

Calendar No. 26

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, Mr. SCHUMER, Mr. DORGAN, Ms. MIKULSKI, Mr. DURBIN, Mr. MENENDEZ, Mrs. HUTCHISON, Mr. SPECTER, Ms. KLOBUCHAR, Ms. COLLINS, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

FEBRUARY 15, 2007

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 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.
 Sec. 108. Northern border rail passenger report.
 Sec. 109. Rail worker security training program.
 Sec. 110. Whistleblower protection program.
 Sec. 111. High hazard material security threat mitigation plans.
 Sec. 112. Memorandum of agreement.
 Sec. 113. Rail security enhancements.
 Sec. 114. Public awareness.
 Sec. 115. Railroad high hazard material tracking.
 Sec. 116. Authorization of appropriations.

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.

3 **TITLE I—IMPROVED RAIL**
 4 **SECURITY**

5 **SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
 6 **MENT.**

7 (a) IN GENERAL.—

8 (1) VULNERABILITY AND RISK ASSESSMENT.—

9 The Secretary of Homeland Security shall establish

1 a task force, including the Transportation Security
2 Administration, the Department of Transportation,
3 and other appropriate agencies, to complete a vul-
4 nerability and risk assessment of freight and pas-
5 senger rail transportation (encompassing railroads,
6 as that term is defined in section 20102(1) of title
7 49, United States Code). The assessment shall in-
8 clude—

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

17 (B) identification and evaluation of critical
18 assets and infrastructures;

19 (C) identification of vulnerabilities and
20 risks to those assets and infrastructures;

21 (D) identification of vulnerabilities and
22 risks that are specific to the transportation of
23 hazardous materials via railroad;

24 (E) identification of security weaknesses in
25 passenger and cargo security, transportation in-

1 frastructure, protection systems, procedural
2 policies, communications systems, employee
3 training, emergency response planning, and any
4 other area identified by the assessment; and

5 (F) an account of actions taken or planned by
6 both public and private entities to address identified
7 rail security issues and assess the effective integra-
8 tion of such actions.

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

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

24 (B) deploying equipment to detect explo-
25 sives and hazardous chemical, biological, and

1 radioactive substances, and any appropriate
2 countermeasures;

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

6 (D) conducting public outreach campaigns
7 on passenger railroads;

8 (E) deploying surveillance equipment; and

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

12 (3) PLANS.—The report required by subsection
13 (e) shall include—

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

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

22 (C) a contingency plan, developed in con-
23 junction with freight and intercity and com-
24 muter passenger railroads, to ensure the contin-
25 ued movement of freight and passengers in the

1 event of an attack affecting the railroad system;
2 which shall contemplate—

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

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

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

20 (c) REPORT.—

21 (1) CONTENTS.—Within 180 days after the
22 date of enactment of this Act, the Secretary shall
23 transmit to the Senate Committee on Commerce,
24 Science, and Transportation, the House of Rep-
25 resentatives Committee on Transportation and In-

1 frastructure, and the House of Representatives Com-
2 mittee on Homeland Security a report containing the
3 assessment, prioritized recommendations, and plans
4 required by subsection (a) and an estimate of the
5 cost to implement such recommendations.

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

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

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

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

23 (a) **IN GENERAL.**—Subject to subsection (c) the Sec-
24 retary of Homeland Security, in consultation with the As-
25 sistant Secretary of Homeland Security (Transportation

1 Security Administration), is authorized to make grants to
2 Amtrak—

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

6 (2) to secure Amtrak trains;

7 (3) to secure Amtrak stations;

8 (4) to obtain a watch list identification system
9 approved by the Secretary;

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

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

15 (7) to expand emergency preparedness efforts;
16 and

17 (8) for employee security training.

18 (b) CONDITIONS.—The Secretary of Transportation
19 shall disburse funds to Amtrak provided under subsection
20 (a) for projects contained in a systemwide security plan
21 approved by the Secretary of Homeland Security. The
22 plan shall include appropriate measures to address secu-
23 rity awareness, emergency response, and passenger evacu-
24 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 and consistent
 4 with the risk assessment required under section 101, sta-
 5 tions and facilities located outside of the Northeast Cor-
 6 ridor receive an equitable share of the security funds au-
 7 thorized by this section.

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

15 (1) \$63,500,000 for fiscal year 2008;

16 (2) \$30,000,000 for fiscal year 2009; and

17 (3) \$30,000,000 for fiscal year 2010.

18 Amounts appropriated pursuant to this subsection shall
 19 remain available until expended.

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

21 (a) **LIFE-SAFETY NEEDS.**—The Secretary of Trans-
 22 portation, in consultation with the Secretary of Homeland
 23 Security, is authorized to make grants to Amtrak for the
 24 purpose of making fire and life-safety improvements to

1 Amtrak tunnels on the Northeast Corridor in New York,
 2 NY, Baltimore, MD, and Washington, DC.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of
 4 funds appropriated pursuant to section 116(b) of this Act,
 5 there shall be made available to the Secretary of Transpor-
 6 tation for the purposes of carrying out subsection (a) the
 7 following amounts:

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

- 13 (A) \$100,000,000 for fiscal year 2008;
 14 (B) \$100,000,000 for fiscal year 2009;
 15 (C) \$100,000,000 for fiscal year 2010; and
 16 (D) \$100,000,000 for fiscal year 2011.

17 (2) For the Baltimore & Potomac tunnel and
 18 the Union tunnel, together, to provide adequate
 19 drainage, ventilation, communication, lighting, and
 20 passenger egress upgrades—

- 21 (A) \$10,000,000 for fiscal year 2008;
 22 (B) \$10,000,000 for fiscal year 2009;
 23 (C) \$10,000,000 for fiscal year 2010; and
 24 (D) \$10,000,000 for fiscal year 2011.

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

4 (A) \$8,000,000 for fiscal year 2008;

5 (B) \$8,000,000 for fiscal year 2009;

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

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

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

14 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
15 Amounts made available pursuant to this section shall re-
16 main available until expended.

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

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

23 (2) unless, for each project funded pursuant to
24 this section, the Secretary has approved a project
25 management plan prepared by Amtrak addressing

1 appropriate project budget, construction schedule,
2 recipient staff organization, document control and
3 record keeping, change order procedure, quality con-
4 trol and assurance, periodic plan updates, and peri-
5 odic status reports.

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

1 or deficient, approve all other portions of the plan; obligate
 2 the funds associated with those other portions; and exe-
 3 cute an agreement with Amtrak within 15 days thereafter
 4 on a process for resolving the remaining portions of the
 5 plan.

6 ~~(g) FINANCIAL CONTRIBUTION FROM OTHER TUN-~~
 7 ~~NEL USERS.~~—The Secretary shall, taking into account the
 8 need for the timely completion of all portions of the tunnel
 9 projects described in subsection (a)—

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

12 (2) consider the feasibility of seeking a financial
 13 contribution from those other rail carriers toward
 14 the costs of the projects; and

15 (3) obtain financial contributions or commit-
 16 ments from such other rail carriers at levels reflect-
 17 ing the extent of their use or planned use of the tun-
 18 nels, if feasible.

19 **SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UP-**
 20 **GRADES.**

21 (a) **SECURITY IMPROVEMENT GRANTS.**—The Sec-
 22 retary of Homeland Security, through the Assistant Sec-
 23 retary of Homeland Security (Transportation Security Ad-
 24 ministration) and other appropriate agencies, is author-
 25 ized to make grants to freight railroads, the Alaska Rail-

1 road; hazardous materials shippers; owners of rail cars
2 used in the transportation of hazardous materials; univer-
3 sities; colleges and research centers; State and local gov-
4 ernments (for rail passenger facilities and infrastructure
5 not owned by Amtrak); and, through the Secretary of
6 Transportation, to Amtrak, for full or partial reimburse-
7 ment of costs incurred in the conduct of activities to pre-
8 vent or respond to acts of terrorism; sabotage; or other
9 intercity passenger rail and freight rail security
10 vulnerabilities and risks identified under section 101, in-
11 cluding—

12 (1) security and redundancy for critical commu-
13 nications; computer, and train control systems essen-
14 tial for secure rail operations;

15 (2) accommodation of rail cargo or passenger
16 screening equipment at the United States-Mexico
17 border; the United States-Canada border; or other
18 ports of entry;

19 (3) the security of hazardous material transpor-
20 tation by rail;

21 (4) secure intercity passenger rail stations;
22 trains; and infrastructure;

23 (5) structural modification or replacement of
24 rail cars transporting high hazard materials to im-
25 prove their resistance to acts of terrorism;

1 (6) employee security awareness, preparedness,
2 passenger evacuation, and emergency response train-
3 ing;

4 (7) public security awareness campaigns for
5 passenger train operations;

6 (8) the sharing of intelligence and information
7 about security threats;

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

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

13 (11) other improvements recommended by the
14 report required by section 101, including infrastruc-
15 ture, facilities, and equipment upgrades.

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

21 (c) ALLOCATION.—The Secretary shall distribute the
22 funds authorized by this section based on risk and vulner-
23 ability as determined under section 101, and shall encour-
24 age non-Federal financial participation in awarding
25 grants. With respect to grants for intercity passenger rail

1 security, the Secretary shall also take into account pas-
 2 senger volume and whether a station is used by commuter
 3 rail passengers as well as intercity rail passengers.

4 (d) CONDITIONS.—The Secretary of Transportation
 5 may not disburse funds to Amtrak under subsection (a)
 6 unless Amtrak meets the conditions set forth in section
 7 102(b) of this Act.

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

14 (1) in excess of \$45,000,000 to Amtrak; or
 15 (2) in excess of \$80,000,000 for the purposes
 16 described in paragraphs (3) and (5) of subsection
 17 (a).

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

23 (1) \$100,000,000 for fiscal year 2008;
 24 (2) \$100,000,000 for fiscal year 2009; and
 25 (3) \$100,000,000 for fiscal year 2010.

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

3 (g) **HIGH HAZARD MATERIALS DEFINED.**—In this
4 section, the term “high hazard materials” means quan-
5 tities of poison inhalation hazard materials, Class 2.3
6 gases, Class 6.1 materials, and anhydrous ammonia that
7 the Secretary, in consultation with the Secretary of Trans-
8 portation, determines pose a security risk.

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

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

19 (1) reduce the vulnerability of passenger trains,
20 stations, and equipment to explosives and hazardous
21 chemical, biological, and radioactive substances;

22 (2) test new emergency response techniques and
23 technologies;

24 (3) develop improved freight technologies, in-
25 cluding—

- 1 (A) technologies for sealing rail cars;
- 2 (B) automatic inspection of rail cars;
- 3 (C) communication-based train controls;
- 4 and
- 5 (D) emergency response training;
- 6 (4) test wayside detectors that can detect tam-
- 7 pering with railroad equipment;
- 8 (5) support enhanced security for the transpor-
- 9 tation of hazardous materials by rail, including—
- 10 (A) technologies to detect a breach in a
- 11 tank car or other rail car used to transport haz-
- 12 ardous materials and transmit information
- 13 about the integrity of cars to the train crew or
- 14 dispatcher;
- 15 (B) research to improve tank car integrity,
- 16 with a focus on tank cars that carry high haz-
- 17 ard materials (as defined in section 104(g) of
- 18 this Act); and
- 19 (C) techniques to transfer hazardous mate-
- 20 rials from rail cars that are damaged or other-
- 21 wise represent an unreasonable risk to human
- 22 life or public safety; and
- 23 (6) other projects that address vulnerabilities
- 24 and risks identified under section 101.

1 (b) **COORDINATION WITH OTHER RESEARCH INITIA-**
2 **TIVES.**—The Secretary of Homeland Security shall ensure
3 that the research and development program authorized by
4 this section is coordinated with other research and devel-
5 opment initiatives at the Department of Homeland Secu-
6 rity and the Department of Transportation. The Secretary
7 shall carry out any research and development project au-
8 thorized by this section through a reimbursable agreement
9 with the Secretary of Transportation, if the Secretary of
10 Transportation—

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

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

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

22 (d) **AUTHORIZATION OF APPROPRIATIONS.**—Out of
23 funds appropriated pursuant to section 114(u) of title 49,
24 United States Code, as amended by section 116 of this

1 Act, there shall be made available to the Secretary of
2 Homeland Security to carry out this section—

3 (1) \$33,000,000 for fiscal year 2008;

4 (2) \$33,000,000 for fiscal year 2009; and

5 (3) \$33,000,000 for fiscal year 2010.

6 Amounts made available pursuant to this subsection shall
7 remain available until expended.

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

9 (a) **SECRETARIAL OVERSIGHT.**—The Secretary of
10 Homeland Security may use up to 0.5 percent of amounts
11 made available for capital projects under this Act to enter
12 into contracts for the review of proposed capital projects
13 and related program management plans and to oversee
14 construction of such projects.

15 (b) **USE OF FUNDS.**—The Secretary may use
16 amounts available under subsection (a) of this subsection
17 to make contracts to audit and review the safety, procure-
18 ment, management, and financial compliance of a recipi-
19 ent of amounts under this title.

20 (c) **PROCEDURES FOR GRANT AWARD.**—The Sec-
21 retary shall, within 90 days after the date of enactment
22 of this Act, prescribe procedures and schedules for the
23 awarding of grants under this title, including application
24 and qualification procedures (including a requirement that
25 the applicant have a security plan), and a record of deci-

1 sion on applicant eligibility. The procedures shall include
 2 the execution of a grant agreement between the grant re-
 3 cipient and the Secretary and shall be consistent, to the
 4 extent practicable, with the grant procedures established
 5 under section 70107 of title 46, United States Code.

6 **SEC. 107. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 7 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 8 **CIDENTS.**

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

12 **“§ 24316. Plans to address needs of families of pas-**
 13 **sengers involved in rail passenger acci-**
 14 **dents**

15 **“(a) SUBMISSION OF PLAN.—**Not later than 6
 16 months after the date of the enactment of the Surface
 17 Transportation and Rail Security Act of 2007, Amtrak
 18 shall submit to the Chairman of the National Transpor-
 19 tation Safety Board, the Secretary of Transportation, and
 20 the Secretary of Homeland Security a plan for addressing
 21 the needs of the families of passengers involved in any rail
 22 passenger accident involving an Amtrak intercity train
 23 and resulting in a loss of life.

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

4 “(1) A process by which Amtrak will maintain
5 and provide to the National Transportation Safety
6 Board and the Secretary of Transportation, imme-
7 diately upon request, a list (which is based on the
8 best available information at the time of the request)
9 of the names of the passengers aboard the train
10 (whether or not such names have been verified), and
11 will periodically update the list. The plan shall in-
12 clude a procedure, with respect to unreserved trains
13 and passengers not holding reservations on other
14 trains, for Amtrak to use reasonable efforts to ascer-
15 tain the number and names of passengers aboard a
16 train involved in an accident.

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

21 “(3) A process for notifying the families of the
22 passengers, before providing any public notice of the
23 names of the passengers, by suitably trained individ-
24 uals.

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

6 “(5) A process by which the family of each pas-
7 senger will be consulted about the disposition of all
8 remains and personal effects of the passenger within
9 Amtrak’s control; that any possession of the pas-
10 senger within Amtrak’s control will be returned to
11 the family unless the possession is needed for the ac-
12 cident investigation or any criminal investigation;
13 and that any unclaimed possession of a passenger
14 within Amtrak’s control will be retained by the rail
15 passenger carrier for at least 18 months.

16 “(6) A process by which the treatment of the
17 families of nonrevenue passengers will be the same
18 as the treatment of the families of revenue pas-
19 sengers.

20 “(7) An assurance that Amtrak will provide
21 adequate training to its employees and agents to
22 meet the needs of survivors and family members fol-
23 lowing an accident.

24 “(e) USE OF INFORMATION.—The National Trans-
25 portation Safety Board, the Secretary of Transportation,

1 and Amtrak may not release any personal information on
2 a list obtained under subsection (b)(1) but may provide
3 information on the list about a passenger to the family
4 of the passenger to the extent that the Board or Amtrak
5 considers appropriate.

6 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
7 be liable for damages in any action brought in a Federal
8 or State court arising out of the performance of Amtrak
9 in preparing or providing a passenger list, or in providing
10 information concerning a train reservation, pursuant to a
11 plan submitted by Amtrak under subsection (b), unless
12 such liability was caused by Amtrak’s conduct.

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

18 “(f) FUNDING.—Out of funds appropriated pursuant
19 to section 116(b) of the Surface Transportation and Rail
20 Security Act of 2007, there shall be made available to the
21 Secretary of Transportation for the use of Amtrak
22 \$500,000 for fiscal year 2007 to carry out this section.
23 Amounts made available pursuant to this subsection shall
24 remain available until expended.”.

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

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

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

5 Within 180 days after the date of enactment of this
 6 Act, the Secretary of Homeland Security, in consultation
 7 with the Assistant Secretary of Homeland Security
 8 (Transportation Security Administration), the Secretary
 9 of Transportation, heads of other appropriate Federal de-
 10 partments, and agencies and the National Railroad Pas-
 11 senger Corporation, shall transmit a report to the Senate
 12 Committee on Commerce, Science, and Transportation,
 13 the House of Representatives Committee on Transpor-
 14 tation and Infrastructure, and the House of Representa-
 15 tives Committee on Homeland Security that contains—

16 (1) a description of the current system for
 17 screening passengers and baggage on passenger rail
 18 service between the United States and Canada;

19 (2) an assessment of the current program to
 20 provide preclearance of airline passengers between
 21 the United States and Canada as outlined in “The
 22 Agreement on Air Transport Preclearance between
 23 the Government of Canada and the Government of

1 the United States of America”, dated January 18,
2 2001;

3 (3) an assessment of the current program to
4 provide preclearance of freight railroad traffic be-
5 tween the United States and Canada as outlined in
6 the “Declaration of Principle for the Improved Secu-
7 rity of Rail Shipments by Canadian National Rail-
8 way and Canadian Pacific Railway from Canada to
9 the United States”, dated April 2, 2003;

10 (4) information on progress by the Department
11 of Homeland Security and other Federal agencies to-
12 wards finalizing a bilateral protocol with Canada
13 that would provide for preclearance of passengers on
14 trains operating between the United States and Can-
15 ada;

16 (5) a description of legislative, regulatory,
17 budgetary, or policy barriers within the United
18 States Government to providing pre-screened pas-
19 senger lists for rail passengers traveling between the
20 United States and Canada to the Department of
21 Homeland Security;

22 (6) a description of the position of the Govern-
23 ment of Canada and relevant Canadian agencies
24 with respect to preclearance of such passengers;

1 (7) a draft of any changes in existing Federal
2 law necessary to provide for pre-screening of such
3 passengers and providing pre-screened passenger
4 lists to the Department of Homeland Security; and

5 (8) an analysis of the feasibility of reinstating
6 in-transit inspections onboard international Amtrak
7 trains.

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

9 (a) **IN GENERAL.**—Not later than 180 days after the
10 date of enactment of this Act, the Secretary of Homeland
11 Security and the Secretary of Transportation, in consulta-
12 tion with appropriate law enforcement, security, and ter-
13 rorism experts, representatives of railroad carriers, and
14 nonprofit employee organizations that represent rail work-
15 ers, shall develop and issue detailed guidance for a rail
16 worker security training program to prepare front-line
17 workers for potential threat conditions. The guidance shall
18 take into consideration any current security training re-
19 quirements or best practices.

20 (b) **PROGRAM ELEMENTS.**—The guidance developed
21 under subsection (a) shall include elements, as appropriate
22 to passenger and freight rail service, that address the fol-
23 lowing:

24 (1) Determination of the seriousness of any oc-
25 currence.

1 (2) Crew communication and coordination.

2 (3) Appropriate responses to defend or protect
3 oneself.

4 (4) Use of protective devices.

5 (5) Evacuation procedures.

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

8 (7) Situational training exercises regarding var-
9 ious threat conditions.

10 (8) Any other subject the Secretary considers
11 appropriate.

12 (c) RAILROAD CARRIER PROGRAMS.—Not later than
13 90 days after the Secretary of Homeland Security issues
14 guidance under subsection (a) in final form, each railroad
15 carrier shall develop a rail worker security training pro-
16 gram in accordance with that guidance and submit it to
17 the Secretary for review. Not later than 30 days after re-
18 ceiving a railroad carrier's program under this subsection,
19 the Secretary shall review the program and transmit com-
20 ments to the railroad carrier concerning any revisions the
21 Secretary considers necessary for the program to meet the
22 guidance requirements. A railroad carrier shall respond to
23 the Secretary's comments within 30 days after receiving
24 them.

1 (d) TRAINING.—Not later than 1 year after the Sec-
2 retary reviews the training program developed by a rail-
3 road carrier under this section, the railroad carrier shall
4 complete the training of all front-line workers in accord-
5 ance with that program. The Secretary shall review imple-
6 mentation of the training program of a representative
7 sample of railroad carriers and report to the Senate Com-
8 mittee on Commerce, Science, and Transportation, the
9 House of Representatives Committee on Transportation
10 and Infrastructure, and the House of Representatives
11 Committee on Homeland Security on the number of re-
12 views conducted and the results. The Secretary may sub-
13 mit the report in both classified and redacted formats as
14 necessary.

15 (e) UPDATES.—The Secretary shall update the train-
16 ing guidance issued under subsection (a) as appropriate
17 to reflect new or different security threats. Railroad ear-
18 riers shall revise their programs accordingly and provide
19 additional training to their front-line workers within a rea-
20 sonable time after the guidance is updated.

21 (f) FRONT-LINE WORKERS DEFINED.—In this sec-
22 tion, the term “front-line workers” means security per-
23 sonnel, dispatchers, train operators, other onboard em-
24 ployees, maintenance and maintenance support personnel,

1 bridge tenders, as well as other appropriate employees of
 2 railroad carriers, as defined by the Secretary.

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

7 **SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM.**

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

11 **“§ 20118. Whistleblower protection for rail security**
 12 **matters**

13 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail
 14 carrier engaged in interstate or foreign commerce may dis-
 15 charge a railroad employee or otherwise discriminate
 16 against a railroad employee because the employee (or any
 17 person acting pursuant to a request of the employee)—

18 “(1) provided, caused to be provided, or is
 19 about to provide or cause to be provided, to the em-
 20 ployer or the Federal Government information relat-
 21 ing to a reasonably perceived threat, in good faith,
 22 to security; or

23 “(2) provided, caused to be provided, or is
 24 about to provide or cause to be provided, testimony
 25 before Congress or at any Federal or State pro-

1 ceeding regarding a reasonably perceived threat, in
2 good faith, to security; or

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

5 “(b) DISPUTE RESOLUTION.—A dispute, grievance,
6 or claim arising under this section is subject to resolution
7 under section 3 of the Railway Labor Act (45 U.S.C. 153).
8 In a proceeding by the National Railroad Adjustment
9 Board, a division or delegate of the Board, or another
10 board of adjustment established under section 3 to resolve
11 the dispute, grievance, or claim the proceeding shall be
12 expedited and the dispute, grievance, or claim shall be re-
13 solved not later than 180 days after it is filed. If the viola-
14 tion is a form of discrimination that does not involve dis-
15 charge, suspension, or another action affecting pay, and
16 no other remedy is available under this subsection, the
17 Board, division, delegate, or other board of adjustment
18 may award the employee reasonable damages, including
19 punitive damages, of not more than \$20,000.

20 “(c) PROCEDURAL REQUIREMENTS.—Except as pro-
21 vided in subsection (b), the procedure set forth in section
22 42121(b)(2)(B) of this subtitle, including the burdens of
23 proof, applies to any complaint brought under this section.

24 “(d) ELECTION OF REMEDIES.—An employee of a
25 railroad carrier may not seek protection under both this

1 section and another provision of law for the same allegedly
2 unlawful act of the carrier.

3 “(e) DISCLOSURE OF IDENTITY.—

4 “(1) Except as provided in paragraph (2) of
5 this subsection, or with the written consent of the
6 employee, the Secretary of Transportation may not
7 disclose the name of an employee of a railroad car-
8 rier who has provided information about an alleged
9 violation of this section.

10 “(2) The Secretary shall disclose to the Attor-
11 ney General the name of an employee described in
12 paragraph (1) of this subsection if the matter is re-
13 ferred to the Attorney General for enforcement.”

14 (b) CONFORMING AMENDMENT.—The chapter anal-
15 ysis for chapter 201 of title 49, United States Code, is
16 amended by inserting after the item relating to section
17 20117 the following:

“20118. Whistleblower protection for rail security matters.”

18 **SEC. 111. HIGH HAZARD MATERIAL SECURITY THREAT**
19 **MITIGATION PLANS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity, in consultation with the Assistant Secretary of Home-
22 land Security (Transportation Security Administration)
23 and the Secretary of Transportation, shall require rail car-
24 riers transporting a high hazard material, as defined in
25 section 104(g) of this Act to develop a high hazard mate-

1 rial security threat mitigation plan containing appropriate
 2 measures, including alternative routing and temporary
 3 shipment suspension options, to address assessed risks to
 4 high consequence targets. The plan, and any information
 5 submitted to the Secretary under this section shall be pro-
 6 tected as sensitive security information under the regula-
 7 tions prescribed under section 114(s) of title 49, United
 8 States Code.

9 (b) IMPLEMENTATION.—A high hazard material se-
 10 curity threat mitigation plan shall be put into effect by
 11 a rail carrier for the shipment of high hazardous materials
 12 by rail on the rail carrier's right-of-way when the threat
 13 levels of the Homeland Security Advisory System are high
 14 or severe and specific intelligence of probable or imminent
 15 threat exists towards—

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

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

21 (c) COMPLETION AND REVIEW OF PLANS.—

22 (1) PLANS REQUIRED.—Each rail carrier
 23 shall—

24 (A) submit a list of routes used to trans-
 25 port high hazard materials to the Secretary of

1 Homeland Security within 60 days after the
2 date of enactment of this Act;

3 (B) develop and submit a high hazard ma-
4 terial security threat mitigation plan to the Sec-
5 retary within 180 days after it receives the no-
6 tice of high consequence targets on such routes
7 by the Secretary; and

8 (C) submit any subsequent revisions to the
9 plan to the Secretary within 30 days after mak-
10 ing the revisions.

11 (2) REVIEW AND UPDATES.—The Secretary,
12 with assistance of the Secretary of Transportation,
13 shall review the plans and transmit comments to the
14 railroad carrier concerning any revisions the Sec-
15 retary considers necessary. A railroad carrier shall
16 respond to the Secretary’s comments within 30 days
17 after receiving them. Each rail carrier shall update
18 and resubmit its plan for review not less than every
19 2 years.

20 (d) DEFINITIONS.—In this section:

21 (1) The term “high-consequence target” means
22 a building, buildings, infrastructure, public space, or
23 natural resource designated by the Secretary of
24 Homeland Security that is viable terrorist target of

1 national significance, the attack of which could re-
2 sult in—

3 (A) catastrophic loss of life; and

4 (B) significantly damaged national security
5 and defense capabilities; or

6 (C) national economic harm.

7 (2) The term “catastrophic impact zone” means
8 the area immediately adjacent to, under, or above an
9 active railroad right-of-way used to ship high hazard
10 materials in which the potential release or explosion
11 of the high hazard material being transported would
12 likely cause—

13 (A) loss of life; or

14 (B) significant damage to property or
15 structures.

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

19 **SEC. 112. MEMORANDUM OF AGREEMENT.**

20 (a) MEMORANDUM OF AGREEMENT.—Similar to the
21 public transportation security annex between the two de-
22 partments signed on September 8, 2005, within 1 year
23 after the date of enactment of this Act, the Secretary of
24 Transportation and the Secretary of Homeland Security
25 shall execute and develop an annex to the memorandum

1 of agreement between the two departments signed on Sep-
2 tember 28, 2004, governing the specific roles, delineations
3 of responsibilities, resources and commitments of the De-
4 partment of Transportation and the Department of Home-
5 land Security, respectively, in addressing railroad trans-
6 portation security matters, including the processes the de-
7 partments will follow to promote communications, effi-
8 ciency, and nonduplication of effort.

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

13 **SEC. 113. RAIL SECURITY ENHANCEMENTS.**

14 (a) RAIL POLICE OFFICERS.—Section 28101 of title
15 49, United States Code, is amended—

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

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

20 (b) REVIEW OF RAIL REGULATIONS.—Within 1 year
21 after the date of enactment of this Act, the Secretary of
22 Transportation, in consultation with the Secretary of
23 Homeland Security and the Assistant Secretary of Home-
24 land Security (Transportation Security Administration),
25 shall review existing rail regulations of the Department

1 of Transportation for the purpose of identifying areas in
2 which those regulations need to be revised to improve rail
3 security.

4 **SEC. 114. PUBLIC AWARENESS.**

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

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

21 (a) WIRELESS COMMUNICATIONS.—

22 (1) IN GENERAL.—In conjunction with the re-
23 search and development program established under
24 section 105 and consistent with the results of re-
25 search relating to wireless tracking technologies, the

1 Secretary of Homeland Security, in consultation
2 with the Assistant Secretary of Homeland Security
3 (Transportation Security Administration), shall de-
4 velop a program that will encourage the equipping of
5 rail cars transporting high hazard materials (as de-
6 fined in section 104(g) of this Act) with wireless ter-
7 restrial or satellite communications technology that
8 provides—

9 (A) ear position location and tracking ca-
10 pabilities;

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

13 (C) notification of hazardous material re-
14 lease.

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

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

22 (B) ensure that the program is consistent
23 with recommendations and findings of the De-
24 partment of Homeland Security's hazardous
25 material tank rail car tracking pilot programs.

1 (b) FUNDING.—Out of funds appropriated pursuant
 2 to section 114(u) of title 49, United States Code, as
 3 amended by section 116 of this Act, there shall be made
 4 available to the Secretary of Homeland Security to carry
 5 out this section \$3,000,000 for each of fiscal years 2008,
 6 2009, and 2010.

7 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) TRANSPORTATION SECURITY ADMINISTRATION
 9 AUTHORIZATION.—Section 114 of title 49, United States
 10 Code, is amended by adding at the end thereof the fol-
 11 lowing:

12 “(u) AUTHORIZATION OF APPROPRIATIONS.—There
 13 are authorized to be appropriated to the Secretary of
 14 Homeland Security for rail security—

15 “(1) \$228,000,000 for fiscal year 2008;

16 “(2) \$183,000,000 for fiscal year 2009; and

17 “(3) \$183,000,000 for fiscal year 2010.”.

18 (b) DEPARTMENT OF TRANSPORTATION.—There are
 19 authorized to be appropriated to the Secretary of Trans-
 20 portation to carry out this title and sections 20118 and
 21 24316 of title 49, United States Code, as added by this
 22 Act—

23 (1) \$121,500,000 for fiscal year 2007;

24 (2) \$118,000,000 for fiscal year 2008;

25 (3) \$118,000,000 for fiscal year 2009; and

1 (4) \$195,000,000 for fiscal year 2011.

2 **TITLE II—IMPROVED MOTOR**
3 **CARRIER, BUS, AND HAZ-**
4 **ARDOUS MATERIAL SECURITY**

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

6 (a) **ROUTE PLAN GUIDANCE.**—Within one year after
7 the date of enactment of this Act, the Secretary of Trans-
8 portation, in consultation with the Secretary of Homeland
9 Security, shall—

10 (1) document existing and proposed routes for
11 the transportation of radioactive and non-radioactive
12 hazardous materials by motor carrier, and develop a
13 framework for using a Geographic Information Sys-
14 tem-based approach to characterize routes in the
15 National Hazardous Materials Route Registry;

16 (2) assess and characterize existing and pro-
17 posed routes for the transportation of radioactive
18 and non-radioactive hazardous materials by motor
19 carrier for the purpose of identifying measurable cri-
20 teria for selecting routes based on safety and secu-
21 rity concerns;

22 (3) analyze current route-related hazardous ma-
23 terials regulations in the United States, Canada, and
24 Mexico to identify cross-border differences and con-
25 flicting regulations;

1 (4) document the concerns of the public, motor
2 carriers, and State, local, territorial, and tribal gov-
3 ernments about the highway routing of hazardous
4 materials for the purpose of identifying and miti-
5 gating security vulnerabilities associated with haz-
6 ardous material routes;

7 (5) prepare guidance materials for State offi-
8 cials to assist them in identifying and reducing both
9 safety concerns and security vulnerabilities when
10 designating highway routes for hazardous materials
11 consistent with the 13 safety-based non-radioactive
12 materials routing criteria and radioactive materials
13 routing criteria in Subpart C part 397 of title 49,
14 Code of Federal Regulations;

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

20 (7) transmit to the Senate Committee on Com-
21 merce, Science, and Transportation, and the House
22 of Representatives Committee on Transportation
23 and Infrastructure a report on the actions taken to
24 fulfill paragraphs (1) through (6) of this subsection
25 and any recommended changes to the routing re-

1 requirements for the highway transportation of haz-
2 arduous materials in part 397 of title 49, Code of
3 Federal Regulations.

4 (b) ROUTE PLANS.—

5 (1) ASSESSMENT.—Within one year after the
6 date of enactment of this Act, the Secretary of
7 Transportation shall complete an assessment of the
8 safety and national security benefits achieved under
9 existing requirements for route plans, in written or
10 electronic format, for explosives and radioactive ma-
11 terials. The assessment shall, at a minimum—

12 (A) compare the percentage of Department
13 of Transportation recordable incidents and the
14 severity of such incidents for shipments of ex-
15 plosives and radioactive materials for which
16 such route plans are required with the percent-
17 age of recordable incidents and the severity of
18 such incidents for shipments of explosives and
19 radioactive materials not subject to such route
20 plans; and

21 (B) quantify the security and safety bene-
22 fits, feasibility, and costs of requiring each
23 motor carrier that is required to have a haz-
24 arduous material safety permit under part 385
25 of title 49, Code of Federal Regulations, to

1 maintain, follow, and carry such a route plan
2 that meets the requirements of section 397.101
3 of that title when transporting the type and
4 quantity of hazardous materials described in
5 section 385.403 of that title, taking into ac-
6 count the various segments of the trucking in-
7 dustry, including tank truck, truckload and less
8 than truckload carriers.

9 (2) REPORT.—Within one year after the date of
10 enactment of this Act, the Secretary of Transpor-
11 tation shall submit a report to the Senate Com-
12 mittee on Commerce, Science, and Transportation,
13 and the House of Representatives Committee on
14 Transportation and Infrastructure containing the
15 findings and conclusions of the assessment.

16 (c) REQUIREMENT.—The Secretary shall require
17 motor carriers that have a hazardous material safety per-
18 mit under part 385 of title 49, Code of Federal Regula-
19 tions, to maintain, follow, and carry a route plan, in writ-
20 ten or electronic format, that meets the requirements of
21 section 397.101 of that title when transporting the type
22 and quantity of hazardous materials described in section
23 385.403 of that title if the Secretary determines, under
24 the assessment required in subsection (b), that such a re-
25 quirement would enhance the security and safety of the

1 nation without imposing unreasonable costs or burdens
2 upon motor carriers.

3 **SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL**
4 **TRACKING.**

5 (a) WIRELESS COMMUNICATIONS—

6 (1) IN GENERAL.—Consistent with the findings
7 of the Transportation Security Administration’s
8 Hazmat Truck Security Pilot Program and within 6
9 months after the date of enactment of this Act, the
10 Secretary of Homeland Security, through the Trans-
11 portation Security Administration and in consulta-
12 tion with the Secretary of Transportation, shall de-
13 velop a program to encourage the equipping of
14 motor carriers transporting high hazard materials in
15 quantities equal to or greater than the quantities
16 specified in subpart 171.800 of title 49, Code of
17 Federal Regulations, with wireless communications
18 technology that provides—

19 (A) continuous communications;

20 (B) vehicle position location and tracking
21 capabilities; and

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

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

4 (A) consult with the Secretary of Trans-
5 portation to coordinate the program with any
6 ongoing or planned efforts for motor carrier
7 tracking at the Department of Transportation;

8 (B) take into consideration the rec-
9 ommendations and findings of the report on the
10 Hazardous Material Safety and Security Oper-
11 ation Field Test released by the Federal Motor
12 Carrier Safety Administration on November 11,
13 2004;

14 (C) evaluate—

15 (i) any new information related to the
16 cost and benefits of deploying and utilizing
17 truck tracking technology for motor ear-
18 riers transporting high hazard materials
19 not included in the Hazardous Material
20 Safety and Security Operation Field Test
21 Report released by the Federal Motor Car-
22 rier Safety Administration on November
23 11, 2004;

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

1 (iii) the capability of truck tracking
2 technology to collect, display, and store in-
3 formation regarding the movements of
4 shipments of high hazard materials by
5 commercial motor vehicles;

6 (iv) the appropriate range of contact
7 intervals between the tracking technology
8 and a commercial motor vehicle trans-
9 porting high hazard materials; and

10 (v) technology that allows the installa-
11 tion by a motor carrier of concealed elec-
12 tronic devices on commercial motor vehi-
13 cles that can be activated by law enforce-
14 ment authorities and alert emergency re-
15 sponse resources to locate and recover se-
16 curity sensitive material in the event of
17 loss or theft of such material.

18 (b) FUNDING.—There are authorized to be appro-
19 priated 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. 203. HAZARDOUS MATERIALS SECURITY INSPECTIONS**
23 **AND ENFORCEMENT.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-
25 rity shall establish a program within the Transportation

1 Security Administration, in consultation with the Sec-
2 retary of Transportation, for reviewing hazardous mate-
3 rials security plans required under part 172, title 49, Code
4 of Federal Regulations, within 180 days after the date of
5 enactment of this Act. In establishing the program, the
6 Secretary shall ensure that—

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

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

12 (b) CIVIL PENALTY.—The failure, by a shipper, ear-
13 rier, or other person subject to part 172 of title 49, Code
14 of Federal Regulations, to comply with any applicable sec-
15 tion of that part within 180 days after being notified by
16 the Secretary of such failure to comply, is punishable by
17 a civil penalty imposed by the Secretary under title 49,
18 United States Code. For purposes of this subsection, each
19 day of noncompliance after the 181st day following the
20 date on which the shipper, carrier, or other person re-
21 ceived notice of the failure shall constitute a separate fail-
22 ure.

23 (c) COMPLIANCE REVIEW.—In reviewing the compli-
24 ance of hazardous materials shippers, carriers, or other
25 persons subject to part 172 of title 49, Code of Federal

1 Regulations, with the provisions of that part, the Sec-
2 retary shall utilize risk assessment methodologies to
3 prioritize review and enforcement actions to the most vul-
4 nerable and critical hazardous materials transportation
5 operations.

6 (d) **TRANSPORTATION COSTS STUDY.**—Within 1 year
7 after the date of enactment of this Act, the Secretary of
8 Transportation, in conjunction with the Secretary of
9 Homeland Security, shall study to what extent the insur-
10 ance, security, and safety costs borne by railroad carriers,
11 motor carriers, pipeline carriers, air carriers, and mari-
12 time carriers associated with the transportation of haz-
13 ardous materials are reflected in the rates paid by shippers
14 of such commodities as compared to the costs and rates
15 respectively for the transportation of non-hazardous mate-
16 rials.

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

20 (1) \$2,000,000 for fiscal year 2008;

21 (2) \$2,000,000 for fiscal year 2009; and

22 (3) \$2,000,000 for fiscal year 2010.

23 **SEC. 204. TRUCK SECURITY ASSESSMENT.**

24 Not later than 1 year after the date of enactment
25 of this Act, the Secretary of Transportation shall transmit

1 to the Senate Committee on Commerce, Science, and
2 Transportation, Senate Committee on Finance, the House
3 of Representatives Committee on Transportation and In-
4 frastructure, the House of Representatives Committee on
5 Homeland Security, and the House of Representatives
6 Committe on Ways and Means, a report on security issues
7 related to the trucking industry that includes—

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

11 (2) an assessment of the economic impact that
12 security upgrades of trucks, truck equipment, or
13 truck facilities may have on the trucking industry
14 and its employees, including independent owner-op-
15 erators;

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

18 (4) an assessment of industry best practices to
19 enhance security.

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

21 (a) **DEVELOPMENT.**—The Secretary of Homeland Se-
22 curity, in conjunction with the Secretary of Transpor-
23 tation, shall consider the development of a national public
24 sector response system to receive security alerts, emer-
25 gency messages, and other information used to track the

1 transportation of high hazard materials which can provide
2 accurate, timely, and actionable information to appro-
3 priate first responder, law enforcement and public safety,
4 and homeland security officials, as appropriate, regarding
5 accidents, threats, thefts, or other safety and security
6 risks or incidents. In considering the development of this
7 system, they shall consult with law enforcement and public
8 safety officials, hazardous material shippers, motor ear-
9 riers, railroads, organizations representing hazardous ma-
10 terial employees, State transportation and hazardous ma-
11 terials officials, private for-profit and non-profit emer-
12 gency response organizations, and commercial motor vehi-
13 cle and hazardous material safety groups. Consideration
14 of development of the national public sector response sys-
15 tem shall be based upon the public sector response center
16 developed for the Transportation Security Administration
17 hazardous material truck security pilot program and haz-
18 ardous material safety and security operational field test
19 undertaken by the Federal Motor Carrier Safety Adminis-
20 tration.

21 (b) CAPABILITY.—The national public sector re-
22 sponse system to be considered shall be able to receive,
23 as appropriate—

24 (1) negative driver verification alerts;

25 (2) out-of-route alerts;

1 (3) driver panic or emergency alerts; and

2 (4) tampering or release alerts.

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

5 (1) be an exception-based system;

6 (2) be integrated with other private and public
7 sector operation reporting and response systems and
8 all Federal homeland security threat analysis sys-
9 tems or centers (including the National Response
10 Center); and

11 (3) provide users the ability to create rules for
12 alert notification messages.

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

23 (e) DATA PRIVACY.—The national public sector re-
24 sponse system shall be designed to ensure appropriate pro-

1 tection of data and information relating to motor carriers,
2 railroads, and employees.

3 (f) REPORT.—Not later than 180 days after the date
4 of enactment of this Act, the Secretary shall transmit to
5 the Senate Committee on Commerce, Science, and Trans-
6 portation, the House of Representatives Committee on
7 Transportation and Infrastructure, and the House of Rep-
8 resentatives Committee on Homeland Security a report on
9 whether to establish a national public sector response sys-
10 tem and the estimated total public and private sector costs
11 to establish and annually operate such a system, together
12 with any recommendations for generating private sector
13 participation and investment in the development and oper-
14 ation of such a system.

15 (g) FUNDING.—There are authorized to be appro-
16 priated to the Secretary of Homeland Security to carry
17 out this section—

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

19 (2) \$1,000,000 for fiscal year 2009; and

20 (3) \$1,000,000 for fiscal year 2010.

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

22 (a) IN GENERAL.—The Secretary of Homeland Secu-
23 rity shall establish a program within the Transportation
24 Security Administration for making grants to private op-
25 erators of over-the-road buses or over-the-road bus ter-

1 minal operators for system-wide security improvements to
2 their operations, including—

3 (1) constructing and modifying terminals, ga-
4 rages, facilities, or over-the-road buses to assure
5 their security;

6 (2) protecting or isolating the driver;

7 (3) acquiring, upgrading, installing, or oper-
8 ating equipment, software, or accessorial services for
9 collection, storage, or exchange of passenger and
10 driver information through ticketing systems or oth-
11 erwise, and information links with government agen-
12 cies;

13 (4) training employees in recognizing and re-
14 sponding to security threats, evacuation procedures,
15 passenger screening procedures, and baggage inspec-
16 tion;

17 (5) hiring and training security officers;

18 (6) installing cameras and video surveillance
19 equipment on over-the-road buses and at terminals,
20 garages, and over-the-road bus facilities;

21 (7) creating a program for employee identifica-
22 tion or background investigation;

23 (8) establishing and upgrading an emergency
24 communications system linking operational head-

1 quarters, over-the-road buses, law enforcement, and
2 emergency personnel; and

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

6 (b) FEDERAL SHARE.—The Federal share of the cost
7 for which any grant is made under this section shall be
8 80 percent.

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

18 (d) GRANT REQUIREMENTS.—A grant under this sec-
19 tion shall be subject to all the terms and conditions that
20 a grant is subject to under section 3038(f) of the Trans-
21 portation Equity Act for the 21st Century (49 U.S.C.
22 5310 note; 112 Stat. 393).

23 (e) PLAN REQUIREMENT.—

24 (1) IN GENERAL.—The Secretary may not
25 make a grant under this section to a private oper-

1 ator of over-the-road buses until the operator has
2 first submitted to the Secretary—

3 (A) a plan for making security improve-
4 ments described in subsection (a) and the Sec-
5 retary has approved the plan; and

6 (B) such additional information as the Sec-
7 retary may require to ensure accountability for
8 the obligation and expenditure of amounts
9 made available to the operator under the grant.

10 (2) COORDINATION.—To the extent that an ap-
11 plication for a grant under this section proposes se-
12 curity improvements within a specific terminal
13 owned and operated by an entity other than the ap-
14 plicant, the applicant shall demonstrate to the satis-
15 faction of the Secretary that the applicant has co-
16 ordinated the security improvements for the terminal
17 with that entity.

18 (f) ~~OVER-THE-ROAD BUS DEFINED.~~—In this section,
19 the term “over-the-road bus” means a bus characterized
20 by an elevated passenger deck located over a baggage com-
21 partment.

22 (g) BUS SECURITY ASSESSMENT.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this Act, the Sec-
25 retary shall transmit to the Senate Committee on

1 Commerce, Science, and Transportation; the House
2 of Representatives Committee on Transportation
3 and Infrastructure; and the House of Representa-
4 tives Committee on Homeland Security a prelimi-
5 nary report in accordance with the requirements of
6 this section.

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

9 (A) an assessment of the over-the-road bus
10 security grant program;

11 (B) an assessment of actions already taken
12 to address identified security issues by both
13 public and private entities and recommenda-
14 tions on whether additional safety and security
15 enforcement actions are needed;

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

19 (D) an assessment of the economic impact
20 that security upgrades of buses and bus facili-
21 ties may have on the over-the-road bus trans-
22 portation industry and its employees;

23 (E) an assessment of ongoing research and
24 the need for additional research on over-the-
25 road bus security, including engine shut-off

1 mechanisms, chemical and biological weapon de-
 2 tection technology, and the feasibility of
 3 compartmentalization of the driver; and

4 (F) an assessment of industry best prac-
 5 tices to enhance security.

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

12 (h) FUNDING.—There are authorized to be appro-
 13 priated to the Secretary of Homeland Security to carry
 14 out this section—

15 (1) \$12,000,000 for fiscal year 2008;

16 (2) \$25,000,000 for fiscal year 2009; and

17 (3) \$25,000,000 for fiscal year 2010.

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

20 **SEC. 207. PIPELINE SECURITY AND INCIDENT RECOVERY**
 21 **PLAN.**

22 (a) IN GENERAL.—The Secretary of Homeland Secu-
 23 rity, in consultation with the Secretary of Transportation
 24 and the Pipeline and Hazardous Materials Safety Admin-
 25 istration, and in accordance with the Memorandum of Un-

1 derstanding Annex executed on August 9, 2006, shall de-
2 velop a Pipeline Security and Incident Recovery Protocols
3 Plan. The plan shall include—

4 (1) a plan for the Federal Government to pro-
5 vide increased security support to the most critical
6 interstate and intrastate natural gas and hazardous
7 liquid transmission pipeline infrastructure and oper-
8 ations as determined under section 208—

9 (A) at high or severe security threat levels
10 of alert; and

11 (B) when specific security threat informa-
12 tion relating to such pipeline infrastructure or
13 operations exists; and

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

1 frastructure repair, replacement or bypass following
2 an incident.

3 (b) ~~EXISTING PRIVATE AND PUBLIC SECTOR EF-~~
4 ~~FORTS.~~—The plan shall take into account actions taken
5 or planned by both private and public entities to address
6 identified pipeline security issues and assess the effective
7 integration of such actions.

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

15 (d) ~~REPORT.~~—

16 (1) ~~CONTENTS.~~—Not later than 1 year after
17 the date of enactment of this Act, the Secretary of
18 Homeland Security shall transmit to the Committee
19 on Commerce, Science, and Transportation of the
20 Senate, the Committee on Homeland Security of the
21 House of Representatives, and the Committee on
22 Transportation and Infrastructure of the House of
23 Representatives a report containing the plan re-
24 quired by subsection (a), along with an estimate of

1 the private and public sector costs to implement any
2 recommendations.

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

7 **SEC. 208. PIPELINE SECURITY INSPECTIONS AND EN-**
8 **FORCEMENT.**

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

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

1 Transportation, as determined by the Secretary in con-
2 sultation with the Secretary of Transportation.

3 (c) COMPLIANCE REVIEW METHODOLOGY.—In re-
4 viewing pipeline operator compliance under subsections (a)
5 and (b), the Secretary shall utilize risk assessment meth-
6 odologies to prioritize vulnerabilities and to target inspec-
7 tion and enforcement actions to the most vulnerable and
8 critical pipeline assets.

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

1 (e) FUNDING.—There are authorized to be appro-
2 priated to the Secretary of Homeland Security to carry
3 out this section—

4 (1) \$2,000,000 for fiscal year 2008; and

5 (2) \$2,000,000 for fiscal year 2009.

6 **SEC. 209. TECHNICAL CORRECTIONS.**

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

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

12 (2) by redesignating subsection (h) as sub-
13 section (i) and inserting the following after sub-
14 section (g):

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

1 **SEC. 210. CERTAIN PERSONNEL LIMITATIONS NOT TO**
 2 **APPLY.**

3 Any statutory limitation on the number of employees
 4 in the Transportation Security Administration of the De-
 5 partment of Transportation, before or after its transfer
 6 to the Department of Homeland Security, does not apply
 7 to the extent that any such employees are responsible for
 8 implementing the provisions of this Act.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Surface Transportation*
 11 *and Rail Security Act of 2007”.*

12 **SEC. 2. TABLE OF CONTENTS.**

13 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

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.

Sec. 108. Northern border rail passenger report.

Sec. 109. Rail worker security training program.

Sec. 110. Whistleblower protection program.

Sec. 111. High hazard material security risk mitigation plans.

Sec. 112. Enforcement authority.

Sec. 113. Rail security enhancements.

Sec. 114. Public awareness.

Sec. 115. Railroad high hazard material tracking.

Sec. 116. Authorization of appropriations.

**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. *Memorandum of agreement.*
 Sec. 204. *Hazardous materials security inspections and enforcement.*
 Sec. 205. *Truck security assessment.*
 Sec. 206. *National public sector response system.*
 Sec. 207. *Over-the-road bus security assistance.*
 Sec. 208. *Pipeline security and incident recovery plan.*
 Sec. 209. *Pipeline security inspections and enforcement.*
 Sec. 210. *Technical corrections.*
 Sec. 211. *Certain personnel limitations not to apply.*
 Sec. 212. *Maritime and surface transportation security user fee study.*

1 **SEC. 3. DEFINITIONS.**

2 *In this Act:*

3 (1) *HIGH HAZARD MATERIALS.*—*The term “high*
 4 *hazard materials” means quantities of poison inhala-*
 5 *tion hazard materials, Class 2.3 gases, Class 6.1 ma-*
 6 *terials, anhydrous ammonia, and other hazardous*
 7 *materials that the Secretary, in consultation with the*
 8 *Secretary of Transportation, determines pose a secu-*
 9 *urity risk.*

10 (2) *SECRETARY.*—*Except as otherwise explicitly*
 11 *provided, the term “Secretary” means the Secretary*
 12 *of Homeland Security.*

13 **TITLE I—IMPROVED RAIL**
 14 **SECURITY**

15 **SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
 16 **MENT.**

17 (a) *IN GENERAL.*—

18 (1) *RISK ASSESSMENT.*—*The Secretary shall es-*
 19 *tablish a task force, including the Transportation Se-*
 20 *curity Administration, the Department of Transpor-*

1 *tation, and other appropriate agencies, to complete a*
2 *risk assessment of freight and passenger rail transpor-*
3 *tation (encompassing railroads, as that term is de-*
4 *finied in section 20102(1) of title 49, United States*
5 *Code). The assessment shall include—*

6 *(A) a methodology for conducting the risk*
7 *assessment, including timelines, that addresses*
8 *how the Department of Homeland Security will*
9 *work with the entities described in subsection (b)*
10 *and make use of existing Federal expertise with-*
11 *in the Department of Homeland Security, the*
12 *Department of Transportation, and other appro-*
13 *priate agencies;*

14 *(B) identification and evaluation of critical*
15 *assets and infrastructures;*

16 *(C) identification of risks to those assets*
17 *and infrastructures;*

18 *(D) identification of risks that are specific*
19 *to the transportation of hazardous materials via*
20 *railroad;*

21 *(E) identification of risks to passenger and*
22 *cargo security, transportation infrastructure (in-*
23 *cluding rail tunnels used by passenger and*
24 *freight railroads in high threat urban areas),*
25 *protection systems, operations, communications*

1 *systems, employee training, emergency response*
2 *planning, and any other area identified by the*
3 *assessment;*

4 (F) *an assessment of public and private*
5 *operational recovery plans to expedite, to the*
6 *maximum extent practicable, the return of an*
7 *adversely affected freight or passenger rail trans-*
8 *portation system or facility to its normal per-*
9 *formance level after a major terrorist attack or*
10 *other security event on that system or facility;*
11 *and*

12 (G) *an account of actions taken or planned by*
13 *both public and private entities to address identified*
14 *rail security issues and assess the effective integration*
15 *of such actions.*

16 (2) *RECOMMENDATIONS.—Based on the assess-*
17 *ment conducted under paragraph (1), the Secretary,*
18 *in consultation with the Secretary of Transportation,*
19 *shall develop prioritized recommendations for improv-*
20 *ing rail security, including any recommendations the*
21 *Secretary has for—*

22 (A) *improving the security of rail tunnels,*
23 *rail bridges, rail switching and car storage*
24 *areas, other rail infrastructure and facilities, in-*
25 *formation systems, and other areas identified by*

1 *the Secretary as posing significant rail-related*
2 *risks to public safety and the movement of inter-*
3 *state commerce, taking into account the impact*
4 *that any proposed security measure might have*
5 *on the provision of rail service or on operations*
6 *served or otherwise affected by rail service;*

7 *(B) deploying equipment and personnel to*
8 *detect security threats, including those posed by*
9 *explosives and hazardous chemical, biological,*
10 *and radioactive substances, and any appropriate*
11 *countermeasures;*

12 *(C) training appropriate railroad or rail-*
13 *road shipper employees in terrorism prevention,*
14 *preparedness, passenger evacuation, and response*
15 *activities;*

16 *(D) conducting public outreach campaigns*
17 *on passenger railroads regarding security;*

18 *(E) deploying surveillance equipment;*

19 *(F) identifying the immediate and long-*
20 *term costs of measures that may be required to*
21 *address those risks; and*

22 *(G) public and private sector sources to*
23 *fund such measures.*

24 (3) *PLANS.*—*The report required by subsection*
25 *(c) shall include—*

1 (A) a plan, developed in consultation with
2 the freight and intercity passenger railroads, and
3 State and local governments, for the Federal gov-
4 ernment to provide adequate security support at
5 high or severe threat levels of alert;

6 (B) a plan for coordinating existing and
7 planned rail security initiatives undertaken by
8 the public and private sectors; and

9 (C) a contingency plan, developed in coordi-
10 nation with freight and intercity and commuter
11 passenger railroads, to ensure the continued
12 movement of freight and passengers in the event
13 of an attack affecting the railroad system, which
14 shall contemplate—

15 (i) the possibility of rerouting traffic
16 due to the loss of critical infrastructure,
17 such as a bridge, tunnel, yard, or station;
18 and

19 (ii) methods of continuing railroad
20 service in the Northeast Corridor in the
21 event of a commercial power loss, or catas-
22 trophe affecting a critical bridge, tunnel,
23 yard, or station.

24 (b) CONSULTATION; USE OF EXISTING RESOURCES.—
25 In carrying out the assessment and developing the rec-

1 *ommendations and plans required by subsection (a), the*
2 *Secretary shall consult with rail management, rail labor,*
3 *owners or lessors of rail cars used to transport hazardous*
4 *materials, first responders, offerers of hazardous materials,*
5 *public safety officials, and other relevant parties. In devel-*
6 *oping the risk assessment required under this section, the*
7 *Secretary shall utilize relevant existing risk assessments de-*
8 *veloped by the Department or other Federal agencies, and,*
9 *as appropriate, assessments developed by other public and*
10 *private stakeholders.*

11 *(c) REPORT.—*

12 *(1) CONTENTS.—Within 1 year after the date of*
13 *enactment of this Act, the Secretary shall transmit to*
14 *the Senate Committee on Commerce, Science, and*
15 *Transportation, the House of Representatives Com-*
16 *mittee on Transportation and Infrastructure, and the*
17 *House of Representatives Committee on Homeland*
18 *Security a report containing the assessment,*
19 *prioritized recommendations, and plans required by*
20 *subsection (a) and an estimate of the cost to imple-*
21 *ment such recommendations.*

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

1 (d) *ANNUAL UPDATES.*—*The Secretary, in consulta-*
 2 *tion with the Secretary of Transportation, shall update the*
 3 *assessment and recommendations each year and transmit*
 4 *a report, which may be submitted in both classified and*
 5 *redacted formats, to the Committees named in subsection*
 6 *(c)(1), containing the updated assessment and recommenda-*
 7 *tions.*

8 (e) *FUNDING.*—*Out of funds appropriated pursuant to*
 9 *section 114(u) of title 49, United States Code, as amended*
 10 *by section 116 of this Act, there shall be made available*
 11 *to the Secretary to carry out this section \$5,000,000 for fis-*
 12 *cal year 2008.*

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

14 (a) *IN GENERAL.*—

15 (1) *GRANTS.*—*Subject to subsection (c) the Sec-*
 16 *retary, in consultation with the Assistant Secretary of*
 17 *Homeland Security (Transportation Security Admin-*
 18 *istration), is authorized to make grants to Amtrak in*
 19 *accordance with the provisions of this section.*

20 (2) *GENERAL PURPOSES.*—*The Secretary may*
 21 *make such grants for the purposes of—*

22 (A) *protecting underwater and underground*
 23 *assets and systems;*

1 (B) protecting high risk and high con-
2 sequence assets identified through system-wide
3 risk assessments;

4 (C) providing counter-terrorism training;

5 (D) providing both visible and unpredict-
6 able deterrence; and

7 (E) conducting emergency preparedness
8 drills and exercises.

9 (3) *SPECIFIC PROJECTS.*—The Secretary shall
10 make such grants—

11 (A) to secure major tunnel access points
12 and ensure tunnel integrity in New York, New
13 Jersey, Maryland, and Washington, DC;

14 (B) to secure Amtrak trains;

15 (C) to secure Amtrak stations;

16 (D) to obtain a watch list identification
17 system approved by the Secretary;

18 (E) to obtain train tracking and interoper-
19 able communications systems that are coordi-
20 nated to the maximum extent possible;

21 (F) to hire additional police officers, special
22 agents, security officers, including canine units,
23 and to pay for other labor costs directly associ-
24 ated with security and terrorism prevention ac-
25 tivities;

1 (G) to expand emergency preparedness ef-
2 forts; and

3 (H) for employee security training.

4 (b) *CONDITIONS.*—The Secretary of Transportation
5 shall disburse funds to Amtrak provided under subsection
6 (a) for projects contained in a systemwide security plan
7 approved by the Secretary. Amtrak shall develop the secu-
8 rity plan in consultation with constituent States and other
9 relevant parties. The plan shall include appropriate meas-
10 ures to address security awareness, emergency response, and
11 passenger evacuation training and shall be consistent with
12 State security plans to the maximum extent practicable.

13 (c) *EQUITABLE GEOGRAPHIC ALLOCATION.*—The Sec-
14 retary shall ensure that, subject to meeting the highest secu-
15 rity needs on Amtrak’s entire system and consistent with
16 the risk assessment required under section 101, stations and
17 facilities located outside of the Northeast Corridor receive
18 an equitable share of the security funds authorized by this
19 section.

20 (d) *AVAILABILITY OF FUNDS.*—Out of funds appro-
21 priated pursuant to section 114(u) of title 49, United States
22 Code, as amended by section 116 of this Act, there shall
23 be made available to the Secretary and the Assistant Sec-
24 retary of Homeland Security (Transportation Security Ad-
25 ministration) to carry out this section—

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

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

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

4 *Amounts appropriated pursuant to this subsection shall re-*
5 *main available until expended.*

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

7 (a) *LIFE-SAFETY NEEDS.*—*The Secretary of Trans-*
8 *portation, in consultation with the Secretary, is authorized*
9 *to make grants to Amtrak for the purpose of making fire*
10 *and life-safety improvements to Amtrak tunnels on the*
11 *Northeast Corridor in New York, New Jersey, Maryland,*
12 *and Washington, DC.*

13 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*Out of*
14 *funds appropriated pursuant to section 116(b) of this Act,*
15 *there shall be made available to the Secretary of Transpor-*
16 *tation for the purposes of carrying out subsection (a) the*
17 *following amounts:*

18 (1) *For the 6 New York and New Jersey tunnels*
19 *to provide ventilation, electrical, and fire safety tech-*
20 *nology upgrades, emergency communication and*
21 *lighting systems, and emergency access and egress for*
22 *passengers—*

23 (A) \$100,000,000 for fiscal year 2008;

24 (B) \$100,000,000 for fiscal year 2009;

25 (C) \$100,000,000 for fiscal year 2010; and

1 (D) \$100,000,000 for fiscal year 2011.

2 (2) For the Baltimore & Potomac tunnel and the
3 Union tunnel, together, to provide adequate drainage,
4 ventilation, communication, lighting, and passenger
5 egress upgrades—

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

7 (B) \$10,000,000 for fiscal year 2009;

8 (C) \$10,000,000 for fiscal year 2010; and

9 (D) \$10,000,000 for fiscal year 2011.

10 (3) For the Washington, DC, Union Station tun-
11 nels to improve ventilation, communication, lighting,
12 and passenger egress upgrades—

13 (A) \$8,000,000 for fiscal year 2008;

14 (B) \$8,000,000 for fiscal year 2009;

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

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

17 (c) *INFRASTRUCTURE UPGRADES.*—Out of funds ap-
18 propriated pursuant to section 116(b) of this Act, there shall
19 be made available to the Secretary of Transportation for
20 fiscal year 2008 \$3,000,000 for the preliminary design of
21 options for a new tunnel on a different alignment to aug-
22 ment the capacity of the existing Baltimore tunnels.

23 (d) *AVAILABILITY OF APPROPRIATED FUNDS.*—
24 Amounts made available pursuant to this section shall re-
25 main available until expended.

1 (e) *PLANS REQUIRED.*—*The Secretary of Transpor-*
2 *tation may not make amounts available to Amtrak for obli-*
3 *gation or expenditure under subsection (a)—*

4 (1) *until Amtrak has submitted to the Secretary,*
5 *and the Secretary has approved, an engineering and*
6 *financial plan for such projects; and*

7 (2) *unless, for each project funded pursuant to*
8 *this section, the Secretary has approved a project*
9 *management plan prepared by Amtrak addressing*
10 *appropriate project budget, construction schedule, re-*
11 *ipient staff organization, document control and*
12 *record keeping, change order procedure, quality con-*
13 *trol and assurance, periodic plan updates, and peri-*
14 *odic status reports.*

15 (f) *REVIEW OF PLANS.*—*The Secretary of Transpor-*
16 *tation shall complete the review of the plans required by*
17 *paragraphs (1) and (2) of subsection (e) and approve or*
18 *disapprove the plans within 45 days after the date on which*
19 *each such plan is submitted by Amtrak. If the Secretary*
20 *determines that a plan is incomplete or deficient, the Sec-*
21 *retary shall notify Amtrak of the incomplete items or defi-*
22 *ciencies and Amtrak shall, within 30 days after receiving*
23 *the Secretary's notification, submit a modified plan for the*
24 *Secretary's review. Within 15 days after receiving addi-*
25 *tional information on items previously included in the*

1 *plan, and within 45 days after receiving items newly in-*
 2 *cluded in a modified plan, the Secretary shall either ap-*
 3 *prove the modified plan, or, if the Secretary finds the plan*
 4 *is still incomplete or deficient, the Secretary shall identify*
 5 *in writing to the Senate Committee on Commerce, Science,*
 6 *and Transportation, the House of Representatives Com-*
 7 *mittee on Transportation and Infrastructure, and the*
 8 *House of Representatives Committee on Homeland Security*
 9 *the portions of the plan the Secretary finds incomplete or*
 10 *deficient, approve all other portions of the plan, obligate*
 11 *the funds associated with those other portions, and execute*
 12 *an agreement with Amtrak within 15 days thereafter on*
 13 *a process for resolving the remaining portions of the plan.*

14 *(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL*
 15 *USERS.—The Secretary shall, taking into account the need*
 16 *for the timely completion of all portions of the tunnel*
 17 *projects described in subsection (a)—*

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

20 *(2) consider the feasibility of seeking a financial*
 21 *contribution from those other rail carriers toward the*
 22 *costs of the projects; and*

23 *(3) obtain financial contributions or commit-*
 24 *ments from such other rail carriers at levels reflecting*

1 *the extent of their use or planned use of the tunnels,*
2 *if feasible.*

3 **SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UP-**
4 **GRADES.**

5 (a) *SECURITY IMPROVEMENT GRANTS.*—*The Sec-*
6 *retary, through the Assistant Secretary of Homeland Secu-*
7 *rity (Transportation Security Administration) and other*
8 *appropriate agencies or officials, is authorized to make*
9 *grants to freight railroads, the Alaska Railroad, hazardous*
10 *materials offerers, owners of rail cars used in the transpor-*
11 *tation of hazardous materials, universities, colleges and re-*
12 *search centers, State and local governments (for rail pas-*
13 *senger facilities and infrastructure not owned by Amtrak),*
14 *and, through the Secretary of Transportation, to Amtrak,*
15 *for full or partial reimbursement of costs incurred in the*
16 *conduct of activities to prevent or respond to acts of ter-*
17 *rorism, sabotage, or other intercity passenger rail and*
18 *freight rail security risks identified under section 101, in-*
19 *cluding—*

20 (1) *security and redundancy for critical commu-*
21 *nications, computer, and train control systems essen-*
22 *tial for secure rail operations;*

23 (2) *accommodation of rail cargo or passenger*
24 *screening equipment at the United States-Mexico bor-*

1 *der, the United States-Canada border, or other ports*
2 *of entry;*

3 *(3) the security of hazardous material transpor-*
4 *tation by rail;*

5 *(4) secure intercity passenger rail stations,*
6 *trains, and infrastructure;*

7 *(5) structural modification or replacement of*
8 *rail cars transporting high hazard materials to im-*
9 *prove their resistance to acts of terrorism;*

10 *(6) employee security awareness, preparedness,*
11 *passenger evacuation, and emergency response train-*
12 *ing;*

13 *(7) public security awareness campaigns for pas-*
14 *senger train operations;*

15 *(8) the sharing of intelligence and information*
16 *about security threats;*

17 *(9) to obtain train tracking and interoperable*
18 *communications systems that are coordinated to the*
19 *maximum extent possible;*

20 *(10) to hire additional police and security offi-*
21 *cers, including canine units; and*

22 *(11) other improvements recommended by the re-*
23 *port required by section 101, including infrastructure,*
24 *facilities, and equipment upgrades.*

1 (b) *ACCOUNTABILITY.*—*The Secretary shall adopt nec-*
2 *essary procedures, including audits, to ensure that grants*
3 *made under this section are expended in accordance with*
4 *the purposes of this title and the priorities and other cri-*
5 *teria developed by the Secretary.*

6 (c) *ALLOCATION.*—*The Secretary shall distribute the*
7 *funds authorized by this section based on risk as determined*
8 *under section 101, and shall encourage non-Federal finan-*
9 *cial participation in projects funded by grants awarded*
10 *under this section. With respect to grants for intercity pas-*
11 *senger rail security, the Secretary shall also take into ac-*
12 *count passenger volume and whether stations or facilities*
13 *are used by commuter rail passengers as well as intercity*
14 *rail passengers.*

15 (d) *CONDITIONS.*—*The Secretary of Transportation*
16 *may not disburse funds to Amtrak under subsection (a) un-*
17 *less Amtrak meets the conditions set forth in section 102(b)*
18 *of this Act.*

19 (e) *ALLOCATION BETWEEN RAILROADS AND OTH-*
20 *ERS.*—*Unless as a result of the assessment required by sec-*
21 *tion 101 the Secretary determines that critical rail trans-*
22 *portation security needs require reimbursement in greater*
23 *amounts to any eligible entity, no grants under this section*
24 *may be made cumulatively over the period authorized by*
25 *this Act—*

1 (1) *in excess of \$45,000,000 to Amtrak; or*

2 (2) *in excess of \$80,000,000 for the purposes de-*
3 *scribed in paragraphs (3) and (5) of subsection (a).*

4 (f) *AUTHORIZATION OF APPROPRIATIONS.—Out of*
5 *funds appropriated pursuant to section 114(u) of title 49,*
6 *United States Code, as amended by section 116 of this Act,*
7 *there shall be made available to the Secretary to carry out*
8 *this section—*

9 (1) *\$100,000,000 for fiscal year 2008;*

10 (2) *\$100,000,000 for fiscal year 2009; and*

11 (3) *\$100,000,000 for fiscal year 2010.*

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

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

15 (a) *ESTABLISHMENT OF RESEARCH AND DEVELOP-*
16 *MENT PROGRAM.—The Secretary, through the Under Sec-*
17 *retary for Science and Technology and the Assistant Sec-*
18 *retary of Homeland Security (Transportation Security Ad-*
19 *ministration), in consultation with the Secretary of Trans-*
20 *portation shall carry out a research and development pro-*
21 *gram for the purpose of improving freight and intercity*
22 *passenger rail security that may include research and devel-*
23 *opment projects to—*

24 (1) *reduce the risk of terrorist attacks on rail*
25 *transportation, including risks posed by explosives*

1 *and hazardous chemical, biological, and radioactive*
2 *substances to intercity rail passengers, facilities, and*
3 *equipment;*

4 *(2) test new emergency response techniques and*
5 *technologies;*

6 *(3) develop improved freight rail security tech-*
7 *nologies, including—*

8 *(A) technologies for sealing rail cars;*

9 *(B) automatic inspection of rail cars;*

10 *(C) communication-based train controls;*

11 *and*

12 *(D) emergency response training;*

13 *(4) test wayside detectors that can detect tam-*
14 *pering with railroad equipment;*

15 *(5) support enhanced security for the transpor-*
16 *tation of hazardous materials by rail, including—*

17 *(A) technologies to detect a breach in a tank*
18 *car or other rail car used to transport hazardous*
19 *materials and transmit information about the*
20 *integrity of cars to the train crew or dispatcher;*

21 *(B) research to improve tank car integrity,*
22 *with a focus on tank cars that carry high hazard*
23 *materials (as defined in section 104(g) of this*
24 *Act); and*

1 (C) techniques to transfer hazardous mate-
2 rials from rail cars that are damaged or other-
3 wise represent an unreasonable risk to human
4 life or public safety; and

5 (6) other projects that address risks identified
6 under section 101.

7 (b) COORDINATION WITH OTHER RESEARCH INITIA-
8 TIVES.—The Secretary shall ensure that the research and
9 development program authorized by this section is coordi-
10 nated with other research and development initiatives at
11 the Department of Homeland Security and the Department
12 of Transportation. The Secretary shall carry out any re-
13 search and development project authorized by this section
14 through a reimbursable agreement with the Secretary of
15 Transportation, if the Secretary of Transportation—

16 (1) is already sponsoring a research and develop-
17 ment project in a similar area; or

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

20 (c) GRANTS AND ACCOUNTABILITY.—To carry out the
21 research and development program, the Secretary may
22 award grants to the entities described in section 104(a) and
23 shall adopt necessary procedures, including audits, to en-
24 sure that grants made under this section are expended in

1 *accordance with the purposes of this title and the priorities*
2 *and other criteria developed by the Secretary.*

3 (d) *AUTHORIZATION OF APPROPRIATIONS.—Out of*
4 *funds appropriated pursuant to section 114(u) of title 49,*
5 *United States Code, as amended by section 116 of this Act,*
6 *there shall be made available to the Secretary to carry out*
7 *this section—*

8 (1) *\$33,000,000 for fiscal year 2008;*

9 (2) *\$33,000,000 for fiscal year 2009; and*

10 (3) *\$33,000,000 for fiscal year 2010.*

11 *Amounts made available pursuant to this subsection shall*
12 *remain available until expended.*

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

14 (a) *SECRETARIAL OVERSIGHT.—The Secretary may*
15 *award contracts to audit and review the safety, security,*
16 *procurement, management, and financial compliance of a*
17 *recipient of amounts under this Act.*

18 (b) *PROCEDURES FOR GRANT AWARD.—The Secretary*
19 *shall, within 180 days after the date of enactment of this*
20 *Act, prescribe procedures and schedules for the awarding*
21 *of grants under this title, including application and quali-*
22 *fication procedures (including a requirement that the appli-*
23 *cant have a security plan), and a record of decision on ap-*
24 *plicant eligibility. The procedures shall include the execu-*
25 *tion of a grant agreement between the grant recipient and*

1 *the Secretary and shall be consistent, to the extent prac-*
 2 *ticable, with the grant procedures established under section*
 3 *70107 of title 46, United States Code.*

4 *(c) ADDITIONAL AUTHORITY.—The Secretary may*
 5 *issue nonbinding letters under similar terms to those issued*
 6 *pursuant to section 47110(e) of title 49, United States Code,*
 7 *to sponsors of rail projects funded under this Act.*

8 **SEC. 107. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 9 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 10 **CIDENTS.**

11 *(a) IN GENERAL.—Chapter 243 of title 49, United*
 12 *States Code, is amended by adding at the end the following:*
 13 **“§24316. Plans to address needs of families of pas-**
 14 **sengers involved in rail passenger acci-**
 15 **dents**

16 *“(a) SUBMISSION OF PLAN.—Not later than 6 months*
 17 *after the date of the enactment of the Surface Transpor-*
 18 *tation and Rail Security Act of 2007, Amtrak shall submit*
 19 *to the Chairman of the National Transportation Safety*
 20 *Board, the Secretary of Transportation, and the Secretary*
 21 *of Homeland Security a plan for addressing the needs of*
 22 *the families of passengers involved in any rail passenger*
 23 *accident involving an Amtrak intercity train and resulting*
 24 *in a loss of life.*

1 “(b) *CONTENTS OF PLANS.*—*The plan to be submitted*
2 *by Amtrak under subsection (a) shall include, at a min-*
3 *imum, the following:*

4 “(1) *A process by which Amtrak will maintain*
5 *and provide to the National Transportation Safety*
6 *Board, the Secretary of Transportation, and the Sec-*
7 *retary of Homeland Security, immediately upon re-*
8 *quest, a list (which is based on the best available in-*
9 *formation at the time of the request) of the names of*
10 *the passengers aboard the train (whether or not such*
11 *names have been verified), and will periodically up-*
12 *date the list. The plan shall include a procedure, with*
13 *respect to unreserved trains and passengers not hold-*
14 *ing reservations on other trains, for Amtrak to use*
15 *reasonable efforts to ascertain the number and names*
16 *of passengers aboard a train involved in an accident.*

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

21 “(3) *A process for notifying the families of the*
22 *passengers, before providing any public notice of the*
23 *names of the passengers, by suitably trained individ-*
24 *uals.*

1 “(4) A process for providing the notice described
2 in paragraph (2) to the family of a passenger as soon
3 as Amtrak has verified that the passenger was aboard
4 the train (whether or not the names of all of the pas-
5 sengers have been verified).

6 “(5) A process by which the family of each pas-
7 senger will be consulted about the disposition of all
8 remains and personal effects of the passenger within
9 Amtrak’s control; that any possession of the passenger
10 within Amtrak’s control will be returned to the family
11 unless the possession is needed for the accident inves-
12 tigation or any criminal investigation; and that any
13 unclaimed possession of a passenger within Amtrak’s
14 control will be retained by the rail passenger carrier
15 for at least 18 months.

16 “(6) A process by which the treatment of the
17 families of nonrevenue passengers will be the same as
18 the treatment of the families of revenue passengers.

19 “(7) An assurance that Amtrak will provide ade-
20 quate training to its employees and agents to meet the
21 needs of survivors and family members following an
22 accident.

23 “(c) *USE OF INFORMATION.*—Neither National Trans-
24 portation Safety Board, the Secretary of Transportation,
25 the Secretary of Homeland Security, nor Amtrak may re-

1 *lease any personal information on a list obtained under*
2 *subsection (b)(1) but may provide information on the list*
3 *about a passenger to the family of the passenger to the ex-*
4 *tent that the Board or Amtrak considers appropriate.*

5 “(d) *LIMITATION ON LIABILITY.—Amtrak shall not be*
6 *liable for damages in any action brought in a Federal or*
7 *State court arising out of the performance of Amtrak under*
8 *this section in preparing or providing a passenger list, or*
9 *in providing information concerning a train reservation,*
10 *pursuant to a plan submitted by Amtrak under subsection*
11 *(b), unless such liability was caused by Amtrak’s conduct.*

12 “(e) *LIMITATION ON STATUTORY CONSTRUCTION.—*
13 *Nothing in this section may be construed as limiting the*
14 *actions that Amtrak may take, or the obligations that Am-*
15 *trak may have, in providing assistance to the families of*
16 *passengers involved in a rail passenger accident.*

17 “(f) *FUNDING.—Out of funds appropriated pursuant*
18 *to section 116(b) of the Surface Transportation and Rail*
19 *Security Act of 2007, there shall be made available to the*
20 *Secretary of Transportation for the use of Amtrak \$500,000*
21 *for fiscal year 2008 to carry out this section. Amounts made*
22 *available pursuant to this subsection shall remain available*
23 *until expended.”.*

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
2 *for chapter 243 of title 49, United States Code, is amended*
3 *by adding at the end the following:*

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

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

5 *Within 1 year after the date of enactment of this Act,*
6 *the Secretary, in consultation with the Assistant Secretary*
7 *of Homeland Security (Transportation Security Adminis-*
8 *tration), the Secretary of Transportation, heads of other ap-*
9 *propriate Federal departments, and agencies and the Na-*
10 *tional Railroad Passenger Corporation, shall transmit a re-*
11 *port to the Senate Committee on Commerce, Science, and*
12 *Transportation, the House of Representatives Committee on*
13 *Transportation and Infrastructure, and the House of Rep-*
14 *resentatives Committee on Homeland Security that con-*
15 *tains—*

16 (1) *a description of the current system for*
17 *screening passengers and baggage on passenger rail*
18 *service between the United States and Canada;*

19 (2) *an assessment of the current program to pro-*
20 *vide preclearance of airline passengers between the*
21 *United States and Canada as outlined in “The Agree-*
22 *ment on Air Transport Preclearance between the Gov-*
23 *ernment of Canada and the Government of the United*
24 *States of America”, dated January 18, 2001;*

1 (3) *an assessment of the current program to pro-*
2 *vide preclearance of freight railroad traffic between*
3 *the United States and Canada as outlined in the*
4 *“Declaration of Principle for the Improved Security*
5 *of Rail Shipments by Canadian National Railway*
6 *and Canadian Pacific Railway from Canada to the*
7 *United States”, dated April 2, 2003;*

8 (4) *information on progress by the Department*
9 *of Homeland Security and other Federal agencies to-*
10 *wards finalizing a bilateral protocol with Canada*
11 *that would provide for preclearance of passengers on*
12 *trains operating between the United States and Can-*
13 *ada;*

14 (5) *a description of legislative, regulatory, budg-*
15 *etary, or policy barriers within the United States*
16 *Government to providing pre-screened passenger lists*
17 *for rail passengers traveling between the United*
18 *States and Canada to the Department of Homeland*
19 *Security;*

20 (6) *a description of the position of the Govern-*
21 *ment of Canada and relevant Canadian agencies with*
22 *respect to preclearance of such passengers;*

23 (7) *a draft of any changes in existing Federal*
24 *law necessary to provide for pre-screening of such*

1 *passengers and providing pre-screened passenger lists*
2 *to the Department of Homeland Security; and*

3 *(8) an analysis of the feasibility of reinstating*
4 *in-transit inspections onboard international Amtrak*
5 *trains.*

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

7 *(a) IN GENERAL.—Not later than 1 year after the date*
8 *of enactment of this Act, the Secretary, in consultation with*
9 *the Secretary of Transportation, appropriate law enforce-*
10 *ment, security, and terrorism experts, representatives of*
11 *railroad carriers and shippers, and nonprofit employee or-*
12 *ganizations that represent rail workers, shall develop and*
13 *issue detailed guidance for a rail worker security training*
14 *program to prepare front-line workers for potential threat*
15 *conditions. The guidance shall take into consideration any*
16 *current security training requirements or best practices.*

17 *(b) PROGRAM ELEMENTS.—The guidance developed*
18 *under subsection (a) shall include elements appropriate to*
19 *passenger and freight rail service that address the following:*

20 *(1) Determination of the seriousness of any oc-*
21 *currence.*

22 *(2) Crew communication and coordination.*

23 *(3) Appropriate responses to defend or protect*
24 *oneself.*

25 *(4) Use of protective devices.*

1 (5) *Evacuation procedures.*

2 (6) *Psychology, behavior, and methods of terror-*
3 *ists.*

4 (7) *Situational training exercises regarding var-*
5 *ious threat conditions.*

6 (8) *Any other subject the Secretary considers ap-*
7 *propriate.*

8 (c) *RAILROAD CARRIER PROGRAMS.—Not later than*
9 *90 days after the Secretary issues guidance under subsection*
10 *(a) in final form, each railroad carrier shall develop a rail*
11 *worker security training program in accordance with that*
12 *guidance and submit it to the Secretary for review. Not*
13 *later than 90 days after receiving a railroad carrier's pro-*
14 *gram under this subsection, the Secretary shall review the*
15 *program and transmit comments to the railroad carrier*
16 *concerning any revisions the Secretary considers necessary*
17 *for the program to meet the guidance requirements. A rail-*
18 *road carrier shall respond to the Secretary's comments*
19 *within 90 days after receiving them.*

20 (d) *TRAINING.—Not later than 1 year after the Sec-*
21 *retary reviews the training program developed by a rail-*
22 *road carrier under this section, the railroad carrier shall*
23 *complete the training of all front-line workers in accordance*
24 *with that program. The Secretary shall review implementa-*
25 *tion of the training program of a representative sample of*

1 *railroad carriers and report to the Senate Committee on*
2 *Commerce, Science, and Transportation, the House of Rep-*
3 *resentatives Committee on Transportation and Infrastruc-*
4 *ture, and the House of Representatives Committee on*
5 *Homeland Security on the number of reviews conducted and*
6 *the results. The Secretary may submit the report in both*
7 *classified and redacted formats as necessary.*

8 *(e) UPDATES.—The Secretary shall update the train-*
9 *ing guidance issued under subsection (a) as appropriate to*
10 *reflect new or different security threats. Railroad carriers*
11 *shall revise their programs accordingly and provide addi-*
12 *tional training to their front-line workers within a reason-*
13 *able time after the guidance is updated.*

14 *(f) FRONT-LINE WORKERS DEFINED.—In this section,*
15 *the term “front-line workers” means security personnel, dis-*
16 *patchers, locomotive engineers, conductors, trainmen, other*
17 *onboard employees, maintenance and maintenance support*
18 *personnel, bridge tenders, as well as other appropriate em-*
19 *ployees of railroad carriers, as defined by the Secretary.*

20 *(g) OTHER EMPLOYEES.—The Secretary shall issue*
21 *guidance and best practices for a rail shipper employee se-*
22 *curity program containing the elements listed under sub-*
23 *section (b) as appropriate.*

1 **SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM.**

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

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

7 “(a) *DISCRIMINATION AGAINST EMPLOYEE.*—A rail-
8 road carrier engaged in interstate or foreign commerce may
9 not discharge or in any way discriminate against an em-
10 ployee because the employee, whether acting for the em-
11 ployee or as a representative, has—

12 “(1) provided, caused to be provided, or is about
13 to provide or cause to be provided, to the employer or
14 the Federal Government information relating to a
15 reasonably perceived threat, in good faith, to security;
16 or

17 “(2) provided, caused to be provided, or is about
18 to provide or cause to be provided, testimony before
19 Congress or at any Federal or State proceeding re-
20 garding a reasonably perceived threat, in good faith,
21 to security; or

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

24 “(b) *DISPUTE RESOLUTION.*—A dispute, grievance, or
25 claim arising under this section is subject to resolution
26 under section 3 of the Railway Labor Act (45 U.S.C. 153).

1 *In a proceeding by the National Railroad Adjustment*
2 *Board, a division or delegate of the Board, or another board*
3 *of adjustment established under section 3 to resolve the dis-*
4 *pute, grievance, or claim the proceeding shall be expedited*
5 *and the dispute, grievance, or claim shall be resolved not*
6 *later than 180 days after it is filed. If the violation is a*
7 *form of discrimination that does not involve discharge, sus-*
8 *pension, or another action affecting pay, and no other rem-*
9 *edy is available under this subsection, the Board, division,*
10 *delegate, or other board of adjustment may award the em-*
11 *ployee reasonable damages, including punitive damages, of*
12 *not more than \$20,000.*

13 “(c) *PROCEDURAL REQUIREMENTS.*—*Except as pro-*
14 *vided in subsection (b), the procedure set forth in section*
15 *42121(b)(2)(B) of this subtitle, including the burdens of*
16 *proof, applies to any complaint brought under this section.*

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

21 “(e) *DISCLOSURE OF IDENTITY.*—

22 “(1) *Except as provided in paragraph (2) of this*
23 *subsection, or with the written consent of the em-*
24 *ployee, the Secretary of Transportation or Secretary*
25 *of Homeland Security may not disclose the name of*

1 *an employee of a railroad carrier who has provided*
2 *information about an alleged violation of this section.*

3 *“(2) The Secretary shall disclose to the Attorney*
4 *General the name of an employee described in para-*
5 *graph (1) of this subsection if the matter is referred*
6 *to the Attorney General for enforcement.”.*

7 *(b) CONFORMING AMENDMENT.—The chapter analysis*
8 *for chapter 201 of title 49, United States Code, is amended*
9 *by inserting after the item relating to section 20117 the fol-*
10 *lowing:*

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

11 ***SEC. 111. HIGH HAZARD MATERIAL SECURITY RISK MITIGA-***
12 ***TION PLANS.***

13 *(a) IN GENERAL.—The Secretary, in consultation with*
14 *the Assistant Secretary of Homeland Security (Transpor-*
15 *tation Security Administration) and the Secretary of*
16 *Transportation, shall require rail carriers transporting a*
17 *high hazard material, as defined in section 104(g) of this*
18 *Act to develop a high hazard material security risk mitiga-*
19 *tion plan containing appropriate measures, including al-*
20 *ternative routing and temporary shipment suspension op-*
21 *tions, to address assessed risks to high consequence targets.*
22 *The plan, and any information submitted to the Secretary*
23 *under this section shall be protected as sensitive security*
24 *information under the regulations prescribed under section*
25 *114(s) of title 49, United States Code.*

1 (b) *IMPLEMENTATION.*—*A high hazard material secu-*
2 *rity risk mitigation plan shall be put into effect by a rail*
3 *carrier for the shipment of high hazardous materials by rail*
4 *on the rail carrier’s right-of-way when the threat levels of*
5 *the Homeland Security Advisory System are high or severe*
6 *or specific intelligence of probable or imminent threat exists*
7 *towards—*

8 (1) *a high-consequence target that is within the*
9 *catastrophic impact zone of a railroad right-of-way*
10 *used to transport high hazardous material; or*

11 (2) *rail infrastructure or operations within the*
12 *immediate vicinity of a high-consequence target.*

13 (c) *COMPLETION AND REVIEW OF PLANS.*—

14 (1) *PLANS REQUIRED.*—*Each rail carrier*
15 *shall—*

16 (A) *submit a list of routes used to transport*
17 *high hazard materials to the Secretary within 60*
18 *days after the date of enactment of this Act;*

19 (B) *develop and submit a high hazard ma-*
20 *terial security risk mitigation plan to the Sec-*
21 *retary within 180 days after it receives the no-*
22 *tice of high consequence targets on such routes by*
23 *the Secretary that includes an operational recov-*
24 *ery plan to expedite, to the maximum extent*
25 *practicable, the return of an adversely affected*

1 *rail system or facility to its normal performance*
2 *level following a major terrorist attack or other*
3 *security incident; and*

4 (C) *submit any subsequent revisions to the*
5 *plan to the Secretary within 30 days after mak-*
6 *ing the revisions.*

7 (2) *REVIEW AND UPDATES.—The Secretary, with*
8 *assistance of the Secretary of Transportation, shall*
9 *review the plans and transmit comments to the rail-*
10 *road carrier concerning any revisions the Secretary*
11 *considers necessary. A railroad carrier shall respond*
12 *to the Secretary’s comments within 30 days after re-*
13 *ceiving them. Each rail carrier shall update and re-*
14 *submit its plan for review not less than every 2 years.*

15 (d) *DEFINITIONS.—In this section:*

16 (1) *The term “high-consequence target” means*
17 *property, infrastructure, public space, or natural re-*
18 *source designated by the Secretary that is a viable*
19 *terrorist target of national significance, the attack of*
20 *which could result in—*

21 (A) *catastrophic loss of life;*

22 (B) *significant damage to national security*
23 *or defense capabilities; or*

24 (C) *national economic harm.*

1 (2) *The term “catastrophic impact zone” means*
 2 *the area immediately adjacent to, under, or above an*
 3 *active railroad right-of-way used to ship high hazard*
 4 *materials in which the potential release or explosion*
 5 *of the high hazard material being transported would*
 6 *likely cause—*

7 (A) *loss of life; or*

8 (B) *significant damage to property or*
 9 *structures.*

10 (3) *The term “rail carrier” has the meaning*
 11 *given that term by section 10102(5) of title 49,*
 12 *United States Code.*

13 **SEC. 112. ENFORCEMENT AUTHORITY.**

14 (a) *IN GENERAL.—Section 114 of title 49, United*
 15 *States Code, as amended by section 116 of this Act, is fur-*
 16 *ther amended by adding at the end thereof the following:*

17 “(v) *ENFORCEMENT OF REGULATIONS AND ORDERS*
 18 *OF THE SECRETARY OF HOMELAND SECURITY ISSUED*
 19 *UNDER THIS TITLE.—*

20 “(1) *APPLICATION OF SUBSECTION.—*

21 “(A) *IN GENERAL.—This subsection applies*
 22 *to the enforcement of regulations prescribed, and*
 23 *orders issued, by the Secretary of Homeland Se-*
 24 *curity under a provision of this title other than*
 25 *a provision of chapter 449.*

1 “(B) VIOLATIONS OF CHAPTER 449.—The
2 penalties for violations of regulations prescribed,
3 and orders issued, by the Secretary of Homeland
4 Security under chapter 449 of this title are pro-
5 vided under chapter 463 of this title.

6 “(C) NONAPPLICATION TO CERTAIN VIOLA-
7 TIONS.—

8 “(i) Paragraphs (2) through (5) of this
9 subsection do not apply to violations of reg-
10 ulations prescribed, and orders issued, by
11 the Secretary of Homeland Security under
12 a provision of this title—

13 “(I) involving the transportation
14 of personnel or shipments of materials
15 by contractors where the Department of
16 Defense has assumed control and re-
17 sponsibility;

18 “(II) by a member of the armed
19 forces of the United States when per-
20 forming official duties; or

21 “(III) by a civilian employee of
22 the Department of Defense when per-
23 forming official duties.

24 “(ii) Violations described in subclause
25 (I), (II), or (III) of clause (i) shall be sub-

1 *ject to penalties as determined by the Sec-*
2 *retary of Defense or the Secretary's des-*
3 *ignee.*

4 “(2) *CIVIL PENALTY.*—

5 “(A) *IN GENERAL.*—*A person is liable to the*
6 *United States Government for a civil penalty of*
7 *not more than \$10,000 for a violation of a regu-*
8 *lation prescribed, or order issued, by the Sec-*
9 *retary of Homeland Security under this title.*

10 “(B) *REPEAT VIOLATIONS.*—*A separate vio-*
11 *lation occurs under this paragraph for each day*
12 *the violation continues.*

13 “(3) *ADMINISTRATIVE IMPOSITION OF CIVIL PEN-*
14 *ALTIES.*—

15 “(A) *IN GENERAL.*—*The Secretary of Home-*
16 *land Security may impose a civil penalty for a*
17 *violation of a regulation prescribed, or order*
18 *issued, under this title. The Secretary shall give*
19 *written notice of the finding of a violation and*
20 *the penalty.*

21 “(B) *SCOPE OF CIVIL ACTION.*—*In a civil*
22 *action to collect a civil penalty imposed by the*
23 *Secretary under this subsection, the court may*
24 *not re-examine issues of liability or the amount*
25 *of the penalty.*

1 “(C) *JURISDICTION.*—*The district courts of*
2 *the United States have exclusive jurisdiction of*
3 *civil actions to collect a civil penalty imposed by*
4 *the Secretary under this subsection if—*

5 “(i) *the amount in controversy is more*
6 *than—*

7 “(I) *\$400,000, if the violation was*
8 *committed by a person other than an*
9 *individual or small business concern;*
10 *or*

11 “(II) *\$50,000, if the violation was*
12 *committed by an individual or small*
13 *business concern;*

14 “(ii) *the action is in rem or another*
15 *action in rem based on the same violation*
16 *has been brought; or*

17 “(iii) *another action has been brought*
18 *for an injunction based on the same viola-*
19 *tion.*

20 “(D) *MAXIMUM PENALTY.*—*The maximum*
21 *penalty the Secretary may impose under this*
22 *paragraph is—*

23 “(i) *\$400,000, if the violation was*
24 *committed by a person other than an indi-*
25 *vidual or small business concern; or*

1 “(ii) \$50,000, if the violation was com-
2 mitted by an individual or small business
3 concern.

4 “(4) COMPROMISE AND SETOFF.—

5 “(A) The Secretary may compromise the
6 amount of a civil penalty imposed under this
7 subsection. If the Secretary compromises the
8 amount of a civil penalty under this subpara-
9 graph, the Secretary shall—

10 “(i) notify the Senate Committee on
11 Commerce, Science, and Transportation
12 and the House of Representatives Committee
13 on Homeland Security of the compromised
14 penalty and explain the rationale therefor;
15 and

16 “(ii) make the explanation available to
17 the public to the extent feasible without
18 compromising security.

19 “(B) The Government may deduct the
20 amount of a civil penalty imposed or com-
21 promised under this subsection from amounts it
22 owes the person liable for the penalty.

23 “(5) INVESTIGATIONS AND PROCEEDINGS.—
24 Chapter 461 of this title shall apply to investigations
25 and proceedings brought under this subsection to the

1 same extent that it applies to investigations and pro-
2 ceedings brought with respect to aviation security du-
3 ties designated to be carried out by the Secretary.

4 “(6) *DEFINITIONS.*—In this subsection:

5 “(A) *PERSON.*—The term ‘person’ does not
6 include—

7 “(i) the United States Postal Service;

8 or

9 “(ii) the Department of Defense.

10 “(B) *SMALL BUSINESS CONCERN.*—The
11 term ‘small business concern’ has the meaning
12 given that term in section 3 of the Small Busi-
13 ness Act (15 U.S.C. 632).”.

14 (b) *CONFORMING AMENDMENT.*—Section 46301(a)(4)
15 of title 49, United States Code is amended by striking “or
16 another requirement under this title administered by the
17 Under Secretary of Transportation for Security”.

18 (c) *RAIL SAFETY REGULATIONS.*—Section 20103(a) of
19 title 49, United States Code, is amended by striking “safe-
20 ty” the first place it appears, and inserting “safety, includ-
21 ing security,”.

22 **SEC. 113. RAIL SECURITY ENHANCEMENTS.**

23 (a) *RAIL POLICE OFFICERS.*—Section 28101 of title
24 49, United States Code, is amended—

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

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

4 “(b) *ASSIGNMENT.—A rail police officer employed by*
5 *a rail carrier and certified or commissioned as a police offi-*
6 *cer under the laws of a State may be temporarily assigned*
7 *to assist a second rail carrier in carrying out law enforce-*
8 *ment duties upon the request of the second rail carrier, at*
9 *which time the police officer shall be considered to be an*
10 *employee of the second rail carrier and shall have authority*
11 *to enforce the laws of any jurisdiction in which the second*
12 *rail carrier owns property to the same extent as provided*
13 *in subsection (a).”.*

14 (b) *MODEL STATE LEGISLATION.—By no later than*
15 *September 7, 2007, the Secretary of Transportation shall*
16 *develop model State legislation to address the problem of*
17 *entities that claim to be rail carriers in order to establish*
18 *and run a police force when the entities do not in fact pro-*
19 *vide rail transportation and shall make it available to State*
20 *governments. In developing the model State legislation the*
21 *Secretary shall solicit the input of the States, railroads*
22 *companies, and railroad employees. The Secretary shall re-*
23 *view and, if necessary, revise such model State legislation*
24 *periodically.*

1 **SEC. 114. PUBLIC AWARENESS.**

2 *Not later than 90 days after the date of enactment of*
3 *this Act, the Secretary, in consultation with the Secretary*
4 *of Transportation, shall develop a national plan for public*
5 *outreach and awareness. Such plan shall be designed to in-*
6 *crease awareness of measures that the general public, rail-*
7 *road passengers, and railroad employees can take to in-*
8 *crease railroad system security. Such plan shall also pro-*
9 *vide outreach to railroad carriers and their employees to*
10 *improve their awareness of available technologies, ongoing*
11 *research and development efforts, and available Federal*
12 *funding sources to improve railroad security. Not later than*
13 *9 months after the date of enactment of this Act, the Sec-*
14 *retary shall implement the plan developed under this sec-*
15 *tion.*

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

17 *(a) WIRELESS COMMUNICATIONS.—*

18 *(1) IN GENERAL.—In conjunction with the re-*
19 *search and development program established under*
20 *section 105 and consistent with the results of research*
21 *relating to wireless tracking technologies, the Sec-*
22 *retary, in consultation with the Assistant Secretary of*
23 *Homeland Security (Transportation Security Admin-*
24 *istration), shall develop a program that will encour-*
25 *age the equipping of rail cars transporting high haz-*

1 *ard materials (as defined in section 104(g) of this*
2 *Act) with technology that provides—*

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

5 *(B) notification of rail car depressurization,*
6 *breach, unsafe temperature, or release of haz-*
7 *ardous materials.*

8 *(2) COORDINATION.—In developing the program*
9 *required by paragraph (1), the Secretary shall—*

10 *(A) consult with the Secretary of Transpor-*
11 *tation to coordinate the program with any ongo-*
12 *ing or planned efforts for rail car tracking at the*
13 *Department of Transportation; and*

14 *(B) ensure that the program is consistent*
15 *with recommendations and findings of the De-*
16 *partment of Homeland Security’s hazardous ma-*
17 *terial tank rail car tracking pilot programs.*

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

1 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) *TRANSPORTATION SECURITY ADMINISTRATION AU-*
 3 *THORIZATION.—Section 114 of title 49, United States Code,*
 4 *is amended by adding at the end thereof the following:*

5 “(u) *AUTHORIZATION OF APPROPRIATIONS.—There*
 6 *are authorized to be appropriated to the Secretary of Home-*
 7 *land Security for rail security—*

8 “(1) \$205,000,000 for fiscal year 2008;

9 “(2) \$166,000,000 for fiscal year 2009; and

10 “(3) \$166,000,000 for fiscal year 2010.”.

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

15 (1) \$121,000,000 for fiscal year 2008;

16 (2) \$118,000,000 for fiscal year 2009;

17 (3) \$118,000,000 for fiscal year 2010; and

18 (4) \$118,000,000 for fiscal year 2011.

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

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

23 (a) *ROUTE PLAN GUIDANCE.—Within one year after*
 24 *the date of enactment of this Act, the Secretary of Transpor-*
 25 *tation, in consultation with the Secretary, 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 Na-
6 tional Hazardous Materials Route Registry;

7 (2) assess and characterize existing and proposed
8 routes for the transportation of radioactive and non-
9 radioactive hazardous materials by motor carrier for
10 the purpose of identifying measurable criteria for se-
11 lecting routes based on safety and security concerns;

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

16 (4) document the concerns of the public, motor
17 carriers, and State, local, territorial, and tribal gov-
18 ernments about the highway routing of hazardous ma-
19 terials for the purpose of identifying and mitigating
20 security risks associated with hazardous material
21 routes;

22 (5) prepare guidance materials for State officials
23 to assist them in identifying and reducing both safety
24 concerns and security risks when designating highway
25 routes for hazardous materials consistent with the 13

1 *safety-based non-radioactive materials routing cri-*
2 *teria and radioactive materials routing criteria in*
3 *Subpart C part 397 of title 49, Code of Federal Regu-*
4 *lations;*

5 *(6) develop a tool that will enable State officials*
6 *to examine potential routes for the highway transpor-*
7 *tation of hazardous material and assess specific secu-*
8 *rity risks associated with each route and explore al-*
9 *ternative mitigation measures; and*

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

18 *(b) ROUTE PLANS.—*

19 *(1) ASSESSMENT.—Within one year after the*
20 *date of enactment of this Act, the Secretary of Trans-*
21 *portation shall complete an assessment of the safety*
22 *and national security benefits achieved under existing*
23 *requirements for route plans, in written or electronic*
24 *format, for explosives and radioactive materials. The*
25 *assessment shall, at a minimum—*

1 (A) compare the percentage of Department
2 of Transportation recordable incidents and the
3 severity of such incidents for shipments of explo-
4 sives and radioactive materials for which such
5 route plans are required with the percentage of
6 recordable incidents and the severity of such in-
7 cidents for shipments of explosives and radio-
8 active materials not subject to such route plans;
9 and

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

22 (2) REPORT.—Within one year after the date of
23 enactment of this Act, the Secretary of Transportation
24 shall submit a report to the Senate Committee on
25 Commerce, Science, and Transportation, and the

1 *House of Representatives Committee on Transpor-*
2 *tation and Infrastructure containing the findings and*
3 *conclusions of the assessment.*

4 *(c) REQUIREMENT.—The Secretary shall require motor*
5 *carriers that have a hazardous material safety permit*
6 *under part 385 of title 49, Code of Federal Regulations,*
7 *to maintain, follow, and carry a route plan, in written or*
8 *electronic format, that meets the requirements of section*
9 *397.101 of that title when transporting the type and quan-*
10 *tity of hazardous materials described in section 385.403 of*
11 *that title if the Secretary determines, under the assessment*
12 *required in subsection (b), that such a requirement would*
13 *enhance the security and safety of the nation without im-*
14 *posing unreasonable costs or burdens upon motor carriers.*

15 **SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL**
16 **TRACKING.**

17 *(a) COMMUNICATIONS—*

18 *(1) IN GENERAL.—Consistent with the findings*
19 *of the Transportation Security Administration’s*
20 *Hazmat Truck Security Pilot Program and within 6*
21 *months after the date of enactment of this Act, the*
22 *Secretary, through the Transportation Security Ad-*
23 *ministration and in consultation with the Secretary*
24 *of Transportation, shall develop a program to encour-*
25 *age the tracking of motor carrier shipments of high*

1 *hazard materials as defined in this Act with commu-*
2 *nications technology that provides—*

3 *(A) frequent or continuous communications;*

4 *(B) vehicle position location and tracking*
5 *capabilities; and*

6 *(C) a feature that allows a driver of such*
7 *vehicles to broadcast an emergency message.*

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

11 *(A) consult with the Secretary of Transpor-*
12 *tation to coordinate the program with any ongo-*
13 *ing or planned efforts for motor carrier or high*
14 *hazardous materials tracking at the Department*
15 *of Transportation;*

16 *(B) take into consideration the rec-*
17 *ommendations and findings of the report on the*
18 *Hazardous Material Safety and Security Oper-*
19 *ation Field Test released by the Federal Motor*
20 *Carrier Safety Administration on November 11,*
21 *2004;*

22 *(C) evaluate—*

23 *(i) any new information related to the*
24 *cost and benefits of deploying and utilizing*
25 *tracking technology for motor carriers*

1 *transporting high hazard materials not in-*
2 *cluded in the Hazardous Material Safety*
3 *and Security Operation Field Test Report*
4 *released by the Federal Motor Carrier Safe-*
5 *ty Administration on November 11, 2004;*

6 *(ii) the ability of tracking technology*
7 *to resist tampering and disabling;*

8 *(iii) the capability of tracking tech-*
9 *nology to collect, display, and store infor-*
10 *mation regarding the movements of ship-*
11 *ments of high hazard materials by commer-*
12 *cial motor vehicles;*

13 *(iv) the appropriate range of contact*
14 *intervals between the tracking technology*
15 *and a commercial motor vehicle trans-*
16 *porting high hazard materials; and*

17 *(v) technology that allows the installa-*
18 *tion by a motor carrier of concealed elec-*
19 *tronic devices on commercial motor vehicles*
20 *that can be activated by law enforcement*
21 *authorities and alert emergency response re-*
22 *sources to locate and recover security sen-*
23 *sitive material in the event of loss or theft*
24 *of such material.*

1 (b) *FUNDING.*—*There are authorized to be appro-*
2 *priated to the Secretary to carry out this section \$3,000,000*
3 *for each of fiscal years 2008, 2009, and 2010.*

4 **SEC. 203. MEMORANDUM OF AGREEMENT.**

5 *Similar to the other security annexes between the two*
6 *departments, within 1 year after the date of enactment of*
7 *this Act, the Secretary of Transportation and the Secretary*
8 *shall execute and develop an annex to the memorandum of*
9 *agreement between the two departments signed on Sep-*
10 *tember 28, 2004, governing the specific roles, delineations*
11 *of responsibilities, resources and commitments of the De-*
12 *partment of Transportation and the Department of Home-*
13 *land Security, respectively, in addressing motor carrier*
14 *transportation security matters, including the processes the*
15 *departments will follow to promote communications, effi-*
16 *ciency, and nonduplication of effort.*

17 **SEC. 204. HAZARDOUS MATERIALS SECURITY INSPECTIONS**
18 **AND ENFORCEMENT.**

19 (a) *IN GENERAL.*—*The Secretary shall establish a pro-*
20 *gram within the Transportation Security Administration,*
21 *in consultation with the Secretary of Transportation, for*
22 *reviewing hazardous materials security plans required*
23 *under part 172, title 49, Code of Federal Regulations, with-*
24 *in 180 days after the date of enactment of this Act. In estab-*
25 *lishing the program, the Secretary shall ensure that—*

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

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

6 (b) *CIVIL PENALTY.—The failure, by an offerer, 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 Secretary of such failure to comply, is punishable by*
11 *a civil penalty imposed by the Secretary under title 49,*
12 *United States Code. For purposes of this subsection, each*
13 *day of noncompliance after the 181st day following the date*
14 *on which the offerer, carrier, or other person received notice*
15 *of the failure shall constitute a separate failure.*

16 (c) *COMPLIANCE REVIEW.—In reviewing the compli-*
17 *ance of hazardous materials offerers, carriers, or other per-*
18 *sons subject to part 172 of title 49, Code of Federal Regula-*
19 *tions, with the provisions of that part, the Secretary shall*
20 *utilize risk assessment methodologies to prioritize review*
21 *and enforcement actions of the highest risk hazardous mate-*
22 *rials transportation operations.*

23 (d) *TRANSPORTATION COSTS STUDY.—Within 1 year*
24 *after the date of enactment of this Act, the Secretary of*
25 *Transportation, in conjunction with the Secretary, shall*

1 *study to what extent the insurance, security, and safety*
2 *costs borne by railroad carriers, motor carriers, pipeline*
3 *carriers, air carriers, and maritime carriers associated*
4 *with the transportation of hazardous materials are reflected*
5 *in the rates paid by offerers of such commodities as com-*
6 *pared to the costs and rates respectively for the transpor-*
7 *tation of non-hazardous materials.*

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

10 (1) *\$2,000,000 for fiscal year 2008;*

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

12 (3) *\$2,000,000 for fiscal year 2010.*

13 **SEC. 205. TRUCK SECURITY ASSESSMENT.**

14 *Not later than 1 year after the date of enactment of*
15 *this Act, the Secretary, in consultation with the Secretary*
16 *of Transportation, shall transmit to the Senate Committee*
17 *on Commerce, Science, and Transportation, Senate Com-*
18 *mittee on Finance, the House of Representatives Committee*
19 *on Transportation and Infrastructure, the House of Rep-*
20 *resentatives Committee on Homeland Security, and the*
21 *House of Representatives Committee on Ways and Means,*
22 *a report on security issues related to the trucking industry*
23 *that includes—*

1 (1) *an assessment of actions already taken to ad-*
2 *dress 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 truck*
6 *facilities may have on the trucking industry and its*
7 *employees, including independent owner-operators;*

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

10 (4) *an assessment of industry best practices to*
11 *enhance security; and*

12 (5) *an assessment of the current status of secure*
13 *motor carrier parking.*

14 **SEC. 206. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

15 (a) *DEVELOPMENT.*—*The Secretary, in conjunction*
16 *with the Secretary of Transportation, shall consider the de-*
17 *velopment of a national public sector response system to re-*
18 *ceive security alerts, emergency messages, and other infor-*
19 *mation used to track the transportation of high hazard ma-*
20 *terials which can provide accurate, timely, and actionable*
21 *information to appropriate first responder, law enforcement*
22 *and public safety, and homeland security officials, as ap-*
23 *propriate, regarding accidents, threats, thefts, or other safe-*
24 *ty and security risks or incidents. In considering the devel-*
25 *opment of this system, they shall consult with law enforce-*

1 *ment and public safety officials, hazardous material ship-*
2 *pers, motor carriers, railroads, organizations representing*
3 *hazardous material employees, State transportation and*
4 *hazardous materials officials, private for-profit and non-*
5 *profit emergency response organizations, and commercial*
6 *motor vehicle and hazardous material safety groups. Con-*
7 *sideration of development of the national public sector re-*
8 *sponse system shall be based upon the public sector response*
9 *center developed for the Transportation Security Adminis-*
10 *tration hazardous material truck security pilot program*
11 *and hazardous material safety and security operational*
12 *field test undertaken by the Federal Motor Carrier Safety*
13 *Administration.*

14 (b) *CAPABILITY.—The national public sector response*
15 *system to be considered shall be able to receive, as appro-*
16 *priate—*

- 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 re-*
22 *sponse 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 systems*
2 *or centers (including the National Response Center);*
3 *and*

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

6 (d) *CARRIER PARTICIPATION.*—*The Secretary shall co-*
7 *ordinate with motor carriers and railroads transporting*
8 *high hazard materials, entities acting on their behalf who*
9 *receive communication alerts from motor carriers or rail-*
10 *roads, or other Federal agencies that receive security and*
11 *emergency related notification regarding high hazard mate-*
12 *rials in transit to facilitate the provisions of the informa-*
13 *tion listed in subsection (b) to the national public sector*
14 *response system to the extent possible if the system is estab-*
15 *lished.*

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 system*
2 *and the estimated total public and private sector costs to*
3 *establish and annually operate such a system, together with*
4 *any recommendations for generating private sector partici-*
5 *pation and investment in the development and operation*
6 *of such a system.*

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

9 (1) *\$1,000,000 for fiscal year 2008;*

10 (2) *\$1,000,000 for fiscal year 2009; and*

11 (3) *\$1,000,000 for fiscal year 2010.*

12 **SEC. 207. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

13 (a) *IN GENERAL.—The Secretary shall establish a pro-*
14 *gram within the Transportation Security Administration*
15 *for making grants to private operators of over-the-road*
16 *buses or over-the-road bus terminal operators for the pur-*
17 *poses of emergency preparedness drills and exercises, pro-*
18 *tecting high risk/high consequence assets identified through*
19 *system-wide risk assessment, counter-terrorism training,*
20 *visible/unpredictable deterrence, public awareness and pre-*
21 *paredness campaigns, and including—*

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

25 (2) *protecting or isolating the driver;*

1 (3) *acquiring, upgrading, installing, or oper-*
2 *ating equipment, software, or accessorial services for*
3 *collection, storage, or exchange of passenger and driv-*
4 *er information through ticketing systems or otherwise,*
5 *and information links with government agencies;*

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

10 (5) *hiring and training security officers;*

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

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

16 (8) *establishing and upgrading emergency com-*
17 *munications tracking and control systems; and*

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

21 (b) *DUE CONSIDERATION.*—*In making grants under*
22 *this section, the Secretary shall give due consideration to*
23 *private operators of over-the-road buses that have taken*
24 *measures to enhance bus transportation security from those*
25 *in effect before September 11, 2001, and shall prioritize*

1 *grant funding based on the magnitude and severity of the*
2 *security risks to bus passengers and the ability of the funded*
3 *project to reduce, or respond to, that risk.*

4 (c) *GRANT REQUIREMENTS.*—*A grant under this sec-*
5 *tion shall be subject to all the terms and conditions that*
6 *a grant is subject to under section 3038(f) of the Transpor-*
7 *tation Equity Act for the 21st Century (49 U.S.C. 5310*
8 *note; 112 Stat. 393).*

9 (d) *PLAN REQUIREMENT.*—

10 (1) *IN GENERAL.*—*The Secretary may not make*
11 *a grant under this section to a private operator of*
12 *over-the-road buses until the operator has first sub-*
13 *mitted to the Secretary—*

14 (A) *a plan for making security improve-*
15 *ments described in subsection (a) and the Sec-*
16 *retary has reviewed or approved the plan; and*

17 (B) *such additional information as the Sec-*
18 *retary may require to ensure accountability for*
19 *the obligation and expenditure of amounts made*
20 *available to the operator under the grant.*

21 (2) *COORDINATION.*—*To the extent that an ap-*
22 *plication for a grant under this section proposes secu-*
23 *rity improvements within a specific terminal owned*
24 *and operated by an entity other than the applicant,*
25 *the applicant shall demonstrate to the satisfaction of*

1 *the Secretary that the applicant has coordinated the*
2 *security improvements for the terminal with that en-*
3 *tity.*

4 *(e) OVER-THE-ROAD BUS DEFINED.—In this section,*
5 *the term “over-the-road bus” means a bus characterized by*
6 *an elevated passenger deck located over a baggage compart-*
7 *ment.*

8 *(f) BUS SECURITY ASSESSMENT.—*

9 *(1) IN GENERAL.—Not later than 1 year after*
10 *the date of enactment of this Act, the Secretary shall*
11 *transmit to the Senate Committee on Commerce,*
12 *Science, and Transportation, the House of Represent-*
13 *atives Committee on Transportation and Infrastruc-*
14 *ture, and the House of Representatives Committee on*
15 *Homeland Security a report in accordance with the*
16 *requirements of this section.*

17 *(2) CONTENTS OF REPORT.—The report shall in-*
18 *clude—*

19 *(A) an assessment of the over-the-road bus*
20 *security grant program;*

21 *(B) an assessment of actions already taken*
22 *to address identified security issues by both pub-*
23 *lic and private entities and recommendations on*
24 *whether additional safety and security enforce-*
25 *ment actions are needed;*

1 (C) an assessment of whether additional leg-
2 islation is needed to provide for the security of
3 Americans traveling on over-the-road buses;

4 (D) an assessment of the economic impact
5 that security upgrades of buses and bus facilities
6 may have on the over-the-road bus transpor-
7 tation industry and its employees;

8 (E) an assessment of ongoing research and
9 the need for additional research on over-the-road
10 bus security, including engine shut-off mecha-
11 nisms, chemical and biological weapon detection
12 technology, and the feasibility of compartmental-
13 ization of the driver;

14 (F) an assessment of industry best practices
15 to enhance security; and

16 (G) an assessment of school bus security, if
17 the Secretary deems it appropriate.

18 (3) *CONSULTATION WITH INDUSTRY, LABOR, AND*
19 *OTHER GROUPS.*—In carrying out this section, the
20 Secretary shall consult with over-the-road bus man-
21 agement and labor representatives, public safety and
22 law enforcement officials, and the National Academy
23 of Sciences.

24 (g) *FUNDING.*—There are authorized to be appro-
25 priated to the Secretary to carry out this section—

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

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

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

4 *Amounts made available pursuant to this subsection shall*
5 *remain available until expended.*

6 **SEC. 208. PIPELINE SECURITY AND INCIDENT RECOVERY**

7 **PLAN.**

8 (a) *IN GENERAL.*—*The Secretary, in consultation with*
9 *the Secretary of Transportation and the Pipeline and Haz-*
10 *ardous Materials Safety Administration, and in accordance*

11 *with the Memorandum of Understanding Annex executed*
12 *on August 9, 2006, shall develop a Pipeline Security and*
13 *Incident Recovery Protocols Plan. The plan shall include—*

14 (1) *a plan for the Federal Government to provide*
15 *increased security support to the most critical inter-*
16 *state and intrastate natural gas and hazardous liquid*
17 *transmission pipeline infrastructure and operations*
18 *as determined under section 209—*

19 (A) *at severe security threat levels of alert;*

20 *or*

21 (B) *when specific security threat informa-*
22 *tion relating to such pipeline infrastructure or*
23 *operations exists; and*

24 (2) *an incident recovery protocol plan, developed*
25 *in conjunction with interstate and intrastate trans-*

1 *mission and distribution pipeline operators and ter-*
2 *minals and facilities operators connected to pipelines,*
3 *to develop protocols to ensure the continued transpor-*
4 *tation of natural gas and hazardous liquids to essen-*
5 *tial markets and for essential public health or na-*
6 *tional defense uses in the event of an incident affect-*
7 *ing the interstate and intrastate natural gas and haz-*
8 *ardous liquid transmission and distribution pipeline*
9 *system, which shall include protocols for granting ac-*
10 *cess to pipeline operators for pipeline infrastructure*
11 *repair, replacement or bypass following an incident.*

12 *(b) EXISTING PRIVATE AND PUBLIC SECTOR EF-*
13 *FORTS.—The plan shall take into account actions taken or*
14 *planned by both private and public entities to address iden-*
15 *tified pipeline security issues and assess the effective inte-*
16 *gration of such actions.*

17 *(c) CONSULTATION.—In developing the plan under*
18 *subsection (a), the Secretary shall consult with the Sec-*
19 *retary of Transportation, interstate and intrastate trans-*
20 *mission and distribution pipeline operators, pipeline labor,*
21 *first responders, shippers, State pipeline safety agencies,*
22 *public safety officials, and other relevant parties.*

23 *(d) REPORT.—*

24 *(1) CONTENTS.—Not later than 2 years after the*
25 *date of enactment of this Act, the Secretary shall*

1 *transmit to the Committee on Commerce, Science,*
2 *and Transportation of the Senate, the Committee on*
3 *Homeland Security of the House of Representatives,*
4 *and the Committee on Transportation and Infrastruc-*
5 *ture of the House of Representatives a report con-*
6 *taining the plan required by subsection (a), along*
7 *with an estimate of the private and public sector costs*
8 *to implement any recommendations.*

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

13 **SEC. 209. PIPELINE SECURITY INSPECTIONS AND ENFORCE-**
14 **MENT.**

15 (a) *IN GENERAL.—Within 1 year after the date of en-*
16 *actment of this Act the Secretary, in consultation with the*
17 *Secretary of Transportation, shall establish a program for*
18 *reviewing pipeline operator adoption of recommendations*
19 *in the September, 5, 2002, Department of Transportation*
20 *Research and Special Programs Administration Pipeline*
21 *Security Information Circular, including the review of*
22 *pipeline security plans and critical facility inspections.*

23 (b) *REVIEW AND INSPECTION.—Within 9 months after*
24 *the date of enactment of this Act the Secretary and the Sec-*
25 *retary of Transportation shall develop and implement a*

1 *plan for reviewing the pipeline security plan and an in-*
2 *spection of the critical facilities of the 100 most critical*
3 *pipeline operators covered by the September, 5, 2002, cir-*
4 *cular, where such facilities have not been inspected for secu-*
5 *rity purposes since September 5, 2002, by either the Depart-*
6 *ment of Homeland Security or the Department of Transpor-*
7 *tation.*

8 (c) *COMPLIANCE REVIEW METHODOLOGY*—*In review-*
9 *ing pipeline operator compliance under subsections (a) and*
10 *(b), risk assessment methodologies shall be used to prioritize*
11 *risks and to target inspection and enforcement actions to*
12 *the highest risk pipeline assets.*

13 (d) *REGULATIONS*.—*Within 1 year after the date of*
14 *enactment of this Act, the Secretary and the Secretary of*
15 *Transportation shall develop and transmit to pipeline oper-*
16 *ators security recommendations for natural gas and haz-*
17 *ardous liquid pipelines and pipeline facilities. If the Sec-*
18 *retary determines that regulations are appropriate, the Sec-*
19 *retary shall consult with the Secretary of Transportation*
20 *on the extent of risk and appropriate mitigation measures,*
21 *and the Secretary or the Secretary of Transportation, con-*
22 *sistent with the memorandum of understanding annex*
23 *signed on August 9, 2006, shall promulgate such regulations*
24 *and carry out necessary inspection and enforcement ac-*
25 *tions. Any regulations should incorporate the guidance pro-*

1 *vided to pipeline operators by the September 5, 2002, De-*
 2 *partment of Transportation Research and Special Pro-*
 3 *grams Administration’s Pipeline Security Information Cir-*
 4 *cular and contain additional requirements as necessary*
 5 *based upon the results of the inspections performed under*
 6 *subsection (b). The regulations shall include the imposition*
 7 *of civil penalties for non-compliance.*

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

10 *(1) \$2,000,000 for fiscal year 2008; and*

11 *(2) \$2,000,000 for fiscal year 2009.*

12 **SEC. 210. TECHNICAL CORRECTIONS.**

13 *(a) HAZMAT LICENSES.—Section 5103a of title 49,*
 14 *United States Code, is amended—*

15 *(1) by inserting “of Homeland Security” after*
 16 *“Secretary” each place it appears in subsections*
 17 *(a)(1), (d)(1)(b), and (e); and*

18 *(2) by redesignating subsection (h) as subsection*
 19 *(i) and inserting the following after subsection (g):*

20 *“(h) RELATIONSHIP TO TRANSPORTATION SECURITY*
 21 *CARDS.—Upon application, a State shall issue to an indi-*
 22 *vidual a license to operate a motor vehicle transporting in*
 23 *commerce a hazardous material without the security assess-*
 24 *ment required by this section, provided the individual meets*
 25 *all other applicable requirements for such a license, if the*

1 *Secretary of Homeland Security has previously determined,*
2 *under section 70105 of title 46, United States Code, that*
3 *the individual does not pose a security risk.”.*

4 **SEC. 211. CERTAIN PERSONNEL LIMITATIONS NOT TO**
5 **APPLY.**

6 *Any statutory limitation on the number of employees*
7 *in the Transportation Security Administration of the De-*
8 *partment of Transportation, before or after its transfer to*
9 *the Department of Homeland Security, does not apply to*
10 *the extent that any such employees are responsible for im-*
11 *plementing the provisions of this Act.*

12 **SEC. 212. MARITIME AND SURFACE TRANSPORTATION SE-**
13 **CURITY USER FEE STUDY.**

14 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
15 *rity shall conduct a study of the need for, and feasibility*
16 *of, establishing a system of maritime and surface transpor-*
17 *tation-related user fees that may be imposed and collected*
18 *as a dedicated revenue source, on a temporary or con-*
19 *tinuing basis, to provide necessary funding for legitimate*
20 *improvements to, and maintenance of, maritime and sur-*
21 *face transportation security. In developing the study, the*
22 *Secretary shall consult with maritime and surface trans-*
23 *portation carriers, shippers, passengers, facility owners and*
24 *operators, and other persons as determined by the Sec-*
25 *retary. Not later than 1 year after the date of the enactment*

1 *of this Act, the Secretary shall submit a report to the appro-*
2 *priate congressional committees that contains—*

3 *(1) the results of the study;*

4 *(2) an assessment of the annual sources of fund-*
5 *ing collected through maritime and surface transpor-*
6 *tation at ports of entry and a detailed description of*
7 *the distribution and use of such funds, including the*
8 *amount and percentage of such sources that are dedi-*
9 *cated to improve and maintain security;*

10 *(3)(A) an assessment of the fees, charges, and*
11 *standards imposed on United States ports, port ter-*
12 *минаl operators, shippers, carriers, and other persons*
13 *who use United States ports of entry compared with*
14 *the fees and charges imposed on Canadian and Mexi-*
15 *can ports, Canadian and Mexican port terminal op-*
16 *erators, shippers, carriers, and other persons who use*
17 *Canadian or Mexican ports of entry; and*

18 *(B) an assessment of the impact of such fees,*
19 *charges, and standards on the competitiveness of*
20 *United States ports, port terminal operators, rail-*
21 *roads, motor carriers, pipelines, other transportation*
22 *modes, and shippers;*

23 *(4) an assessment of private efforts and invest-*
24 *ments to secure maritime and surface transportation*

1 *modes, including those that are operational and those*
2 *that are planned; and*

3 *(5) the Secretary's recommendations based upon*
4 *the study, and an assessment of the consistency of*
5 *such recommendations with the international obliga-*
6 *tions and commitments of the United States.*

7 *(b) DEFINITIONS.—In this section:*

8 *(1) APPROPRIATE CONGRESSIONAL COMMIT-*
9 *TEES.—The term “appropriate congressional commit-*
10 *tees” has the meaning given that term by section 2(1)*
11 *of the SAFE Port Act (6 U.S.C. 901(1)).*

12 *(2) PORT OF ENTRY.—The term “port of entry”*
13 *means any port or other facility through which for-*
14 *foreign goods are permitted to enter the customs terri-*
15 *tory of a country under official supervision.*

16 *(3) MARITIME AND SURFACE TRANSPOR-*
17 *TATION.—The term “maritime and surface transpor-*
18 *tation” includes oceanborne, rail, and vehicular*
19 *transportation.*

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S. 184

A BILL

To provide improved rail and surface transportation
security.

FEBRUARY 15, 2007

Reported with an amendment