

110TH CONGRESS
1ST SESSION

S. 184

To provide improved rail and surface transportation security.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. INOUE (for himself, Mr. STEVENS, Mr. LAUTENBERG, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KERRY, Mr. LIEBERMAN, Mrs. BOXER, Mr. PRYOR, Mr. CARPER, Mr. BIDEN, Mr. BAUCUS, 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 provide improved rail and surface transportation security.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Surface Transpor-
5 tation and Rail Security Act of 2007”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—IMPROVED RAIL SECURITY

- Sec. 101. Rail transportation security risk assessment.
- Sec. 102. Systemwide amtrak security upgrades.

- Sec. 103. Fire and life-safety improvements.
- Sec. 104. Freight and passenger rail security upgrades.
- Sec. 105. Rail security research and development.
- Sec. 106. Oversight and grant procedures.
- Sec. 107. Amtrak plan to assist families of passengers involved in rail passenger accidents.
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- Sec. 111. High hazard material security threat mitigation plans.
- Sec. 112. Memorandum of agreement.
- Sec. 113. Rail security enhancements.
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TITLE II—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS
MATERIAL SECURITY

- Sec. 201. Hazardous materials highway routing.
- Sec. 202. Motor carrier high hazard material tracking.
- Sec. 203. Hazardous materials security inspections and enforcement.
- Sec. 204. Truck security assessment.
- Sec. 205. National public sector response system.
- Sec. 206. Over-the-road bus security assistance.
- Sec. 207. Pipeline security and incident recovery plan.
- Sec. 208. Pipeline security inspections and enforcement.
- Sec. 209. Technical corrections.
- Sec. 210. Certain personnel limitations not to apply.

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

3 **SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
4 **MENT.**

5 (a) IN GENERAL.—

6 (1) VULNERABILITY AND RISK ASSESSMENT.—

7 The Secretary of Homeland Security shall establish
8 a task force, including the Transportation Security
9 Administration, the Department of Transportation,
10 and other appropriate agencies, to complete a vul-
11 nerability and risk assessment of freight and pas-
12 senger rail transportation (encompassing railroads,

1 as that term is defined in section 20102(1) of title
2 49, United States Code). The assessment shall in-
3 clude—

4 (A) a methodology for conducting the risk
5 assessment, including timelines, that addresses
6 how the Department of Homeland Security will
7 work with the entities describe in subsection (b)
8 and make use of existing Federal expertise
9 within the Department of Homeland Security,
10 the Department of Transportation, and other
11 appropriate agencies;

12 (B) identification and evaluation of critical
13 assets and infrastructures;

14 (C) identification of vulnerabilities and
15 risks to those assets and infrastructures;

16 (D) identification of vulnerabilities and
17 risks that are specific to the transportation of
18 hazardous materials via railroad;

19 (E) identification of security weaknesses in
20 passenger and cargo security, transportation in-
21 frastructure, protection systems, procedural
22 policies, communications systems, employee
23 training, emergency response planning, and any
24 other area identified by the assessment; and

1 (F) an account of actions taken or planned by
2 both public and private entities to address identified
3 rail security issues and assess the effective integra-
4 tion of such actions.

5 (2) RECOMMENDATIONS.—Based on the assess-
6 ment conducted under paragraph (1), the Secretary,
7 in consultation with the Secretary of Transportation,
8 shall develop prioritized recommendations for im-
9 proving rail security, including any recommendations
10 the Secretary has for—

11 (A) improving the security of rail tunnels,
12 rail bridges, rail switching and car storage
13 areas, other rail infrastructure and facilities, in-
14 formation systems, and other areas identified
15 by the Secretary as posing significant rail-re-
16 lated risks to public safety and the movement
17 of interstate commerce, taking into account the
18 impact that any proposed security measure
19 might have on the provision of rail service;

20 (B) deploying equipment to detect explo-
21 sives and hazardous chemical, biological, and
22 radioactive substances, and any appropriate
23 countermeasures;

1 (C) training appropriate railroad or rail-
2 road shipper employees in terrorism prevention,
3 passenger evacuation, and response activities;

4 (D) conducting public outreach campaigns
5 on passenger railroads;

6 (E) deploying surveillance equipment; and

7 (F) identifying the immediate and long-
8 term costs of measures that may be required to
9 address those risks.

10 (3) PLANS.—The report required by subsection
11 (c) shall include—

12 (A) a plan, developed in consultation with
13 the freight and intercity passenger railroads,
14 and State and local governments, for the Fed-
15 eral government to provide increased security
16 support at high or severe threat levels of alert;

17 (B) a plan for coordinating existing and
18 planned rail security initiatives undertaken by
19 the public and private sectors; and

20 (C) a contingency plan, developed in con-
21 junction with freight and intercity and com-
22 muter passenger railroads, to ensure the contin-
23 ued movement of freight and passengers in the
24 event of an attack affecting the railroad system,
25 which shall contemplate—

1 (i) the possibility of rerouting traffic
2 due to the loss of critical infrastructure,
3 such as a bridge, tunnel, yard, or station;
4 and

5 (ii) methods of continuing railroad
6 service in the Northeast Corridor in the
7 event of a commercial power loss, or catas-
8 trophe affecting a critical bridge, tunnel,
9 yard, or station.

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

18 (c) REPORT.—

19 (1) CONTENTS.—Within 180 days after the
20 date of enactment of this Act, the Secretary shall
21 transmit to the Senate Committee on Commerce,
22 Science, and Transportation, the House of Rep-
23 resentatives Committee on Transportation and In-
24 frastructure, and the House of Representatives Com-
25 mittee on Homeland Security a report containing the

1 assessment, prioritized recommendations, and plans
2 required by subsection (a) and an estimate of the
3 cost to implement such recommendations.

4 (2) **FORMAT.**—The Secretary may submit the
5 report in both classified and redacted formats if the
6 Secretary determines that such action is appropriate
7 or necessary.

8 (d) **ANNUAL UPDATES.**—The Secretary, in consulta-
9 tion with the Secretary of Transportation, shall update the
10 assessment and recommendations each year and transmit
11 a report, which may be submitted in both classified and
12 redacted formats, to the Committees named in subsection
13 (c)(1), containing the updated assessment and rec-
14 ommendations.

15 (e) **FUNDING.**—Out of funds appropriated pursuant
16 to section 114(u) of title 49, United States Code, as
17 amended by section 116 of this Act, there shall be made
18 available to the Secretary of Homeland Security to carry
19 out this section \$5,000,000 for fiscal year 2008.

20 **SEC. 102. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

21 (a) **IN GENERAL.**—Subject to subsection (c) the Sec-
22 retary of Homeland Security, in consultation with the As-
23 sistant Secretary of Homeland Security (Transportation
24 Security Administration), is authorized to make grants to
25 Amtrak—

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

4 (2) to secure Amtrak trains;

5 (3) to secure Amtrak stations;

6 (4) to obtain a watch list identification system
7 approved by the Secretary;

8 (5) to obtain train tracking and interoperable
9 communications systems that are coordinated to the
10 maximum extent possible;

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

13 (7) to expand emergency preparedness efforts;
14 and

15 (8) for employee security training.

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

23 (c) EQUITABLE GEOGRAPHIC ALLOCATION.—The
24 Secretary shall ensure that, subject to meeting the highest
25 security needs on Amtrak’s entire system and consistent

1 with the risk assessment required under section 101, sta-
2 tions and facilities located outside of the Northeast Cor-
3 ridor receive an equitable share of the security funds au-
4 thorized by this section.

5 (d) AVAILABILITY OF FUNDS.—Out of funds appro-
6 priated pursuant to section 114(u) of title 49, United
7 States Code, as amended by section 116 of this Act., there
8 shall be made available to the Secretary of Homeland Se-
9 curity and the Assistant Secretary of Homeland Security
10 (Transportation Security Administration) to carry out this
11 section—

12 (1) \$63,500,000 for fiscal year 2008;

13 (2) \$30,000,000 for fiscal year 2009; and

14 (3) \$30,000,000 for fiscal year 2010.

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

17 **SEC. 103. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

18 (a) LIFE-SAFETY NEEDS.—The Secretary of Trans-
19 portation, in consultation with the Secretary of Homeland
20 Security, 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 116(b) 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) \$100,000,000 for fiscal year 2008;
10 (B) \$100,000,000 for fiscal year 2009;
11 (C) \$100,000,000 for fiscal year 2010; and
12 (D) \$100,000,000 for fiscal year 2011.

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

- 17 (A) \$10,000,000 for fiscal year 2008;
18 (B) \$10,000,000 for fiscal year 2009;
19 (C) \$10,000,000 for fiscal year 2010; and
20 (D) \$10,000,000 for fiscal year 2011.

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

- 24 (A) \$8,000,000 for fiscal year 2008;
25 (B) \$8,000,000 for fiscal year 2009;

1 (C) \$8,000,000 for fiscal year 2010; and

2 (D) \$8,000,000 for fiscal year 2011.

3 (c) INFRASTRUCTURE UPGRADES.—Out of funds ap-
4 propriated pursuant to section 116(b) of this Act, there
5 shall be made available to the Secretary of Transportation
6 for fiscal year 2008 \$3,000,000 for the preliminary design
7 of options for a new tunnel on a different alignment to
8 augment the capacity of the existing Baltimore tunnels.

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

12 (e) PLANS REQUIRED.—The Secretary of Transpor-
13 tation may not make amounts available to Amtrak for ob-
14 ligation or expenditure under subsection (a)—

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

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

1 (f) REVIEW OF PLANS.—The Secretary of Transpor-
2 tation shall complete the review of the plans required by
3 paragraphs (1) and (2) of subsection (e) and approve or
4 disapprove the plans within 45 days after the date on
5 which each such plan is submitted by Amtrak. If the Sec-
6 retary determines that a plan is incomplete or deficient,
7 the Secretary shall notify Amtrak of the incomplete items
8 or deficiencies and Amtrak shall, within 30 days after re-
9 ceiving the Secretary’s notification, submit a modified
10 plan for the Secretary’s review. Within 15 days after re-
11 ceiving additional information on items previously included
12 in the plan, and within 45 days after receiving items newly
13 included in a modified plan, the Secretary shall either ap-
14 prove the modified plan, or, if the Secretary finds the plan
15 is still incomplete or deficient, the Secretary shall identify
16 in writing to the Senate Committee on Commerce, Science,
17 and Transportation, the House of Representatives Com-
18 mittee on Transportation and Infrastructure, and the
19 House of Representatives Committee on Homeland Secu-
20 rity the portions of the plan the Secretary finds incomplete
21 or deficient, approve all other portions of the plan, obligate
22 the funds associated with those other portions, and exe-
23 cute an agreement with Amtrak within 15 days thereafter
24 on a process for resolving the remaining portions of the
25 plan.

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

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

7 (2) consider the feasibility of seeking a financial
8 contribution from those other rail carriers toward
9 the costs of the projects; and

10 (3) obtain financial contributions or commit-
11 ments from such other rail carriers at levels reflect-
12 ing the extent of their use or planned use of the tun-
13 nels, if feasible.

14 **SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UP-**
15 **GRADES.**

16 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
17 retary of Homeland Security, through the Assistant Sec-
18 retary of Homeland Security (Transportation Security Ad-
19 ministration) and other appropriate agencies, is author-
20 ized to make grants to freight railroads, the Alaska Rail-
21 road, hazardous materials shippers, owners of rail cars
22 used in the transportation of hazardous materials, univer-
23 sities, colleges and research centers, State and local gov-
24 ernments (for rail passenger facilities and infrastructure
25 not owned by Amtrak), and, through the Secretary of

1 Transportation, to Amtrak, for full or partial reimburse-
2 ment of costs incurred in the conduct of activities to pre-
3 vent or respond to acts of terrorism, sabotage, or other
4 intercity passenger rail and freight rail security
5 vulnerabilities and risks identified under section 101, in-
6 cluding—

7 (1) security and redundancy for critical commu-
8 nications, computer, and train control systems essen-
9 tial for secure rail operations;

10 (2) accommodation of rail cargo or passenger
11 screening equipment at the United States-Mexico
12 border, the United States-Canada border, or other
13 ports of entry;

14 (3) the security of hazardous material transpor-
15 tation by rail;

16 (4) secure intercity passenger rail stations,
17 trains, and infrastructure;

18 (5) structural modification or replacement of
19 rail cars transporting high hazard materials to im-
20 prove their resistance to acts of terrorism;

21 (6) employee security awareness, preparedness,
22 passenger evacuation, and emergency response train-
23 ing;

24 (7) public security awareness campaigns for
25 passenger train operations;

1 (8) the sharing of intelligence and information
2 about security threats;

3 (9) to obtain train tracking and interoperable
4 communications systems that are coordinated to the
5 maximum extent possible;

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

8 (11) other improvements recommended by the
9 report required by section 101, including infrastruc-
10 ture, facilities, and equipment upgrades.

11 (b) ACCOUNTABILITY.—The Secretary shall adopt
12 necessary procedures, including audits, to ensure that
13 grants made under this section are expended in accord-
14 ance with the purposes of this title and the priorities and
15 other criteria developed by the Secretary.

16 (c) ALLOCATION.—The Secretary shall distribute the
17 funds authorized by this section based on risk and vulner-
18 ability as determined under section 101, and shall encour-
19 age non-Federal financial participation in awarding
20 grants. With respect to grants for intercity passenger rail
21 security, the Secretary shall also take into account pas-
22 senger volume and whether a station is used by commuter
23 rail passengers as well as intercity rail passengers.

24 (d) CONDITIONS.—The Secretary of Transportation
25 may not disburse funds to Amtrak under subsection (a)

1 unless Amtrak meets the conditions set forth in section
2 102(b) of this Act.

3 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
4 ERS.—Unless as a result of the assessment required by
5 section 101 the Secretary of Homeland Security deter-
6 mines that critical rail transportation security needs re-
7 quire reimbursement in greater amounts to any eligible
8 entity, no grants under this section may be made—

- 9 (1) in excess of \$45,000,000 to Amtrak; or
10 (2) in excess of \$80,000,000 for the purposes
11 described in paragraphs (3) and (5) of subsection
12 (a).

13 (f) AUTHORIZATION OF APPROPRIATIONS.—Out of
14 funds appropriated pursuant to section 114(u) of title 49,
15 United States Code, as amended by section 116 of this
16 Act,, there shall be made available to the Secretary of
17 Homeland Security to carry out this section—

- 18 (1) \$100,000,000 for fiscal year 2008;
19 (2) \$100,000,000 for fiscal year 2009; and
20 (3) \$100,000,000 for fiscal year 2010.

21 Amounts made available pursuant to this subsection shall
22 remain available until expended.

23 (g) HIGH HAZARD MATERIALS DEFINED.—In this
24 section, the term “high hazard materials” means quan-
25 tities of poison inhalation hazard materials, Class 2.3

1 gases, Class 6.1 materials, and anhydrous ammonia that
2 the Secretary, in consultation with the Secretary of Trans-
3 portation, determines pose a security risk.

4 **SEC. 105. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

5 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
6 MENT PROGRAM.—The Secretary of Homeland Security,
7 through the Under Secretary for Science and Technology
8 and the Assistant Secretary of Homeland Security (Trans-
9 portation Security Administration), in consultation with
10 the Secretary of Transportation shall carry out a research
11 and development program for the purpose of improving
12 freight and intercity passenger rail security that may in-
13 clude research and development projects to—

14 (1) reduce the vulnerability of passenger trains,
15 stations, and equipment to explosives and hazardous
16 chemical, biological, and radioactive substances;

17 (2) test new emergency response techniques and
18 technologies;

19 (3) develop improved freight technologies, in-
20 cluding—

21 (A) technologies for sealing rail cars;

22 (B) automatic inspection of rail cars;

23 (C) communication-based train controls;

24 and

25 (D) emergency response training;

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

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

5 (A) technologies to detect a breach in a
6 tank car or other rail car used to transport haz-
7 ardous materials and transmit information
8 about the integrity of cars to the train crew or
9 dispatcher;

10 (B) research to improve tank car integrity,
11 with a focus on tank cars that carry high haz-
12 ard materials (as defined in section 104(g) of
13 this Act); and

14 (C) techniques to transfer hazardous mate-
15 rials from rail cars that are damaged or other-
16 wise represent an unreasonable risk to human
17 life or public safety; and

18 (6) other projects that address vulnerabilities
19 and risks identified under section 101.

20 (b) COORDINATION WITH OTHER RESEARCH INITIA-
21 TIVES.—The Secretary of Homeland Security shall ensure
22 that the research and development program authorized by
23 this section is coordinated with other research and devel-
24 opment initiatives at the Department of Homeland Secu-
25 rity and the Department of Transportation. The Secretary

1 shall carry out any research and development project au-
2 thorized by this section through a reimbursable agreement
3 with the Secretary of Transportation, if the Secretary of
4 Transportation—

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

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

9 (c) GRANTS AND ACCOUNTABILITY.—To carry out
10 the research and development program, the Secretary may
11 award grants to the entities described in section 104(a)
12 and shall adopt necessary procedures, including audits, to
13 ensure that grants made under this section are expended
14 in accordance with the purposes of this title and the prior-
15 ities and other criteria developed by the Secretary.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—Out of
17 funds appropriated pursuant to section 114(u) of title 49,
18 United States Code, as amended by section 116 of this
19 Act., there shall be made available to the Secretary of
20 Homeland Security to carry out this section—

21 (1) \$33,000,000 for fiscal year 2008;

22 (2) \$33,000,000 for fiscal year 2009; and

23 (3) \$33,000,000 for fiscal year 2010.

24 Amounts made available pursuant to this subsection shall
25 remain available until expended.

1 **SEC. 106. OVERSIGHT AND GRANT PROCEDURES.**

2 (a) SECRETARIAL OVERSIGHT.—The Secretary of
3 Homeland Security may use up to 0.5 percent of amounts
4 made available for capital projects under this Act to enter
5 into contracts for the review of proposed capital projects
6 and related program management plans and to oversee
7 construction of such projects.

8 (b) USE OF FUNDS.—The Secretary may use
9 amounts available under subsection (a) of this subsection
10 to make contracts to audit and review the safety, procure-
11 ment, management, and financial compliance of a recipi-
12 ent of amounts under this title.

13 (c) PROCEDURES FOR GRANT AWARD.—The Sec-
14 retary shall, within 90 days after the date of enactment
15 of this Act, prescribe procedures and schedules for the
16 awarding of grants under this title, including application
17 and qualification procedures (including a requirement that
18 the applicant have a security plan), and a record of deci-
19 sion on applicant eligibility. The procedures shall include
20 the execution of a grant agreement between the grant re-
21 cipient and the Secretary and shall be consistent, to the
22 extent practicable, with the grant procedures established
23 under section 70107 of title 46, United States Code.

1 **SEC. 107. 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 Surface
12 Transportation and Rail Security Act of 2007, Amtrak
13 shall submit to the Chairman of the National Transpor-
14 tation Safety Board, the Secretary of Transportation, and
15 the Secretary of Homeland Security a plan for addressing
16 the needs of the families of passengers involved in any rail
17 passenger accident involving an Amtrak intercity train
18 and resulting in a loss of life.

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

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

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

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

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

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

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

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

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

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

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

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

1 information concerning a train reservation, pursuant to a
 2 plan submitted by Amtrak under subsection (b), unless
 3 such liability was caused by Amtrak's conduct.

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

9 “(f) FUNDING.—Out of funds appropriated pursuant
 10 to section 116(b) of the Surface Transportation and Rail
 11 Security Act of 2007, there shall be made available to the
 12 Secretary of Transportation for the use of Amtrak
 13 \$500,000 for fiscal year 2007 to carry out this section.
 14 Amounts made available pursuant to this subsection shall
 15 remain available until expended.”.

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

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

19 **SEC. 108. NORTHERN BORDER RAIL PASSENGER REPORT.**

20 Within 180 days after the date of enactment of this
 21 Act, the Secretary of Homeland Security, in consultation
 22 with the Assistant Secretary of Homeland Security
 23 (Transportation Security Administration), the Secretary
 24 of Transportation, heads of other appropriate Federal de-

1 departments, and agencies and the National Railroad Pas-
2 senger Corporation, shall transmit a report to the Senate
3 Committee on Commerce, Science, and Transportation,
4 the House of Representatives Committee on Transpor-
5 tation and Infrastructure, and the House of Representa-
6 tives Committee on Homeland Security that contains—

7 (1) a description of the current system for
8 screening passengers and baggage on passenger rail
9 service between the United States and Canada;

10 (2) an assessment of the current program to
11 provide preclearance of airline passengers between
12 the United States and Canada as outlined in “The
13 Agreement on Air Transport Preclearance between
14 the Government of Canada and the Government of
15 the United States of America”, dated January 18,
16 2001;

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

24 (4) information on progress by the Department
25 of Homeland Security and other Federal agencies to-

1 wards finalizing a bilateral protocol with Canada
2 that would provide for preclearance of passengers on
3 trains operating between the United States and Can-
4 ada;

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

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

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

18 (8) an analysis of the feasibility of reinstating
19 in-transit inspections onboard international Amtrak
20 trains.

21 **SEC. 109. RAIL WORKER SECURITY TRAINING PROGRAM.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, the Secretary of Homeland
24 Security and the Secretary of Transportation, in consulta-
25 tion with appropriate law enforcement, security, and ter-

1 rorism experts, representatives of railroad carriers, and
2 nonprofit employee organizations that represent rail work-
3 ers, shall develop and issue detailed guidance for a rail
4 worker security training program to prepare front-line
5 workers for potential threat conditions. The guidance shall
6 take into consideration any current security training re-
7 quirements or best practices.

8 (b) PROGRAM ELEMENTS.—The guidance developed
9 under subsection (a) shall include elements, as appropriate
10 to passenger and freight rail service, that address the fol-
11 lowing:

12 (1) Determination of the seriousness of any oc-
13 currence.

14 (2) Crew communication and coordination.

15 (3) Appropriate responses to defend or protect
16 oneself.

17 (4) Use of protective devices.

18 (5) Evacuation procedures.

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

21 (7) Situational training exercises regarding var-
22 ious threat conditions.

23 (8) Any other subject the Secretary considers
24 appropriate.

1 (c) RAILROAD CARRIER PROGRAMS.—Not later than
2 90 days after the Secretary of Homeland Security issues
3 guidance under subsection (a) in final form, each railroad
4 carrier shall develop a rail worker security training pro-
5 gram in accordance with that guidance and submit it to
6 the Secretary for review. Not later than 30 days after re-
7 ceiving a railroad carrier’s program under this subsection,
8 the Secretary shall review the program and transmit com-
9 ments to the railroad carrier concerning any revisions the
10 Secretary considers necessary for the program to meet the
11 guidance requirements. A railroad carrier shall respond to
12 the Secretary’s comments within 30 days after receiving
13 them.

14 (d) TRAINING.—Not later than 1 year after the Sec-
15 retary reviews the training program developed by a rail-
16 road carrier under this section, the railroad carrier shall
17 complete the training of all front-line workers in accord-
18 ance with that program. The Secretary shall review imple-
19 mentation of the training program of a representative
20 sample of railroad carriers and report to the Senate Com-
21 mittee on Commerce, Science, and Transportation, the
22 House of Representatives Committee on Transportation
23 and Infrastructure, and the House of Representatives
24 Committee on Homeland Security on the number of re-
25 views conducted and the results. The Secretary may sub-

1 mit the report in both classified and redacted formats as
2 necessary.

3 (e) UPDATES.—The Secretary shall update the train-
4 ing guidance issued under subsection (a) as appropriate
5 to reflect new or different security threats. Railroad car-
6 riers shall revise their programs accordingly and provide
7 additional training to their front-line workers within a rea-
8 sonable time after the guidance is updated.

9 (f) FRONT-LINE WORKERS DEFINED.—In this sec-
10 tion, the term “front-line workers” means security per-
11 sonnel, dispatchers, train operators, other onboard em-
12 ployees, maintenance and maintenance support personnel,
13 bridge tenders, as well as other appropriate employees of
14 railroad carriers, as defined by the Secretary.

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

19 **SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM.**

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

1 **“§ 20118. Whistleblower protection for rail security**
2 **matters**

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

8 “(1) provided, caused to be provided, or is
9 about to provide or cause to be provided, to the em-
10 ployer or the Federal Government information relat-
11 ing to a reasonably perceived threat, in good faith,
12 to security; or

13 “(2) provided, caused to be provided, or is
14 about to provide or cause to be provided, testimony
15 before Congress or at any Federal or State pro-
16 ceeding regarding a reasonably perceived threat, in
17 good faith, to security; or

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

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

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

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

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

17 “(e) DISCLOSURE OF IDENTITY.—

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

24 “(2) The Secretary shall disclose to the Attor-
25 ney General the name of an employee described in

1 paragraph (1) of this subsection if the matter is re-
2 ferred to the Attorney General for enforcement.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
4 ysis for chapter 201 of title 49, United States Code, is
5 amended by inserting after the item relating to section
6 20117 the following:

“20118. Whistleblower protection for rail security matters.”.

7 **SEC. 111. HIGH HAZARD MATERIAL SECURITY THREAT**
8 **MITIGATION PLANS.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity, in consultation with the Assistant Secretary of Home-
11 land Security (Transportation Security Administration)
12 and the Secretary of Transportation, shall require rail car-
13 riers transporting a high hazard material, as defined in
14 section 104(g) of this Act to develop a high hazard mate-
15 rial security threat mitigation plan containing appropriate
16 measures, including alternative routing and temporary
17 shipment suspension options, to address assessed risks to
18 high consequence targets. The plan, and any information
19 submitted to the Secretary under this section shall be pro-
20 tected as sensitive security information under the regula-
21 tions prescribed under section 114(s) of title 49, United
22 States Code.

23 (b) IMPLEMENTATION.—A high hazard material se-
24 curity threat mitigation plan shall be put into effect by
25 a rail carrier for the shipment of high hazardous materials

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;

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; and

22 (C) submit any subsequent revisions to the
23 plan to the Secretary within 30 days after mak-
24 ing the revisions.

1 (2) REVIEW AND UPDATES.—The Secretary,
2 with assistance of the Secretary of Transportation,
3 shall review the plans and transmit comments to the
4 railroad carrier concerning any revisions the Sec-
5 retary considers necessary. A railroad carrier shall
6 respond to the Secretary’s comments within 30 days
7 after receiving them. Each rail carrier shall update
8 and resubmit its plan for review not less than every
9 2 years.

10 (d) DEFINITIONS.—In this section:

11 (1) The term “high-consequence target” means
12 a building, buildings, infrastructure, public space, or
13 natural resource designated by the Secretary of
14 Homeland Security that is viable terrorist target of
15 national significance, the attack of which could re-
16 sult in—

17 (A) catastrophic loss of life; and

18 (B) significantly damaged national security
19 and defense capabilities; or

20 (C) national economic harm.

21 (2) The term “catastrophic impact zone” means
22 the area immediately adjacent to, under, or above an
23 active railroad right-of-way used to ship high hazard
24 materials in which the potential release or explosion

1 of the high hazard material being transported would
2 likely cause—

3 (A) loss of life; or

4 (B) significant damage to property or
5 structures.

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

9 **SEC. 112. MEMORANDUM OF AGREEMENT.**

10 (a) MEMORANDUM OF AGREEMENT.—Similar to the
11 public transportation security annex between the two de-
12 partments signed on September 8, 2005, within 1 year
13 after the date of enactment of this Act, the Secretary of
14 Transportation and the Secretary of Homeland Security
15 shall execute and develop an annex to the memorandum
16 of agreement between the two departments signed on Sep-
17 tember 28, 2004, governing the specific roles, delineations
18 of responsibilities, resources and commitments of the De-
19 partment of Transportation and the Department of Home-
20 land Security, respectively, in addressing railroad trans-
21 portation security matters, including the processes the de-
22 partments will follow to promote communications, effi-
23 ciency, and nonduplication of effort.

24 (b) RAIL SAFETY REGULATIONS.—Section 20103(a)
25 of title 49, United States Code, is amended by striking

1 “safety” the first place it appears, and inserting “safety,
2 including security,”.

3 **SEC. 113. RAIL SECURITY ENHANCEMENTS.**

4 (a) RAIL POLICE OFFICERS.—Section 28101 of title
5 49, United States Code, is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “Under”; and

8 (2) by striking “the rail carrier” each place it
9 appears and inserting “any rail carrier”.

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

19 **SEC. 114. PUBLIC AWARENESS.**

20 Not later than 90 days after the date of enactment
21 of this Act, the Secretary of Homeland Security, in con-
22 sultation with the Secretary of Transportation, shall de-
23 velop a national plan for public outreach and awareness.
24 Such plan shall be designed to increase awareness of
25 measures that the general public, railroad passengers, and

1 railroad employees can take to increase railroad system
2 security. Such plan shall also provide outreach to railroad
3 carriers and their employees to improve their awareness
4 of available technologies, ongoing research and develop-
5 ment efforts, and available Federal funding sources to im-
6 prove railroad security. Not later than 9 months after the
7 date of enactment of this Act, the Secretary of Homeland
8 Security shall implement the plan developed under this
9 section.

10 **SEC. 115. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

11 (a) WIRELESS COMMUNICATIONS.—

12 (1) IN GENERAL.—In conjunction with the re-
13 search and development program established under
14 section 105 and consistent with the results of re-
15 search relating to wireless tracking technologies, the
16 Secretary of Homeland Security, in consultation
17 with the Assistant Secretary of Homeland Security
18 (Transportation Security Administration), shall de-
19 velop a program that will encourage the equipping of
20 rail cars transporting high hazard materials (as de-
21 fined in section 104(g) of this Act) with wireless ter-
22 restrial or satellite communications technology that
23 provides—

24 (A) car position location and tracking ca-
25 pabilities;

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

3 (C) notification of hazardous material re-
4 lease.

5 (2) COORDINATION.—In developing the pro-
6 gram required by paragraph (1), the Secretary
7 shall—

8 (A) consult with the Secretary of Trans-
9 portation to coordinate the program with any
10 ongoing or planned efforts for rail car tracking
11 at the Department of Transportation; and

12 (B) ensure that the program is consistent
13 with recommendations and findings of the De-
14 partment of Homeland Security’s hazardous
15 material tank rail car tracking pilot programs.

16 (b) FUNDING.—Out of funds appropriated pursuant
17 to section 114(u) of title 49, United States Code, as
18 amended by section 116 of this Act, there shall be made
19 available to the Secretary of Homeland Security to carry
20 out this section \$3,000,000 for each of fiscal years 2008,
21 2009, and 2010.

22 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) TRANSPORTATION SECURITY ADMINISTRATION
24 AUTHORIZATION.—Section 114 of title 49, United States

1 Code, is amended by adding at the end thereof the fol-
 2 lowing:

3 “(u) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to the Secretary of
 5 Homeland Security for rail security—

6 “(1) \$228,000,000 for fiscal year 2008;

7 “(2) \$183,000,000 for fiscal year 2009; and

8 “(3) \$183,000,000 for fiscal year 2010.”.

9 (b) DEPARTMENT OF TRANSPORTATION.—There are
 10 authorized to be appropriated to the Secretary of Trans-
 11 portation to carry out this title and sections 20118 and
 12 24316 of title 49, United States Code, as added by this
 13 Act—

14 (1) \$121,500,000 for fiscal year 2007;

15 (2) \$118,000,000 for fiscal year 2008;

16 (3) \$118,000,000 for fiscal year 2009; and

17 (4) \$195,000,000 for fiscal year 2011.

18 **TITLE II—IMPROVED MOTOR**
 19 **CARRIER, BUS, AND HAZ-**
 20 **ARDOUS MATERIAL SECURITY**

21 **SEC. 201. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

22 (a) ROUTE PLAN GUIDANCE.—Within one year after
 23 the date of enactment of this Act, the Secretary of Trans-
 24 portation, in consultation with the Secretary of Homeland
 25 Security, shall—

1 (1) document existing and proposed routes for
2 the transportation of radioactive and non-radioactive
3 hazardous materials by motor carrier, and develop a
4 framework for using a Geographic Information Sys-
5 tem-based approach to characterize routes in the
6 National Hazardous Materials Route Registry;

7 (2) assess and characterize existing and pro-
8 posed routes for the transportation of radioactive
9 and non-radioactive hazardous materials by motor
10 carrier for the purpose of identifying measurable cri-
11 teria for selecting routes based on safety and secu-
12 rity concerns;

13 (3) analyze current route-related hazardous ma-
14 terials regulations in the United States, Canada, and
15 Mexico to identify cross-border differences and con-
16 flicting regulations;

17 (4) document the concerns of the public, motor
18 carriers, and State, local, territorial, and tribal gov-
19 ernments about the highway routing of hazardous
20 materials for the purpose of identifying and miti-
21 gating security vulnerabilities associated with haz-
22 ardous material routes;

23 (5) prepare guidance materials for State offi-
24 cials to assist them in identifying and reducing both
25 safety concerns and security vulnerabilities when

1 designating highway routes for hazardous materials
2 consistent with the 13 safety-based non-radioactive
3 materials routing criteria and radioactive materials
4 routing criteria in Subpart C part 397 of title 49,
5 Code of Federal Regulations;

6 (6) develop a tool that will enable State officials
7 to examine potential routes for the highway trans-
8 portation of hazardous material and assess specific
9 security vulnerabilities associated with each route
10 and explore alternative mitigation measures; and

11 (7) transmit to the Senate Committee on Com-
12 merce, Science, and Transportation, and the House
13 of Representatives Committee on Transportation
14 and Infrastructure a report on the actions taken to
15 fulfill paragraphs (1) through (6) of this subsection
16 and any recommended changes to the routing re-
17 quirements for the highway transportation of haz-
18 ardous materials in part 397 of title 49, Code of
19 Federal Regulations.

20 (b) ROUTE PLANS.—

21 (1) ASSESSMENT.—Within one year after the
22 date of enactment of this Act, the Secretary of
23 Transportation shall complete an assessment of the
24 safety and national security benefits achieved under
25 existing requirements for route plans, in written or

1 electronic format, for explosives and radioactive ma-
2 terials. The assessment shall, at a minimum—

3 (A) compare the percentage of Department
4 of Transportation recordable incidents and the
5 severity of such incidents for shipments of ex-
6 plosives and radioactive materials for which
7 such route plans are required with the percent-
8 age of recordable incidents and the severity of
9 such incidents for shipments of explosives and
10 radioactive materials not subject to such route
11 plans; and

12 (B) quantify the security and safety bene-
13 fits, feasibility, and costs of requiring each
14 motor carrier that is required to have a haz-
15 ardous material safety permit under part 385
16 of title 49, Code of Federal Regulations, to
17 maintain, follow, and carry such a route plan
18 that meets the requirements of section 397.101
19 of that title when transporting the type and
20 quantity of hazardous materials described in
21 section 385.403 of that title, taking into ac-
22 count the various segments of the trucking in-
23 dustry, including tank truck, truckload and less
24 than truckload carriers.

1 (2) REPORT.—Within one year after the date of
2 enactment of this Act, the Secretary of Transpor-
3 tation shall submit a report to the Senate Com-
4 mittee on Commerce, Science, and Transportation,
5 and the House of Representatives Committee on
6 Transportation and Infrastructure containing the
7 findings and conclusions of the assessment.

8 (c) REQUIREMENT.—The Secretary shall require
9 motor carriers that have a hazardous material safety per-
10 mit under part 385 of title 49, Code of Federal Regula-
11 tions, to maintain, follow, and carry a route plan, in writ-
12 ten or electronic format, that meets the requirements of
13 section 397.101 of that title when transporting the type
14 and quantity of hazardous materials described in section
15 385.403 of that title if the Secretary determines, under
16 the assessment required in subsection (b), that such a re-
17 quirement would enhance the security and safety of the
18 nation without imposing unreasonable costs or burdens
19 upon motor carriers.

20 **SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL**
21 **TRACKING.**

22 (a) WIRELESS COMMUNICATIONS—

23 (1) IN GENERAL.—Consistent with the findings
24 of the Transportation Security Administration’s
25 Hazmat Truck Security Pilot Program and within 6

1 months after the date of enactment of this Act, the
2 Secretary of Homeland Security, through the Trans-
3 portation Security Administration and in consulta-
4 tion with the Secretary of Transportation, shall de-
5 velop a program to encourage the equipping of
6 motor carriers transporting high hazard materials in
7 quantities equal to or greater than the quantities
8 specified in subpart 171.800 of title 49, Code of
9 Federal Regulations, with wireless communications
10 technology that provides—

11 (A) continuous communications;

12 (B) vehicle position location and tracking
13 capabilities; and

14 (C) a feature that allows a driver of such
15 vehicles to broadcast an emergency message.

16 (2) CONSIDERATIONS.—In developing the pro-
17 gram required by paragraph (1), the Secretary
18 shall—

19 (A) consult with the Secretary of Trans-
20 portation to coordinate the program with any
21 ongoing or planned efforts for motor carrier
22 tracking at the Department of Transportation;

23 (B) take into consideration the rec-
24 ommendations and findings of the report on the
25 Hazardous Material Safety and Security Oper-

1 ation Field Test released by the Federal Motor
2 Carrier Safety Administration on November 11,
3 2004;

4 (C) evaluate—

5 (i) any new information related to the
6 cost and benefits of deploying and utilizing
7 truck tracking technology for motor car-
8 riers transporting high hazard materials
9 not included in the Hazardous Material
10 Safety and Security Operation Field Test
11 Report released by the Federal Motor Car-
12 rier Safety Administration on November
13 11, 2004;

14 (ii) the ability of truck tracking tech-
15 nology to resist tampering and disabling;

16 (iii) the capability of truck tracking
17 technology to collect, display, and store in-
18 formation regarding the movements of
19 shipments of high hazard materials by
20 commercial motor vehicles;

21 (iv) the appropriate range of contact
22 intervals between the tracking technology
23 and a commercial motor vehicle trans-
24 porting high hazard materials; and

1 (v) technology that allows the installa-
2 tion by a motor carrier of concealed elec-
3 tronic devices on commercial motor vehi-
4 cles that can be activated by law enforce-
5 ment authorities and alert emergency re-
6 sponse resources to locate and recover se-
7 curity sensitive material in the event of
8 loss or theft of such material.

9 (b) FUNDING.—There are authorized to be appro-
10 priated to the Secretary of Homeland Security to carry
11 out this section \$3,000,000 for each of fiscal years 2008,
12 2009, and 2010.

13 **SEC. 203. HAZARDOUS MATERIALS SECURITY INSPECTIONS**
14 **AND ENFORCEMENT.**

15 (a) IN GENERAL.—The Secretary of Homeland Secu-
16 rity shall establish a program within the Transportation
17 Security Administration, in consultation with the Sec-
18 retary of Transportation, for reviewing hazardous mate-
19 rials security plans required under part 172, title 49, Code
20 of Federal Regulations, within 180 days after the date of
21 enactment of this Act. In establishing the program, the
22 Secretary shall ensure that—

23 (1) the program does not subject carriers to un-
24 necessarily duplicative reviews of their security plans
25 by the 2 departments; and

1 (2) a common set of standards is used to review
2 the security plans.

3 (b) CIVIL PENALTY.—The failure, by a shipper, car-
4 rier, or other person subject to part 172 of title 49, Code
5 of Federal Regulations, to comply with any applicable sec-
6 tion of that part within 180 days after being notified by
7 the Secretary of such failure to comply, is punishable by
8 a civil penalty imposed by the Secretary under title 49,
9 United States Code. For purposes of this subsection, each
10 day of noncompliance after the 181st day following the
11 date on which the shipper, carrier, or other person re-
12 ceived notice of the failure shall constitute a separate fail-
13 ure.

14 (c) COMPLIANCE REVIEW.—In reviewing the compli-
15 ance of hazardous materials shippers, carriers, or other
16 persons subject to part 172 of title 49, Code of Federal
17 Regulations, with the provisions of that part, the Sec-
18 retary shall utilize risk assessment methodologies to
19 prioritize review and enforcement actions to the most vul-
20 nerable and critical hazardous materials transportation
21 operations.

22 (d) TRANSPORTATION COSTS STUDY.—Within 1 year
23 after the date of enactment of this Act, the Secretary of
24 Transportation, in conjunction with the Secretary of
25 Homeland Security, shall study to what extent the insur-

1 ance, security, and safety costs borne by railroad carriers,
2 motor carriers, pipeline carriers, air carriers, and mari-
3 time carriers associated with the transportation of haz-
4 ardous materials are reflected in the rates paid by shippers
5 of such commodities as compared to the costs and rates
6 respectively for the transportation of non-hazardous mate-
7 rials.

8 (e) FUNDING.—There are authorized to be appro-
9 priated to the Secretary of Homeland Security to carry
10 out this section—

11 (1) \$2,000,000 for fiscal year 2008;

12 (2) \$2,000,000 for fiscal year 2009; and

13 (3) \$2,000,000 for fiscal year 2010.

14 **SEC. 204. TRUCK SECURITY ASSESSMENT.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Secretary of Transportation shall transmit
17 to the Senate Committee on Commerce, Science, and
18 Transportation, Senate Committee on Finance, the House
19 of Representatives Committee on Transportation and In-
20 frastructure, the House of Representatives Committee on
21 Homeland Security, and the House of Representatives
22 Committe on Ways and Means, a report on security issues
23 related to the trucking industry that includes—

1 (1) an assessment of actions already taken to
2 address identified security issues by both public and
3 private entities;

4 (2) an assessment of the economic impact that
5 security upgrades of trucks, truck equipment, or
6 truck facilities may have on the trucking industry
7 and its employees, including independent owner-op-
8 erators;

9 (3) an assessment of ongoing research and the
10 need for additional research on truck security; and

11 (4) an assessment of industry best practices to
12 enhance security.

13 **SEC. 205. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

14 (a) DEVELOPMENT.—The Secretary of Homeland Se-
15 curity, in conjunction with the Secretary of Transpor-
16 tation, shall consider the development of a national public
17 sector response system to receive security alerts, emer-
18 gency messages, and other information used to track the
19 transportation of high hazard materials which can provide
20 accurate, timely, and actionable information to appro-
21 priate first responder, law enforcement and public safety,
22 and homeland security officials, as appropriate, regarding
23 accidents, threats, thefts, or other safety and security
24 risks or incidents. In considering the development of this
25 system, they shall consult with law enforcement and public

1 safety officials, hazardous material shippers, motor car-
2 riers, railroads, organizations representing hazardous ma-
3 terial employees, State transportation and hazardous ma-
4 terials officials, private for-profit and non-profit emer-
5 gency response organizations, and commercial motor vehi-
6 cle and hazardous material safety groups. Consideration
7 of development of the national public sector response sys-
8 tem shall be based upon the public sector response center
9 developed for the Transportation Security Administration
10 hazardous material truck security pilot program and haz-
11 ardous material safety and security operational field test
12 undertaken by the Federal Motor Carrier Safety Adminis-
13 tration.

14 (b) CAPABILITY.—The national public sector re-
15 sponse system to be considered shall be able to receive,
16 as appropriate—

- 17 (1) negative driver verification alerts;
- 18 (2) out-of-route alerts;
- 19 (3) driver panic or emergency alerts; and
- 20 (4) tampering or release alerts.

21 (c) CHARACTERISTICS.—The national public sector
22 response system to be considered shall—

- 23 (1) be an exception-based system;
- 24 (2) be integrated with other private and public
25 sector operation reporting and response systems and

1 all Federal homeland security threat analysis sys-
2 tems or centers (including the National Response
3 Center); and

4 (3) provide users the ability to create rules for
5 alert notification messages.

6 (d) CARRIER PARTICIPATION.—The Secretary of
7 Homeland Security shall coordinate with motor carriers
8 and railroads transporting high hazard materials, entities
9 acting on their behalf who receive communication alerts
10 from motor carriers or railroads, or other Federal agencies
11 that receive security and emergency related notification re-
12 garding high hazard materials in transit to facilitate the
13 provisions of the information listed in subsection (b) to
14 the national public sector response system to the extent
15 possible if the system is established.

16 (e) DATA PRIVACY.—The national public sector re-
17 sponse system shall be designed to ensure appropriate pro-
18 tection of data and information relating to motor carriers,
19 railroads, and employees.

20 (f) REPORT.—Not later than 180 days after the date
21 of enactment of this Act, the Secretary shall transmit to
22 the Senate Committee on Commerce, Science, and Trans-
23 portation, the House of Representatives Committee on
24 Transportation and Infrastructure, and the House of Rep-
25 resentatives Committee on Homeland Security a report on

1 whether to establish a national public sector response sys-
2 tem and the estimated total public and private sector costs
3 to establish and annually operate such a system, together
4 with any recommendations for generating private sector
5 participation and investment in the development and oper-
6 ation of such a system.

7 (g) FUNDING.—There are authorized to be appro-
8 priated to the Secretary of Homeland Security to carry
9 out this section—

10 (1) \$1,000,000 for fiscal year 2008;

11 (2) \$1,000,000 for fiscal year 2009; and

12 (3) \$1,000,000 for fiscal year 2010.

13 **SEC. 206. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity shall establish a program within the Transportation
16 Security Administration for making grants to private op-
17 erators of over-the-road buses or over-the-road bus ter-
18 minal operators for system-wide security improvements to
19 their operations, including—

20 (1) constructing and modifying terminals, ga-
21 rages, facilities, or over-the-road buses to assure
22 their security;

23 (2) protecting or isolating the driver;

24 (3) acquiring, upgrading, installing, or oper-
25 ating equipment, software, or accessorial services for

1 collection, storage, or exchange of passenger and
2 driver information through ticketing systems or oth-
3 erwise, and information links with government agen-
4 cies;

5 (4) training employees in recognizing and re-
6 sponding to security threats, evacuation procedures,
7 passenger screening procedures, and baggage inspec-
8 tion;

9 (5) hiring and training security officers;

10 (6) installing cameras and video surveillance
11 equipment on over-the-road buses and at terminals,
12 garages, and over-the-road bus facilities;

13 (7) creating a program for employee identifica-
14 tion or background investigation;

15 (8) establishing and upgrading an emergency
16 communications system linking operational head-
17 quarters, over-the-road buses, law enforcement, and
18 emergency personnel; and

19 (9) implementing and operating passenger
20 screening programs at terminals and on over-the-
21 road buses.

22 (b) FEDERAL SHARE.—The Federal share of the cost
23 for which any grant is made under this section shall be
24 80 percent.

1 (c) DUE CONSIDERATION.—In making grants under
2 this section, the Secretary shall give due consideration to
3 private operators of over-the-road buses that have taken
4 measures to enhance bus transportation security from
5 those in effect before September 11, 2001, and shall
6 prioritize grant funding based on the magnitude and se-
7 verity of the security threat to bus passengers and the
8 ability of the funded project to reduce, or respond to, that
9 threat.

10 (d) GRANT REQUIREMENTS.—A grant under this sec-
11 tion shall be subject to all the terms and conditions that
12 a grant is subject to under section 3038(f) of the Trans-
13 portation Equity Act for the 21st Century (49 U.S.C.
14 5310 note; 112 Stat. 393).

15 (e) PLAN REQUIREMENT.—

16 (1) IN GENERAL.—The Secretary may not
17 make a grant under this section to a private oper-
18 ator of over-the-road buses until the operator has
19 first submitted to the Secretary—

20 (A) a plan for making security improve-
21 ments described in subsection (a) and the Sec-
22 retary has approved the plan; and

23 (B) such additional information as the Sec-
24 retary may require to ensure accountability for

1 the obligation and expenditure of amounts
2 made available to the operator under the grant.

3 (2) COORDINATION.—To the extent that an ap-
4 plication for a grant under this section proposes se-
5 curity improvements within a specific terminal
6 owned and operated by an entity other than the ap-
7 plicant, the applicant shall demonstrate to the satis-
8 faction of the Secretary that the applicant has co-
9 ordinated the security improvements for the terminal
10 with that entity.

11 (f) OVER-THE-ROAD BUS DEFINED.—In this section,
12 the term “over-the-road bus” means a bus characterized
13 by an elevated passenger deck located over a baggage com-
14 partment.

15 (g) BUS SECURITY ASSESSMENT.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this Act, the Sec-
18 retary shall transmit to the Senate Committee on
19 Commerce, Science, and Transportation, the House
20 of Representatives Committee on Transportation
21 and Infrastructure, and the House of Representa-
22 tives Committee on Homeland Security a prelimi-
23 nary report in accordance with the requirements of
24 this section.

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

3 (A) an assessment of the over-the-road bus
4 security grant program;

5 (B) an assessment of actions already taken
6 to address identified security issues by both
7 public and private entities and recommenda-
8 tions on whether additional safety and security
9 enforcement actions are needed;

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

13 (D) an assessment of the economic impact
14 that security upgrades of buses and bus facili-
15 ties may have on the over-the-road bus trans-
16 portation industry and its employees;

17 (E) an assessment of ongoing research and
18 the need for additional research on over-the-
19 road bus security, including engine shut-off
20 mechanisms, chemical and biological weapon de-
21 tection technology, and the feasibility of
22 compartmentalization of the driver; and

23 (F) an assessment of industry best prac-
24 tices to enhance security.

1 (3) CONSULTATION WITH INDUSTRY, LABOR,
2 AND OTHER GROUPS.—In carrying out this section,
3 the Secretary shall consult with over-the-road bus
4 management and labor representatives, public safety
5 and law enforcement officials, and the National
6 Academy of Sciences.

7 (h) FUNDING.—There are authorized to be appro-
8 priated to the Secretary of Homeland Security to carry
9 out this section—

10 (1) \$12,000,000 for fiscal year 2008;

11 (2) \$25,000,000 for fiscal year 2009; and

12 (3) \$25,000,000 for fiscal year 2010.

13 Amounts made available pursuant to this subsection shall
14 remain available until expended.

15 **SEC. 207. PIPELINE SECURITY AND INCIDENT RECOVERY**

16 **PLAN.**

17 (a) IN GENERAL.—The Secretary of Homeland Secu-
18 rity, in consultation with the Secretary of Transportation
19 and the Pipeline and Hazardous Materials Safety Admin-
20 istration, and in accordance with the Memorandum of Un-
21 derstanding Annex executed on August 9, 2006, shall de-
22 velop a Pipeline Security and Incident Recovery Protocols
23 Plan. The plan shall include—

24 (1) a plan for the Federal Government to pro-
25 vide increased security support to the most critical

1 interstate and intrastate natural gas and hazardous
2 liquid transmission pipeline infrastructure and oper-
3 ations as determined under section 208—

4 (A) at high or severe security threat levels
5 of alert; and

6 (B) when specific security threat informa-
7 tion relating to such pipeline infrastructure or
8 operations exists; and

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

23 (b) EXISTING PRIVATE AND PUBLIC SECTOR EF-
24 FORTS.—The plan shall take into account actions taken
25 or planned by both private and public entities to address

1 identified pipeline security issues and assess the effective
2 integration of such actions.

3 (c) CONSULTATION.—In developing the plan under
4 subsection (a), the Secretary of Homeland Security shall
5 consult with the Secretary of Transportation, interstate
6 and intrastate transmission and distribution pipeline oper-
7 ators, pipeline labor, first responders, shippers of haz-
8 ardous materials, State Departments of Transportation,
9 public safety officials, and other relevant parties.

10 (d) REPORT.—

11 (1) CONTENTS.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary of
13 Homeland Security shall transmit to the Committee
14 on Commerce, Science, and Transportation of the
15 Senate, the Committee on Homeland Security of the
16 House of Representatives, and the Committee on
17 Transportation and Infrastructure of the House of
18 Representatives a report containing the plan re-
19 quired by subsection (a), along with an estimate of
20 the private and public sector costs to implement any
21 recommendations.

22 (2) FORMAT.—The Secretary may submit the
23 report in both classified and redacted formats if the
24 Secretary determines that such action is appropriate
25 or necessary.

1 **SEC. 208. PIPELINE SECURITY INSPECTIONS AND EN-**
2 **FORCEMENT.**

3 (a) **IN GENERAL.**—Within 1 year after the date of
4 enactment of this Act the Secretary of Homeland Security,
5 in consultation with the Secretary of Transportation, shall
6 establish a program for reviewing pipeline operator adop-
7 tion of recommendations in the September, 5, 2002, De-
8 partment of Transportation Research and Special Pro-
9 grams Administration Pipeline Security Information Cir-
10 cular, including the review of pipeline security plans and
11 critical facility inspections.

12 (b) **REVIEW AND INSPECTION.**—Within 9 months
13 after the date of enactment of this Act the Secretary shall
14 complete a review of the pipeline security plan and an in-
15 spection of the critical facilities of the 100 most critical
16 pipeline operators covered by the September, 5, 2002, cir-
17 cular, where such facilities have not been inspected for se-
18 curity purposes since September 5, 2002, by either the
19 Department of Homeland Security or the Department of
20 Transportation, as determined by the Secretary in con-
21 sultation with the Secretary of Transportation.

22 (c) **COMPLIANCE REVIEW METHODOLOGY.**—In re-
23 viewing pipeline operator compliance under subsections (a)
24 and (b), the Secretary shall utilize risk assessment meth-
25 odologies to prioritize vulnerabilities and to target inspec-

1 tion and enforcement actions to the most vulnerable and
2 critical pipeline assets.

3 (d) REGULATIONS.—Within 1 year after the date of
4 enactment of this Act, the Secretary shall transmit to
5 pipeline operators and the Secretary of Transportation se-
6 curity recommendations for natural gas and hazardous liq-
7 uid pipelines and pipeline facilities. If the Secretary of
8 Homeland Security determines that regulations are appro-
9 priate, the Secretary shall promulgate such regulations
10 and carry out necessary inspection and enforcement ac-
11 tions. Any regulations should incorporate the guidance
12 provided to pipeline operators by the September 5, 2002,
13 Department of Transportation Research and Special Pro-
14 grams Administration’s Pipeline Security Information Cir-
15 cular and contain additional requirements as necessary
16 based upon the results of the inspections performed under
17 subsection (b). The regulations shall include the imposi-
18 tion of civil penalties for non-compliance.

19 (e) FUNDING.—There are authorized to be appro-
20 priated to the Secretary of Homeland Security to carry
21 out this section—

22 (1) \$2,000,000 for fiscal year 2008; and

23 (2) \$2,000,000 for fiscal year 2009.

1 **SEC. 209. TECHNICAL CORRECTIONS.**

2 (a) HAZMAT LICENSES.—Section 5103a of title 49,
3 United States Code, is amended—

4 (1) by inserting “of Homeland Security” after
5 “Secretary” each place it appears in subsections
6 (a)(1), (d)(1)(b), and (e); and

7 (2) by redesignating subsection (h) as sub-
8 section (i) and inserting the following after sub-
9 section (g):

10 “(h) RELATIONSHIP TO TRANSPORTATION SECURITY
11 CARDS.—Upon application, a State shall issue to an indi-
12 vidual a license to operate a motor vehicle transporting
13 in commerce a hazardous material without the security as-
14 sessment required by this section, provided the individual
15 meets all other applicable requirements for such a license,
16 if the Secretary of Homeland Security has previously de-
17 termined, under section 70105 of title 46, United States
18 Code, that the individual does not pose a security risk.”.

19 **SEC. 210. CERTAIN PERSONNEL LIMITATIONS NOT TO**
20 **APPLY.**

21 Any statutory limitation on the number of employees
22 in the Transportation Security Administration of the De-
23 partment of Transportation, before or after its transfer
24 to the Department of Homeland Security, does not apply

- 1 to the extent that any such employees are responsible for
- 2 implementing the provisions of this Act.

