

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1401

[Report No. 110-]

To improve the security of railroads, public transportation, and over-the-road buses in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2007

Mr. THOMPSON of Mississippi (for himself, Mr. KING of New York, Ms. JACKSON-LEE of Texas, Mr. DANIEL E. LUNGREN of California, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Mr. DICKS, Ms. HARMAN, Mrs. LOWEY, Ms. NORTON, Ms. ZOE LOFGREN of California, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Mr. LANGEVIN, Mr. CUELLAR, Mr. CARNEY, Ms. CLARKE, Mr. AL GREEN of Texas, and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH --, 2007

Reported from the Committee on Homeland Security with an amendment

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

[For text of introduced bill, see copy of bill as introduced on March 8, 2007]

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## A BILL

To improve the security of railroads, public transportation, and over-the-road buses in the United States, and for other purposes.

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

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

4        (a) *SHORT TITLE.*—*This Act may be cited as the “Rail*  
5 *and Public Transportation Security Act of 2007”.*

6        (b) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; table of contents.*

*Sec. 2. Definitions.*

*TITLE I—RAIL AND PUBLIC TRANSPORTATION SECURITY*

*Sec. 101. National strategy for rail and public transportation security.*

*Sec. 102. Assignment of providers of covered transportation to risk-based tiers.*

*Sec. 103. Rail and public transportation assessments and plans.*

*Sec. 104. Information sharing plan.*

*Sec. 105. Rail security assistance.*

*Sec. 106. Public transportation security assistance.*

*Sec. 107. Over-the-road bus security assistance.*

*Sec. 108. Fire and life safety improvements.*

*Sec. 109. Security training program.*

*Sec. 110. Security exercises.*

*Sec. 111. Security research and development.*

*Sec. 112. Whistleblower protections.*

*Sec. 113. Increase in surface transportation security inspectors.*

*Sec. 114. National domestic preparedness consortium.*

*Sec. 115. Authorization of Visible Intermodal Protection Response Teams.*

*Sec. 116. National Transportation Security Center of Excellence.*

*Sec. 117. TSA personnel limitations.*

*Sec. 118. Homeland security grants.*

*Sec. 119. Threat assessment screening.*

*Sec. 120. Background checks for covered individuals.*

*Sec. 121. Task force on disqualifying crimes.*

*Sec. 122. Penalties.*

*Sec. 123. School bus transportation security.*

*Sec. 124. Enhanced security measures for shipments of security sensitive materials.*

*Sec. 125. Technology standards and clearinghouse to improve security of covered transportation.*

*Sec. 126. Rail tank car security testing.*

*Sec. 127. Rail radiological and nuclear detection.*

*Sec. 128. Requirement to provide preference to qualified anti-terrorism technologies.*

*Sec. 129. Promoting liability protections for providers of covered transportation and related technologies.*

*Sec. 130. International rail security program.*

*Sec. 131. Terrorist watchlist and immigration status review at high-risk transportation sites.*

*TITLE II—SECURE TRANSPORTATION THROUGH INCREASED USE  
OF CANINE DETECTION TEAMS*

*Sec. 201. Increasing the number of canine detection teams for transportation security.*

*Sec. 202. National explosives detection canine team program increase.*

*Sec. 203. Transportation security administration breeding program increase.*

**1 SEC. 2. DEFINITIONS.**

2 *In this Act, the following definitions apply:*

3 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*  
4 *TEES.—The term “appropriate congressional commit-*  
5 *tees” has the meaning that term has in section 2 of*  
6 *the Homeland Security Act of 2002 (6 U.S.C. 101)*  
7 *and includes the Committees on Homeland Security*  
8 *and Transportation and Infrastructure of the House*  
9 *of Representatives and the Committees on Homeland*  
10 *Security and Governmental Affairs and Commerce,*  
11 *Science, and Transportation of the Senate.*

12 (2) *APPROPRIATE STAKEHOLDERS.—The term*  
13 *“appropriate stakeholders” means—*

14 (A) *providers of covered transportation;*

15 (B) *organizations representing providers of*  
16 *covered transportation;*

17 (C) *nonprofit employee labor organizations*  
18 *representing railroad, public transportation, or*  
19 *over-the-road bus workers;*

20 (D) *shippers of hazardous material;*

21 (E) *manufacturers of railroad and transit*  
22 *cars;*

1                   (F) State departments of transportation, re-  
2                   gional agencies, and metropolitan planning or-  
3                   ganizations;

4                   (G) public safety officials;

5                   (H) law enforcement and fire service offi-  
6                   cials; and

7                   (I) other relevant persons.

8                   (3) COVERED TRANSPORTATION.—The term “cov-  
9                   ered transportation” means transportation provided  
10                  by a railroad carrier, a provider of public transpor-  
11                  tation, or an over-the-road bus.

12                  (4) DEPARTMENT.—The term “Department”  
13                  means the Department of Homeland Security.

14                  (5) DESIGNATED RECIPIENT.—The term “des-  
15                  ignated recipient” has the meaning that the term has  
16                  in section 5307(a) of title 49, United States Code.

17                  (6) PROVIDER OF COVERED TRANSPORTATION.—  
18                  The term “provider of covered transportation”  
19                  means—

20                         (A) with respect to transportation provided  
21                         by a railroad carrier, the railroad carrier;

22                         (B) with respect to public transportation,  
23                         the public transportation designated recipient  
24                         providing the transportation; and

1           (C) with respect to transportation provided  
2           by an over-the-road bus, the private operator.

3           (7) *OVER-THE-ROAD BUS.*—The term “over-the-  
4           road bus” means a bus characterized by an elevated  
5           passenger deck located over a baggage compartment.

6           (8) *PUBLIC TRANSPORTATION.*—The term “pub-  
7           lic transportation” has the meaning that term has in  
8           section 5302(a) of title 49, United States Code.

9           (9) *RAILROAD.*—The term “railroad” has the  
10          meaning that term has in section 20102 of title 49,  
11          United States Code.

12          (10) *RAILROAD CARRIER.*—The term “railroad  
13          carrier” has the meaning that term has in section  
14          20102 of title 49, United States Code.

15          (11) *SECRETARY.*—The term “Secretary” means  
16          the Secretary of Homeland Security.

17          (12) *STATE.*—The term “State” means any one  
18          of the 50 States, the District of Columbia, Puerto  
19          Rico, the Northern Mariana Islands, the Virgin Is-  
20          lands, Guam, American Samoa, and any other terri-  
21          tory or possession of the United States.

22          (13) *TERRORISM.*—The term “terrorism” has the  
23          meaning that term has in section 2 of the Homeland  
24          Security Act of 2002 (6 U.S.C. 101).

1           (14) *TRANSPORTATION*.—*The term “transportation”, as used with respect to an over-the-road-bus, means the movement of passengers or property by an over-the-road-bus.*

5           (A) *in the jurisdiction of the United States between a place in a State and a place outside the State (including a place outside the United States); or*

9           (B) *in a State that affects trade, traffic, and transportation described in subparagraph (A).*

12          (15) *UNITED STATES*.—*The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.*

17           ***TITLE I—RAIL AND PUBLIC***  
18           ***TRANSPORTATION SECURITY***

19           ***SEC. 101. NATIONAL STRATEGY FOR RAIL AND PUBLIC***  
20           ***TRANSPORTATION SECURITY.***

21          (a) *MODAL PLAN*.—*Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop and implement the modal plan for covered transportation as required by section 114(t)(1)(B) of title 49, United States*

1 *Code. The modal plan shall be entitled the “National Strat-*  
2 *egy for Rail and Public Transportation Security” and shall*  
3 *include, at a minimum—*

4 *(1) a description of the roles, responsibilities,*  
5 *and authorities of Federal, State, and local agencies,*  
6 *government sponsored entities, tribal governments,*  
7 *and appropriate stakeholders under the plan;*

8 *(2) identification of, and a plan to address, gaps*  
9 *and unnecessary overlaps in the roles, responsibilities,*  
10 *and authorities described in paragraph (1);*

11 *(3) a methodology for how the Department will*  
12 *work with the entities described in paragraph (1),*  
13 *and make use of existing Federal expertise within the*  
14 *Department, the Department of Transportation, and*  
15 *other appropriate agencies;*

16 *(4) a process for providing security clearances to*  
17 *facilitate intelligence and information sharing with*  
18 *the entities described in paragraph (1);*

19 *(5) a description of—*

20 *(A) how the Department has reviewed ter-*  
21 *rorist attacks on covered transportation through-*  
22 *out the world in the last 25 years;*

23 *(B) the lessons learned from those reviews;*

24 *and*

1                   (C) how those lessons are being used in cur-  
2                   rent and future efforts to secure covered trans-  
3                   portation;

4                   (6) a strategy and timeline for the Department,  
5                   the Department of Transportation, other appropriate  
6                   Federal agencies and private entities to research and  
7                   develop new technologies for securing covered trans-  
8                   portation;

9                   (7) measurable goals, including objectives, mech-  
10                  anisms, and a schedule for enhancing the security of  
11                  covered transportation;

12                  (8) a framework for resuming the operation of  
13                  covered transportation in the event of an act of ter-  
14                  rorism and prioritizing resumption of such oper-  
15                  ations;

16                  (9) a description of current and future public  
17                  outreach and educational initiatives designed to in-  
18                  form the public on how to prevent, prepare for, re-  
19                  spond to, and recover from a terrorist attack on cov-  
20                  ered transportation; and

21                  (10) a process for coordinating covered transpor-  
22                  tation security strategies and plans, including the  
23                  National Infrastructure Protection Plan required by  
24                  Homeland Security Presidential Directive 7; Execu-  
25                  tive Order: Strengthening Surface Transportation Se-

1        *curity dated December 5, 2006; the Memorandum of*  
2        *Understanding between the Department and the De-*  
3        *partment of Transportation on Roles and Respon-*  
4        *sibilities dated September 28, 2004; the Annex to the*  
5        *Memorandum of Understanding between the Depart-*  
6        *ment and the Department of Transportation on Roles*  
7        *and Responsibilities concerning railroad security*  
8        *dated September 28, 2006, and the Annex to the*  
9        *Memorandum of Understanding between the Depart-*  
10       *ment and the Department of Transportation on Roles*  
11       *and Responsibilities concering Public Transportation*  
12       *Security dated September 8, 2005.*

13       *(b) ADEQUACY OF EXISTING PLANS AND STRATE-*  
14       *GIES.—Nothing in this section shall prevent the Secretary*  
15       *from using existing plans and strategies, including those*  
16       *developed or implemented pursuant to section 114(t) of title*  
17       *49, United States Code, or Homeland Security Presidential*  
18       *Directive–7, in meeting the requirements of subsection (a).*

19       **SEC. 102. ASSIGNMENT OF PROVIDERS OF COVERED TRANS-**  
20       **PORTATION TO RISK-BASED TIERS.**

21       *(a) ASSIGNMENT.—The Secretary shall assign each*  
22       *provider of covered transportation to one of the not less than*  
23       *three risk-based tiers established by the Secretary.*

24       *(b) PROVISION OF INFORMATION.—The Secretary may*  
25       *request, and the provider of covered transportation shall*

1 *provide, information necessary for the Secretary to assign*  
2 *a provider of covered transportation to the appropriate tier*  
3 *under subsection (a).*

4 *(c) NOTIFICATION.—Not later than 60 days after the*  
5 *date a provider of covered transportation is assigned to a*  
6 *tier under this section, the Secretary shall notify the pro-*  
7 *vider of the tier to which the provider is assigned and the*  
8 *reasons for such assignment.*

9 *(d) HIGH- AND MEDIUM-RISK TIERS.—At least two*  
10 *of the tiers established by the Secretary under this section*  
11 *shall be tiers designated for high- and medium-risk pro-*  
12 *viders of covered transportation.*

13 **SEC. 103. RAIL AND PUBLIC TRANSPORTATION ASSESS-**  
14 **MENTS AND PLANS.**

15 *(a) IN GENERAL.—Not later than 12 months after the*  
16 *date of enactment of this Act, the Secretary, in consultation*  
17 *with the Secretary of Transportation, shall issue regula-*  
18 *tions that—*

19 *(1) require each provider of covered transpor-*  
20 *tation assigned to a high- or medium-risk tier under*  
21 *section 102—*

22 *(A) to conduct a vulnerability assessment in*  
23 *accordance with subsections (b) and (c); and*

24 *(B) to prepare, submit to the Secretary for*  
25 *approval, and implement a security plan in ac-*

1           *cordance with this section that addresses security*  
2           *performance requirements under subsection (f);*  
3           *and*

4           (2) *establish standards, and guidelines for vul-*  
5           *nerability assessments under subsection (c) and secu-*  
6           *rity plans under subsection (d) and for developing*  
7           *and implementing such security plans.*

8           (3) *establish a security program for providers of*  
9           *covered transportation not assigned to a high or me-*  
10          *dium-risk tier under section 102, including a process*  
11          *for providers to conduct vulnerability assessments and*  
12          *prepare and implement security plans, as determined*  
13          *appropriate by the Secretary.*

14          (b) *DEADLINE FOR SUBMISSION.*—*Not later than 6*  
15          *months after the date of issuance of the regulations under*  
16          *subsection (a), the vulnerability assessments and security*  
17          *plans required by such regulations for a provider of covered*  
18          *transportation assigned to a high- or medium-risk tier shall*  
19          *be completed and submitted to the Secretary for review and*  
20          *approval.*

21          (c) *VULNERABILITY ASSESSMENTS.*—

22                 (1) *REQUIREMENTS.*—*The Secretary, in con-*  
23                 *sultation with the Secretary of Transportation, shall*  
24                 *provide technical assistance and guidance to pro-*  
25                 *viders of covered transportation in conducting vulner-*

1       *ability assessments under this section and shall re-*  
2       *quire that each vulnerability assessment of a provider*  
3       *of covered transportation assigned to a high-or me-*  
4       *dium-risk tier under section 102 include, at a min-*  
5       *imum—*

6                *(A) identification and evaluation of critical*  
7       *covered transportation assets and infrastructures*  
8       *of the provider, including platforms, stations,*  
9       *bus and intermodal terminals, tunnels, bridges,*  
10       *switching and storage areas, and information*  
11       *systems;*

12                *(B) identification of the threats to those as-*  
13       *sets and infrastructures;*

14                *(C) identification of the security weaknesses*  
15       *of the covered transportation in—*

16                    *(i) physical security;*

17                    *(ii) passenger and cargo security;*

18                    *(iii) programmable electronic devices,*  
19       *computers, or other automated systems*  
20       *which are used in providing the transpor-*  
21       *tation;*

22                    *(iv) alarms, cameras, and other protec-*  
23       *tion systems;*

24                    *(v) communications systems, including*  
25       *dispatching services and mobile service*

1           *equipment systems, to provide access to*  
2           *emergency services in underground fixed*  
3           *guideway systems;*

4                     *(vi) utilities;*

5                     *(vii) emergency response planning;*

6                     *(viii) employee training; and*

7                     *(ix) such other matters as the Sec-*  
8           *retary determines appropriate; and*

9                     *(D) identification of redundant and backup*  
10          *systems required to ensure the continued oper-*  
11          *ations of critical elements of the covered trans-*  
12          *portation in the event of an attack or other inci-*  
13          *dent, including disruption of commercial electric*  
14          *power or communications network.*

15                    *(2) THREAT INFORMATION.—A provider of cov-*  
16          *ered transportation conducting a vulnerability assess-*  
17          *ment under this section shall incorporate in the as-*  
18          *essment any threat information provided by the Sec-*  
19          *retary and other sources.*

20                    *(d) SECURITY PLANS.—*

21                      *(1) REQUIREMENTS.—The Secretary, in con-*  
22          *sultation with the Secretary of Transportation, shall*  
23          *provide technical assistance and guidance to pro-*  
24          *viders of covered transportation in preparing and im-*  
25          *plementing security plans under this section and shall*

1        *require that each security plan of each provider of*  
2        *covered transportation assigned a high- or medium-*  
3        *risk under section 102 include, at a minimum—*

4                *(A) identification of a security coordinator*  
5        *having authority—*

6                        *(i) to implement security actions under*  
7        *the plan;*

8                        *(ii) to coordinate security improve-*  
9        *ments described in sections 105, 106, and*  
10       *107; and*

11                       *(iii) to receive immediate communica-*  
12       *tions from appropriate Federal officials re-*  
13       *garding covered transportation security;*

14                *(B) plans for periodic exercises under sec-*  
15       *tion 110 that include participation by local law*  
16       *enforcement agencies and emergency responders*  
17       *as appropriate;*

18                *(C) a list of needed capital and operational*  
19       *improvements such as those described in sections*  
20       *105, 106, and 107;*

21                *(D) procedures to be implemented or used*  
22       *by the provider in response to a terrorist attack,*  
23       *including evacuation and passenger communica-*  
24       *tion plans that include individuals with disabil-*  
25       *ities;*

1           (E) identification of steps taken with State  
2           and local law enforcement agencies, emergency  
3           responders, and Federal officials to coordinate  
4           security measures and plans for response to a  
5           terrorist attack;

6           (F) a strategy and timeline for conducting  
7           training under section 109, including recurrent  
8           training and periodic unannounced exercises for  
9           employees of the provider to be carried out under  
10          the plan to prevent, prepare for, or respond to a  
11          terrorist attack;

12          (G) enhanced security measures to be taken  
13          by the provider when the Secretary declares a pe-  
14          riod of heightened security risk;

15          (H) plans for redundant and backup sys-  
16          tems required to ensure the continued operation  
17          of critical covered transportation elements of the  
18          provider in the event of a terrorist attack or  
19          other incident;

20          (I) plans for locating, including by covert  
21          electronic devices, shipments of railroad cars  
22          transporting security sensitive materials or nu-  
23          clear waste so that, if the assets are lost or stolen,  
24          the provider or law enforcement authorities may  
25          locate, track, and recover the assets;

1                   *(J) a strategy for implementing enhanced*  
2                   *security for shipments of security sensitive mate-*  
3                   *rials under section 124; and*

4                   *(K) such other actions or procedures as the*  
5                   *Secretary determines are appropriate to address*  
6                   *the covered transportation security of the pro-*  
7                   *vider to a terrorist attack.*

8                   *(2) SECURITY COORDINATOR REQUIREMENTS.—*

9                   *The Secretary shall require that the individual serv-*  
10                  *ing as the security coordinator identified in para-*  
11                  *graph (1)(A) is a citizen of the United States. The*  
12                  *Secretary may waive this requirement with respect to*  
13                  *an individual if the Secretary determines that it is*  
14                  *appropriate to do so based on a background check of*  
15                  *the individual and a review of terrorist watch lists to*  
16                  *ensure that the individual is not identified on any*  
17                  *such terrorist watch list.*

18                  *(3) CONSISTENCY WITH OTHER PLANS.—The*  
19                  *Secretary, in consultation with the Secretary of*  
20                  *Transportation, shall ensure that each security plan*  
21                  *under this section is consistent with the requirements*  
22                  *of the National Strategy for Rail and Public Trans-*  
23                  *portation Security described in section 101.*

24                  *(e) PROVIDED BY SECRETARY.—The Secretary shall*  
25                  *provide, in a timely manner to the maximum extent prac-*

1 *licable under applicable authority and in the interest of na-*  
2 *tional security, to the provider of the covered transportation*  
3 *threat information that is relevant to the provider when*  
4 *preparing and submitting vulnerabilities and security*  
5 *plans, including an assessment of the most likely method*  
6 *that could be used by terrorists to exploit weaknesses in the*  
7 *covered transportation security and the likelihood of success*  
8 *by such terrorists.*

9       *(f) SECURITY PERFORMANCE REQUIREMENTS.—The*  
10 *Secretary shall, by regulation, establish security perform-*  
11 *ance requirements for the security plans required for pro-*  
12 *viders of covered transportation. The regulations shall—*

13           *(1) require separate and increasingly stringent*  
14 *security performance requirements for security plans*  
15 *as the level of risk associated with the tier increases;*  
16 *and*

17           *(2) permit each provider of covered transpor-*  
18 *tation submitting a security plan to select a combina-*  
19 *tion of security measures that satisfy the security per-*  
20 *formance requirements established by the Secretary*  
21 *under this subsection.*

22       *(g) DEADLINE FOR REVIEW PROCESS.—Not later than*  
23 *12 months after the date of the issuance of the regulations*  
24 *under subsection (a), the Secretary, in consultation with*  
25 *the Secretary of Transportation, shall—*

1           (1) *review each vulnerability assessment and se-*  
2           *curity plan submitted to the Secretary in accordance*  
3           *with subsection (b);*

4           (2) *require amendments to any security plan*  
5           *that does not meet the requirements of this section, in-*  
6           *cluding the regulations issued under subsection (a);*

7           (3) *approve any vulnerability assessment or se-*  
8           *curity plan that meets the requirements of this sec-*  
9           *tion, including such regulations; and*

10          (4) *review each security plan periodically there-*  
11          *after.*

12          (h) *INTERIM SECURITY MEASURES.—The Secretary,*  
13          *in consultation with the Secretary of Transportation, shall*  
14          *require, during the period before the deadline established*  
15          *under subsection (b), each provider of covered transpor-*  
16          *tation required to submit a security plan under subsection*  
17          *(b) to implement any necessary interim security measures*  
18          *to deter, mitigate, and respond to, to the maximum extent*  
19          *practicable, a transportation security incident with respect*  
20          *to the covered transportation or a substantive threat of such*  
21          *an incident until the security plan of the provider is ap-*  
22          *proved.*

23          (i) *NONDISCLOSURE OF INFORMATION.—*

24                 (1) *IN GENERAL.—Nothing in this Act shall be*  
25                 *construed to require the disclosure of a vulnerability*

1        *assessment or a security plan of a provider of covered*  
2        *transportation to the extent that such information is*  
3        *exempted from mandatory disclosure under section*  
4        *552 of title 5, United States Code.*

5            (2) *OTHER OBLIGATIONS UNAFFECTED.—Nothing*  
6        *in this section shall affect any obligation of the*  
7        *provider of covered transportation to submit or make*  
8        *available information to covered transportation em-*  
9        *ployees, nonprofit employee labor organizations, or a*  
10       *Federal, State, or local government agency under, or*  
11       *otherwise to comply with, any other law.*

12           (3) *SUBMISSION OF INFORMATION TO CON-*  
13        *GRESS.—Nothing in this section shall be construed as*  
14        *authorizing the withholding of any information from*  
15        *Congress.*

16           (4) *DISCLOSURE OF INDEPENDENTLY FUR-*  
17        *NISHED INFORMATION.—Nothing in this section shall*  
18        *be construed as affecting any authority or obligation*  
19        *of a Federal agency to disclose any record or informa-*  
20        *tion that the Federal agency obtains from a provider*  
21        *of covered transportation under any other law.*

22        (j) *PENALTIES.—*

23           (1) *ADMINISTRATIVE PENALTIES.—*

24                (A) *IN GENERAL.—The Secretary may im-*  
25        *pose an administrative penalty of not more than*

1           \$100,000 for failure to comply with this section,  
2           including regulations issued under subsection  
3           (a).

4           (B) NOTICE AND OPPORTUNITY TO REQUEST  
5           HEARING.—Before imposing a penalty under  
6           subparagraph (A), the Secretary shall provide to  
7           the person against whom the penalty is to be im-  
8           posed—

9                   (i) written notice of the proposed pen-  
10                  alty; and

11                   (ii) the opportunity to request, not  
12                  later than 30 days after the date on which  
13                  the person receives the notice, a hearing on  
14                  the proposed penalty.

15           (C) REGULATIONS.—The Secretary may  
16           issue regulations establishing the procedures for  
17           administrative hearings and appropriate review  
18           of penalties imposed under this Act, including  
19           deadlines.

20           (2) CIVIL PENALTIES.—

21           (A) IN GENERAL.—The Secretary may  
22           bring an action in a United States district court  
23           against any provider of covered transportation  
24           that violates or fails to comply with this Act, in-  
25           cluding regulations issued under subsection (a),

1           *or a security plan approved by the Secretary*  
2           *under this section.*

3                   *(B) RELIEF.—In any action under this Act,*  
4           *a court may issue an order for injunctive relief*  
5           *and may impose a civil penalty of not more*  
6           *than \$75,000 for each day on which a violation*  
7           *occurs or a failure to comply continues.*

8                   *(3) CRIMINAL PENALTIES.—A provider of covered*  
9           *transportation who intentionally violates this section,*  
10          *including regulations issued under subsection (a),*  
11          *shall be fined not more than \$50,000 for each day of*  
12          *such violation, imprisoned for not more than 2 years,*  
13          *or both.*

14          *(k) EXISTING PROCEDURES, PROTOCOLS AND STAND-*  
15          *ARDS.—*

16                   *(1) DETERMINATION.—In response to a petition*  
17          *by a provider of covered transportation or at the dis-*  
18          *cretion of the Secretary, the Secretary may recognize*  
19          *existing procedures, protocols, and standards of a pro-*  
20          *vider of covered transportation that the Secretary de-*  
21          *termines to meet all or part of the requirements of*  
22          *this section, including regulations issued under sub-*  
23          *section (a), regarding vulnerability assessments and*  
24          *security plans.*

1           (2) *ELECTION.*—Upon review and written deter-  
2           mination by the Secretary that existing procedures,  
3           protocols, or standards of a provider of covered trans-  
4           portation satisfy all of the requirements of this sec-  
5           tion, including regulations issued under subsection  
6           (a), the provider may elect to comply with those pro-  
7           cedures, protocols, or standards instead of the require-  
8           ments of this section.

9           (3) *PARTIAL APPROVAL.*—If the Secretary deter-  
10          mines that the existing procedures, protocols, or  
11          standards of a provider of covered transportation sat-  
12          isfy only part of the requirements of this section, in-  
13          cluding regulations issued under subsection (a), the  
14          Secretary may accept those submissions, but shall re-  
15          quire submission by the provider of any additional  
16          information relevant to vulnerability assessments and  
17          security plans of the provider to ensure that the re-  
18          maining requirements of this section are fulfilled.

19          (4) *NOTIFICATION.*—If the Secretary determines  
20          that particular existing procedures, protocols, or  
21          standards of a provider of covered transportation  
22          under this subsection do not satisfy the requirements  
23          of this section, including regulations issued under  
24          subsection (a), the Secretary shall provide to such  
25          provider a written notification that includes an ex-

1        *planation of the reasons why the determination could*  
2        *not be made.*

3            (5) *REVIEW.*—*Nothing in this subsection shall*  
4        *relieve the Secretary of the obligation—*

5            (A) *to review the vulnerability assessment*  
6            *and security plan submitted by a provider of*  
7            *covered transportation under this section; and*

8            (B) *to approve or disapprove each submis-*  
9            *sion on an individual basis.*

10        (l) *PERIODIC REVIEW BY PROVIDER OF COVERED*  
11        *TRANSPORTATION REQUIRED.*—

12            (1) *SUBMISSION OF REVIEW.*—*Not later than 3*  
13        *years after the date on which a vulnerability assess-*  
14        *ment or security plan required to be submitted to the*  
15        *Secretary under subsection (b) is submitted, and at*  
16        *least once every 5 years thereafter (or on such a*  
17        *schedule as the Secretary may establish by regula-*  
18        *tion), the provider of covered transportation who sub-*  
19        *mitted the vulnerability assessment or security plan*  
20        *shall also submit to the Secretary a review of the ade-*  
21        *quacy of the vulnerability assessment or security plan*  
22        *that includes a description of any material changes*  
23        *made to the vulnerability assessment or security plan.*

24            (2) *REVIEW OF REVIEW.*—*Not later than 180*  
25        *days after the date on which a review is submitted,*

1        *the Secretary shall review the review and notify the*  
2        *provider of covered transportation submitting the re-*  
3        *view of the Secretary's approval or disapproval of*  
4        *such review.*

5        *(m) SHARED FACILITIES.—The Secretary, in con-*  
6        *sultation with the Secretary of Transportation, may permit*  
7        *under this section the development and implementation of*  
8        *coordinated vulnerability assessments and security plans to*  
9        *the extent 2 or more providers of covered transportation*  
10       *have shared facilities (such as tunnels, bridges, or stations,*  
11       *or facilities) that are geographically close or otherwise co-*  
12       *located.*

13       *(n) FERRY EXEMPTION.—This section does not apply*  
14       *to any ferry system for which a vulnerability assessment*  
15       *and security plan is required pursuant to chapter 701 of*  
16       *title 46, United States Code.*

17       *(o) REPORT.—Not later than 180 days after the date*  
18       *of enactment of this Act, the Secretary, in consultation with*  
19       *the Secretary of Transportation, shall submit a report to*  
20       *the appropriate congressional committees regarding the fea-*  
21       *sibility of implementing name-based checks against ter-*  
22       *rorist watch lists for all National Railroad Passenger Cor-*  
23       *poration, hereinafter referred to as “Amtrak” passengers.*

1 **SEC. 104. INFORMATION SHARING PLAN.**

2 (a) *IN GENERAL.*—Not later than 90 days after the  
3 date of enactment of this Act, the Secretary, in consultation  
4 with the Secretary of Transportation, shall develop and sub-  
5 mit to the appropriate congressional committees a railroad,  
6 public transportation, and over-the-road bus information  
7 sharing plan to ensure the development of both tactical and  
8 strategic intelligence products pertaining to the threats and  
9 vulnerabilities to covered transportation for dissemination  
10 to Federal, State, and local agencies, tribal governments,  
11 and appropriate stakeholders.

12 (b) *CONTENT OF PLAN.*—The plan submitted under  
13 subsection (a) shall include—

14 (1) a description of how intelligence analysts in  
15 the Transportation Security Administration are co-  
16 ordinating with other intelligence analysts in the De-  
17 partment and other Federal, State, and local agen-  
18 cies;

19 (2) reasonable deadlines for the completion of  
20 any organizational changes within the Department to  
21 accommodate implementation of the plan; and

22 (3) a description of resource needs for fulfilling  
23 the plan.

24 (c) *UPDATES.*—

25 (1) *CERTIFICATION OF IMPLEMENTATION.*—After  
26 the plan is submitted under subsection (a), the Sec-

1        *retary shall certify to the appropriate congressional*  
2        *committees when the plan has been implemented.*

3            (2) *ANNUAL REPORTS.*—*After the Secretary pro-*  
4        *vides the certification under paragraph (1), the Sec-*  
5        *retary shall provide a report to the appropriate con-*  
6        *gressional committees each year thereafter on the fol-*  
7        *lowing:*

8            (A) *The number and brief description of*  
9        *each railroad, public transportation, and over-*  
10       *the-road bus intelligence report created and dis-*  
11       *seminated under the plan.*

12           (B) *The classification of each report as tac-*  
13       *tical or strategic.*

14           (C) *The numbers of different government,*  
15       *law enforcement, and public or private sector*  
16       *partners who the Department provided with each*  
17       *intelligence product.*

18        (d) *ANNUAL SURVEYS.*—*The Secretary shall conduct*  
19       *an annual survey of the satisfaction of each of the recipients*  
20       *of railroad, public transportation, and over-the-road bus in-*  
21       *telligence reports created and disseminated under the plan*  
22       *and include the results of the survey as part of the cor-*  
23       *responding annual report provided under subsection (c)(2).*

1           (e) *CLASSIFICATION OF MATERIAL.*—To the greatest  
2 *extent possible, the Department shall provide appropriate*  
3 *stakeholders with information in an unclassified format.*

4           (f) *SECURITY CLEARANCES.*—The Department shall  
5 *assist the appropriate Federal, State, regional, local, and*  
6 *tribal authorities, in addition to appropriate stakeholders,*  
7 *in obtaining the security clearances needed to receive classi-*  
8 *fied covered transportation security information as nec-*  
9 *essary if this information cannot be disseminated in an un-*  
10 *classified format.*

11 **SEC. 105. RAIL SECURITY ASSISTANCE.**

12           (a) *IN GENERAL.*—The Secretary, in consultation with  
13 *the Secretary of Transportation, shall establish a program*  
14 *for making grants to eligible entities for security improve-*  
15 *ments described in subsection (b).*

16           (b) *USES OF FUNDS.*—A recipient of a grant under  
17 *this section shall use the grant funds for one or more of*  
18 *the following:*

19                   (1) *Perimeter protection systems, including ac-*  
20 *cess control, installation of improved lighting, fenc-*  
21 *ing, and barricades at railroad facilities.*

22                   (2) *Technologies to reduce the vulnerability of*  
23 *rail cars.*

1           (3) *Passenger railroad station security redevelop-*  
2           *ment and capital improvement projects that the Sec-*  
3           *retary determines enhance rail station security.*

4           (4) *Security improvements to passenger railroad*  
5           *stations and other railroad transportation infrastruc-*  
6           *ture.*

7           (5) *Tunnel protection systems.*

8           (6) *Evacuation improvements.*

9           (7) *Inspection technologies, including verified*  
10          *visual inspection technologies using hand-held readers*  
11          *and discs.*

12          (8) *Communications equipment, including*  
13          *equipment that is interoperable with Federal, State,*  
14          *and local agencies and tribal governments.*

15          (9) *Chemical, biological, radiological, or explo-*  
16          *sive detection, including canine patrols for such detec-*  
17          *tion.*

18          (10) *Surveillance equipment.*

19          (11) *Cargo or passenger screening equipment.*

20          (12) *Railroad inspection facilities and related*  
21          *infrastructure at United States international borders,*  
22          *including additional side railroad track necessary for*  
23          *passenger and freight train inspection.*

1           (13) *Emergency response equipment, including*  
2 *fire suppression and decontamination equipment, per-*  
3 *sonal protective equipment, and defibrillators.*

4           (14) *Global positioning or tracking and recovery*  
5 *equipment.*

6           (15) *Redundant critical operations control sys-*  
7 *tems.*

8           (16) *Operating and capital costs associated with*  
9 *security awareness, preparedness, and response train-*  
10 *ing, including training under section 109 and train-*  
11 *ing developed by universities and institutions of high-*  
12 *er education and by nonprofit employee labor organi-*  
13 *zations, for front-line railroad employees.*

14           (17) *Live or simulated exercises described in sec-*  
15 *tion 110.*

16           (18) *Overtime reimbursement for additional se-*  
17 *curity personnel during periods of heightened security*  
18 *as determined by the Secretary.*

19           (19) *Public awareness campaigns for enhanced*  
20 *rail security.*

21           (20) *Operational costs for personnel assigned to*  
22 *full-time security or counterterrorism duties related to*  
23 *rail transportation.*

24           (21) *Such other security improvements as the*  
25 *Secretary considers appropriate.*

1           (c) *SECURITY IMPROVEMENT PRIORITIES.*—*In estab-*  
2 *lishing guidelines for applications for grants under this sec-*  
3 *tion, the Secretary shall establish a list in order of priority*  
4 *regarding uses of funds for grant recipients under this sec-*  
5 *tion*

6           (d) *MULTIYEAR AWARDS.*—*Pursuant to this section,*  
7 *the Secretary may issue multi-year grants for not longer*  
8 *than a 5-year period.*

9           (e) *LETTERS OF INTENT.*—

10           (1) *ISSUANCE.*—*The Secretary may issue a letter*  
11 *of intent to a recipient of a grant under this section,*  
12 *to commit funding from future budget authority of an*  
13 *amount, not more than the Federal Government's*  
14 *share of the project's cost, for a capital improvement*  
15 *project.*

16           (2) *SCHEDULE.*—*The letter of intent under this*  
17 *subsection shall establish a schedule under which the*  
18 *Secretary will reimburse the recipient for the Federal*  
19 *Government's share of the project's costs, as amounts*  
20 *become available, if the recipient, after the Secretary*  
21 *issues that letter, carries out the project without re-*  
22 *ceiving amounts under a grant issued under this sec-*  
23 *tion.*

24           (3) *NOTICE TO SECRETARY.*—*A recipient that*  
25 *has been issued a letter of intent under this section*

1       *shall notify the Secretary of the recipient's intent to*  
2       *carry out a project before the project begins.*

3               (4) *NOTICE TO CONGRESS.*—*The Secretary shall*  
4       *transmit to the appropriate congressional committees*  
5       *a written notification at least 3 days before the*  
6       *issuance of a letter of intent under this subsection.*

7               (5) *LIMITATIONS.*—*A letter of intent issued*  
8       *under this subsection is not an obligation of the Fed-*  
9       *eral Government under section 1501 of title 31,*  
10       *United States Code, and the letter is not deemed to*  
11       *be an administrative commitment for financing. An*  
12       *obligation or administrative commitment may be*  
13       *made only as amounts are provided in authorization*  
14       *and appropriations laws.*

15              (6) *STATUTORY CONSTRUCTION.*—*Nothing in this*  
16       *section shall be construed to prohibit the obligation of*  
17       *amounts pursuant to a letter of intent under this sec-*  
18       *tion in the same fiscal year as the letter of intent is*  
19       *issued.*

20              (f) *ELIGIBILITY.*—

21              (1) *IN GENERAL.*—*Eligible entities for a grant*  
22       *under this section may include State, local, and tribal*  
23       *governmental entities, Amtrak, infrastructure owners,*  
24       *including railroad carriers, private entities, and pub-*  
25       *lic-private entities, or their designees.*

1           (2) *PROJECT ELIGIBILITY.*—A recipient of a  
2           grant under this section may use grant funds only for  
3           permissible uses under subsection (b) to further a rail  
4           security plan developed, submitted to, and approved  
5           by the Secretary.

6           (g) *FEDERAL SHARE.*—

7           (1) *IN GENERAL.*—Except as provided in para-  
8           graphs (2) and (3), a grant for a project under this  
9           section shall be for 80 percent of the net cost of the  
10          project.

11          (2) *SMALL PROJECT EXCEPTION.*—If a grant  
12          under this section is for a project with a net cost of  
13          \$25,000 or less, the Federal share for the grant shall  
14          be for 100 percent of such cost.

15          (3) *NATIONAL SECURITY EXCEPTION.*—If the Sec-  
16          retary determines, upon written notice to the appro-  
17          priate congressional committees, that a higher Federal  
18          share for a grant under this section is necessary to re-  
19          spond to an urgent threat to national security, the  
20          Secretary may increase the Federal share for the  
21          grant to up to 100 percent of the net cost of the  
22          project.

23          (4) *APPLICABILITY.*—This subsection shall only  
24          apply to freight rail carriers.

1           (h) *SUBJECT TO CERTAIN STANDARDS.*—*The Sec-*  
2 *retary shall require a recipient of a grant under this section*  
3 *and section 108 to comply with the standards of section*  
4 *24312 of title 49, United States Code, as in effect on Janu-*  
5 *ary 1, 2007, with respect to the project in the same manner*  
6 *as Amtrak is required to comply with such standards for*  
7 *construction work financed under an agreement made*  
8 *under section 24308(a) of that title.*

9           (i) *LIMITATION ON USES OF FUNDS.*—*A grant made*  
10 *under this section may not be used—*

11                   (1) *to supplant State or local funds; and*

12                   (2) *to make any State or local government cost-*  
13 *sharing contribution under any other law.*

14           (j) *ANNUAL REPORTS.*—*Each recipient of a grant*  
15 *under this section shall report annually to the Secretary*  
16 *on the use of grant funds.*

17           (k) *GUIDELINES.*—*Before distribution of funds to re-*  
18 *ipients of grants under this section, the Secretary, in con-*  
19 *sultation with the Secretary of Transportation, shall issue*  
20 *guidelines to ensure that recipients of grants under this sec-*  
21 *tion use small, minority, women-owned, or disadvantaged*  
22 *businesses as contractors or subcontractors to the extent*  
23 *practicable.*

24           (l) *MONITORING.*—*The Secretary shall be responsible*  
25 *for monitoring the manner in which the grants are used.*

1       (m) *AUTHORIZATION OF APPROPRIATIONS.*—

2           (1) *IN GENERAL.*—*There are authorized to be ap-*  
3       *propriated to the Secretary \$600,000,000 for each of*  
4       *fiscal years 2008 through 2011 for making grants*  
5       *under this section.*

6           (2) *PERIOD OF AVAILABILITY.*—*Sums appro-*  
7       *priated to carry out this section shall remain avail-*  
8       *able until expended.*

9       **SEC. 106. PUBLIC TRANSPORTATION SECURITY ASSIST-**  
10       **ANCE.**

11       (a) *IN GENERAL.*—*The Secretary, in consultation with*  
12       *the Secretary of Transportation, shall establish a program*  
13       *for making grants to an eligible public transportation des-*  
14       *ignated recipient for security improvements described in*  
15       *subsection (b).*

16       (b) *USES OF FUNDS.*—*A recipient of a grant under*  
17       *subsection (a) shall use the grant funds for one or more of*  
18       *the following:*

19           (1) *Perimeter protection systems, including ac-*  
20       *cess control, installation of improved lighting, fenc-*  
21       *ing, and barricades.*

22           (2) *Security improvements to stations and other*  
23       *public transportation infrastructure.*

24           (3) *Tunnel protection systems.*

25           (4) *Evacuation improvements.*

1           (5) *Inspection technologies, including verified*  
2 *visual inspection technologies using hand-held readers*  
3 *and discs.*

4           (6) *Communications equipment, including mo-*  
5 *bile service equipment to provide access to emergency*  
6 *services in an underground fixed guideway system.*

7           (7) *Chemical, biological, or radiological or explo-*  
8 *sive detection, including canine patrols for such detec-*  
9 *tion.*

10          (8) *Surveillance equipment.*

11          (9) *Emergency response equipment, including*  
12 *fire suppression and decontamination equipment, per-*  
13 *sonal protective equipment, and defibrillators.*

14          (10) *Global positioning or tracking and recovery*  
15 *equipment.*

16          (11) *Redundant critical operations control sys-*  
17 *tems.*

18          (12) *Live or simulated exercises described in sec-*  
19 *tion 110.*

20          (13) *Public awareness campaigns for enhanced*  
21 *public transportation security.*

22          (14) *Operating and capital costs associated with*  
23 *security awareness, preparedness, and response train-*  
24 *ing, including training under section 109 and train-*  
25 *ing developed by universities and institutions of high-*

1 *er education and by nonprofit employee labor organi-*  
2 *zations, for front-line public transportation employe-*  
3 *es.*

4 *(15) Overtime reimbursement for additional se-*  
5 *curity personnel during periods of heightened security*  
6 *as determined by the Secretary.*

7 *(16) Operational costs for personnel assigned to*  
8 *full-time security or counterterrorism duties related to*  
9 *public transportation.*

10 *(17) Such other security improvements as the*  
11 *Secretary considers appropriate.*

12 *(c) ELIGIBILITY.—*

13 *(1) IN GENERAL.—Eligible entities for a grant*  
14 *under this section may include public transportation*  
15 *agencies and State, local, and tribal governmental en-*  
16 *tities that provide security or counterterrorism related*  
17 *services to public transportation.*

18 *(2) PROJECT ELIGIBILITY.—A recipient of a*  
19 *grant under this section may use grant funds only for*  
20 *permissible uses under subsection (b) to further a pub-*  
21 *lic transportation security plan developed, submitted*  
22 *to, and approved by the Secretary.*

23 *(d) SECURITY IMPROVEMENT PRIORITIES.—In estab-*  
24 *lishing guidelines for applications for grants under this sec-*  
25 *tion, the Secretary shall establish a list in order of priority*

1 *regarding uses of funds for grant recipients under this sec-*  
2 *tion.*

3 *(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—*  
4 *Except as otherwise specifically provided in this section, a*  
5 *grant provided under this section shall be subject to the*  
6 *terms and conditions applicable to a grant made under sec-*  
7 *tion 5307 of title 49, United States Code, under effect on*  
8 *January 1, 2007, and such other terms and conditions as*  
9 *are determined necessary by the Secretary.*

10 *(f) LIMITATION ON USES OF FUNDS.—Grants made*  
11 *under this section may not be used—*

12 *(1) to supplant State or local funds; and*

13 *(2) to make any State or local government cost-*  
14 *sharing contribution under any other law.*

15 *(g) ANNUAL REPORTS.—Each recipient of a grant*  
16 *under this section shall report annually to the Secretary*  
17 *on the use of the grant funds.*

18 *(h) GUIDELINES.—Before distribution of funds to re-*  
19 *cipients of grants under this section, the Secretary, in con-*  
20 *sultation with the Secretary of Transportation, shall issue*  
21 *guidelines to ensure that recipients of grants under this sec-*  
22 *tion use small, minority, women-owned, or disadvantaged*  
23 *businesses as contractors or subcontractors to the extent*  
24 *practicable.*

1       (i) *MONITORING.*—*The Secretary shall be responsible*  
2 *for monitoring the manner in which the grants are used.*

3       (j) *AUTHORIZATION OF APPROPRIATIONS.*—

4           (1) *IN GENERAL.*—*There are authorized to be ap-*  
5 *propriated to the Secretary to make grants under this*  
6 *section—*

7                   (A) *\$775,000,000 for fiscal year 2008;*

8                   (B) *\$825,000,000 for fiscal year 2009;*

9                   (C) *\$880,000,000 for fiscal year 2010; and*

10                   (D) *\$880,000,000 for fiscal year 2011.*

11           (2) *PERIOD OF AVAILABILITY.*—*Sums appro-*  
12 *priated to carry out this section shall remain avail-*  
13 *able until expended.*

14 **SEC. 107. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

15       (a) *IN GENERAL.*—*The Secretary, in consultation with*  
16 *the Secretary of Transportation, shall establish a program*  
17 *for making grants for eligible private operators providing*  
18 *transportation by an over-the-road bus for security im-*  
19 *provements described in subsection (b).*

20       (b) *USES OF FUNDS.*—*A recipient of a grant received*  
21 *under subsection (a) shall use the grant funds for one or*  
22 *more of the following:*

23           (1) *Constructing and modifying terminals, ga-*  
24 *rages, facilities, or over-the-road buses to increase*  
25 *their security.*

1           (2) *Protecting or isolating the driver of an over-*  
2 *the-road bus.*

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

8           (4) *Installing cameras and video surveillance*  
9 *equipment on over-the-road buses and at terminals,*  
10 *garages, and over-the-road bus facilities.*

11           (5) *Establishing and improving an emergency*  
12 *communications system linking drivers and over-the-*  
13 *road buses to the recipient's operations center or link-*  
14 *ing the operations center to law enforcement and*  
15 *emergency personnel.*

16           (6) *Implementing and operating passenger*  
17 *screening programs for weapons and explosives.*

18           (7) *Public awareness campaigns for enhanced*  
19 *over-the-road bus security.*

20           (8) *Operating and capital costs associated with*  
21 *security awareness, preparedness, and response train-*  
22 *ing, including training under section 109 and train-*  
23 *ing developed by universities and institutions of high-*  
24 *er education and by nonprofit employee labor organi-*  
25 *zations, for front-line over-the-road bus employees.*

1           (9) *Chemical, biological, radiological, or explo-*  
2           *sive detection, including canine patrols for such detec-*  
3           *tion.*

4           (10) *Overtime reimbursement for additional se-*  
5           *curity personnel during periods of heightened security*  
6           *as determined by the Secretary.*

7           (11) *Live or simulated exercises described in sec-*  
8           *tion 110.*

9           (12) *Operational costs for personnel assigned to*  
10          *full-time security or counterterrorism duties related to*  
11          *over-the-road bus transportation.*

12          (13) *Such other improvements as the Secretary*  
13          *considers appropriate.*

14          (c) *ELIGIBILITY.—*

15           (1) *IN GENERAL.—Eligible entities for a grant*  
16           *under this section may include over-the-road bus pro-*  
17           *viders and State, local, and tribal governmental enti-*  
18           *ties that provide security or counterterrorism related*  
19           *services to over-the-road bus providers.*

20           (2) *PROJECT ELIGIBILITY.—A recipient of a*  
21           *grant under this section may use grant funds only for*  
22           *permissible uses under subsection (b) to further an*  
23           *over-the-road bus security plan developed, submitted*  
24           *to, and approved by the Secretary.*

1           (d) *SECURITY IMPROVEMENT PRIORITIES.*—*In estab-*  
2 *lishing guidelines for applications for grants under this sec-*  
3 *tion, the Secretary shall establish a list in order of priority*  
4 *regarding uses of funds for grant recipients under this sec-*  
5 *tion.*

6           (e) *SUBJECT TO CERTAIN TERMS AND CONDITIONS.*—  
7 *Except as otherwise specifically provided in this section, a*  
8 *grant made under this section shall be subject to the terms*  
9 *and conditions applicable to subrecipients who provide*  
10 *intercity bus transportation under section 5311(f) of title*  
11 *49, United States Code, and such other terms and condi-*  
12 *tions as are determined necessary by the Secretary.*

13           (f) *LIMITATION ON USES OF FUNDS.*—*A grant made*  
14 *under this section may not be used to—*

15                 (1) *supplant State or local funds for activities;*

16                 *and*

17                 (2) *make any State or local government cost-*  
18 *sharing contribution under any other law.*

19           (g) *ANNUAL REPORTS.*—*Each recipient of a grant*  
20 *under this section shall report annually to the Secretary*  
21 *and the Secretary of Transportation on the use of such*  
22 *grant funds*

23           (h) *GUIDELINES.*—*Before distribution of funds to re-*  
24 *cipients of grants under this section, the Secretary, in con-*  
25 *sultation with the Secretary of Transportation, shall issue*

1 *guidelines to ensure that recipients of grants under this sec-*  
2 *tion use small, minority, women-owned, and disadvantaged*  
3 *businesses as contractors or subcontractors to the extent*  
4 *practicable.*

5 (i) *MONITORING.*—*The Secretary shall be responsible*  
6 *for monitoring the manner in which the grants are used.*

7 (j) *AUTHORIZATION.*—

8 (1) *IN GENERAL.*—*There is authorized to be ap-*  
9 *propriated to the Secretary to make grants under this*  
10 *section—*

11 (A) *\$12,000,000 for fiscal year 2008; and*

12 (B) *\$25,000,000 for each of fiscal years*  
13 *2009 through 2011.*

14 (2) *PERIOD OF AVAILABILITY.*—*Sums appro-*  
15 *priated to carry out this section shall remain avail-*  
16 *able until expended.*

17 **SEC. 108. FIRE AND LIFE SAFETY IMPROVEMENTS.**

18 (a) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
19 *authorized to be appropriated to the Secretary of Transpor-*  
20 *tation for making grants to Amtrak, for the purpose of car-*  
21 *rying out projects to make fire and life safety improvements*  
22 *to Amtrak tunnels on the Northeast Corridor the following*  
23 *amounts:*

24 (1) *For the 6 tunnels in New York City, New*  
25 *York, to provide ventilation, electrical, and fire safety*

1        *technology improvements, emergency communication*  
2        *and lighting systems, and emergency access and egress*  
3        *for passengers—*

4                    (A) \$25,000,000 for fiscal year 2008;

5                    (B) \$25,000,000 for fiscal year 2009;

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

7                    (D) \$25,000,000 for fiscal year 2011.

8                    (2) *For the Baltimore & Potomac Tunnel and*  
9        *the Union Tunnel in Baltimore, Maryland, to provide*  
10       *adequate drainage and ventilation, communication,*  
11       *lighting, standpipe, and passenger egress improve-*  
12       *ments—*

13                    (A) \$5,000,000 for fiscal year 2008;

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

15                    (C) \$5,000,000 for fiscal year 2010; and

16                    (D) \$5,000,000 for fiscal year 2011.

17                    (3) *For the Union Station tunnels in the Dis-*  
18       *trict of Columbia to provide ventilation, communica-*  
19       *tion, lighting, and passenger egress improvements—*

20                    (A) \$5,000,000 for fiscal year 2008;

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

22                    (C) \$5,000,000 for fiscal year 2010; and

23                    (D) \$5,000,000 for fiscal year 2011.

1       (b) *AVAILABILITY OF AMOUNTS.*—Amounts appro-  
2       priated pursuant to this section shall remain available  
3       until expended.

4       (c) *GUIDELINES.*—Before distribution of funds to re-  
5       cipients of grants under this section, the Secretary of Trans-  
6       portation shall issue guidelines to ensure that recipients of  
7       grants under this section use small, minority, women-  
8       owned, or disadvantaged businesses as the contractors or  
9       subcontractors to the extent practicable.

10   **SEC. 109. SECURITY TRAINING PROGRAM.**

11       (a) *IN GENERAL.*—Not later than 90 days after the  
12       date of enactment of this Act, the Secretary, in consultation  
13       with the Secretary of Transportation, shall—

14               (1) *develop security training programs to pre-*  
15               *pare all railroad, public transportation, and over-the-*  
16               *road bus workers, including front-line employees for*  
17               *potential threat conditions; and*

18               (2) *issue detailed guidance for the program.*

19       (b) *CONSULTATION.*—The Secretary shall develop the  
20       guidance under subsection (a)(2) in consultation with—

21               (1) *appropriate law enforcement, fire service, se-*  
22               *curity, and terrorism experts;*

23               (2) *representatives of providers of covered trans-*  
24               *portation; and*

1           (3) *nonprofit employee labor organizations rep-*  
2           *resenting railroad, public transportation, over-the-*  
3           *road bus workers, and fire fighter workers.*

4           (c) *PROGRAM ELEMENTS.—The guidance developed*  
5           *under subsection (a)(2) shall require security training pro-*  
6           *grams described in subsection (a) to include, at a min-*  
7           *imum, elements to address the following:*

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

10          (2) *Crew and passenger communication and co-*  
11          *ordination.*

12          (3) *Appropriate responses to defend oneself, in-*  
13          *cluding using nonlethal defense devises.*

14          (4) *Evacuation procedures for passengers and*  
15          *workers, including individuals with disabilities.*

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

19          (6) *Recognition and reporting of dangerous sub-*  
20          *stances and suspicious packages, persons, and situa-*  
21          *tions.*

22          (7) *Understanding security incident procedures,*  
23          *including procedures for communicating with govern-*  
24          *mental and nongovernmental emergency response pro-*

1        *viders and for on-scene interaction with such emer-*  
2        *gency response providers.*

3            (8) *Operation and maintenance of security*  
4        *equipment and systems.*

5            (9) *Any other subject the Secretary considers ap-*  
6        *propriate.*

7        (d) *REQUIRED PROGRAMS.—*

8            (1) *DEVELOPMENT AND SUBMISSION TO SEC-*  
9        *RETARY.—Not later than 60 days after the Secretary*  
10       *issues guidance under subsection (a)(2) in final form,*  
11       *each provider of covered transportation shall develop*  
12       *a security training program in accordance with the*  
13       *guidance developed under subsection (2) and submit*  
14       *the program to the Secretary for approval.*

15           (2) *APPROVAL.—Not later than 60 days after re-*  
16       *ceiving a security training program under this sub-*  
17       *section, the Secretary shall approve the program or*  
18       *require the provider of covered transportation that de-*  
19       *veloped the program to make any revisions to the pro-*  
20       *gram that the Secretary considers necessary for the*  
21       *program to meet the guidance requirements.*

22           (3) *TRAINING.—Not later than 1 year after the*  
23       *Secretary approves a security training program*  
24       *under this subsection, the provider of covered trans-*  
25       *portation that developed the program shall complete*

1        *the training of all workers covered under the pro-*  
2        *gram.*

3            (4) *UPDATES.—The Secretary shall periodically*  
4        *review and update as appropriate the training guid-*  
5        *ance issued under subsection (a)(2) to reflect new or*  
6        *changing security threats and require providers of*  
7        *covered transportation to revise their programs ac-*  
8        *cordingly and provide additional training to their*  
9        *workers.*

10          (e) *NATIONAL TRAINING PROGRAM.—The Secretary*  
11        *shall ensure that the training program developed under sub-*  
12        *section (a) is a component of the National Training Pro-*  
13        *gram established under section 648 of the Department of*  
14        *Homeland Security Appropriations Act of 2007 (6 U.S.C.*  
15        *748).*

16          (f) *FERRY EXEMPTION.—This section does not apply*  
17        *to any ferry system for which training is required to be*  
18        *conducted pursuant to section 70103 of title 46, United*  
19        *States Code.*

20        **SEC. 110. SECURITY EXERCISES.**

21          (a) *IN GENERAL.—The Secretary, in consultation with*  
22        *the Secretary of Transportation, shall establish a program*  
23        *for conducting security exercises for covered transportation*  
24        *for the purpose of assessing and improving the capabilities*  
25        *of entities described in subsection (b) to prevent, prepare*

1 *for, mitigate against, respond to, and recover from acts of*  
2 *terrorism involving covered transportation.*

3 (b) *COVERED ENTITIES.—Entities to be assessed under*  
4 *the program shall include—*

5 (1) *Federal, State, and local agencies and tribal*  
6 *governments;*

7 (2) *employees and managers of providers of cov-*  
8 *ered transportation;*

9 (3) *governmental and nongovernmental emer-*  
10 *gency response providers and law enforcement per-*  
11 *sonnel, including railroad and transit police; and*

12 (4) *any other organization or entity that the*  
13 *Secretary determines appropriate.*

14 (c) *REQUIREMENTS.—The Secretary, in consultation*  
15 *with the Secretary of Transportation, shall ensure that the*  
16 *program—*

17 (1) *consolidates all existing security exercises for*  
18 *covered transportation administered by the Depart-*  
19 *ment and the Department of Transportation;*

20 (2) *requires, on a periodic basis, at the facilities*  
21 *a provider of covered transportation, exercises to be*  
22 *conducted that are—*

23 (A) *scaled and tailored to the needs of the*  
24 *facilities, including individuals with disabilities;*

1           (B) live, in the case of the most at-risk fa-  
2           cilities to a terrorist attack;

3           (C) coordinated with appropriate officials  
4           of covered transportation providers;

5           (D) as realistic as practicable and based on  
6           current risk assessments, including credible  
7           threats, vulnerabilities, and consequences; and

8           (E) consistent with the National Incident  
9           Management System, the National Response  
10          Plan, the National Infrastructure Protection  
11          Plan, the National Preparedness Guidance, the  
12          National Preparedness Goal, and other such na-  
13          tional initiatives;

14          (3) provides that exercises described in para-  
15          graph (2) will be—

16               (A) evaluated against clear and consistent  
17               performance measures;

18               (B) assessed to learn best practices, which  
19               shall be shared with appropriate Federal, State,  
20               local, and tribal officials, governmental and non-  
21               governmental emergency response providers, law  
22               enforcement personnel, including railroad and  
23               transit police, and appropriate stakeholders; and

24               (C) followed by remedial action in response  
25               to lessons learned;

1           (4) *includes exercises involving covered transpor-*  
2           *tation at or near the international land borders of the*  
3           *United States and in coordination with international*  
4           *stakeholders;*

5           (5) *involves individuals in neighborhoods around*  
6           *the infrastructure of a provider of covered transpor-*  
7           *tation; and*

8           (6) *assists State, local, and tribal governments*  
9           *and providers of covered transportation in designing,*  
10          *implementing, and evaluating exercises that conform*  
11          *to the requirements of paragraph (2).*

12          (d) *REMEDIAL ACTION MANAGEMENT PROGRAM.—The*  
13          *Secretary shall utilize the remedial action management pro-*  
14          *gram of the Federal Emergency Management Agency to—*

15               (1) *identify and analyze each exercise conducted*  
16               *under the program for lessons learned and best prac-*  
17               *tices;*

18               (2) *disseminate lessons learned and best practices*  
19               *to participants in the program;*

20               (3) *monitor the implementation of lessons*  
21               *learned and best practices by participants in the pro-*  
22               *gram; and*

23               (4) *conduct remedial action tracking and long-*  
24               *term trend analysis.*

1           (f) *NATIONAL TRAINING PROGRAM.*—*The Secretary*  
2 *shall ensure that the training program developed under sub-*  
3 *section (a) is a component of the National Training Pro-*  
4 *gram established under section 648 of the Department of*  
5 *Homeland Security Appropriations Act of 2007 (6 U.S.C.*  
6 *748).*

7           (g) *FERRY SYSTEM EXEMPTION.*—*This section does*  
8 *not apply to any ferry for which drills are required to be*  
9 *conducted pursuant to section 70103 of title 46, United*  
10 *States Code.*

11 **SEC. 111. SECURITY RESEARCH AND DEVELOPMENT.**

12           (a) *ESTABLISHMENT OF RESEARCH AND DEVELOP-*  
13 *MENT PROGRAM.*—*The Secretary shall carry out a research*  
14 *and development program for the purpose of improving the*  
15 *security of covered transportation.*

16           (b) *ELIGIBLE PROJECTS.*—*The research and develop-*  
17 *ment program may include projects—*

18               (1) *to reduce the vulnerability of passenger*  
19 *trains, stations, and equipment to explosives and haz-*  
20 *ardous chemical, biological, and radioactive sub-*  
21 *stances including the development of technology to*  
22 *screen passengers in large numbers at peak com-*  
23 *muting times with minimal interference and disrup-*  
24 *tion;*

1           (2) to test new emergency response and recovery  
2 techniques and technologies, including those used at  
3 international borders;

4           (3) to develop improved freight railroad tech-  
5 nologies, including—

6                 (A) technologies for sealing or modifying  
7 railroad tank cars;

8                 (B) automatic inspection of railroad cars;

9                 (C) communication-based train controls;

10                (D) signal system integrity at switches;

11                (E) emergency response training, including  
12 training in a tunnel environment;

13                (F) security and redundancy for critical  
14 communications, electrical power, computer, and  
15 train control systems; and

16                (G) technologies for securing bridges and  
17 tunnels;

18           (4) to test wayside detectors that can detect tam-  
19 pering;

20           (5) to support enhanced security for the trans-  
21 portation of security sensitive materials by railroad;

22           (6) to mitigate damages in the event of a  
23 cyberattack; and

24           (7) to address other vulnerabilities and risks  
25 identified by the Secretary.

1           (c) *COORDINATION WITH OTHER RESEARCH INITIA-*  
2 *TIVES.—The Secretary shall—*

3           (1) *ensure that the research and development*  
4 *program is consistent with the National Strategy for*  
5 *Rail and Public Transportation Security developed*  
6 *under section 101; and*

7           (2) *to the greatest extent practicable, coordinate*  
8 *the research and development activities of the Depart-*  
9 *ment with other ongoing research and development se-*  
10 *curity related initiatives, including research being*  
11 *conducted by—*

12                   (A) *the National Academy of Sciences;*

13                   (B) *the Department of Transportation, in-*  
14 *cluding University Transportation Centers and*  
15 *other institutes, centers, and simulators funded*  
16 *by the Department of Transportation;*

17                   (C) *the Technical Support Working Group;*

18                   (D) *other Federal departments and agen-*  
19 *cies; and*

20                   (E) *other Federal and private research lab-*  
21 *oratories, research entities, and universities and*  
22 *institutions of higher education including, His-*  
23 *torically Black Colleges or Universities, and His-*  
24 *panic Serving Institution or Tribal University,*  
25 *with the capability to conduct both practical and*

1           *theoretical research and technical systems anal-*  
2           *ysis on subjects that include bridge, tunnel, blast,*  
3           *and infrastructure protection;*

4           (3) *carry out any research and development*  
5           *project authorized by this section through a reimburs-*  
6           *able agreement with the appropriate agency or entity*  
7           *official, if the agency or entity—*

8                   (A) *is currently sponsoring a research and*  
9                   *development project in a similar area; or*

10                   (B) *has a unique facility or capability that*  
11                   *would be useful in carrying out the project;*

12           (4) *award grants, cooperative agreements, con-*  
13           *tracts, other transactions, or reimbursable agreements*  
14           *to the entities described in subsection (c)(2) and shall*  
15           *adopt necessary procedures, including audits, to en-*  
16           *sure that awards made under this section are ex-*  
17           *pended in accordance with the purposes of this title*  
18           *and the priorities and other criteria developed by the*  
19           *Secretary; and*

20           (5) *make reasonable efforts to enter into memo-*  
21           *randa of understanding, contracts, grants, cooperative*  
22           *agreements, or other transactions with owners and*  
23           *operators of freight and intercity passenger rail and*  
24           *over-the-road bus facilities willing to contribute both*  
25           *physical space and other resources.*

1           (d) *PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES*  
2 *ISSUES.*—

3           (1) *CONSULTATION.*—*In carrying out research*  
4 *and development projects under this section, the Sec-*  
5 *retary shall consult with the Chief Privacy Officer of*  
6 *the Department and the Officer for Civil Rights and*  
7 *Civil Liberties of the Department as appropriate and*  
8 *in accordance with section 222 of the Homeland Secu-*  
9 *rity Act of 2002 (6 U.S.C. 142).*

10           (2) *PRIVACY IMPACT ASSESSMENTS.*—*In accord-*  
11 *ance with sections 222 and 705 of the Homeland Se-*  
12 *curity Act of 2002 (6 U.S.C. 142; 345), the Chief Pri-*  
13 *vacy Officer shall conduct privacy impact assessments*  
14 *and the Officer for Civil Rights and Civil Liberties*  
15 *shall conduct reviews, as appropriate, for research*  
16 *and development initiatives developed under this sec-*  
17 *tion.*

18           (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
19 *authorized to be appropriated to the Secretary to carry out*  
20 *this section—*

21           (1) *\$50,000,000 for fiscal year 2008;*

22           (2) *\$50,000,000 for fiscal year 2009;*

23           (3) *\$50,000,000 for fiscal year 2010; and*

24           (4) *\$50,000,000 for fiscal year 2011.*

25 *Such sums shall remain available until expended.*

1 **SEC. 112. WHISTLEBLOWER PROTECTIONS.**

2 (a) *IN GENERAL.*—No covered individual may be dis-  
3 charged, demoted, suspended, threatened, harassed, rep-  
4 rimanded, investigated, or in any other manner discrimi-  
5 nated against, including by a denial, suspension, or revoca-  
6 tion of a security clearance or by any other security access  
7 determination, if such discrimination is due, in whole or  
8 in part, to any lawful act done, perceived to have been done,  
9 or intended to be done by the covered individual—

10 (1) to provide information, cause information to  
11 be provided, or otherwise assist in an investigation  
12 regarding any conduct which the covered individual  
13 reasonably believes constitutes a violation of any law,  
14 rule, or regulation relating to rail, public transpor-  
15 tation, or over-the-road-bus security, which the cov-  
16 ered individual reasonably believes constitutes a  
17 threat to rail, public transportation, or over-the-road-  
18 bus security, or which the covered individual reason-  
19 ably believes constitutes fraud, waste, or mismanage-  
20 ment of Government funds intended to be used for  
21 rail, public transportation, or over-the-road-bus secu-  
22 rity, if the information or assistance is provided to  
23 or the investigation is conducted by—

24 (A) by a Federal, State, or local regulatory  
25 or law enforcement agency (including an office of  
26 the Inspector General under the Inspector Gen-

1           *eral Act of 1978 (5 U.S.C. app.; Public Law 95–*  
2           *452);*

3           *(B) any Member of Congress, any committee*  
4           *of Congress, or the Government Accountability*  
5           *Office; or*

6           *(C) a person with supervisory authority*  
7           *over the covered individual (or such other person*  
8           *who has the authority to investigate, discover, or*  
9           *terminate misconduct);*

10          *(2) to file, cause to be filed, testify, participate*  
11          *in, or otherwise assist in a proceeding or action filed*  
12          *or about to be filed relating to an alleged violation of*  
13          *any law, rule, or regulation relating to rail, public*  
14          *transportation, or over-the-road bus security; or*

15          *(3) to refuse to violate or assist in the violation*  
16          *of any law, rule, or regulation relating to rail public*  
17          *transportation, or over-the-road bus security.*

18          ***(b) ENFORCEMENT ACTION.—***

19                 *(1) IN GENERAL.—A covered individual who al-*  
20                 *leges discharge or other discrimination by any person*  
21                 *in violation of subsection (a) may seek relief under*  
22                 *subsection (c)—*

23                 *(A) for covered individuals who are employ-*  
24                 *ees of the Department or the Department of*

1           *Transportation, by filing a complaint with the*  
2           *Merit Systems Protection Board;*

3                     *(B) for contractors or subcontractors of the*  
4           *Department or Department of Transportation,*  
5           *by filing a complaint with their respective In-*  
6           *spector General;*

7                     *(C) for all other covered individuals, by fil-*  
8           *ing a complaint with the Secretary of Labor;*  
9           *and*

10                    *(D) if the Secretary of Labor, Merit System*  
11           *Protection Board, or the respective Inspector*  
12           *General has not issued a final decision not later*  
13           *than 180 days after the filing of the complaint,*  
14           *or in the event that a final order or decision is*  
15           *issued by the Secretary of Labor, Merit System*  
16           *Protection Board, or the respective Inspector*  
17           *General, whether within the 180-day period or*  
18           *thereafter, when, not later than 90 days after*  
19           *such an order or decision is issued, bringing an*  
20           *original action at law or equity for de novo re-*  
21           *view in the appropriate district court of the*  
22           *United States, which shall have jurisdiction over*  
23           *such an action without regard to the amount in*  
24           *controversy, and then, at the request of either*

1           *party to such action, be tried by the court with*  
2           *a jury.*

3           (2) *PROCEDURE.—*

4                 (A) *IN GENERAL.—An action under para-*  
5                 *graph (1) shall be governed under the rules and*  
6                 *procedures set forth in section 42121(b) of title*  
7                 *49, United States Code.*

8                 (B) *EXCEPTION.—Notification made under*  
9                 *section 42121(b)(1) of title 49, United States*  
10                *Code, shall be made to the person named in the*  
11                *complaint and to the person's employer.*

12                (C) *BURDENS OF PROOF.—An action*  
13                *brought under paragraph (1) shall be governed*  
14                *by the legal burdens of proof set forth in section*  
15                *42121(b) of title 49, United States Code.*

16                (D) *STATUTE OF LIMITATIONS.—An action*  
17                *under paragraph (1) shall be commenced not*  
18                *later than 1 year after the date on which the vio-*  
19                *lation occurs.*

20           (c) *REMEDIES.—*

21                 (1) *IN GENERAL.—A covered individual pre-*  
22                 *vailing in any action under subsection (b)(1) shall be*  
23                 *entitled to all relief necessary to make the covered in-*  
24                 *dividual whole.*

1           (2) *DAMAGES.*—*Relief for an action under sub-*  
2           *section (b)(1) shall include remedies under subpara-*  
3           *graphs (A) through (C) and if appropriate, may in-*  
4           *clude subparagraph (D) of such subsection—*

5                   (A) *reinstatement with the same seniority*  
6                   *status that the covered individual would have*  
7                   *had, but for the discrimination;*

8                   (B) *the amount of any backpay, with inter-*  
9                   *est; and*

10                  (C) *compensation for any special damages*  
11                  *sustained as a result of the discrimination, in-*  
12                  *cluding litigation costs, expert witness fees, and*  
13                  *reasonable attorney fees; and*

14           (3) *POSSIBLE RELIEF.*—*Relief from an action*  
15           *under paragraph (1) may include punitive damages*  
16           *in an amount not to exceed the greater of 3 times the*  
17           *amount of any compensatory damages awarded under*  
18           *this section or \$5,000,000.*

19           (d) *USE OF STATE SECRETS PRIVILEGE.*—*If the Gov-*  
20           *ernment, in a court of competent jurisdiction, asserts as a*  
21           *defense the privilege commonly referred to as the “state se-*  
22           *crets privilege” then—*

23                   (1) *the parties will act expeditiously to settle the*  
24                   *case and the court shall grant the parties 60 days by*  
25                   *which to reach settlement of the pending matter to*

1        *avoid disclosure of any sensitive government informa-*  
2        *tion, including classified or sensitive intelligence in-*  
3        *formation. The parties may certify to the court that*  
4        *settlement cannot be reached before the end of the 60-*  
5        *day period;*

6            *(2) if the parties cannot settle the matter and the*  
7        *parties continue to litigate the matter, the parties and*  
8        *court shall apply special procedures in order to pro-*  
9        *tect classified or sensitive intelligence information in*  
10       *a manner consistent with sections 1 through 10 of the*  
11       *Classified Information and Procedures Act, and shall*  
12       *adhere to the Classified Information Procedures Act*  
13       *(18 U.S.C. App.; Public Law 96–456; 4 Stat. 2025);*  
14       *and*

15           *(3) if, in any action brought under subsection*  
16       *(b)(1), the Government asserts the state secrets privi-*  
17       *lege and the assertion of such privilege either is frivo-*  
18       *lous, without merit, or is asserted and causes undue*  
19       *delay or hardship to the plaintiff, or prevents the*  
20       *plaintiff from establishing a prima facie case in sup-*  
21       *port of the plaintiff's claim or from rebutting an af-*  
22       *firmative defense, then the court shall enter judgment*  
23       *for the plaintiff and shall determine the relief to be*  
24       *granted.*

25       *(e) CRIMINAL PENALTIES.—*

1           (1) *IN GENERAL.*—*It shall be unlawful for any*  
2           *person employing a covered individual to commit an*  
3           *act prohibited by subsection (a). Any person who will-*  
4           *fully violates this section by terminating or retali-*  
5           *ating against any covered individual who makes a*  
6           *claim under this section shall be fined under title 18,*  
7           *United States Code, imprisoned not more than 1*  
8           *year, or both.*

9           (2) *REPORTING REQUIREMENT.*—

10           (A) *IN GENERAL.*—*The Attorney General*  
11           *shall submit to the appropriate congressional*  
12           *committees an annual report on the enforcement*  
13           *of paragraph (1).*

14           (B) *CONTENTS.*—*Each such report shall—*

15                   (i) *identify each case in which formal*  
16                   *charges under paragraph (1) were brought;*

17                   (ii) *describe the status or disposition of*  
18                   *each such case; and*

19                   (iii) *in any actions under subsection*  
20                   *(b)(1) in which the covered individual was*  
21                   *the prevailing party or the substantially*  
22                   *prevailing party, indicate whether or not*  
23                   *any formal charges under paragraph (1)*  
24                   *have been brought and, if not, the reasons*  
25                   *therefor.*

1           (f) *NO PREEMPTION.*—*Nothing in this section pre-*  
2 *empts or diminishes any other safeguards against discrimi-*  
3 *nation, demotion, discharge, suspension, threats, harass-*  
4 *ment, reprimand, retaliation, or any other manner of dis-*  
5 *crimination provided by Federal or State law.*

6           (g) *RIGHTS RETAINED BY COVERED INDIVIDUAL.*—  
7 *Nothing in this section shall be deemed to diminish the*  
8 *rights, privileges, or remedies of any covered individual*  
9 *under any Federal or State law or under any collective bar-*  
10 *gaining agreement. The rights and remedies in this section*  
11 *may not be waived by any agreement, policy, form, or con-*  
12 *dition of employment.*

13           (h) *DEFINITIONS.*—*In this section, the following defi-*  
14 *nitions apply:*

15               (1) *COVERED INDIVIDUAL.*—*The term “covered*  
16 *individual” means an employee of—*

17                       (A) *the Department;*

18                       (B) *the Department of Transportation;*

19                       (C) *a contractor or subcontractor; and*

20                       (D) *an employer within the meaning of sec-*  
21 *tion 701(b) of the Civil Rights Act of 1964 (42*  
22 *U.S.C. 2000e(b)) and who is a provider of cov-*  
23 *ered transportation.*

24               (2) *LAWFUL.*—*The term “lawful” means not spe-*  
25 *cifically prohibited by law, except that, in the case of*

1        *any information the disclosure of which is specifically*  
2        *prohibited by law or specifically required by Execu-*  
3        *tive order to be kept classified in the interest of na-*  
4        *tional defense or the conduct of foreign affairs, any*  
5        *disclosure of such information to any Member of Con-*  
6        *gress, committee of Congress, or other recipient au-*  
7        *thorized to receive such information, shall be deemed*  
8        *lawful.*

9            (3) *CONTRACTOR.*—*The term “contractor” means*  
10        *a person who has entered into a contract with the De-*  
11        *partment, the Department of Transportation, or a*  
12        *provider of covered transportation.*

13            (4) *EMPLOYEE.*—*The term “employee” means—*  
14            (A) *with respect to an employer referred to*  
15        *in paragraph (1)(A) or (1)(B), an employee as*  
16        *defined by section 2105 of title 5, United States*  
17        *Code; and*

18            (B) *with respect to an employer referred to*  
19        *in paragraph (1)(A), (1)(B), or (1)(C) any offi-*  
20        *cer, partner, employee, or agent.*

21            (5) *SUBCONTRACTOR.*—*The term “subcon-*  
22        *tractor”—*

23            (A) *means any person, other than the con-*  
24        *tractor, who offers to furnish or furnishes any*  
25        *supplies, materials, equipment, or services of any*

1           *kind under a contract with the Department, the*  
2           *Department of Transportation, or a provider of*  
3           *covered transportation; and*

4                   *(B) includes any person who offers to fur-*  
5           *nish or furnishes general supplies to the Federal*  
6           *contractor or a higher tier subcontractor.*

7           (6) *PERSON.*—*The term “person” means a cor-*  
8           *poration, partnership, State entity, business associa-*  
9           *tion of any kind, trust, joint-stock company, or indi-*  
10          *vidual.*

11 ***SEC. 113. INCREASE IN SURFACE TRANSPORTATION SECU-***  
12                   ***RITY INSPECTORS.***

13          (a) *IN GENERAL.*—*The Secretary shall increase the*  
14          *total number of positions for full-time surface transpor-*  
15          *tation security inspectors of the Department so that by De-*  
16          *cember 31, 2010, the total number of such positions is at*  
17          *least 600.*

18          (b) *QUALIFICATIONS.*—*Surface transportation security*  
19          *inspectors hired by the Secretary shall have at least 1 year*  
20          *or equivalent experience in conducting inspections and in-*  
21          *vestigations and engaging in testing security systems and*  
22          *any other qualifications that the Secretary determines ap-*  
23          *propriate.*

24          (c) *ROLES AND RESPONSIBILITIES.*—*The Secretary, in*  
25          *consultation with the Secretary of Transportation and ap-*

1 *propriate State, local, and tribal officials, shall develop a*  
2 *standard operating procedure clearly defining the relation-*  
3 *ship between—*

4 *(1) surface transportation security inspectors of*  
5 *the Department and safety inspectors of the Depart-*  
6 *ment of Transportation; and*

7 *(2) State, local, and tribal law enforcement offi-*  
8 *cers and other law enforcement personnel, including*  
9 *railroad and public transportation police.*

10 *(d) AUTHORIZATION OF APPROPRIATIONS.—There are*  
11 *authorized to be appropriated to the Secretary to carry out*  
12 *subsection (a) such sums as may be necessary. Such sums*  
13 *shall remain available until expended.*

14 **SEC. 114. NATIONAL DOMESTIC PREPAREDNESS CONSOR-**  
15 **TIUM.**

16 *(a) IN GENERAL.—There is in the Department of*  
17 *Homeland Security a National Domestic Preparedness*  
18 *Consortium.*

19 *(b) MEMBERS.—The National Domestic Preparedness*  
20 *Consortium that identifies, develops, tests, and delivers*  
21 *training to State, local, and tribal emergency response pro-*  
22 *viders, provides onsite and mobile training at the perform-*  
23 *ance and management and planning levels, and facilitates*  
24 *the delivery of awareness level training by the training*  
25 *partners of the Department shall consist of—*

1           (1) *the Center for Domestic Preparedness;*

2           (2) *the National Energetic Materials Research*  
3 *and Testing Center, New Mexico Institute of Mining*  
4 *and Technology;*

5           (3) *the National Center for Biomedical Research*  
6 *and Training, Louisiana State University;*

7           (4) *the National Emergency Response and Res-*  
8 *cue Training Center, Texas A&M University;*

9           (5) *the National Exercise, Test, and Training*  
10 *Center, Nevada Test Site; and*

11           (6) *the Transportation Technology Center in*  
12 *Pueblo, Colorado.*

13       (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
14 *authorized to be appropriated such sums as may be nec-*  
15 *essary—*

16           (1) *to at least maintain the funding level of fis-*  
17 *cal year 2007 for each member of the National Do-*  
18 *mestic Preparedness Consortium listed in subsection*

19 *(b) in existence prior to the inclusion of the Trans-*  
20 *portation Technology Center in the Consortium; and*

21           (2) *in fiscal years 2008 through 2011, increase*  
22 *the funding level for each member of the National Do-*  
23 *mestic Preparedness Consortium to not less than 3*  
24 *percent of the amount made available for the pre-*  
25 *ceding fiscal year.*

1 **SEC. 115. AUTHORIZATION OF VISIBLE INTERMODAL PRO-**  
2 **TECTION RESPONSE TEAMS.**

3 *The Secretary, acting through the Administrator of the*  
4 *Transportation Security Administration, is authorized to*  
5 *develop Visible Intermodal Protection Response (referred to*  
6 *in this section as “VIPR”) teams designed to augment secu-*  
7 *rity for any mode of transportation at any location within*  
8 *the United States. In forming a VIPR team, the Sec-*  
9 *retary—*

10 *(1) may use any asset of the Department, includ-*  
11 *ing Federal air marshals, surface transportation secu-*  
12 *rity inspectors, canine detection teams, and advanced*  
13 *screening technology;*

14 *(2) has the discretion to determine, consistent*  
15 *with ongoing security threats, when a VIPR should be*  
16 *deployed, as well as the duration of the deployment*  
17 *in coordination with local security and law enforce-*  
18 *ment officials; and*

19 *(3) prior to deployments, shall consult with local*  
20 *security and law enforcement officials in the jurisdic-*  
21 *tion where the VIPR Team is planned to deploy, to*  
22 *develop and agree upon the appropriate operating*  
23 *protocols and in order to educate those officials re-*  
24 *garding the mission of the VIPR teams.*

1 **SEC. 116. NATIONAL TRANSPORTATION SECURITY CENTER**  
2 **OF EXCELLENCE.**

3 (a) *ESTABLISHMENT.*—*The Secretary shall establish a*  
4 *National Transportation Security Center of Excellence at*  
5 *an institution of higher education to conduct research and*  
6 *education activities, and to develop or provide professional*  
7 *security training, including the training of rail and public*  
8 *transportation employees and rail and public transpor-*  
9 *tation-related professionals, with emphasis on utilization of*  
10 *intelligent transportation systems, technologies, and archi-*  
11 *tectures.*

12 (b) *CRITERIA.*—*The Secretary shall designate the Cen-*  
13 *ter according to the following selection criteria:*

14 (1) *The demonstrated commitment of the institu-*  
15 *tion to transportation security issues.*

16 (2) *The use of and experience with partnerships*  
17 *with other institutions of higher education, Federal*  
18 *laboratories, or other nonprofit laboratories.*

19 (3) *Capability to conduct both practical and the-*  
20 *oretical research and technical systems analysis.*

21 (4) *Utilization of intelligent transportation sys-*  
22 *tem technologies and architectures.*

23 (5) *Ability to develop professional security train-*  
24 *ing programs.*

25 (6) *Capability and willingness to conduct edu-*  
26 *cation of transportation security professionals.*

1           (7) *Such other criteria as the Secretary may des-*  
2           *ignate.*

3           (c) *CONSORTIUM.*—

4           (1) *EXPERIENCE.*—*The Consortium shall include*  
5           *universities and institutions of higher education that*  
6           *have existing transportation programs.*

7           (2) *CERTAIN INCLUSIONS.*—*At least two of the*  
8           *consortium colleges and universities associated with*  
9           *the National Transportation Security Center of Ex-*  
10          *cellence shall be an Historically Black College or Uni-*  
11          *versity, an Hispanic Serving Institution, Tribal Uni-*  
12          *versity, even if the primary institution is one of the*  
13          *mentioned institutions of higher education.*

14          (3) *DEGREE PROGRAM.*—*Of the universities se-*  
15          *lected under paragraph (2), at least one shall have an*  
16          *established degree and an advanced degree program*  
17          *in transportation studies.*

18          (d) *TRAINING.*—*If the consortium does not include the*  
19          *National Transit Institute, the Consortium shall work with*  
20          *the National Transit Institute on training programs.*

21          (e) *FUNDING.*—*The Secretary shall provide such fund-*  
22          *ing as is necessary to the National Transportation Security*  
23          *Center of Excellence established under subsection (a) to*  
24          *carry out this section.*

1 **SEC. 117. TSA PERSONNEL LIMITATIONS.**

2 *Any statutory limitation on the number of employees*  
3 *in the Transportation Security Administration does not*  
4 *apply to employees carrying out this Act.*

5 **SEC. 118. HOMELAND SECURITY GRANTS.**

6 *Notwithstanding any provision of this Act, all grants*  
7 *distributed for security-related purposes pursuant to this*  
8 *Act, shall be administered on the basis of risk by the Sec-*  
9 *retary as the lead Federal official on transportation secu-*  
10 *urity.*

11 **SEC. 119. THREAT ASSESSMENT SCREENING.**

12 *Not later than 180 days after the date of the enactment*  
13 *of this Act, the Secretary shall implement a threat assess-*  
14 *ment screening program, including name-based checks*  
15 *against terrorist watch lists and immigration status check,*  
16 *for all employees of covered transportation, that is the same*  
17 *as the threat assessment screening program required for fa-*  
18 *cility employees and longshoremen by the Commandant of*  
19 *the Coast Guard under Coast Guard Notice USCG-2006-*  
20 *24189 (71 Fed. Reg. 25066 (Friday, April 28, 2006)).*

21 **SEC. 120. BACKGROUND CHECKS FOR COVERED INDIVID-**  
22 **UALS.**

23 *(a) DEFINITIONS.—In this section, the following defi-*  
24 *initions apply:*

25 *(1) BACKGROUND CHECKS.—The term “back-*  
26 *ground check” means a check of the following:*

1           (A) *Relevant criminal history databases.*

2           (B) *In the case of an alien (as defined in*  
3 *the Immigration and Nationality Act (8 U.S.C.*  
4 *1101(a)(3)), the relevant databases to determine*  
5 *the status of the alien under the immigration*  
6 *laws of the United States.*

7           (2) *COVERED INDIVIDUALS.—The term “covered*  
8 *individual” means an employee of—*

9           (A) *an employer, within the meaning of sec-*  
10 *tion 701(b) of the Civil Rights Act of 1964 (42*  
11 *U.S.C. 2000e(b)), who is a provider of covered*  
12 *transportation; or*

13           (B) *a contractor or subcontractor of such an*  
14 *employer.*

15           (b) *REDRESS PROCESS.—If a provider of covered*  
16 *transportation conducts background checks in order to sat-*  
17 *isfy any rules, regulations, directives, or other guidance*  
18 *issued by the Secretary to protect covered transportation*  
19 *from the threat of terrorism, the provider of covered trans-*  
20 *portation shall provide an adequate redress process.*

21           (c) *STANDARDS FOR REDRESS PROCESS.—*

22           (1) *IN GENERAL.—The Secretary shall ensure*  
23 *that each provider of covered transportation imple-*  
24 *ments a redress process in accordance with subsection*

1       **(b)** *for covered individuals adversely impacted by a*  
2       *background check described in subsection (b).*

3               **(2) STANDARDS.**—*The redress process shall be*  
4       *modeled after the appeals and waiver process estab-*  
5       *lished for hazmat drivers and transportation workers*  
6       *at ports, as required by section 1515 of title 49, Code*  
7       *of Federal Regulations.*

8               **(3) COMPONENTS.**—*The redress process shall in-*  
9       *clude the following:*

10                   **(A)** *A waiver process that will allow a cov-*  
11       *ered individual to demonstrate, through rehabili-*  
12       *tation, or facts surrounding the conviction or*  
13       *other mitigating factors, that the individual is*  
14       *not a security risk.*

15                   **(B)** *An appeal process during which a cov-*  
16       *ered individual will have an opportunity to*  
17       *demonstrate that the individual does not have a*  
18       *disqualifying conviction either by—*

19                               **(i)** *correcting outdated underlying*  
20       *court records;*

21                               **(ii)** *proving mistaken identity; or*

22                               **(iii)** *establishing that the conviction*  
23       *cannot serve as the basis for an adverse em-*  
24       *ployment decision in accordance with the*  
25       *limitations contained in subsection (d).*

1                   (C) A proceeding providing an independent  
2                   review.

3                   (D) A process to ensure compliance with the  
4                   requirements of this section.

5                   (4) *PROCEEDINGS PROVIDING AN INDEPENDENT*  
6                   *REVIEW.*—A covered individual who requests a pro-  
7                   ceeding under paragraph (3)(C) shall have the right  
8                   to have waiver and appeal decisions heard by an  
9                   independent decisionmaker with the ability to order  
10                  reinstatement expeditiously or provide other remedy.

11                  (5) *PREVIOUS BACKGROUND CHECKS.*—A covered  
12                  individual subjected to and adversely affected by a  
13                  background check conducted by a provider of covered  
14                  transportation (or a contractor or subcontractor of  
15                  such a provider), in the period beginning on June 23,  
16                  2006, and ending on the date of enactment of this  
17                  Act, to satisfy any rules, regulations, directives, or  
18                  other guidance issued by the Secretary to protect cov-  
19                  ered transportation from the threat of terrorism shall  
20                  have an immediate right to a proceeding with an  
21                  independent decisionmaker to determine if the adverse  
22                  action was in compliance with this section and shall  
23                  have a right to immediate reinstatement or other rem-  
24                  edy if the background check fails to comply with this  
25                  section.

1           (d) *LIMITATIONS.*—

2                 (1) *IN GENERAL.*—*Subject to paragraph (2), any*  
3                 *rule, regulation, directive, or other guidance issued by*  
4                 *the Secretary regarding background checks of covered*  
5                 *individuals shall prohibit an employer from making*  
6                 *an adverse employment decision, including removal*  
7                 *or suspension, with respect to a covered individual*  
8                 *based on—*

9                         (A) *a felony conviction that occurred 7 or*  
10                         *more years ago;*

11                         (B) *a conviction of any offense for which*  
12                         *the individual was released from incarceration 5*  
13                         *or more years ago; or*

14                         (C) *any felony not listed in section*  
15                         *1572.103 of title 49, Code of Federal Regula-*  
16                         *tions.*

17                 (2) *EXCEPTIONS.*—*The limitations contained in*  
18                 *paragraph (1) shall not apply to a covered individual*  
19                 *who has been convicted of any of the following:*

20                         (A) *Treason (or conspiracy to commit trea-*  
21                         *son).*

22                         (B) *Espionage (or conspiracy to commit es-*  
23                         *pionage).*

24                         (C) *Sedition (or conspiracy to commit sedi-*  
25                         *tion).*

1                   (D) Any crime listed in chapter 113B of  
2                   title 18, United States Code (or conspiracy to  
3                   commit such a crime).

4                   (e) NO PREEMPTION OF FEDERAL OR STATE LAW.—  
5                   Nothing in this section shall be construed as preempting  
6                   a Federal, State, or local law that requires criminal history  
7                   background checks of covered employees.

8                   (f) STATUTORY CONSTRUCTION.—Nothing in this sec-  
9                   tion shall be construed to affect the process for review estab-  
10                  lished under section 70105(c) of title 46, United States  
11                  Code, including regulations issued pursuant to such section.

12                  **SEC. 121. TASK FORCE ON DISQUALIFYING CRIMES.**

13                  (a) ESTABLISHMENT.—The Secretary shall establish a  
14                  task force to review the lists of crimes that disqualify indi-  
15                  viduals from certain transportation-related employment  
16                  under current regulations of the Transportation Security  
17                  Administration and assess whether such lists of crimes are  
18                  accurate indicators of a terrorism security risk.

19                  (b) MEMBERSHIP.—The task force shall be composed  
20                  of representatives of appropriate industries, including rep-  
21                  resentatives of nonprofit employee labor organizations, and  
22                  Federal agencies.

23                  (c) REPORT.—Not later than 180 days after the date  
24                  of enactment of this Act, the task force shall transmit to  
25                  the Secretary and Congress a report containing the results

1 *of the review, including recommendations for a common list*  
2 *of disqualifying crimes and the rationale for the inclusion*  
3 *of each crime on the list.*

4 **SEC. 122. PENALTIES.**

5 (a) *REGULATIONS AND ORDERS OF THE SEC-*  
6 *RETARY.—Section 114 of title 49, United States Code, is*  
7 *amended by adding at the end the following:*

8 “(u) *GENERAL CIVIL PENALTIES AND ENFORCEMENT*  
9 *OF REGULATIONS AND ORDERS OF THE SECRETARY OF*  
10 *HOMELAND SECURITY.—*

11 “(1) *APPLICATION.—This subsection applies to*  
12 *the enforcement of regulations prescribed, and orders*  
13 *issued, by the Secretary of Homeland Security under*  
14 *a provision of chapter 701 of title 46 and this title*  
15 *(other than chapter 449) (in this subsection referred*  
16 *to as an ‘applicable provision of this title’). Penalties*  
17 *for violation of regulations prescribed, and orders*  
18 *issued, by the Secretary of Homeland Security under*  
19 *a provision of chapter 449 are provided under chap-*  
20 *ter 463.*

21 “(2) *GENERAL CIVIL PENALTIES.—*

22 “(A) *MAXIMUM CIVIL PENALTIES.—A per-*  
23 *son is liable to the United States Government for*  
24 *a civil penalty of not more than \$10,000 for a*  
25 *violation of a regulation prescribed, or order*

1           *issued, by the Secretary of Homeland Security*  
2           *under an applicable provision of this title.*

3           “(B) *SEPARATE VIOLATIONS.*—*A separate*  
4           *violation occurs under this paragraph for each*  
5           *day the violation continues.*

6           “(3) *ADMINISTRATIVE IMPOSITION OF CIVIL PEN-*  
7           *ALTIES.*—

8           “(A) *IN GENERAL.*—*The Secretary of Home-*  
9           *land Security may impose a civil penalty for a*  
10           *violation of a regulation prescribed, or order*  
11           *issued, under an applicable provision of this*  
12           *title. The Secretary of Homeland Security shall*  
13           *give written notice of the finding of a violation*  
14           *and the penalty.*

15           “(B) *CIVIL ACTIONS TO COLLECT PEN-*  
16           *ALTIES.*—*In a civil action to collect a civil pen-*  
17           *alty imposed by the Secretary under this para-*  
18           *graph, the issues of liability and the amount of*  
19           *the penalty may not be reexamined.*

20           “(C) *EXCLUSIVE JURISDICTION OF DISTRICT*  
21           *COURTS.*—*Notwithstanding subparagraph (A) of*  
22           *this paragraph, the district courts of the United*  
23           *States have exclusive jurisdiction of a civil ac-*  
24           *tion involving a penalty that the Secretary initi-*  
25           *ates if—*

1                   “(i) *the amount in controversy is more*  
2                   *than—*

3                   “(I) *\$400,000 if the violation was*  
4                   *committed by a person other than an*  
5                   *individual or small business concern;*  
6                   *or*

7                   “(II) *\$50,000 if the violation was*  
8                   *committed by an individual or small*  
9                   *business concern;*

10                  “(ii) *the action is in rem or another*  
11                  *action in rem based on the same violation*  
12                  *has been brought; or*

13                  “(iii) *another action has been brought*  
14                  *for an injunction based on the same viola-*  
15                  *tion.*

16                  “(D) *MAXIMUM CIVIL PENALTIES IMPOSED*  
17                  *BY THE SECRETARY.—The maximum civil pen-*  
18                  *alty the Secretary may impose under this para-*  
19                  *graph is—*

20                  “(i) *\$400,000 if the violation was com-*  
21                  *mitted by a person other than an indi-*  
22                  *vidual or small business concern; or*

23                  “(ii) *\$50,000 if the violation was com-*  
24                  *mitted by an individual or small business*  
25                  *concern.*

1           “(E) NOTICE AND OPPORTUNITY TO RE-  
2           QUEST HEARING.—Before imposing a penalty  
3           under this section the Secretary shall provide to  
4           the person against whom the penalty is to be im-  
5           posed—

6                   “(i) written notice of the proposed pen-  
7                   alty; and

8                   “(ii) the opportunity to request, not  
9                   later than 30 days after the date on which  
10                  the person receives the notice, a hearing on  
11                  the proposed penalty.

12           “(4) COMPROMISE AND SETOFF.—

13                   “(A) COMPROMISE.—The Secretary may  
14                   compromise the amount of a civil penalty im-  
15                   posed under this subsection.

16                   “(B) SETOFF.—The Government may de-  
17                   duct the amount of a civil penalty imposed or  
18                   compromised under this subsection from amounts  
19                   it owes the person liable for the penalty.

20           “(5) INVESTIGATIONS AND PROCEEDINGS.—The  
21           provisions set forth in chapter 461 shall be applicable  
22           to investigations and proceedings brought under this  
23           subsection to the same extent that they are applicable  
24           to investigations and proceedings brought with respect

1       to aviation security duties designated to be carried  
2       out by the Secretary.

3               “(6) NONAPPLICATION.—

4                       “(A) PERSONS SUBJECT TO PENALTIES DE-  
5                       TERMINED BY THE SECRETARY OF DEFENSE.—  
6                       Paragraphs (1) through (4) of this subsection do  
7                       not apply to the following persons, who shall be  
8                       subject to penalties as determined by the Sec-  
9                       retary of Defense or the Secretary’s designee:

10                               “(i) The transportation of personnel or  
11                               shipments of materials by contractors where  
12                               the Department of Defense has assumed con-  
13                               trol and responsibility.

14                               “(ii) A member of the Armed Forces of  
15                               the United States when performing official  
16                               duties.

17                               “(iii) A civilian employee of the De-  
18                               partment of Defense when performing offi-  
19                               cial duties.

20                       “(B) POSTAL SERVICE; DEPARTMENT OF  
21                       DEFENSE.—In this subsection, the term ‘person’  
22                       does not include—

23                               “(i) the United States Postal Service;

24                               or

25                               “(ii) the Department of Defense.

1           “(7) *SMALL BUSINESS CONCERN DEFINED.*—*The*  
2           *term ‘small business concern’ has the meaning given*  
3           *that term in section 3 of the Small Business Act (15*  
4           *U.S.C. 632).*”.

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

9           **SEC. 123. SCHOOL BUS TRANSPORTATION SECURITY.**

10          **(a) SCHOOL BUS SECURITY THREAT ASSESSMENT.**—  
11          *Not later than 1 year after the date of enactment of this*  
12          *Act, the Secretary shall transmit to the Committee on*  
13          *Homeland Security and Governmental Affairs of the Senate*  
14          *and the Committee on Homeland Security of the House of*  
15          *Representatives, a report, including a classified report, as*  
16          *appropriate, containing a comprehensive threat assessment*  
17          *of the threat of a terrorist attack on the Nation’s school bus*  
18          *transportation system in accordance with the requirements*  
19          *of this section.*

20          **(b) CONTENTS OF THREAT ASSESSMENT.**—*The assess-*  
21          *ment shall include—*

22                  **(1)** *an assessment of the Nation’s school bus*  
23                  *transportation system, including publicly and pri-*  
24                  *vately operated systems;*

25                  **(2)** *the security threats to the assets and systems;*



1           (b) *DEFINITIONS.—*

2                   (1) *SECURITY SENSITIVE MATERIAL.—The Sec-*  
3                   *retary shall designate a material, or a group or class*  
4                   *of material, in a particular amount and form as se-*  
5                   *curity sensitive when the Secretary determines that*  
6                   *transporting the material in commerce poses a sig-*  
7                   *nificant risk to national security due to the potential*  
8                   *use of the material in an act of terrorism. In making*  
9                   *such a designation, the Secretary shall consider the*  
10                  *following:*

11                           (A) *A highway route-controlled quantity of*  
12                           *a Class 7 (radioactive) material, as defined in*  
13                           *section 173.403 of title 49, Code of Federal Regu-*  
14                           *lations, in a motor vehicle, railcar, or freight*  
15                           *container.*

16                           (B) *More than 25 kilograms (55 pounds) of*  
17                           *a division 1.1, 1.2, or 1.3 of section 173.5 of title*  
18                           *49, Code of Federal Regulations (explosive) ma-*  
19                           *terial in a motor vehicle, rail car, or freight con-*  
20                           *tainer;*

21                           (C) *More than one liter (1.06 quart) per*  
22                           *package of a material poisonous by inhalation,*  
23                           *as defined in section 171.8 of title 49, Code of*  
24                           *Federal Regulations, that meets the criteria for*  
25                           *hazard zone A, as specified in section 173.116(a)*

1           *or section 173.133(a) of title 49, Code of Federal*  
2           *Regulations.*

3           *(D) A shipment of a quantity of hazardous*  
4           *materials in a bulk packaging having a capacity*  
5           *equal to or greater than 13,248 liters (3,500 gal-*  
6           *lons) for liquids or gases or more than 13.24*  
7           *cubic meters (68 cubic feet) for solids.*

8           *(E) A shipment in other than a bulk pack-*  
9           *aging of 2,268 kilograms (5,000 pounds) gross*  
10          *weight or more of one class of hazardous mate-*  
11          *rials for which placarding of a vehicle, rail car,*  
12          *or freight container is required for that class*  
13          *under the provisions of section 172.521B of title*  
14          *49, Code of Federal Regulations.*

15          *(F) A select agent or toxin regulated by the*  
16          *Centers for Disease Control and Prevention*  
17          *under part 73 of title 42, Code of Federal Regu-*  
18          *lations.*

19          *(G) A quantity of hazardous material that*  
20          *requires placarding under the provisions of sub-*  
21          *part F of part 172 of title 49, Code of Federal*  
22          *Regulations.*

23          *(2) AREA OF CONCERN.—For purposes of this*  
24          *section, the term “area of concern” means a geo-*  
25          *graphic region designated by the Secretary as com-*

1        *manding special consideration with respect to the se-*  
2        *curity of the transportation of security sensitive mate-*  
3        *rials, which shall include high threat urban areas as*  
4        *determined by the Secretary.*

5            (3) *STORAGE PATTERN.*—*The term “storage pat-*  
6        *tern” is defined as the conditions of storage, includ-*  
7        *ing—*

8            (A) *location of cars in railyards or on rail-*  
9        *road-controlled leased tracks;*

10          (B) *type of storage (such as bulk transfer or*  
11        *not);*

12          (C) *typical types and numbers of security*  
13        *sensitive material cars stored in close proximity*  
14        *(in ranges);*

15          (D) *population density;*

16          (E) *average length of time cars are stored,*  
17        *attended or unattended; and*

18          (F) *security measures present, including*  
19        *physical security measures, secure handoffs and*  
20        *nearest available safe havens for storage in case*  
21        *of heightened threat conditions.*

22            (4) *MOST SECURE.*—*The term “most secure route*  
23        *or storage pattern” means the route or storage pattern*  
24        *that best reduces the risk, including consequences, of*  
25        *a terrorist attack on a shipment of security sensitive*

1        *material that is transported through or near an area*  
2        *of concern.*

3        *(c) COMPILATION OF ROUTE AND STORAGE PATTERN*  
4        *INFORMATION FOR RAIL CARRIERS TRANSPORTING SECUR-*  
5        *ITY SENSITIVE MATERIALS.—Not later than 90 days after*  
6        *the end of each calendar year, a rail carrier shall compile*  
7        *commodity data by route and storage pattern, a line seg-*  
8        *ment or series of line segments as aggregated by the rail*  
9        *carrier. Within the rail carrier selected route, the com-*  
10       *modity data shall identify the geographic location of the*  
11       *route and storage pattern and the total number of ship-*  
12       *ments by United Nations identification number for security*  
13       *sensitive materials and storage patterns along the routes.*

14       *(d) RAIL TRANSPORTATION ROUTE AND STORAGE*  
15       *PATTERN ANALYSIS FOR SECURITY SENSITIVE MATE-*  
16       *RIALS.—For each calendar year, a rail carrier shall provide*  
17       *a written analysis of the security risks for the transpor-*  
18       *tation routes and storage patterns, identified in the com-*  
19       *modity data collected as required by subsection (c). The se-*  
20       *curity risks present shall be analyzed for the route, railroad*  
21       *facilities, railroad storage facilities, private storage facili-*  
22       *ties, and areas of concern along or in proximity to the*  
23       *route.*

24       *(e) ALTERNATIVE ROUTE AND STORAGE PATTERN*  
25       *ANALYSIS FOR SECURITY SENSITIVE MATERIALS.—*

1           (1) *By the end of each calendar year, a rail car-*  
2           *rier shall—*

3                   (A) *identify to the Department practical al-*  
4                   *ternative routes and storage patterns that will*  
5                   *avoid areas of concern for each of the transpor-*  
6                   *tation routes or facilities it used to ship or store*  
7                   *security sensitive materials through or near*  
8                   *areas of concern in the last calendar year; and*

9                   (B) *perform a security risk assessment of*  
10                  *the alternative route or storage pattern for com-*  
11                  *parison to the route and storage pattern analysis*  
12                  *specified in subsection (d).*

13           (2) *The analysis shall include the following:*

14                   (A) *Identification of security risks for alter-*  
15                   *native route or storage pattern.*

16                   (B) *Comparison of those risks identified in*  
17                   *subparagraph (A) to the primary rail transpor-*  
18                   *tation route or storage pattern.*

19           (3) *Rail carriers transporting security sensitive*  
20           *materials must consider the availability of inter-*  
21           *change agreements or systems of tracks and facilities*  
22           *owned by other operators when determining whether*  
23           *an alternate route for transporting the security sen-*  
24           *sitive materials to avoid areas of concern is practical.*

1           (4) *An alternate route or storage facility that*  
2           *will avoid an area of concern may be considered by*  
3           *the rail carrier to be impractical if the shipment*  
4           *originates in or is destined for the area of concern,*  
5           *or if there would be no harm beyond the property of*  
6           *the rail carrier transporting the shipment or storage*  
7           *facility storing the shipment in the event of a success-*  
8           *ful terrorist attack on the shipment.*

9           (f) *ALTERNATIVE ROUTE AND STORAGE PATTERN SE-*  
10          *LECTION FOR SECURITY SENSITIVE MATERIALS.—A carrier*  
11          *shall use the analysis required by subsections (d) and (e)*  
12          *to select the most secure route and storage pattern to be*  
13          *used in moving the materials specified in subsection (b).*

14          (g) *REVIEW.—Not less than once every 5 years, the*  
15          *analyses route and storage pattern selection determinations*  
16          *required under subsections (c), (d), (e), and (f) shall include*  
17          *a comprehensive, system-wide review of all operational*  
18          *changes, infrastructure modifications, traffic adjustments,*  
19          *changes in the nature of the areas of concern located along*  
20          *or in proximity to the route, or other changes affecting the*  
21          *security of the movements of the materials specified in sub-*  
22          *section (b) of this section that were implemented during the*  
23          *5-year period.*

1 **SEC. 125. TECHNOLOGY STANDARDS AND CLEARINGHOUSE**  
2 **TO IMPROVE SECURITY OF COVERED TRANS-**  
3 **PORTATION.**

4 (a) *IN GENERAL.*—*The Secretary, acting through the*  
5 *Under Secretary for Science and Technology and the Direc-*  
6 *tor of the Domestic Nuclear Detection Office (for radio-*  
7 *logical and nuclear detection technologies and training), in*  
8 *consultation with the Director of the National Institute of*  
9 *Standards and Technology and other appropriate Federal*  
10 *agencies, as appropriate, shall establish a standards pro-*  
11 *gram to support the development, promulgation, and up-*  
12 *dating as necessary of national voluntary consensus stand-*  
13 *ards for performance, testing, use, and training with respect*  
14 *to technologies that will improve the security of covered*  
15 *transportation in order to meet the security plan require-*  
16 *ments under section 103(d)(1) and the security performance*  
17 *requirements under section 103(f).*

18 (b) *EQUIPMENT STANDARDS.*—

19 (1) *REQUIREMENTS.*—*The standards for the per-*  
20 *formance, use, and validation of equipment developed*  
21 *under subsection (a) shall be designed to assist Fed-*  
22 *eral, State, local, and tribal government and non-*  
23 *government emergency response providers, other com-*  
24 *ponents of the Department, providers of covered trans-*  
25 *portation, shippers of hazardous material, manufac-*  
26 *turers of railroad and transit cars, transportation*

1        *and public safety officials, and other relevant stake-*  
2        *holders in acquiring and implementing technologies*  
3        *to prevent, prepare for, mitigate against, and respond*  
4        *to acts of terrorism on covered transportation. Such*  
5        *standards—*

6                *(A) shall be, to the maximum extent prac-*  
7                *ticable, consistent with any existing voluntary*  
8                *consensus standards;*

9                *(B) shall take into account, as appropriate,*  
10              *new types of terrorism threats which may target*  
11              *covered transportation and responsibilities of the*  
12              *Department that may not have been con-*  
13              *templated when such existing standards were de-*  
14              *veloped;*

15              *(C) shall focus on maximizing interoper-*  
16              *ability, interchangeability, durability, flexibility,*  
17              *efficiency, efficacy, portability, sustainability,*  
18              *and safety;*

19              *(D) shall facilitate deployment of the sys-*  
20              *tems to the field and include concept of oper-*  
21              *ations;*

22              *(E) shall consider human factors science;*  
23              *and*

24              *(F) shall cover all appropriate uses of the*  
25              *equipment.*

1           (2) *CATEGORIES OF EQUIPMENT.*—*In carrying*  
2           *out paragraph (1), the Secretary shall specifically*  
3           *consider national voluntary consensus standards for*  
4           *the performance, use, and validation of the following*  
5           *categories of equipment:*

6                   (A) *Physical security equipment, including*  
7                   *surveillance cameras, alarm systems, access/in-*  
8                   *trusion control, motion detection, barriers such*  
9                   *as fences, impact resistant doors, bomb-resistant*  
10                  *trash receptacles, and personnel and vehicle iden-*  
11                  *tification systems.*

12                  (B) *Interoperable communications equip-*  
13                  *ment, including wireless and wireline voice,*  
14                  *video, and data networks.*

15                  (C) *Information technology, including posi-*  
16                  *tion locating and tracking systems.*

17                  (D) *Cybersecurity equipment, including bio-*  
18                  *metric authentication systems, network and per-*  
19                  *sonal firewalls and other authentication tech-*  
20                  *nologies.*

21                  (E) *Personal protective equipment, includ-*  
22                  *ing garments, boots, gloves, and hoods and other*  
23                  *protective clothing.*

1           (F) *Operational and search and rescue*  
2           *equipment, including canines and scene control*  
3           *and safety equipment such as first aid kits.*

4           (G) *Explosive mitigation devices and explo-*  
5           *sive detection and analysis equipment.*

6           (H) *Chemical, biological, radiological, and*  
7           *nuclear detection equipment.*

8           (I) *Decontamination equipment.*

9           (J) *Noninvasive inspection and screening*  
10          *systems.*

11          (K) *Medical and pharmaceutical supplies.*

12          (L) *Other terrorism incident prevention*  
13          *equipment.*

14          (M) *Such other equipment for which the*  
15          *Secretary determines that national voluntary*  
16          *consensus standards would be appropriate to im-*  
17          *prove the security of covered transportation.*

18          (3) *CERTIFICATION AND ACCREDITATION.—The*  
19          *Secretary, in carrying out this subsection, and in co-*  
20          *ordination with the Director of the National Institute*  
21          *of Standards and Technology, may support the cer-*  
22          *tification of equipment and the accreditation of lab-*  
23          *oratories to conduct testing and evaluation.*

24          (c) *TRAINING STANDARDS.—*

1           (1) *REQUIREMENTS.*—*The standards for the*  
2 *training developed under subsection (a) shall be de-*  
3 *signed to enable Federal, State, local, and tribal gov-*  
4 *ernment and nongovernment emergency response pro-*  
5 *viders, other Department personnel, providers of cov-*  
6 *ered transportation, shippers of hazardous material,*  
7 *manufacturers of railroad and transit cars, transpor-*  
8 *tation and public safety officials, and other relevant*  
9 *stakeholders to use equipment effectively and appro-*  
10 *priately in carrying out their responsibilities to se-*  
11 *cure covered transportation. Such standards shall*  
12 *prioritize—*

13           (A) *enabling appropriate stakeholders to*  
14 *prevent, prepare for, respond to, mitigate*  
15 *against, and recover from terrorist threats on*  
16 *covered transportation, including threats from*  
17 *chemical, biological, radiological, and nuclear*  
18 *weapons and explosive devices capable of inflict-*  
19 *ing significant human casualties, and other po-*  
20 *tentially catastrophic emergencies; and*

21           (B) *familiarizing appropriate stakeholders*  
22 *with the proper use of equipment, including the*  
23 *capabilities and limitations of equipment and*  
24 *conditions in which the equipment is expected to*  
25 *operate.*

1           (2) *CATEGORIES OF ACTIVITIES.*—*In carrying*  
2           *out paragraph (1), the Secretary specifically shall in-*  
3           *clude the following categories of activities:*

4                   (A) *Regional planning.*

5                   (B) *Joint exercises.*

6                   (C) *Information analysis and sharing.*

7                   (D) *Decision making protocols for incident*  
8                   *response and alarms.*

9                   (E) *Emergency notification of affected pop-*  
10                   *ulations.*

11                   (F) *Detection of biological, nuclear, radio-*  
12                   *logical, and chemical weapons of mass destruc-*  
13                   *tion.*

14                   (G) *Screening and patrolling procedures.*

15                   (H) *Such other activities for which the Sec-*  
16                   *retary determines that national voluntary con-*  
17                   *sensus training standards would be appropriate.*

18           (3) *CONSISTENCY.*—*In carrying out this sub-*  
19           *section, the Secretary shall ensure that training*  
20           *standards are consistent with the principles of all*  
21           *hazards emergency preparedness.*

22           (d) *CONSULTATION WITH STANDARDS ORGANIZA-*  
23           *TIONS.*—*In establishing national voluntary consensus*  
24           *standards for equipment and training under this section,*

1 *the Secretary shall consult with relevant public and private*  
2 *sector groups, including—*

3 *(1) the National Institute of Standards and*  
4 *Technology;*

5 *(2) the American Public Transportation Associa-*  
6 *tion;*

7 *(3) the National Fire Protection Association;*

8 *(4) the National Association of County and City*  
9 *Health Officials;*

10 *(5) the Association of American Railroads;*

11 *(6) the American Bus Association;*

12 *(7) the Association of State and Territorial*  
13 *Health Officials;*

14 *(8) the American National Standards Institute;*

15 *(9) the National Institute of Justice;*

16 *(10) the Inter-Agency Board for Equipment*  
17 *Standardization and Interoperability;*

18 *(11) the National Public Health Performance*  
19 *Standards Program;*

20 *(12) the National Institute for Occupational*  
21 *Safety and Health;*

22 *(13) ASTM International;*

23 *(14) the International Safety Equipment Asso-*  
24 *ciation;*

1           (15) *the Emergency Management Accreditation*  
2           *Program; and*

3           (16) *to the extent the Secretary considers appro-*  
4           *prate, other national voluntary consensus standards*  
5           *development organizations, other interested Federal,*  
6           *State, and local agencies, and other interested per-*  
7           *sons.*

8           (e) *TECHNOLOGY CLEARINGHOUSE TO ENHANCE THE*  
9           *SECURITY OF COVERED TRANSPORTATION.—*

10           (1) *IN GENERAL.—The Secretary shall utilize the*  
11           *Technology Clearinghouse established under section*  
12           *313 of the Homeland Security Act of 2002 (6 U.S.C.*  
13           *193) to facilitate the identification, acquisition, and*  
14           *deployment of technology, equipment, and training*  
15           *for use by Federal, State, local, and tribal agencies,*  
16           *emergency response providers, other components of the*  
17           *Department, providers of covered transportation,*  
18           *shippers of hazardous material, manufacturers of*  
19           *railroad and transit cars, transportation and public*  
20           *safety officials, and other relevant stakeholders to pre-*  
21           *vent, prepare for, mitigate against, respond to, or re-*  
22           *cover from acts of terrorism on covered transpor-*  
23           *tation.*

1           (2) *ELEMENTS OF THE TECHNOLOGY CLEARING-*  
2           *HOUSE.—Activities in carrying out paragraph (1)*  
3           *shall include—*

4                   (A) *identifying available technologies that*  
5                   *have been, or are in the process of being, devel-*  
6                   *oped, tested, evaluated, or demonstrated by the*  
7                   *Department, other Federal agencies, the private*  
8                   *sector, or foreign governments and international*  
9                   *organizations, and reviewing whether such tech-*  
10                   *nologies may be useful in assisting appropriate*  
11                   *stakeholders to prevent, prepare for, mitigate*  
12                   *against, respond to, or recover from acts of ter-*  
13                   *rorism on covered transportation; and*

14                   (B) *communicating to Federal, State, local,*  
15                   *and tribal agencies, emergency response pro-*  
16                   *viders, other components of the Department, pro-*  
17                   *viders of covered transportation, shippers of haz-*  
18                   *ardous material, manufacturers of railroad and*  
19                   *transit cars, transportation and public safety of-*  
20                   *icials, and other relevant stakeholders the avail-*  
21                   *ability of such technologies, as well as—*

22                           (i) *the technology's specifications and*  
23                           *concept of operations;*

1                   (ii) satisfaction of appropriate equip-  
2                   ment and training standards developed  
3                   under subsections (a) and (b);

4                   (iii) relevant grants available from the  
5                   Department to purchase or train with such  
6                   technologies; and

7                   (iv) whether the Secretary has des-  
8                   ignated a product, equipment, service, de-  
9                   vice, or technology under subparagraph (A)  
10                  as a qualified antiterrorism technology pur-  
11                  suant to the Support Anti-terrorism by Fos-  
12                  tering Effective Technologies Act of 2002 (6  
13                  U.S.C. 441 et seq.).

14                  (3) *COORDINATION.*—The Secretary shall ensure  
15                  that the technology clearinghouse activities conducted  
16                  through the Under Secretary for Science and Tech-  
17                  nology are coordinated with appropriate components  
18                  of the Department including the Domestic Nuclear  
19                  Detection Office, the Transportation Security Admin-  
20                  istration, the Office of Infrastructure Protection, the  
21                  Office of Grants and Training, and the Federal  
22                  Emergency Management Agency.

23                  (4) *AGREEMENTS.*—The Secretary may enter  
24                  into memoranda of understandings or agreements  
25                  with other Federal agencies, foreign governments, and

1        *national and international organizations as appro-*  
2        *prate, in order to maximize the availability of such*  
3        *technologies and information through the Technology*  
4        *Clearinghouse.*

5        **SEC. 126. RAIL TANK CAR SECURITY TESTING.**

6        *(a) RAIL TANK CAR VULNERABILITY ASSESSMENT.—*

7                *(1) ASSESSMENT.—The Secretary shall assess the*  
8        *likely methods of a deliberate attack against a rail*  
9        *tank car used to transport toxic-inhalation-hazard*  
10       *materials, and for each method assessed, the degree to*  
11       *which it may be successful in causing death, injury,*  
12       *or serious adverse effects to human health, the envi-*  
13       *ronment, critical infrastructure, national security, the*  
14       *national economy, or public welfare.*

15               *(2) THREATS.—In carrying out paragraph (1),*  
16       *the Secretary shall consider the most current threat*  
17       *information as to likely methods of a successful attack*  
18       *on a rail tank car transporting toxic-inhalation-haz-*  
19       *ard materials, and may consider the following:*

20               *(A) An improvised explosive device placed*  
21       *along the tracks.*

22               *(B) An improvised explosive device attached*  
23       *to the rail car.*

24               *(C) The use of shoulder-fired missiles.*

25               *(D) The use of rocket propelled grenades.*

1                   (E) *The use of mortars or high-caliber*  
2                   *weapons.*

3                   (3) *PHYSICAL TESTING.—In developing the as-*  
4                   *essment required under paragraph (1), the Secretary*  
5                   *shall conduct physical testing of the vulnerability of*  
6                   *rail tank cars used to transport toxic-inhalation-haz-*  
7                   *ard materials to different methods of a deliberate at-*  
8                   *tack, using technical information and criteria to*  
9                   *evaluate the structural integrity of railroad tank cars.*

10                  (4) *REPORT.—Not later than 30 days after the*  
11                  *completion of the assessment under paragraph (1), the*  
12                  *Secretary shall provide to the appropriate congres-*  
13                  *sional committees a report, in the appropriate for-*  
14                  *mat, on such assessment.*

15                  (b) *RAIL TANK CAR DISPERSION MODELING.—*

16                  (1) *IN GENERAL.—The Secretary, acting through*  
17                  *the National Infrastructure Simulation and Analysis*  
18                  *Center, shall conduct air dispersion modeling anal-*  
19                  *ysis of a release of the contents of a single rail tank*  
20                  *car of toxic-inhalation-hazard materials in at least*  
21                  *three high-threat urban areas in the United States.*

22                  (2) *CONSIDERATIONS.—The analysis under this*  
23                  *subsection shall take into account the following con-*  
24                  *siderations:*

1           (A) *A deliberate attack on a rail tank car*  
2           *transporting toxic-inhalation-hazard materials,*  
3           *including the most likely means of attack and*  
4           *the resulting dispersal rate.*

5           (B) *Different times of day, to account for*  
6           *differences in population size and density in the*  
7           *urban area, as well as differences in cloud cov-*  
8           *erage over the affected regions.*

9           (C) *Historically accurate wind speeds, tem-*  
10          *peratures and directions.*

11          (D) *The difference between a rail tank car*  
12          *in motion and a stationary rail tank car.*

13          (E) *Emergency response procedures by local*  
14          *officials, including the availability of medical*  
15          *countermeasures to treat exposures to toxic-inha-*  
16          *lation-hazard materials.*

17          (F) *Any other considerations the Secretary*  
18          *believes would develop an accurate, plausible dis-*  
19          *persion model for toxic-inhalation-hazard mate-*  
20          *rials released from a rail tank car as a result of*  
21          *a terrorist act.*

22          (3) *CONSULTATION.—In conducting the disper-*  
23          *sion modeling under paragraph (1), the Secretary*  
24          *shall consult with the appropriate State, local, and*

1        *tribal officials of the high-threat urban area selected,*  
2        *and with other Federal agencies as appropriate.*

3            (4) *INFORMATION SHARING.*—*Upon completion*  
4        *of the analysis required under paragraph (1), the Sec-*  
5        *retary shall share the information developed with the*  
6        *appropriate stakeholders within each high-threat*  
7        *urban area selected, given appropriate information*  
8        *protection provisions as may be required by the Sec-*  
9        *retary.*

10           (5) *REPORT.*—*Not later than 30 days after com-*  
11        *pletion of all dispersion analyses under paragraph*  
12        *(1), the Secretary shall submit to the appropriate con-*  
13        *gressional committees a report detailing the Sec-*  
14        *retary's conclusions and findings in an appropriate*  
15        *format.*

16        **SEC. 127. RAIL RADIOLOGICAL AND NUCLEAR DETECTION.**

17           (a) *PROTOTYPE.*—*Not later than one year after the*  
18        *date of enactment of this Act, the Domestic Nuclear Detec-*  
19        *tion Office shall begin testing and evaluation of prototype*  
20        *systems to detect nuclear or radiological materials in rail*  
21        *security venues, including spectroscopic technologies.*

22           (b) *STRATEGY.*—*Upon successful developmental testing*  
23        *and evaluation of such radiation detection technologies at*  
24        *Domestic Nuclear Detection Office test facilities, as well as*  
25        *extensive testing and evaluation in operational environ-*

1 ments, the Domestic Nuclear Detection Office shall, in co-  
2 ordination with Customs and Border Protection and the  
3 Transportation Security Administration, ensure appro-  
4 priate training, operations, and response protocols are es-  
5 tablished and, shall develop a deployment strategy to detect  
6 nuclear or radiological materials arriving in or trans-  
7 porting through the United States by rail. Such strategy  
8 shall consider the integration of radiation detection tech-  
9 nologies with other nonintrusive inspection technologies, in-  
10 cluding imagery and density scanning, in order to utilize  
11 existing rail examination facilities and further strengthen  
12 border security.

13 (c) *REPORT TO CONGRESS.*—Not later than September  
14 30, 2008, the Domestic Nuclear Detection Office shall trans-  
15 mit to Congress a report. Such report shall—

16 (1) describe the progress of testing and evalua-  
17 tion under subsection (a); and

18 (2) in coordination with U.S. Customs and Bor-  
19 der Protection and the Transportation Security Ad-  
20 ministration, describe the development of a strategy  
21 under subsection (b).

22 (d) *IMPLEMENTATION.*—The Domestic Nuclear Detec-  
23 tion Office, U.S. Customs and Border Protection, and the  
24 Transportation Security Administration shall begin imple-

1 *mentation of the strategy developed under subsection (b)*  
2 *after verification of systems performance.*

3 **SEC. 128. REQUIREMENT TO PROVIDE PREFERENCE TO**  
4 **QUALIFIED ANTI-TERRORISM TECH-**  
5 **NOLOGIES.**

6 *In using grant funds provided under this Act to pur-*  
7 *chase products, equipment, services, devices, or technologies*  
8 *to be employed in the implementation of any security plan*  
9 *required under this Act, a grant recipient shall, to the ex-*  
10 *tent practicable, give preference to products, equipment,*  
11 *services, devices, and technologies that the Secretary has*  
12 *designated as qualified anti-terrorism technologies under*  
13 *the Support Anti-terrorism by Fostering Effective Tech-*  
14 *nologies Act of 2002 (subtitle G of title VIII of the Home-*  
15 *land Security Act of 2002; 6 U.S.C. 441 et seq.), if the grant*  
16 *recipient determines that such a product, equipment, serv-*  
17 *ice, device, or technology meets or exceeds the requirements*  
18 *of the security plan.*

19 **SEC. 129. PROMOTING LIABILITY PROTECTIONS FOR PRO-**  
20 **VIDERS OF COVERED TRANSPORTATION AND**  
21 **RELATED TECHNOLOGIES.**

22 *The Secretary shall work with providers of covered*  
23 *transportation to identify for procurement products, equip-*  
24 *ment, services, devices, and technologies to be employed in*  
25 *the implementation of security plans required under this*

1 *Act, that are designated by the Secretary as qualified anti-*  
2 *terrorism technologies under the Support Anti-terrorism by*  
3 *Fostering Effective Technologies Act of 2002 (subtitle G of*  
4 *title VIII of the Homeland Security Act of 2002; 6 U.S.C.*  
5 *441 et seq.) or may otherwise be eligible for liability protec-*  
6 *tions.*

7 **SEC. 130. INTERNATIONAL RAIL SECURITY PROGRAM.**

8 (a) *NON-INTRUSIVE INSPECTION EQUIPMENT.*—*For*  
9 *the purpose of checking in-bound rail shipments to the*  
10 *United States for undeclared passengers or contraband, in-*  
11 *cluding terrorists or weapons, including weapons of mass*  
12 *destruction, the Secretary shall—*

13 (1) *deploy, where practicable, non-intrusive in-*  
14 *spection imaging equipment at locations where rail*  
15 *shipments cross an international border to enter the*  
16 *United States; or*

17 (2) *implement alternative procedures to check*  
18 *such rail shipments at locations where the deployment*  
19 *of non-intrusive inspection imaging equipment is de-*  
20 *termined to not be practicable.*

21 (b) *ADVANCED FILING OF SECURITY DATA.*—

22 (1) *IN GENERAL.*—*The Secretary shall—*

23 (A) *identify and seek the submission of ad-*  
24 *ditional data elements for improved high-risk*  
25 *targeting related to the movement of cargo*

1           *through the international supply chain utilizing*  
2           *a railroad prior to importation into the United*  
3           *States; and*

4                   *(B) analyze the data provided pursuant to*  
5           *in paragraph (1) to identify high-risk cargo for*  
6           *inspection.*

7           (2) *INTERNATIONAL SUPPLY CHAIN DEFINED.—*  
8           *For purposes of this subsection, the term “inter-*  
9           *national supply chain” means the end-to-end process*  
10          *for shipping goods to or from the United States begin-*  
11          *ning at the point of origin (including manufacturer,*  
12          *supplier, or vendor) through a point of distribution to*  
13          *the destination.*

14 **SEC. 131. TERRORIST WATCHLIST AND IMMIGRATION STA-**  
15                   **TUS REVIEW AT HIGH-RISK TRANSPORTATION**  
16                   **SITES.**

17          *The Secretary shall require each provider of covered*  
18          *transportation, including contractors and subcontractors,*  
19          *assigned to a high-risk tier under section 102 to conduct*  
20          *checks of their employees against available terrorist*  
21          *watchlists and immigration status databases.*

1 **TITLE II—SECURE TRANSPORTATION THROUGH IN-**  
2 **CREASED USE OF CANINE DETECTION TEAMS**

3 **SEC. 201. INCREASING THE NUMBER OF CANINE DETECTION TEAMS FOR TRANSPORTATION SECURITY.**

4 (a) *MINIMUM REQUIREMENT.*—The Secretary shall coordinate with owners and providers of covered transportation systems to ensure that canine detection teams are deployed at each high-risk transportation system to provide continuous coverage if the Secretary considers it necessary. Each canine detection team—

5 (1) shall be trained to detect explosives, and, to the greatest extent possible, chemical and biological weapons; and

6 (2) may be deployed to alternate sites to provide additional coverage during times of increased risk or due to specific threat information, as determined by the Secretary.

7 (b) *INCREASE.*—The Secretary shall coordinate with owners and providers of covered transportation systems to increase the number of trained canine detection teams deployed at the Nation's high-risk rail and mass transit systems by not less than 10 percent each fiscal year for fiscal

1 *years 2008 through 2012. Each canine detection team shall*  
2 *be trained to detect explosives, and, to the greatest extent*  
3 *possible, chemical and biological weapons.*

4 **SEC. 202. NATIONAL EXPLOSIVES DETECTION CANINE TEAM**  
5 **PROGRAM INCREASE.**

6 (a) *INCREASE IN TEAMS.—The National Explosives*  
7 *Detection Canine Team Program of the Transportation Se-*  
8 *curity Administration may train up to an additional 100*  
9 *canine detection teams per year but shall train at least the*  
10 *following numbers of additional teams:*

11 (1) *50 in fiscal year 2008.*

12 (2) *55 in fiscal year 2009.*

13 (3) *60 in fiscal year 2010.*

14 (4) *66 in fiscal year 2011.*

15 (5) *73 in fiscal year 2012.*

16 (b) *DEPLOYED THROUGHOUT COUNTRY.—The canine*  
17 *detection teams authorized under this section shall be de-*  
18 *ployed across the country to strengthen the security of cov-*  
19 *ered transportation systems, including buses, subway sys-*  
20 *tems, ferries, and passenger rail carriers.*

21 (c) *REPORT.—Not later than 90 days after the date*  
22 *of the enactment of this section, the Administrator of the*  
23 *Transportation Security Administration shall submit to the*  
24 *Committee on Homeland Security of the House of Rep-*  
25 *resentatives and the Committee on Homeland Security and*

1 *Governmental Affairs of the Senate a report on the per-*  
2 *sonnel and resource needs to fulfill the requirements of this*  
3 *section.*

4 (d) *AUTHORIZATION.*—*There are authorized to be ap-*  
5 *propriated such sums as may be necessary to carry out this*  
6 *section.*

7 **SEC. 203. TRANSPORTATION SECURITY ADMINISTRATION**  
8 **BREEDING PROGRAM INCREASE.**

9 (a) *TSA PUPPY PROGRAM.*—*The Transportation Se-*  
10 *curity Administration Puppy Program shall work to in-*  
11 *crease the number of domestically bred canines to help meet*  
12 *the increase in demand for canine detection teams author-*  
13 *ized in section 202 while preserving the current quality of*  
14 *canines provided for training.*

15 (b) *REPORT REQUIRED.*—*Not later than 90 days after*  
16 *the date of the enactment of this section, the Administrator*  
17 *of the Transportation Security Administration shall submit*  
18 *to the Committee on Homeland Security of the House and*  
19 *the Committee on Homeland Security and Governmental*  
20 *Affairs of the Senate a report on the personnel and resource*  
21 *needs to fulfill the requirements of this section.*

22 (c) *AUTHORIZATION.*—*There are authorized to be ap-*  
23 *propriated such sums as may be necessary to carry out this*  
24 *section.*