land Security (Transportation Security Administration),
6 in consultation with the Secretary of Transportation, shall
7 establish a program within the Transportation Security
8 Administration for reviewing pipeline operator adoption of
9 recommendations in the September, 5, 2002, Department
10 of Transportation Research and Special Programs Admin-
11 istration Pipeline Security Information Circular, including
12 the review of pipeline security plans and critical facility
13 inspections, as determined by the Assistant Secretary.

14 (b) **REVIEW AND INSPECTION.**—Within 9 months
15 after the date of enactment of this Act the Assistant Sec-
16 retary shall complete a review of the pipeline security plan
17 and an inspection of the critical facilities of the 100 most
18 critical pipeline operators, as determined by the Assistant
19 Secretary, covered by the September, 5, 2002, circular.

20 (c) **COMPLIANCE REVIEW METHODOLOGY.**—In re-
21 viewing pipeline operator compliance under subsections (a)
22 and (b), the Assistant Secretary shall utilize risk assess-
23 ment methodologies to prioritize vulnerabilities and to tar-
24 get inspection and enforcement actions to the most vulner-
25 able and critical pipeline assets.

1 (d) REGULATIONS.—Within 1 year after the date of
2 enactment of this Act, the Assistant Secretary shall issue
3 security regulations for natural gas and hazardous liquid
4 pipelines and pipeline facilities. The regulations should in-
5 corporate the guidance provided to pipeline operators by
6 the September 5, 2002, Department of Transportation
7 Research and Special Programs Administration’s Pipeline
8 Security Information Circular and contain additional re-
9 quirements as necessary based upon the results of the in-
10 spections performed under subsection (b). The regulations
11 shall include the imposition of civil penalties for non-com-
12 pliance. The Assistant Secretary shall publish a schedule
13 of those civil penalties.

14 (e) FUNDING.—Out of funds appropriated pursuant
15 to section 114(u)(2) of title 49, United States Code, there
16 shall be made available to the Assistant Secretary of
17 Homeland Security (Transportation Security Administra-
18 tion), to carry out this section—

19 (1) \$2,000,000 for fiscal year 2006;

20 (2) \$2,000,000 for fiscal year 2007; and

21 (3) \$2,000,000 for fiscal year 2008.

22 **SEC. 408. MEMORANDUM OF AGREEMENT.**

23 Within 1 year after the date of enactment of this Act,
24 the Secretary of Transportation and the Assistant Sec-
25 retary of Homeland Security (Transportation Security Ad-

1 ministration), shall execute and develop an annex to the
2 memorandum of agreement between the two departments
3 signed on September 28, 2004, governing the specific
4 roles, delineations of responsibilities, resources and com-
5 mitments of the Department of Transportation and the
6 Department of Homeland Security, respectively, in ad-
7 dressing pipeline security and hazardous material trans-
8 portation security matters, including the processes the de-
9 partments will follow to promote communications, effi-
10 ciency, and nonduplication of effort.

11 **SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

12 (a) DEVELOPMENT.—The Secretary of Homeland Se-
13 curity, in conjunction with the Secretary of Transpor-
14 tation, shall develop a national public sector response sys-
15 tem to receive security alerts, emergency messages, and
16 other information generated by various wireless terrestrial
17 or satellite communications technologies used to track the
18 transportation of high hazard materials which can provide
19 accurate, timely, and actionable information to appro-
20 priate first responder, law enforcement and public safety,
21 and homeland security officials, as appropriate, regarding
22 accidents, threats, thefts, or other safety and security
23 risks or incidents. In developing this system, they shall
24 consult with law enforcement and public safety officials,
25 hazardous material shippers, motor carriers, railroads, or-

1 ganizations representing hazardous material employees,
2 State transportation and hazardous materials officials,
3 Operation Respond, and commercial motor vehicle and
4 hazardous material safety groups. The development of the
5 national public sector response system shall be based upon
6 the public sector response center developed for the haz-
7 ardous material safety and security operational field test
8 undertaken by the Federal Motor Carrier Safety Adminis-
9 tration.

10 (b) CAPABILITY.—The national public sector re-
11 sponse system shall be able to receive, as appropriate—

- 12 (1) negative driver verification alerts;
- 13 (2) out-of-route alerts;
- 14 (3) driver panic or emergency alerts; and
- 15 (4) tampering or release alerts.

16 (c) CHARACTERISTICS.—The national public sector
17 response system shall—

- 18 (1) be an exception-based system;
- 19 (2) be integrated with other private and public
20 sector operation reporting and response systems and
21 all Federal homeland security threat analysis sys-
22 tems or centers (including the National Response
23 Center); and
- 24 (3) provide users the ability to create rules for
25 alert notification messages.

1 (d) CARRIER PARTICIPATION.—Within 180 days
2 after the national public sector response system is oper-
3 ational, as determined by the Secretary, each motor car-
4 rier and railroad transporting high hazard materials, or
5 entities acting on their behalf who receive such wireless
6 communication alerts from motor carriers or railroads,
7 shall provide the information listed in subsection (b) to
8 the national public sector response system and vehicle or
9 rail car location information to extent possible with the
10 wireless communication technology used by the motor car-
11 rier or railroad.

12 (e) CALL-IN NUMBER.—The national public sector
13 response system shall be designed to include an automated
14 call-in system that allows commercial motor vehicle driv-
15 ers, railroad employees, and hazardous material employees
16 involved in the transportation of high hazard materials to
17 report accidents, threats, thefts, or other safety and secu-
18 rity risks or incidents to the national public sector re-
19 sponse system using cellular or other telephone tech-
20 nology.

21 (f) DATA PRIVACY.—The national public sector re-
22 sponse system shall be designed to ensure appropriate pro-
23 tection of data and information relating to motor carriers
24 and drivers.

1 (g) REPORT.—Not later than 180 days after the date
2 of enactment of this Act, the Secretary shall transmit to
3 the Senate Committee on Commerce, Science, and Trans-
4 portation and the House of Representatives Committee on
5 Transportation and Infrastructure a report on the esti-
6 mated total cost to establish and annually operate the na-
7 tional public sector response system under subsection (a),
8 together with any recommendations for generating private
9 sector participation and investment in the development
10 and operation of the national public sector response sys-
11 tem.

12 (h) FUNDING.—Out of funds appropriated pursuant
13 to section 114(u)(2) of title 49, United States Code, there
14 shall be made available to the Secretary of Homeland Se-
15 curity to carry out this section—

16 (1) \$1,000,000 for fiscal year 2006;

17 (2) \$1,000,000 for fiscal year 2007; and

18 (3) \$1,000,000 for fiscal year 2008.

19 **SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

20 (a) IN GENERAL.—The Assistant Secretary of Home-
21 land Security (Transportation Security Administration),
22 shall establish a program for making grants to private op-
23 erators of over-the-road buses for system-wide security im-
24 provements to their operations, including—

- 1 (1) constructing and modifying terminals, ga-
2 rages, facilities, or over-the-road buses to assure
3 their security;
- 4 (2) protecting or isolating the driver;
- 5 (3) acquiring, upgrading, installing, or oper-
6 ating equipment, software, or accessorial services for
7 collection, storage, or exchange of passenger and
8 driver information through ticketing systems or oth-
9 erwise, and information links with government agen-
10 cies;
- 11 (4) training employees in recognizing and re-
12 sponding to security threats, evacuation procedures,
13 passenger screening procedures, and baggage inspec-
14 tion;
- 15 (5) hiring and training security officers;
- 16 (6) installing cameras and video surveillance
17 equipment on over-the-road buses and at terminals,
18 garages, and over-the-road bus facilities;
- 19 (7) creating a program for employee identifica-
20 tion or background investigation;
- 21 (8) establishing and upgrading an emergency
22 communications system linking operational head-
23 quarters, over-the-road buses, law enforcement, and
24 emergency personnel; and

1 (9) implementing and operating passenger
2 screening programs at terminals and on over-the-
3 road buses.

4 (b) REIMBURSEMENT.—A grant under this section
5 may be used to provide reimbursement to private opera-
6 tors of over-the-road buses for extraordinary security-re-
7 lated costs for improvements described in paragraphs (1)
8 through (9) of subsection (a), determined by the Assistant
9 Secretary to have been incurred by such operators since
10 September 11, 2001.

11 (c) FEDERAL SHARE.—The Federal share of the cost
12 for which any grant is made under this section shall be
13 90 percent.

14 (d) DUE CONSIDERATION.—In making grants under
15 this section, the Assistant Secretary shall give due consid-
16 eration to private operators of over-the-road buses that
17 have taken measures to enhance bus transportation secu-
18 rity from those in effect before September 11, 2001, and
19 shall prioritize grant funding based on the magnitude and
20 severity of the security threat to bus passengers and the
21 ability of the funded project to reduce, or respond to, that
22 threat.

23 (e) GRANT REQUIREMENTS.—A grant under this sec-
24 tion shall be subject to all the terms and conditions that
25 a grant is subject to under section 3038(f) of the Trans-

1 portation Equity Act for the 21st Century (49 U.S.C.
2 5310 note; 112 Stat. 393).

3 (f) PLAN REQUIREMENT.—

4 (1) IN GENERAL.—The Assistant Secretary
5 may not make a grant under this section to a pri-
6 vate operator of over-the-road buses until the oper-
7 ator has first submitted to the Assistant Secretary—

8 (A) a plan for making security improve-
9 ments described in subsection (a) and the As-
10 sistant Secretary has approved the plan; and

11 (B) such additional information as the As-
12 sistant Secretary may require to ensure ac-
13 countability for the obligation and expenditure
14 of amounts made available to the operator
15 under the grant.

16 (2) COORDINATION.—To the extent that an ap-
17 plication for a grant under this section proposes se-
18 curity improvements within a specific terminal
19 owned and operated by an entity other than the ap-
20 plicant, the applicant shall demonstrate to the satis-
21 faction of the Assistant Secretary that the applicant
22 has coordinated the security improvements for the
23 terminal with that entity.

24 (g) OVER-THE-ROAD BUS DEFINED.—In this sec-
25 tion, the term “over-the-road bus” means a bus character-

1 ized by an elevated passenger deck located over a baggage
2 compartment.

3 (h) BUS SECURITY ASSESSMENT.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Assist-
6 ant Secretary of Homeland Security (Transportation
7 Security Administration), shall transmit to the Com-
8 mittee on Commerce, Science, and Transportation of
9 the Senate, the Committee on Transportation and
10 Infrastructure of the House of Representatives, a
11 preliminary report in accordance with the require-
12 ments of this section.

13 (2) CONTENTS OF PRELIMINARY REPORT.—The
14 preliminary report shall include—

15 (A) an assessment of the over-the-road bus
16 security grant program;

17 (B) an assessment of actions already taken
18 to address identified security issues by both
19 public and private entities and recommenda-
20 tions on whether additional safety and security
21 enforcement actions are needed;

22 (C) an assessment of whether additional
23 legislation is needed to provide for the security
24 of Americans traveling on over-the-road buses;

1 (D) an assessment of the economic impact
2 that security upgrades of buses and bus facili-
3 ties may have on the over-the-road bus trans-
4 portation industry and its employees;

5 (E) an assessment of ongoing research and
6 the need for additional research on over-the-
7 road bus security, including engine shut-off
8 mechanisms, chemical and biological weapon de-
9 tection technology, and the feasibility of
10 compartmentalization of the driver; and

11 (F) an assessment of industry best prac-
12 tices to enhance security.

13 (3) CONSULTATION WITH INDUSTRY, LABOR,
14 AND OTHER GROUPS.—In carrying out this section,
15 the Assistant Secretary shall consult with over-the-
16 road bus management and labor representatives,
17 public safety and law enforcement officials, and the
18 National Academy of Sciences.

19 (i) FUNDING.—Out of funds appropriated pursuant
20 to section 114(u)(2) of title 49, United States Code, there
21 shall be made available to the Assistant Secretary of
22 Homeland Security (Transportation Security Administra-
23 tion), to carry out this section—

24 (1) \$50,000,000 for fiscal year 2006;

25 (2) \$50,000,000 for fiscal year 2007; and

1 (3) \$50,000,000 for fiscal year 2008.

2 Amounts made available pursuant to this subsection shall
3 remain available until expended.

4 **TITLE V—IMPROVED MARITIME**
5 **SECURITY**

6 **SEC. 501. ESTABLISHMENT OF ADDITIONAL JOINT OPER-**
7 **ATIONAL CENTERS FOR PORT SECURITY.**

8 (a) IN GENERAL.—In order to improve interagency
9 cooperation, unity of command, and the sharing of intel-
10 ligence information in a common mission to provide great-
11 er protection for port and intermodal transportation sys-
12 tems against acts of terrorism, the Secretary of Homeland
13 Security, acting through the Commandant of the Coast
14 Guard, shall establish joint operational centers for port se-
15 curity at all Tier 1 ports to the extent practicable within
16 2 years ater the date of enactment of this Act.

17 (b) CHARACTERISTICS.—The joint operational cen-
18 ters shall—

19 (1) be based on the most appropriate
20 compositional and operational characteristics of the
21 pilot project joint operational centers for port secu-
22 rity in Miami, Florida, Norfolk/Hampton Roads,
23 Virginia, Charleston, South Carolina, and San
24 Diego, California;

1 (2) be adapted to meet the security needs, re-
2 quirements, and resources of the individual port area
3 at which each is operating;

4 (3) provide for participation by the United
5 States Customs and Border Protection Agency, the
6 Transportation Security Administration, the Depart-
7 ment of Defense, and other Federal agencies, as de-
8 termined to be appropriate by the Secretary of
9 Homeland Security, and State and local law enforce-
10 ment or port security agencies and personnel; and

11 (4) be incorporated in the implementation of—

12 (A) maritime transportation security plans
13 developed under section 70103 of title 46,
14 United States Code;

15 (B) maritime intelligence activities under
16 section 70113 of that title;

17 (C) short and long range vessel tracking
18 under sections 70114 and 70115 of that title;

19 (D) secure transportation systems under
20 section 70116 of that title;

21 (E) the Bureau of Customs and Border
22 Protection's screening and high-risk cargo in-
23 spection programs; and

1 (F) the transportation security incident re-
2 sponse plans required by section 70104 of that
3 title.

4 (c) 2005 ACT REPORT REQUIREMENT.—Nothing in
5 this section relieves the Commandant of the Coast Guard
6 from compliance with the requirements of section 807 of
7 the Coast Guard and Maritime Transportation Act of
8 2004. The Commandant shall utilize the information de-
9 veloped in making the report required by that section in
10 carrying out the requirements of this section.

11 (d) BUDGET AND COST-SHARING ANALYSIS.—Within
12 180 days after the date of enactment of this Act, the Sec-
13 retary shall transmit to the Senate Committee on Com-
14 merce, Science, and Transportation and the House of Rep-
15 resentatives Committee on Transportation and Infrastruc-
16 ture a proposed budget analysis for implementing sub-
17 section (a), including cost-sharing arrangements with
18 other Federal departments and agencies involved in the
19 joint operation of the centers.

20 **SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE**
21 **PLAN.**

22 Section 70103(b)(2) of title 46, United States Code,
23 is amended—

24 (1) by striking “and” after the semicolon in
25 subparagraph (E);

1 (2) by redesignating subparagraph (F) as sub-
2 paragraph (G); and

3 (3) by inserting after subparagraph (E) the fol-
4 lowing:

5 “(F) include a salvage response plan—

6 “(i) to identify salvage equipment ca-
7 pable of restoring operational trade capac-
8 ity; and

9 “(ii) to ensure that the flow of cargo
10 through United States ports is re-estab-
11 lished as efficiently and quickly as possible
12 after a transportation security incident.”.

13 **SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCI-**
14 **DENT RESUMPTION OF TRADE.**

15 Section 70103(a)(2)(J) of title 46, United States
16 Code, is amended by inserting after “incident.” the fol-
17 lowing: “The plan shall provide, to the extent practicable,
18 preference in the reestablishment of the flow of cargo
19 through United States ports after a transportation secu-
20 rity incident to—

21 “(i) vessels that have a vessel security plan
22 approved under subsection (c); and

23 “(ii) vessels manned by individuals who are
24 described in section 70105(b)(2)(B) and who
25 have undergone a background records check

1 under section 70105(d) or who hold transpor-
2 tation security cards issued under section
3 70105.”.

4 **SEC. 504. ASSISTANCE FOR FOREIGN PORTS.**

5 (a) IN GENERAL.—Section 70109 of title 46, United
6 States Code, is amended—

7 (1) by adding at the end the following:

8 “(c) FOREIGN ASSISTANCE PROGRAMS.—

9 “(1) IN GENERAL.—The Administrator of the
10 Maritime Administration, in coordination with the
11 Secretary of State and the Secretary of Energy,
12 shall identify foreign assistance programs that could
13 facilitate implementation of port security
14 antiterrorism measures in foreign countries. The Ad-
15 ministrator and the Secretary shall establish a pro-
16 gram to utilize those programs that are capable of
17 implementing port security antiterrorism measures
18 at ports in foreign countries that the Secretary
19 finds, under section 70108, to lack effective
20 antiterrorism measures.

21 “(2) CARIBBEAN BASIN.—The Administrator,
22 in coordination with the Secretary of State and in
23 consultation with the Organization of American
24 States, shall place particular emphasis on utilizing
25 programs to facilitate the implementation of port se-

1 security antiterrorism measures at the ports located in
2 the Caribbean Basin, as such ports pose unique se-
3 curity and safety threats to the United States due
4 to—

5 “(A) the strategic location of such ports
6 between South America and United States;

7 “(B) the relative openness of such ports;
8 and

9 “(C) the significant number of shipments
10 of narcotics to the United States that are
11 moved through such ports.”.

12 (b) REPORT ON SECURITY AT PORTS IN THE CARIB-
13 BEAN BASIN.—Not later than 60 days after the date of
14 enactment of this Act, the Secretary of Homeland Security
15 shall submit to the Committee on Commerce, Science, and
16 Transportation of the Senate and Committee on Trans-
17 portation and Infrastructure of the House of Representa-
18 tives a report on the security of ports in the Caribbean
19 Basin. The report shall include the following:

20 (1) An assessment of the effectiveness of the
21 measures employed to improve security at ports in
22 the Caribbean Basin and recommendations for any
23 additional measures to improve such security.

24 (2) An estimate of the number of ports in the
25 Caribbean Basin that will not be secured by January

1 1, 2006, and an estimate of the financial impact in
2 the United States of any action taken pursuant to
3 section 70110 of title 46, United States Code, that
4 affects trade between such ports and the United
5 States.

6 (3) An assessment of the additional resources
7 and program changes that are necessary to maxi-
8 mize security at ports in the Caribbean Basin.

9 **SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO**
10 **SEARCHES.**

11 (a) IN GENERAL.—In order to provide the best pos-
12 sible data for the automated target system that identifies
13 high-risk cargo for inspection, the Secretary of Homeland
14 Security shall require importers shipping goods to the
15 United State via cargo container to supply entry data
16 under the advance notification requirements under section
17 4.7 of the Customs Regulations (19 C.F.R. 4.7).

18 (b) DEADLINE.—The requirement imposed under
19 subsection (a) shall apply to goods entered after December
20 31, 2006.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of
23 Homeland Security \$5,000,000 for each of fiscal years
24 2006, 2007, and 2008 to carry out the automated tar-
25 geting system program to identify high-risk oceanborne

1 container cargo for inspection. The amounts authorized by
2 this subsection shall be in addition to any other amounts
3 authorized to be appropriated to carry out that program.

4 (d) EVALUATION BY COMPTROLLER GENERAL.—

5 (1) IN GENERAL.—The Comptroller General
6 shall evaluate action taken by the Department of
7 Homeland Security to address the deficiencies in its
8 automated targeting system strategy identified in
9 the Government Accountability Office’s report enti-
10 tled “Homeland Security Challenges Remain in the
11 Targeting of Oceangoing Cargo Containers for In-
12 spection” (GAO-04-352NI). In making the evalua-
13 tion, the Comptroller General shall assess whether
14 all key elements of a risk management framework
15 and recognized modeling practices have been incor-
16 porated in the Department’s strategy, including—

17 (A) threat, criticality, vulnerability, and
18 risk assessments;

19 (B) external peer review of the automated
20 targeting system;

21 (C) a mandatory random sampling pro-
22 gram;

23 (D) simulated events to test the targeting
24 strategy; and

1 (E) effectiveness reviews of risk mitigation
2 actions.

3 (2) REPORT.—The Comptroller General shall
4 transmit a report to the Senate Committee on Com-
5 merce, Science, and Transportation and the House
6 of Representatives Committee on Transportation
7 and Infrastructure within 1 year after the date of
8 enactment of this Act containing the results of the
9 evaluation, together with any recommendations the
10 Comptroller General deems appropriate.

11 **SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS**
12 **ASSIGNED OVERSEAS.**

13 (a) IN GENERAL.—The Secretary of Homeland Secu-
14 rity shall substantially increase the number of United
15 States Customs Service inspectors assigned to duty out-
16 side the United States under the Container Security Ini-
17 tiative of the United States Customs Service with respon-
18 sibility for inspecting intermodal shipping containers being
19 shipped to the United States.

20 (b) STAFFING CRITERIA.—In carrying out subsection
21 (a) the Secretary of Homeland Security shall determine
22 the appropriate level for assignment and density of cus-
23 toms inspectors at selected international port facilities by
24 a threat, vulnerability, and risk analysis which, at a min-
25 imum, considers—

1 (1) the volume of containers shipped;

2 (2) the ability of the host government to assist
3 in both manning and providing equipment and re-
4 sources;

5 (3) terrorist intelligence known of importer ven-
6 dors, suppliers or manufactures; and

7 (4) other criteria as determined in consult with
8 experts in the shipping industry, terrorism, and
9 shipping container security.

10 (c) **MINIMUM NUMBER.**—The total number of cus-
11 toms inspectors assigned to international port facilities
12 shall not be less than the number determined as a result
13 of the threat, vulnerability, and risk assessment analysis
14 which is validated by the Administrator of the Transpor-
15 tation Security Administration within 180 days after the
16 date of enactment of this Act.

17 (d) **PLAN.**—The Secretary shall submit a plan to the
18 Senate Committee on Commerce, Science, and Transpor-
19 tation and the House of Representatives Committee on
20 Transportation and Infrastructure, with timelines, for
21 phasing inspectors into selected port facilities within 180
22 days after the enactment of this Act.

23 **SEC. 507. RANDOM INSPECTION OF CONTAINERS.**

24 (a) **IN GENERAL.**—The Under Secretary of Home-
25 land Security for Border and Transportation Security

1 shall develop and implement a plan for random inspection
2 of shipping containers in addition to any targeted or pre-
3 shipment inspection of such containers required by law or
4 regulation or conducted under any other program con-
5 ducted by the Under Secretary.

6 (b) CIVIL PENALTY FOR ERRONEOUS MANIFEST.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), if the Under Secretary determines on the
9 basis of an inspection conducted under subsection
10 (a) that there is a discrepancy between the contents
11 of a shipping container and the manifest for that
12 container, the Under Secretary may impose a civil
13 penalty.

14 (2) MANIFEST DISCREPANCY REPORTING.—The
15 Under Secretary may not impose a civil penalty
16 under paragraph (1) if a manifest discrepancy re-
17 port is filed with respect to the discrepancy within
18 the time limits established by Customs Directive No.
19 3240–067A (or any subsequently issued directive
20 governing the matters therein) for filing a manifest
21 discrepancy report.

22 **SEC. 508. CARGO SECURITY.**

23 (a) IN GENERAL.—Chapter 701 of title 46, United
24 States Code, is amended—

1 (1) by redesignating the second section 70118
2 (relating to firearms, arrests, and seizure of prop-
3 erty), as added by section 801(a) of the Coast Guard
4 and Maritime Transportation Act of 2004, as sec-
5 tion 70119;

6 (2) by redesignating the first section 70119 (re-
7 lating to enforcement by State and local officers), as
8 added by section 801(a) of the Coast Guard and
9 Maritime Transportation Act of 2004, as section
10 70120;

11 (3) by redesignating the second section 70119
12 (relating to civil penalty), as redesignated by section
13 802(a)(1) of the Coast Guard and Maritime Trans-
14 portation Act of 2004, as section 70122; and

15 (4) by inserting after section 70120 the fol-
16 lowing:

17 **“§ 70121. Container security initiative**

18 “(a) IN GENERAL.—Pursuant to the standards estab-
19 lished under subsection (b)(1) of section 70116—

20 “(1) the Secretary of Homeland Security shall
21 promulgate standards and procedures for—

22 “(A) the inspection of cargo in a foreign
23 port intended for shipment to the United States
24 by physical examination or nonintrusive exam-
25 ination by technological means; and

1 “(B) evaluating and screening cargo prior
2 to loading in a foreign port for shipment to the
3 United States, either directly or via a foreign
4 port; and

5 “(2) the Commissioner of Customs and Border
6 Protection shall—

7 “(A) execute inspection and screening pro-
8 tocols with authorities in foreign ports to en-
9 sure that the standards and procedures promul-
10 gated under paragraph (1) are implemented in
11 an effective manner; and

12 “(B) in consultation with the Transpor-
13 tation Security Oversight Board, develop and
14 maintain an antiterrorism cargo identification,
15 tracking, and screening system for container-
16 ized cargo shipped to and from the United
17 States, either directly or via a foreign port.

18 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary of
20 Homeland Security such sums as may be necessary to
21 carry out this section.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) The chapter analysis for chapter 701 of title
24 46, United States Code, is amended by striking the

1 items following the item relating to section 70116
 2 and inserting the following:

“70117. In rem liability for civil penalties and certain costs

“70118. Withholding of clearance

“70119. Firearms, arrests, and seizure of property

“70120. Enforcement by State and local officers

“70121. Container security initiative

“70122. Civil penalty”.

3 (2) Section 70117(a) of title 46, United States
 4 Code, as redesignated by subsection (a)(3) of this
 5 section, is amended by striking “section 70120” and
 6 inserting “section 70122”.

7 (3) Section 70118(a) of such title is amended
 8 by striking “under section 70120,” and inserting
 9 “under that section,”.

10 (4) Section 111 of the Maritime Transportation
 11 Security Act of 2002 is repealed.

12 **SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTER-**
 13 **MODAL TRANSPORTATION.**

14 (a) IN GENERAL.—Section 70116(a) of title 46,
 15 United States Code, is amended—

16 (1) by striking “transportation.” and inserting
 17 “transportation—

18 “(1) to ensure the security and integrity of
 19 shipments of goods to the United States from the
 20 point at which such goods are initially packed or
 21 loaded for international shipment until they reach
 22 their ultimate destination; and

1 “(2) to facilitate the movement of such goods
2 through the entire supply chain through an expedited security and clearance program.”.

3
4 (b) PROGRAM ENHANCEMENTS.—Section 70116(b)
5 of title 46, United States Code, is amended to read as
6 follows:

7 “(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Assistant
8 Secretary shall—
9 Secretary shall—

10 “(1) establish standards and procedures for
11 verifying, at the point at which goods are placed in
12 a cargo container for shipping, that the container is
13 free of unauthorized hazardous chemical, biological,
14 or nuclear material and for securely sealing such
15 containers after the contents are so verified;

16 “(2) establish standards and procedures for securing cargo and monitoring that security while in
17 transit from the point at which it is loaded to the
18 point at which it is finally unloaded;

19
20 “(3) develop performance standards to enhance
21 the physical security of shipping containers, including performance standards for seals and locks as
22 part of the container security initiative;
23

1 “(4) establish standards and procedures for allow-
2 ing the United States Government to ensure and
3 validate compliance with this program; and

4 “(5) incorporate any other measures the Assistant
5 Secretary considers necessary to ensure the security
6 and integrity of international intermodal transport
7 movements.”.

8 (c) PORT SECURITY USER FEE STUDY.—The Sec-
9 retary of Homeland Security shall conduct a study of the
10 feasibility and desirability of establishing a system of
11 oceanborne and port-related intermodal transportation
12 user fees that could be imposed and collected as a dedi-
13 cated revenue source, on a temporary or continuing basis,
14 to provide necessary funding for the improvement and
15 maintenance of enhanced port security. The Assistant Sec-
16 retary shall submit a report containing the Assistant Sec-
17 retary’s findings, conclusions, and recommendations (in-
18 cluding legislative recommendations if appropriate) to the
19 Senate Committee on Commerce, Science, and Transpor-
20 tation and the House of Representatives Committee on
21 Transportation and Infrastructure within 1 year after
22 date of enactment of this Act.

1 **SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION**
2 **SECURITY.**

3 (a) MINIMUM TECHNOLOGY IMPLEMENTATION AU-
4 THORIZATION.—Section 70107(i)(2)(B) of title 46, United
5 States Code, is amended by inserting “not less than” after
6 “Secretary”.

7 (b) SET-ASIDES FOR RESEARCH AND DEVELOP-
8 MENT.—Notwithstanding any provision of law to the con-
9 trary, in the administration of the Department of Home-
10 land Security, the Secretary of Homeland Security shall
11 ensure that, for each fiscal year beginning after the date
12 of enactment of this Act, not less than—

13 (1) 8 percent of the amounts appropriated to
14 the Transportation Security Administration and the
15 Directorate of Science and Technology for research
16 and development for the fiscal year are obligated or
17 expended for maritime security related projects or
18 programs; and

19 (2) 2 percent of such amounts are obligated or
20 expended for rail security related projects or pro-
21 grams.

22 (c) STRATEGIC PLAN.—

23 (1) IN GENERAL.—Within 90 days after the
24 date of enactment of this Act, the Secretary of
25 Homeland Security shall promulgate a strategic plan
26 for transportation research and development. The

1 Secretary shall update the plan no less frequently
2 than every 2 years thereafter.

3 (2) CONTENTS.—In the strategic plan, the Sec-
4 retary shall—

5 (A) ensure that the research needs for se-
6 curity of all modes of transportation, including
7 aviation, maritime, rail, pipeline, and transit se-
8 curity, are addressed;

9 (B) identify goals and include measurable
10 objectives;

11 (C) include an adequate amount of basic
12 research;

13 (D) define the research and development
14 roles of the Transportation Security Adminis-
15 tration and the Directorate of Science and
16 Technology, respectively, to ensure that—

17 (i) they are aligned;

18 (ii) the efficient use of research funds
19 is maximized; and

20 (iii) duplication of projects is pre-
21 vented or minimized;

22 (E) coordinate transportation research and
23 development under the plan with the transpor-
24 tation research and development activities of
25 other Federal agencies, including the Depart-

1 ment of Transportation and the National Aero-
2 nautics and Space Administration; and

3 (F) base the plan on vulnerability and
4 criticality assessments.

5 (3) ANNUAL EVALUATION.—The Homeland Se-
6 curity Science and Technology Advisory Committee
7 shall evaluate the plan by October 15th each year,
8 measure progress under the plan against the goals
9 set forth in the plan, and recommend changes to the
10 transportation security research program under the
11 plan.

12 (4) ANNUAL REPORT TO CONGRESS.—The Sec-
13 retary shall transmit a copy of the strategic plan,
14 and any revisions of that plan, and a copy of the an-
15 nual evaluations and recommendations made by the
16 Advisory Committee to the Congress.

17 (d) NIST TRANSPORTATION SECURITY PROGRAM.—
18 The Secretary of Homeland Security may transfer up to
19 \$15,000,000 each fiscal year to the National Institute of
20 Science and Technology to be obligated or expended for
21 a focused program in transportation security under sec-
22 tion 28 of the National Institute of Science and Tech-
23 nology Act (15 U.S.C. 278n).

1 (e) SECURE WORKFORCE INITIATIVE.—Section
2 70107 of title 46, United States Code, is amended by add-
3 ing at the end the following:

4 “(j) SECURE WORKFORCE INITIATIVE.—

5 “(1) IN GENERAL.—The Secretary shall develop
6 a program in conjunction with technical and commu-
7 nity colleges to train port security workforces. The
8 program shall focus on teaching port workers to uti-
9 lize new technologies and processes to improve port
10 security through the use of screening technologies,
11 information technologies, detection devices, incident
12 response training, and other advanced technologies.

13 “(2) AUTHORIZATION OF APPROPRIATIONS.—
14 There are authorized to be appropriated to the Sec-
15 retary of Homeland Security \$15,000,000 for each
16 of fiscal years 2005 through 2009 to carry out the
17 program developed under paragraph (1).”.

18 (f) ESTABLISHMENT OF COMPETITIVE RESEARCH
19 PROGRAM.—

20 (1) IN GENERAL.—Title III of the Homeland
21 Security Act of 2002 (6 U.S.C. 181 et seq.) is
22 amended by adding at the end the following:

23 **“SEC. 314. COMPETITIVE RESEARCH PROGRAM.**

24 “(a) IN GENERAL.—

1 “(1) ESTABLISHMENT.—The Secretary, acting
2 through the Under Secretary for Science and Tech-
3 nology, shall establish a competitive research pro-
4 gram within the Directorate.

5 “(2) DIRECTOR.—The program shall be headed
6 by a Director, who shall be appointed by the Sec-
7 retary. The Director shall report to the Under Sec-
8 retary.

9 “(3) DUTIES OF DIRECTOR.—In the adminis-
10 tration of the program, the Director shall—

11 “(A) establish a cofunding mechanism for
12 States with academic facilities that have not
13 fully developed security-related science and
14 technology to support burgeoning research ef-
15 forts by the faculty or link them to established
16 investigators;

17 “(B) provide for conferences, workshops,
18 outreach, and technical assistance to research-
19 ers and institutions of higher education in
20 States on topics related to developing science
21 and technology expertise in areas of high inter-
22 est and relevance to the Department;

23 “(C) monitor the efforts of States to de-
24 velop programs that support the Department’s
25 mission;

1 “(D) implement a merit review program,
2 consistent with program objectives, to ensure
3 the quality of research conducted with Program
4 funding; and

5 “(E) provide annual reports on the
6 progress and achievements of the Program to
7 the Secretary.

8 “(b) ASSISTANCE UNDER THE PROGRAM.—

9 “(1) SCOPE.—The Director shall provide assist-
10 ance under the program for research and develop-
11 ment projects that are related to, or qualify as,
12 homeland security research (as defined in section
13 307(a)(2)) under the program.

14 “(2) FORM OF ASSISTANCE.—Assistance under
15 the program can take the form of grants, contracts,
16 or cooperative arrangements.

17 “(3) APPLICATIONS.—Applicants shall submit
18 proposals or applications in such form, at such
19 times, and containing such information as the Direc-
20 tor may require.

21 “(c) IMPLEMENTATION.—

22 “(1) START-UP PHASES.—For the first 3 fiscal
23 years beginning after the date of enactment of the
24 Border Infrastructure and Technology Integration
25 Act of 2004, assistance under the program shall be

1 limited to institutions of higher education located in
2 States in which an institution of higher education
3 with a grant from, or a contract or cooperative
4 agreement with, the National Science Foundation
5 under section 113 of the National Science Founda-
6 tion Act of 1988 (42 U.S.C. 1862) is located.

7 “(2) SUBSEQUENT FISCAL YEARS.—

8 “(A) IN GENERAL.—Beginning with the
9 4th fiscal year after the date of enactment of
10 this Act, the Director shall rank order the
11 States (excluding any noncontiguous State (as
12 defined in section 2(14)) other than Alaska,
13 Hawaii, the Commonwealth of Puerto Rico, and
14 the Virgin Islands) in descending order in terms
15 of the average amount of funds received by in-
16 stitutions of higher education (as that term is
17 defined in section 101(a) of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1001(a)) in each
19 State that received financial assistance in the
20 form of grants, contracts, or cooperative ar-
21 rangements under this title during each of the
22 preceding 3 fiscal years.

23 “(B) ALLOCATION.—Beginning with the
24 4th fiscal year after the date of enactment of
25 this Act, assistance under the program for any

1 fiscal year is limited to institutions of higher
2 education located in States in the lowest third
3 of those ranked under subparagraph (A) for
4 that fiscal year.

5 “(C) DETERMINATION OF LOCATION.—For
6 purposes of this paragraph, an institution of
7 higher education shall be considered to be lo-
8 cated in the State in which its home campus is
9 located, except that assistance provided under
10 the program to a division, institute, or other fa-
11 cility located in another State for use in that
12 State shall be considered to have been provided
13 to an institution of higher education located in
14 that other State.

15 “(D) MULTIYEAR ASSISTANCE.—For pur-
16 poses of this paragraph, assistance under the
17 program that is provided on a multi-year basis
18 shall be counted as provided in each such year
19 in the amount so provided for that year.

20 “(d) FUNDING.—The Secretary shall ensure that no
21 less than 5 percent of the amount appropriated for each
22 fiscal year to the Acceleration Fund for Research and De-
23 velopment of Homeland Security Technologies established
24 by section 307(c)(1) is allocated to the program estab-
25 lished by subsection (a).”.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents of the Homeland Security Act of 2002 is
3 amended by inserting after the item relating to sec-
4 tion 313 the following:

“Sec. 314. Competitive research program.”.

5 **SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY**
6 **CARDS.**

7 The Secretary shall issue a final rule under section
8 70105 of title 46, United States Code, no later than Janu-
9 ary 1, 2006.

10 **SEC. 512. EVALUATION AND REPORT.**

11 Within 90 days after the date of enactment of this
12 Act the Secretary of Homeland Security shall transmit a
13 report to the Senate Committee on Commerce, Science,
14 and Transportation and the House of Representatives
15 Committee on Transportation and Infrastructure con-
16 taining—

17 (1) an evaluation of the Operation Safe Com-
18 merce program and the Customs-Trade Partnership
19 Against Terrorism program;

20 (2) a report on the establishment and imple-
21 mentation of performance standards for oceanborne
22 and intermodal cargo seals and locks under section
23 70116(b) of title 46, United States Code;

1 (3) a report on progress made and current
2 operational practices for monitoring oceanborne
3 cargo through the entire supply chain;

4 (4) recommendations as to how the practices,
5 programs, and procedures can be further integrated
6 into a wider screening network for oceanborne cargo
7 that can be applied on an international basis;

8 (5) recommendations as to how inspection and
9 screening procedures developed for oceanborne cargo
10 might be adapted for application to the shipment of
11 domestically-produced cargo within the United
12 States;

13 (6) a status report on progress in preparing the
14 plan for implementing secure systems of transpor-
15 tation required by section 809(c) of the Coast Guard
16 and Maritime Transportation Act of 2004 (Pub. L.
17 108–293; 118 Stat. 1086);

18 (7) a report on the security of noncontainerized
19 cargo including roll-on roll-off cargo, break bulk
20 cargo, and liquid and dry bulk cargo; and

21 (8) a report on whether the increased use of
22 waterborne transportation in the domestic movement
23 of hazardous materials would be an effective and ef-
24 ficient means to enhance the safety of hazardous
25 material shipments.

1 **SEC. 513. PORT SECURITY GRANTS.**

2 (a) BASIS FOR GRANTS.—Section 70107(a) of title
3 46, United States Code, is amended by striking “for mak-
4 ing a fair and equitable allocation of funds” and inserting
5 “based on risk and vulnerability”.

6 (b) LETTERS OF INTENT.—Section 70107(e) of title
7 46, United States Code, is amended by adding at the end
8 the following:

9 “(5) LETTERS OF INTENT.—The Secretary may
10 execute letters of intent to commit funding to port
11 sponsors from the Fund.”.

12 **SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER**
13 **DISPUTES.**

14 Section 70101(6) is amended by inserting after
15 “area.” the following: “In this paragraph, the term ‘eco-
16 nomic disruption’ does not include a work stoppage or
17 other nonviolent employee-related action resulting from an
18 employee-employer dispute.”.

19 **SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPOR-**
20 **TATION SECURITY CARD.**

21 Section 70105(c)(3) of title 46, United States Code,
22 is amended by inserting “or a waiver under paragraph
23 (2)” after “card”.

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