

110TH CONGRESS  
1ST SESSION

# S. 83

To provide increased rail transportation security

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. MCCAIN (for himself, Ms. SNOWE, Mr. BIDEN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide increased rail transportation security

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rail Security Act of  
5 2007”.

6 **SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESS-**  
7 **MENT.**

8 (a) IN GENERAL.—

9 (1) VULNERABILITY ASSESSMENT.—The Assist-  
10 ant Secretary of Homeland Security for the Trans-  
11 portation Security Administration (referred to in

1 this Act as the “Assistant Secretary”), in consulta-  
2 tion with the Secretary of Transportation, shall con-  
3 duct a vulnerability assessment of freight and pas-  
4 senger rail transportation (encompassing railroads,  
5 as that term is defined in section 20102(1) of title  
6 49, United States Code), which shall include—

7 (A) identification and evaluation of critical  
8 assets and infrastructures;

9 (B) identification of threats to those assets  
10 and infrastructures;

11 (C) identification of vulnerabilities that are  
12 specific to the transportation of hazardous ma-  
13 terials via railroad; and

14 (D) identification of security weaknesses in  
15 passenger and cargo security, transportation in-  
16 frastructure, protection systems, procedural  
17 policies, communications systems, employee  
18 training, emergency response planning, and any  
19 other area identified by the assessment.

20 (2) EXISTING PRIVATE AND PUBLIC SECTOR  
21 EFFORTS.—The assessment conducted under this  
22 subsection shall take into account actions taken or  
23 planned by both public and private entities to ad-  
24 dress identified security issues and assess the effec-  
25 tive integration of such actions.

1           (3) RECOMMENDATIONS.—Based on the assess-  
2           ment conducted under this subsection, the Assistant  
3           Secretary, in consultation with the Secretary of  
4           Transportation, shall develop prioritized rec-  
5           ommendations for improving rail security, including  
6           any recommendations the Assistant Secretary has  
7           for—

8                   (A) improving the security of rail tunnels,  
9                   rail bridges, rail switching and car storage  
10                  areas, other rail infrastructure and facilities, in-  
11                  formation systems, and other areas identified  
12                  by the Assistant Secretary as posing significant  
13                  rail-related risks to public safety and the move-  
14                  ment of interstate commerce, taking into ac-  
15                  count the impact that any proposed security  
16                  measure might have on the provision of rail  
17                  service;

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

22                  (C) training employees in terrorism pre-  
23                  vention, passenger evacuation, and response ac-  
24                  tivities;

1 (D) conducting public outreach campaigns  
2 on passenger railroads;

3 (E) deploying surveillance equipment; and

4 (F) identifying the immediate and long-  
5 term costs of measures that may be required to  
6 address those risks.

7 (b) CONSULTATION; USE OF EXISTING RE-  
8 SOURCES.—In carrying out the assessment required by  
9 subsection (a), the Assistant Secretary shall consult with  
10 rail management, rail labor, owners or lessors of rail cars  
11 used to transport hazardous materials, first responders,  
12 shippers of hazardous materials, public safety officials (in-  
13 cluding those within other agencies and offices within the  
14 Department of Homeland Security), and other relevant  
15 parties.

16 (c) REPORT.—

17 (1) CONTENTS.—Not later than 180 days after  
18 the date of the enactment of this Act, the Assistant  
19 Secretary shall submit to the Committee on Com-  
20 merce, Science, and Transportation of the Senate  
21 and the Committee on Transportation and Infra-  
22 structure of the House of Representatives a report  
23 that contains—

24 (A) the assessment and prioritized rec-  
25 ommendations required by subsection (a) and

1 an estimate of the cost to implement such rec-  
2 ommendations;

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

8 (C) a plan for coordinating rail security  
9 initiatives undertaken by the public and private  
10 sectors.

11 (2) **FORMAT.**—The Assistant Secretary may  
12 submit the report in both classified and redacted for-  
13 mats if the Assistant Secretary determines that such  
14 action is appropriate or necessary.

15 (d) **2-YEAR UPDATES.**—The Assistant Secretary, in  
16 consultation with the Secretary of Transportation, shall  
17 update the assessment and recommendations every 2 years  
18 and transmit a report, which may be submitted in both  
19 classified and redacted formats, to the Committees named  
20 in subsection (c)(1), containing the updated assessment  
21 and recommendations.

22 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There  
23 are authorized to be appropriated to the Assistant Sec-  
24 retary \$5,000,000 for fiscal year 2008 to carry out this  
25 section.

1 **SEC. 3. RAIL SECURITY.**

2 (a) RAIL POLICE OFFICERS.—Section 28101 of title  
3 49, United States Code, is amended by striking “the rail  
4 carrier” each place it appears and inserting “any rail car-  
5 rier”.

6 (b) REVIEW OF RAIL REGULATIONS.—Not later than  
7 1 year after the date of the enactment of this Act, the  
8 Secretary of Transportation, in consultation with the As-  
9 sistant Secretary, shall review existing rail regulations of  
10 the Department of Transportation for the purpose of iden-  
11 tifying areas in which those regulations need to be revised  
12 to improve rail security.

13 **SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**  
14 **PROGRAMS.**

15 (a) REQUIREMENT FOR STUDY.—Not later than 1  
16 year after the date of the enactment of this Act, the Comp-  
17 troller General of the United States shall complete a study  
18 of the rail passenger transportation security programs  
19 that are carried out for rail transportation systems in  
20 Japan, member nations of the European Union, and other  
21 foreign countries.

22 (b) PURPOSE.—The purpose of the study conducted  
23 under subsection (a) shall be to identify effective rail  
24 transportation security measures that are in use in foreign  
25 rail transportation systems, including innovative measures  
26 and screening procedures determined effective.

1           (c) REPORT.—The Comptroller General shall submit  
2 a report on the results of the study conducted under sub-  
3 section (a) to the Committee on Commerce, Science, and  
4 Transportation of the Senate and the Committee on  
5 Transportation and Infrastructure of the House of Rep-  
6 resentatives. The report shall include the Comptroller  
7 General’s assessment regarding whether it is feasible to  
8 implement within the United States any of the same or  
9 similar security measures that are determined effective  
10 under the study.

11 **SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

12           (a) REQUIREMENT FOR STUDY AND REPORT.—The  
13 Assistant Secretary, in cooperation with the Secretary of  
14 Transportation, shall—

15                 (1) conduct a study to analyze the cost and fea-  
16 sibility of requiring security screening for pas-  
17 sengers, baggage, and cargo on passenger trains;  
18 and

19                 (2) not later than 1 year after the date of the  
20 enactment of this Act, submit a report containing  
21 the results of the study and any recommendations  
22 that the Assistant Secretary may have for imple-  
23 menting a rail security screening program to—

24                         (A) the Committee on Commerce, Science,  
25 and Transportation of the Senate; and

1 (B) the Committee on Transportation and  
2 Infrastructure of the House of Representatives.

3 (b) PILOT PROGRAM.—As part of the study con-  
4 ducted under subsection (a), the Assistant Secretary shall  
5 complete a pilot program of random security screening of  
6 passengers and baggage at 5 passenger rail stations served  
7 by Amtrak, which shall be selected by the Assistant Sec-  
8 retary. In conducting the pilot program under this sub-  
9 section, the Assistant Secretary shall—

10 (1) test a wide range of explosives detection  
11 technologies, devices, and methods;

12 (2) require that intercity rail passengers  
13 produce government-issued photographic identifica-  
14 tion, which matches the name on the passenger's  
15 tickets before the passenger boarding a train; and

16 (3) attempt to give preference to locations at  
17 the highest risk of terrorist attack and achieve a dis-  
18 tribution of participating train stations in terms of  
19 geographic location, size, passenger volume, and  
20 whether the station is used by commuter rail pas-  
21 sengers and Amtrak passengers.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated to the Assistant Sec-  
24 retary to carry out this section \$5,000,000 for fiscal year  
25 2008.



1 **SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.**

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

8 **SEC. 7. FIRE- AND LIFE-SAFETY IMPROVEMENTS.**

9 (a) LIFE-SAFETY NEEDS.—The Secretary of Trans-  
10 portation may award grants to Amtrak for the purpose  
11 of making fire- and life-safety improvements to Amtrak  
12 tunnels on the Northeast Corridor in New York, New  
13 York, Baltimore, Maryland, and Washington, D.C.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Secretary of  
16 Transportation for the purposes of carrying out subsection  
17 (a) the following amounts:

18 (1) For the 6 New York tunnels, to provide  
19 ventilation, electrical, and fire-safety technology up-  
20 grades, emergency communication and lighting sys-  
21 tems, and emergency access and egress for pas-  
22 sengers—

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

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

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

26 (D) \$170,000,000 for fiscal year 2011.

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

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

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

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

8                   (D) \$17,000,000 for fiscal year 2011.

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

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

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

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

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

16           (c) INFRASTRUCTURE UPGRADES.—There are au-  
17 thorized to be appropriated to the Secretary of Transpor-  
18 tation \$3,000,000 for fiscal year 2008 for the preliminary  
19 design of options for a new tunnel on a different alignment  
20 to augment the capacity of the existing Baltimore tunnels.

21           (d) AVAILABILITY OF APPROPRIATED FUNDS.—  
22 Amounts appropriated pursuant to this section shall re-  
23 main available until expended.

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

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

7 (2) unless, for each project funded under this  
8 section, the Secretary has approved a project man-  
9 agement plan prepared by Amtrak that appro-  
10 priately addresses—

11 (A) project budget;

12 (B) construction schedule;

13 (C) recipient staff organization;

14 (D) document control and record keeping;

15 (E) change order procedure;

16 (F) quality control and assurance;

17 (G) periodic plan updates;

18 (H) periodic status reports; and

19 (I) such other matters the Secretary deter-  
20 mines to be appropriate.

21 (f) REVIEW OF PLANS.—

22 (1) COMPLETION.—The Secretary of Transpor-  
23 tation shall complete the review of the plans re-  
24 quired under paragraphs (1) and (2) of subsection  
25 (e) and approve or disapprove the plans not later

1 than 45 days after the date on which each such plan  
2 is submitted by Amtrak.

3 (2) INCOMPLETE PLANS.—If the Secretary de-  
4 termines that a plan is incomplete or deficient—

5 (A) the Secretary shall notify Amtrak of  
6 the incomplete items or deficiencies; and

7 (B) not later than 30 days after receiving  
8 the Secretary’s notification under subparagraph  
9 (A), Amtrak shall submit a modified plan for  
10 the Secretary’s review.

11 (3) REVIEW OF MODIFIED PLANS.—Not later  
12 than 15 days after receiving additional information  
13 on items previously included in the plan, and not  
14 later than 45 days after receiving items newly in-  
15 cluded in a modified plan, the Secretary shall—

16 (A) approve the modified plan; or

17 (B) if the Secretary finds the plan is still  
18 incomplete or deficient—

19 (i) submit a report to the Committee  
20 on Commerce, Science, and Transportation  
21 of the Senate and the Committee on  
22 Transportation and Infrastructure of the  
23 House of Representatives that identifies  
24 the portions of the plan the Secretary finds  
25 incomplete or deficient;

1 (ii) approve all other portions of the  
2 plan;

3 (iii) obligate the funds associated with  
4 those other portions; and

5 (iv) execute an agreement with Am-  
6 trak not later than 15 days thereafter on  
7 a process for resolving the remaining por-  
8 tions of the plan.

9 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-  
10 NEL USERS.—The Secretary of Transportation shall, tak-  
11 ing into account the need for the timely completion of all  
12 portions of the tunnel projects described in subsection  
13 (a)—

14 (1) consider the extent to which rail carriers  
15 other than Amtrak use the tunnels;

16 (2) consider the feasibility of seeking a financial  
17 contribution from those other rail carriers toward  
18 the costs of the projects; and

19 (3) obtain financial contributions or commit-  
20 ments from such other rail carriers at levels reflect-  
21 ing the extent of their use of the tunnels, if feasible.

22 **SEC. 8. MEMORANDUM OF AGREEMENT.**

23 (a) MEMORANDUM OF AGREEMENT.—Not later than  
24 60 days after the date of the enactment of this Act, the  
25 Secretary of Transportation and the Secretary of Home-

1 land Security shall execute a memorandum of agreement  
 2 governing the roles and responsibilities of the Department  
 3 of Transportation and the Department of Homeland Secu-  
 4 rity, respectively, in addressing railroad transportation se-  
 5 curity matters, including the processes the departments  
 6 will follow to promote communications, efficiency, and  
 7 nonduplication of effort.

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

12 **SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**  
 13 **SENGERS INVOLVED IN RAIL PASSENGER AC-**  
 14 **CIDENTS.**

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

18 **“§ 24316. Plans to address needs of families of pas-**  
 19 **sengers involved in rail passenger acci-**  
 20 **dents**

21 “(a) SUBMISSION OF PLAN.—Not later than 6  
 22 months after the date of the enactment of the Rail Secu-  
 23 rity Act of 2007, Amtrak shall submit to the Chairman  
 24 of the National Transportation Safety Board and the Sec-  
 25 retary of Transportation a plan for addressing the needs

1 of the families of passengers involved in any rail passenger  
2 accident involving an Amtrak intercity train and resulting  
3 in a loss of life.

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

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

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

24 “(3) A process for notifying the families of the  
25 passengers, before providing any public notice of the

1 names of the passengers, by suitably trained individ-  
2 uals.

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

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

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

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



1       “(c) USE OF INFORMATION.—The National Trans-  
2 portation Safety Board, the Secretary of Transportation,  
3 and Amtrak may not release to any person information  
4 on a list obtained under subsection (b)(1) but may provide  
5 information on the list about a passenger to the family  
6 of the passenger to the extent that the Board or Amtrak  
7 considers appropriate.

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

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

20       “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Secretary of  
22 Transportation for the use of Amtrak \$500,000 for fiscal  
23 year 2008 to carry out this section. Amounts appropriated  
24 pursuant to this subsection shall remain available until ex-  
25 pended.”.

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

“24316. Plans to address needs of families of passengers involved in rail pas-  
 senger accidents.”.

4 **SEC. 10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

5 (a) IN GENERAL.—Subject to subsection (c), the As-  
 6 sistant Secretary may award grants, through the Sec-  
 7 retary of Transportation, to Amtrak—

8 (1) to secure major tunnel access points and en-  
 9 sure tunnel integrity in New York, Baltimore, and  
 10 Washington, D.C.;

11 (2) to secure Amtrak trains;

12 (3) to secure Amtrak stations;

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

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

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

20 (7) to expand emergency preparedness efforts.

21 (b) CONDITIONS.—The Secretary of Transportation  
 22 may not disburse funds to Amtrak for projects under sub-  
 23 section (a) unless—

1           (1) the projects are contained in a systemwide  
2 security plan approved by the Assistant Secretary, in  
3 consultation with the Secretary of Transportation;

4           (2) capital projects meet the requirements  
5 under section 7(e)(2); and

6           (3) the plan includes appropriate measures to  
7 address security awareness, emergency response, and  
8 passenger evacuation training.

9           (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The As-  
10 sistant Secretary shall ensure that, subject to meeting the  
11 highest security needs on Amtrak’s entire system, stations  
12 and facilities located outside of the Northeast Corridor re-  
13 ceive an equitable share of the security funds authorized  
14 under this section.

15           (d) **AVAILABILITY OF FUNDS.**—There are authorized  
16 to be appropriated to the Assistant Secretary \$63,500,000  
17 for fiscal year 2008 for the purposes of carrying out this  
18 section. Amounts appropriated pursuant to this subsection  
19 shall remain available until expended.

20 **SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UP-**  
21 **GRADES.**

22           (a) **SECURITY IMPROVEMENT GRANTS.**—The Assist-  
23 ant Secretary may award grants to freight railroads, the  
24 Alaska Railroad, hazardous materials shippers, owners of  
25 rail cars used in the transportation of hazardous mate-

1 rials, universities, colleges and research centers, State and  
2 local governments (for passenger facilities and infrastruc-  
3 ture not owned by Amtrak), and, through the Secretary  
4 of Transportation, to Amtrak, for full or partial reim-  
5 bursement of costs incurred in the conduct of activities  
6 to prevent or respond to acts of terrorism, sabotage, or  
7 other intercity passenger rail and freight rail security  
8 threats, including—

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

12           (2) accommodation of cargo or passenger  
13           screening equipment at the international border be-  
14           tween the United States and Mexico or the inter-  
15           national border between the United States and Can-  
16           ada;

17           (3) the security of hazardous material transpor-  
18           tation by rail;

19           (4) secure intercity passenger rail stations,  
20           trains, and infrastructure;

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

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

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

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

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

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

13          (11) other improvements recommended by the  
14          report required under section 2(c), including infra-  
15          structure, facilities, and equipment upgrades.

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

21          (c) EQUITABLE ALLOCATION.—The Assistant Sec-  
22          retary shall equitably distribute the funds authorized by  
23          this section, taking into account geographic location, and  
24          shall encourage non-Federal financial participation in  
25          awarding grants. With respect to grants for passenger rail

1 security, the Assistant Secretary shall also take into ac-  
2 count passenger volume and whether a station is used by  
3 commuter rail passengers and intercity rail passengers.

4 (d) CONDITIONS.—The Secretary of Transportation  
5 may not disburse funds to Amtrak under subsection (a)  
6 unless Amtrak meets the conditions set forth in section  
7 \_\_10(b).

8 (e) ALLOCATION BETWEEN RAILROADS AND OTH-  
9 ERS.—Unless the Assistant Secretary determines, as a re-  
10 sult of the assessment required by section 2, that critical  
11 rail transportation security needs require reimbursement  
12 in greater amounts to any eligible entity, a grant may not  
13 be awarded under this section—

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

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

18 (f) HIGH HAZARD MATERIALS DEFINED.—In this  
19 section, the term “high hazard materials” means poison  
20 inhalation hazard materials, class 2.3 gases, class 6.1 ma-  
21 terials, and anhydrous ammonia.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated to the Assistant Sec-  
24 retary \$350,000,000 for fiscal year 2008 to carry out the

1 purposes of this section. Amounts appropriated pursuant  
2 to this subsection shall remain available until expended.

3 **SEC. 12. OVERSIGHT AND GRANT PROCEDURES.**

4 (a) SECRETARIAL OVERSIGHT.—The Secretary of  
5 Transportation may use not more than 0.5 percent of  
6 amounts made available to Amtrak for capital projects  
7 under this Act—

8 (1) to enter into contracts for the review of pro-  
9 posed capital projects and related program manage-  
10 ment plans; and

11 (2) to oversee construction of such projects.

12 (b) USE OF FUNDS.—The Secretary may use  
13 amounts available under subsection (a) to make contracts  
14 for safety, procurement, management, and financial com-  
15 pliance reviews and audits of a recipient of amounts under  
16 subsection (a).

17 (c) PROCEDURES FOR GRANT AWARD.—The Assist-  
18 ant Secretary shall prescribe procedures and schedules for  
19 the awarding of grants under this Act, including applica-  
20 tion and qualification procedures (including a requirement  
21 that the applicant have a security plan), and a record of  
22 decision on applicant eligibility. The procedures shall in-  
23 clude the execution of a grant agreement between the  
24 grant recipient and the Assistant Secretary. The Assistant  
25 Secretary shall issue a final rule establishing the proce-

1 dures not later than 90 days after the date of the enact-  
2 ment of this Act.

3 **SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

4 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-  
5 MENT PROGRAM.—The Assistant Secretary, in conjunc-  
6 tion with the Secretary of Transportation, shall carry out  
7 a research and development program for the purpose of  
8 improving freight and intercity passenger rail security that  
9 may include research and development projects to—

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

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

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

17 (A) technologies for sealing rail cars;

18 (B) automatic inspection of rail cars;

19 (C) communication-based train controls;

20 and

21 (D) emergency response training;

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

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



1 (A) technologies to detect a breach in a  
2 tank car and transmit information about the in-  
3 tegrity of tank cars to the train crew;

4 (B) research to improve tank car integrity,  
5 with a focus on tank cars that carry high haz-  
6 ard materials (as defined in section 11(g));

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

11 (6) other projects recommended in the report  
12 required under section 02.

13 (b) COORDINATION WITH OTHER RESEARCH INITIA-  
14 TIVES.—The Assistant Secretary shall ensure that the re-  
15 search and development program under this section is co-  
16 ordinated with other research and development initiatives  
17 at the Department of Homeland Security and the Depart-  
18 ment of Transportation. The Assistant Secretary shall  
19 carry out any research and development project authorized  
20 under this section through a reimbursable agreement with  
21 the Secretary of Transportation if the Secretary—

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

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

1 (c) ACCOUNTABILITY.—The Assistant Secretary shall  
2 adopt necessary procedures, including audits, to ensure  
3 that grants made under this section are expended in ac-  
4 cordance with the purposes of this Act and the priorities  
5 and other criteria developed by the Assistant Secretary.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Assistant Sec-  
8 retary \$50,000,000 in each of fiscal years 2008 and 2009  
9 to carry out the purposes of this section. Amounts appro-  
10 priated pursuant to this subsection shall remain available  
11 until expended.

12 **SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**  
13 **MENTS.**

14 (a) TRACK STANDARDS.—Not later than 90 days  
15 after the date of the enactment of this Act, the Adminis-  
16 trator of the Federal Railroad Administration shall—

17 (1) require each track owner using continuous  
18 welded rail track to include procedures to improve  
19 the identification of cracks in rail joint bars in the  
20 procedures filed with the Administration under sec-  
21 tion 213.119 of title 49, Code of Federal Regula-  
22 tions;

23 (2) instruct Administration track inspectors to  
24 obtain copies of the most recent continuous welded  
25 rail programs of each railroad within the inspectors'

1 areas of responsibility and require that inspectors  
2 use those programs when conducting track inspec-  
3 tions; and

4 (3) establish a program to—

5 (A) periodically review continuous welded  
6 rail joint bar inspection data from railroads and  
7 Administration track inspectors; and

8 (B) require railroads to increase the fre-  
9 quency or improve the methods of inspection of  
10 joint bars in continuous welded rail, if the Ad-  
11 ministrator determines that such increase or  
12 improvement is necessary or appropriate.

13 (b) TANK CAR STANDARDS.—The Administrator of  
14 the Federal Railroad Administration shall—

15 (1) not later than 1 year after the date of the  
16 enactment of this Act, validate the predictive model  
17 it is developing to quantify the relevant dynamic  
18 forces acting on railroad tank cars under accident  
19 conditions; and

20 (2) not later than 18 months after the date of  
21 the enactment of this Act, initiate a rulemaking to  
22 develop and implement appropriate design standards  
23 for pressurized tank cars.

24 (c) OLDER TANK CAR IMPACT RESISTANCE ANAL-  
25 YSIS AND REPORT.—Not later than 2 years after the date

1 of the enactment of this Act, the Administrator of the  
2 Federal Railroad Administration shall—

3 (1) conduct a comprehensive analysis to deter-  
4 mine the impact resistance of the steels in the shells  
5 of pressure tank cars constructed before 1989; and

6 (2) submit a report to the Committee on Com-  
7 merce, Science, and Transportation of the Senate  
8 and the Committee on Transportation and Infra-  
9 structure of the House of Representatives that con-  
10 tains recommendations for measures to eliminate or  
11 mitigate the risk of catastrophic failure.

12 **SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.**

13 Not later than 180 days after the date of the enact-  
14 ment of this Act, the Assistant Secretary, in consultation  
15 with the heads of other appropriate Federal departments  
16 and agencies and the National Railroad Passenger Cor-  
17 poration, shall submit a report to the Committee on Com-  
18 merce, Science, and Transportation of the Senate and the  
19 Committee on Transportation and Infrastructure of the  
20 House of Representatives that contains—

21 (1) a description of the current system for  
22 screening passengers and baggage on passenger rail  
23 service between the United States and Canada;

24 (2) an assessment of the current program to  
25 provide preclearance of airline passengers between

1 the United States and Canada as outlined in “The  
2 Agreement on Air Transport Preclearance between  
3 the Government of Canada and the Government of  
4 the United States of America”, dated January 18,  
5 2001;

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

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

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

1           (6) a description of the position of the Govern-  
2           ment of Canada and relevant Canadian agencies  
3           with respect to preclearance of such passengers; and

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

8 **SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF**  
9                           **TRAIN TRAVEL IN COMMUNITIES WITHOUT**  
10                          **GRADE SEPARATION.**

11           (a) **STUDY.**—The Secretary of Homeland Security, in  
12           consultation with State and local government officials,  
13           shall conduct a study on the impact of blocked highway-  
14           railroad grade crossings on the ability of emergency re-  
15           sponders, including ambulances and police, fire, and other  
16           emergency vehicles, to perform public safety and security  
17           duties in the event of a terrorist attack.

18           (b) **REPORT.**—Not later than 1 year after the date  
19           of the enactment of this Act, the Secretary of Homeland  
20           Security shall submit a report to the Committee on Com-  
21           merce, Science, and Transportation of the Senate and the  
22           Committee on Transportation and Infrastructure of the  
23           House of Representatives that contains—

24                   (1) the findings of the study conducted under  
25           subsection (a); and

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

3 **SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.**

4           (a) IN GENERAL.—Subchapter I of chapter 201 of  
5 title 49, United States Code, is amended by inserting after  
6 section 20115 the following:

7 **“§ 20116. Whistleblower protection for rail security**  
8 **matters**

9           “(a) DISCRIMINATION AGAINST EMPLOYEE.—A rail  
10 carrier engaged in interstate or foreign commerce may not  
11 discharge a railroad employee or otherwise discriminate  
12 against a railroad employee because the employee (or any  
13 person acting pursuant to a request of the employee)—

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

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

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

24           “(b) DISPUTE RESOLUTION.—A dispute, grievance,  
25 or claim arising under this section is subject to resolution

1 under section 3 of the Railway Labor Act (45 U.S.C. 153).  
2 In a proceeding by the National Railroad Adjustment  
3 Board, a division or delegate of the Board, or another  
4 board of adjustment established under such section 3 to  
5 resolve the dispute, grievance, or claim the proceeding  
6 shall be expedited and the dispute, grievance, or claim  
7 shall be resolved not later than 180 days after the filing  
8 date. If the violation is a form of discrimination that does  
9 not involve discharge, suspension, or another action affect-  
10 ing pay, and no other remedy is available under this sub-  
11 section, the Board, division, delegate, or other board of  
12 adjustment may award the employee reasonable damages,  
13 including punitive damages, of not more than \$20,000.

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

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

22       “(e) DISCLOSURE OF IDENTITY.—

23               “(1) IN GENERAL.—Except as provided in para-  
24 graph (2), the Secretary of Transportation may not  
25 disclose the name of an employee of a railroad car-



1 rier who has provided information about an alleged  
2 violation of this section without the written consent  
3 of the employee.

4 “(2) ENFORCEMENT.—The Secretary shall dis-  
5 close to the Attorney General the name of an em-  
6 ployee described in paragraph (1) if the matter is re-  
7 ferred to the Attorney General for enforcement.”.

8 (b) CONFORMING AMENDMENT.—The analysis for  
9 chapter 201 of title 49, United States Code, is amended  
10 by inserting after the item relating to section 20115 the  
11 following:

“20116. Whistleblower protection for rail security matters.”.

