

108TH CONGRESS
2D SESSION

H. R. 5132

To provide increased rail and public transportation security.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2004

Mr. MENENDEZ (for himself, Mr. PASCRELL, Mr. HOLT, Mr. PAYNE, Mr. ANDREWS, Mr. PALLONE, and Mr. ROTHMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide increased rail and public 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rail and Public Transportation Security Act of 2004”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Rail transportation security risk assessment.
- Sec. 4. Rail security.
- Sec. 5. Study of foreign rail transport security programs.
- Sec. 6. Passenger, baggage, and cargo screening.
- Sec. 7. Certain personnel limitations not to apply.
- Sec. 8. Fire and life safety improvements.

- Sec. 9. Transportation security.
- Sec. 10. Intelligence sharing.
- Sec. 11. Research, development, and demonstration.
- Sec. 12. Amtrak plan to assist families of passengers involved in rail passenger accidents.
- Sec. 13. Systemwide Amtrak security upgrades.
- Sec. 14. Freight and passenger rail security upgrades.
- Sec. 15. Department of Transportation oversight.
- Sec. 16. Welded rail and tank car safety improvements.
- Sec. 17. Northern Border rail passenger report.
- Sec. 18. Mass transportation system security improvements.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Since September 11, 2001, the Federal
 4 Government has spent \$4,500,000,000 annually to
 5 protect the Nation's 2,000,000 air travelers, and
 6 only \$75,000,000 to secure the Nation's rail and
 7 public transit systems which carry 32,000,000 pas-
 8 sengers annually.

9 (2) The Nation's rail and public transit systems
 10 carry 16 times more passengers every day than the
 11 airlines, yet the Federal Government has spent 90
 12 times more funding for airline security.

13 (3) Between fiscal years 2003 and 2004 the
 14 Department of Homeland Security has reduced tran-
 15 sit security funding by 22 percent.

16 (4) Safety and security of the Nation's freight
 17 railroads and intercity passenger rail systems and
 18 public transit systems are critical to the Nation's
 19 economy.

1 (5) As demonstrated by the recent terrorist at-
2 tacks on commuter trains in Madrid, Spain, a real
3 and imminent threat exists and appropriate security
4 measures must be taken immediately.

5 (6) The safety of the 32,000,000 Americans
6 who use the Nation's public transit systems is the
7 responsibility of the Federal Government.

8 (7) The Nation's rail and public transit systems
9 have identified \$6,000,000,000 in critical security
10 needs.

11 (8) Authorized and proposed funding provided
12 in the annual appropriations measures and the reau-
13 thorization of the Transportation Efficiency Act for
14 the 21st Century for the capital and operating needs
15 of transit systems cannot be used to address these
16 critical security needs without severely reducing the
17 level of service provided.

18 **SEC. 3. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
19 **MENT.**

20 (a) IN GENERAL.—

21 (1) VULNERABILITY ASSESSMENT.—The Under
22 Secretary of Homeland Security for Border and
23 Transportation Security, in consultation with the
24 Secretary of Transportation, shall complete a vulner-
25 ability assessment of freight and passenger rail

1 transportation (encompassing railroad carriers, as
2 that term is defined in section 20102(2) of title 49,
3 United States Code). The assessment shall include—

4 (A) identification and evaluation of critical
5 assets and infrastructures;

6 (B) identification of threats to those assets
7 and infrastructures;

8 (C) identification of vulnerabilities that are
9 specific to the transportation of hazardous ma-
10 terials via railroad; and

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

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

22 (3) RECOMMENDATIONS.—Based on the assess-
23 ment conducted under paragraph (1), the Under
24 Secretary, in consultation with the Secretary of
25 Transportation, shall develop prioritized rec-

ommendations for improving rail security, including
any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels,
rail bridges, rail switching areas, other rail in-
frastructure and facilities, information systems,
and other areas identified by the Under Sec-
retary as posing significant rail-related risks to
public safety and the movement of interstate
commerce, taking into account the impact that
any proposed security measure might have on
the provision of rail service;

(B) deploying weapon detection equipment;

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

(D) conducting public outreach campaigns
on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-
term economic impact of measures that may be
required to address those risks.

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

(A) a plan, developed in consultation with
the freight and intercity passenger railroads,

1 and State and local governments, for the Fed-
2 eral Government to provide increased security
3 support at high or severe threat levels of alert;
4 and

5 (B) a plan for coordinating rail security
6 initiatives undertaken by the public and private
7 sectors.

8 (b) CONSULTATION.—In carrying out the assessment
9 required by subsection (a), the Under Secretary of Home-
10 land Security for Border and Transportation Security
11 shall consult with rail management, rail labor, owners or
12 lessors of rail cars used to transport hazardous materials,
13 shippers of hazardous materials, public safety officials (in-
14 cluding those within other agencies and offices within the
15 Department of Homeland Security) and other relevant
16 parties.

17 (c) REPORT.—

18 (1) CONTENTS.—Within 120 days after the
19 date of enactment of this Act, the Under Secretary
20 shall transmit to the Committee on Transportation
21 and Infrastructure of the House of Representatives
22 and the Committee on Commerce, Science, and
23 Transportation of the Senate a report containing the
24 assessment and prioritized recommendations re-

1 quired by subsection (a) and an estimate of the cost
2 to implement such recommendations.

3 (2) FORMAT.—The Under Secretary may sub-
4 mit the report in both classified and redacted for-
5 mats if the Under Secretary determines that such
6 action is appropriate or necessary.

7 (d) ANNUAL UPDATES.—The Under Secretary, in
8 consultation with the Secretary of Transportation, shall
9 update the assessment and recommendations annually and
10 transmit a report, which may be submitted in both classi-
11 fied and redacted formats, to the Committees named in
12 subsection (c)(1), containing the updated assessment and
13 recommendations.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Under Secretary
16 of Homeland Security for Border and Transportation Se-
17 curity \$5,000,000 for fiscal year 2005 for the purpose of
18 carrying out this section.

19 **SEC. 4. RAIL SECURITY.**

20 (a) RAIL POLICE OFFICERS.—

21 (1) AMENDMENT.—Section 28101 of title 49,
22 United States Code, is amended to read as follows:

23 **“§ 28101. Rail and State public transit police officers**

24 **“(a) IN GENERAL.—**Under regulations prescribed by
25 the Secretary of Transportation, a rail or public transit

1 system police officer who is employed by a rail carrier or
2 a public transportation system and certified or commis-
3 sioned as a police officer under the laws of a State may
4 enforce the laws of any jurisdiction in which the rail car-
5 rier or public transit system owns property or provides
6 service, to the extent of the authority of a police officer
7 certified or commissioned under the laws of that jurisdic-
8 tion, to protect—

9 “(1) employees, passengers, or patrons of the
10 rail carrier or public transit system;

11 “(2) property, equipment, and facilities owned,
12 leased, operated, or maintained by the rail carrier or
13 public transit system;

14 “(3) property moving in interstate or foreign
15 commerce in the possession of the rail carrier or
16 public transit system; and

17 “(4) personnel, equipment, and material moving
18 by rail or public transit that are vital to the national
19 defense.

20 “(b) DEFINITION.—In this section, the term ‘public
21 transit’ has the meaning given that term by section
22 5302(a) of this title.”.

23 (2) TABLE OF SECTIONS AMENDMENT.—The
24 item relating to section 28101 in the table of sec-

1 tions for chapter 281 of title 49, United States
2 Code, is amended to read as follows:

“28101. Rail and State public transit police officers.”.

3 (b) REVIEW OF RAIL REGULATIONS.—Within 1 year
4 after the date of enactment of this Act, the Secretary of
5 Transportation, in consultation with the Under Secretary
6 of Homeland Security for Border and Transportation Se-
7 curity, shall review existing rail regulations of the Depart-
8 ment of Transportation for the purpose of identifying
9 areas in which those regulations need to be revised to im-
10 prove rail security.

11 **SEC. 5. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**
12 **PROGRAMS.**

13 (a) REQUIREMENT FOR STUDY.—Within one year
14 after the date of enactment of this Act, the Comptroller
15 General shall complete a study of the rail passenger trans-
16 portation security programs that are carried out for rail
17 transportation systems in Japan, member nations of the
18 European Union, and other foreign countries.

19 (b) PURPOSE.—The purpose of the study shall be to
20 identify effective rail transportation security measures
21 that are in use in foreign rail transportation systems, in-
22 cluding innovative measures and screening procedures de-
23 termined effective.

24 (c) REPORT.—The Comptroller General shall submit
25 a report on the results of the study to the Committee on

1 Transportation and Infrastructure of the House of Rep-
2 resentatives and the Committee on Commerce, Science,
3 and Transportation of the Senate. The report shall include
4 the Comptroller General's assessment regarding whether
5 it is feasible to implement within the United States any
6 of the same or similar security measures that are deter-
7 mined effective under the study.

8 **SEC. 6. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

9 (a) REQUIREMENT FOR STUDY AND REPORT.—The
10 Under Secretary of Homeland Security for Border and
11 Transportation Security, in cooperation with the Secretary
12 of Transportation, shall—

13 (1) analyze the cost and feasibility of requiring
14 security screening for passengers, baggage, and mail
15 on passenger trains; and

16 (2) report the results of the study, together
17 with any recommendations that the Under Secretary
18 may have for implementing a rail security screening
19 program to the Committee on Transportation and
20 Infrastructure of the House of Representatives and
21 the Committee on Commerce, Science, and Trans-
22 portation of the Senate within 1 year after the date
23 of enactment of this Act.

24 (b) PILOT PROGRAM.—As part of the study under
25 subsection (a), the Under Secretary shall complete a pilot

1 program of random security screening of passengers and
2 baggage at 5 passenger rail stations served by Amtrak se-
3 lected by the Under Secretary. In conducting the pilot pro-
4 gram, the Under Secretary shall—

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

7 (2) require that intercity rail passengers
8 produce government-issued photographic identifica-
9 tion which matches the name on the passenger's
10 tickets prior to boarding trains; and

11 (3) attempt to achieve a distribution of partici-
12 pating train stations in terms of geographic location,
13 size, passenger volume, and whether the station is
14 used by commuter rail passengers as well as Amtrak
15 passengers.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Under Secretary
18 of Homeland Security for Border and Transportation Se-
19 curity to carry out this section \$5,000,000 for fiscal year
20 2005.

21 **SEC. 7. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.**

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

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

3 **SEC. 8. FIRE AND LIFE SAFETY IMPROVEMENTS.**

4 (a) LIFE SAFETY NEEDS.—The Secretary of Trans-
5 portation is authorized to make grants to Amtrak for the
6 purpose of making fire and life-safety improvements to
7 tunnels on the Northeast Corridor in New York, New
8 York, Baltimore, Maryland, and Washington, District of
9 Columbia.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of
12 Transportation for the purposes of carrying out subsection
13 (a) the following amounts:

14 (1) For the 6 New York tunnels to provide ven-
15 tilation, electrical, and fire safety technology up-
16 grades, emergency communication and lighting sys-
17 tems, and emergency access and egress for pas-
18 sengers—

19 (A) \$100,000,000 for fiscal year 2005;

20 (B) \$100,000,000 for fiscal year 2006;

21 (C) \$100,000,000 for fiscal year 2007;

22 (D) \$100,000,000 for fiscal year 2008;

23 and

24 (E) \$170,000,000 for fiscal year 2009.

1 (2) For the Baltimore Potomac tunnel and the
2 Union tunnel, together, to provide adequate drain-
3 age, ventilation, communication, lighting, and pas-
4 senger egress upgrades—

5 (A) \$10,000,000 for fiscal year 2005;

6 (B) \$10,000,000 for fiscal year 2006;

7 (C) \$10,000,000 for fiscal year 2007;

8 (D) \$10,000,000 for fiscal year 2008; and

9 (E) \$17,000,000 for fiscal year 2009.

10 (3) For the Washington, District of Columbia,
11 Union Station tunnels to improve ventilation, com-
12 munication, lighting, and passenger egress up-
13 grades—

14 (A) \$8,000,000 for fiscal year 2005;

15 (B) \$8,000,000 for fiscal year 2006;

16 (C) \$8,000,000 for fiscal year 2007;

17 (D) \$8,000,000 for fiscal year 2008; and

18 (E) \$8,000,000 for fiscal year 2009.

19 (c) INFRASTRUCTURE UPGRADES.—There are au-
20 thorized to be appropriated to the Secretary of Transpor-
21 tation for fiscal year 2005 \$3,000,000 for the preliminary
22 design of options for a new tunnel on a different alignment
23 to augment the capacity of the existing Baltimore tunnels.

1 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
2 Amounts appropriated pursuant to this section shall re-
3 main available until expended.

4 (e) PLAN REQUIRED.—The Secretary may not make
5 amounts available to Amtrak for obligation or expenditure
6 under subsection (a)—

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

10 (2) unless, for each project funded pursuant to
11 this section, the Secretary has approved a project
12 management plan prepared by Amtrak addressing
13 project budget, construction schedule, recipient staff
14 organization, document control and record keeping,
15 change order procedure, quality control and assur-
16 ance, periodic plan updates, periodic status reports,
17 and such other matter the Secretary deems appro-
18 priate;

19 **SEC. 9. TRANSPORTATION SECURITY.**

20 (a) MEMORANDUM OF AGREEMENT.—Within 60 days
21 after the date of enactment of this Act, the Secretary of
22 Transportation and the Under Secretary of Homeland Se-
23 curity for Border and Transportation Security shall exe-
24 cute a memorandum of agreement governing the roles and
25 responsibilities of the Department of Transportation and

1 the Department of Homeland Security, respectively, in ad-
 2 dressing railroad transportation security matters, includ-
 3 ing the processes the departments will follow to promote
 4 communications, efficiency, and nonduplication of effort.

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

9 **SEC. 10. INTELLIGENCE SHARING.**

10 (a) INTELLIGENCE SHARING.—The Secretary of
 11 Homeland Security shall ensure that the Department of
 12 Transportation receives appropriate and timely notifica-
 13 tion of all credible terrorist threats against public trans-
 14 portation assets in the United States.

15 (b) INFORMATION SHARING ANALYSIS CENTER.—

16 (1) ESTABLISHMENT.—The Department of
 17 Homeland Security shall fund the reasonable costs
 18 of the Information Sharing and Analysis Center for
 19 Public Transportation (referred to in this subsection
 20 as the “ISAC”) established pursuant to Presidential
 21 Directive 63 to protect critical infrastructure.

22 (2) PUBLIC TRANSPORTATION AGENCY PARTICI-
 23 PATION.—The Secretary of Homeland Security—

24 (A) shall require those public transpor-
 25 tation agencies that the Secretary determines to

1 be at significant risk of terrorist attack to par-
 2 ticipate in the ISAC;

3 (B) shall encourage all other public trans-
 4 portation agencies to participate in the ISAC;
 5 and

6 (C) shall not charge any public transpor-
 7 tation agency a fee for participation in the
 8 ISAC.

9 **SEC. 11. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.**
 10 **TION.**

11 (a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.—

13 (1) GRANTS AUTHORIZED.—The Secretary of
 14 Homeland Security, in consultation with the Federal
 15 Transit Administration, shall award grants to public
 16 or private entities to conduct research into, and
 17 demonstration of, technologies and methods to re-
 18 duce and deter terrorist threats against public trans-
 19 portation systems.

20 (2) USE OF FUNDS.—Grants awarded under
 21 paragraph (1) may be used for—

22 (A) researching chemical, biological, radio-
 23 logical, or explosive detection systems that do
 24 not significantly impede passenger access;

25 (B) researching imaging technologies;

1 (C) conducting product evaluations and
2 testing; and

3 (D) researching other technologies or
4 methods for reducing or deterring terrorist at-
5 tacks against public transportation systems, or
6 mitigating damage from such attacks.

7 (3) REPORTING REQUIREMENT.—Each entity
8 that receives a grant under this subsection shall re-
9 port annually to the Department of Homeland Secu-
10 rity on the use of grant funds received under this
11 subsection.

12 (4) RETURN OF MISSPENT GRANT FUNDS.—If
13 the Secretary of Homeland Security determines that
14 a grantee used any portion of the grant funds re-
15 ceived under this subsection for a purpose other
16 than the allowable uses specified under paragraph
17 (2), the grantee shall return any amount so used to
18 the Treasury of the United States.

19 (5) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated to the
21 Under Secretary of Homeland Security for Border
22 and Transportation Security \$200,000,000 for fiscal
23 year 2005 to carry out the purposes of this sub-
24 section. Amounts appropriated pursuant to this
25 paragraph shall remain available until expended.

1 (b) RAIL SECURITY RESEARCH AND DEVELOP-
2 MENT.—

3 (1) ESTABLISHMENT OF RESEARCH AND DE-
4 VELOPMENT PROGRAM.—The Under Secretary of
5 Homeland Security for Border and Transportation
6 Security, in conjunction with the Secretary of Trans-
7 portation, shall carry out a research and develop-
8 ment program for the purpose of improving freight
9 and intercity passenger rail security, including re-
10 search and development projects to—

11 (A) reduce the vulnerability of passenger
12 trains, stations, and equipment to explosives;

13 (B) test new emergency response tech-
14 niques and technologies;

15 (C) develop improved freight technologies,
16 including—

17 (i) technologies for sealing rail cars;

18 (ii) automatic inspection of rail cars;

19 (iii) communication-based train con-
20 trols; and

21 (iv) emergency response training;

22 (D) test wayside detectors that can detect
23 tampering with railroad equipment; and

1 (E) support enhanced security for the
2 transportation of hazardous materials by rail,
3 including—

4 (i) technologies to detect a breach in
5 a tank car and transmit information about
6 the integrity of tank cars to the train crew;

7 (ii) research to improve tank car in-
8 tegrity, with a focus on tank cars that
9 carry toxic-inhalation chemicals; and

10 (iii) techniques to transfer hazardous
11 materials from rail cars that are damaged
12 or otherwise represent an unreasonable
13 risk to human life or public safety.

14 (2) COORDINATION WITH OTHER RESEARCH
15 INITIATIVES.—The Under Secretary of Homeland
16 Security for Border and Transportation Security
17 shall ensure that the research and development pro-
18 gram authorized by this subsection is coordinated
19 with other research and development initiatives at
20 the Department of Homeland Security and the De-
21 partment of Transportation.

22 (3) ACCOUNTABILITY.—The Under Secretary of
23 Homeland Security for Border and Transportation
24 Security shall carry out any research and develop-
25 ment project authorized by this subsection through

1 a reimbursable agreement with the Secretary of
 2 Transportation if the Secretary of Transportation—

3 (A) is already sponsoring a research and
 4 development project in a similar area; or

5 (B) has a unique facility or capability that
 6 would be useful in carrying out the project.

7 (4) AUTHORIZATION OF APPROPRIATIONS.—

8 There are authorized to be appropriated to the
 9 Under Secretary of Homeland Security for Border
 10 and Transportation Security \$50,000,000 for each
 11 of fiscal years 2005 and 2006 to carry out the pur-
 12 poses of this subsection. Amounts appropriated pur-
 13 suant to this paragraph shall remain available until
 14 expended.

15 **SEC. 12. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 16 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 17 **CIDENTS.**

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

21 **“§ 24316. Plans to address needs of families of pas-**
 22 **sengers involved in rail passenger acci-**
 23 **dents**

24 “(a) SUBMISSION OF PLAN.—Not later than 6
 25 months after the date of the enactment of the Rail and

1 Public Transit Security Act of 2004, Amtrak shall submit
2 to the Chairman of the National Transportation Safety
3 Board a plan for addressing the needs of the families of
4 passengers involved in any rail passenger accident involv-
5 ing an Amtrak intercity train and resulting in a loss of
6 life.

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

10 “(1) A process by which Amtrak will maintain
11 and provide to the National Transportation Safety
12 Board, immediately upon request, a list (which is
13 based on the best available information at the time
14 of the request) of the names of the passengers
15 aboard the train (whether or not such names have
16 been verified), and will periodically update the list.
17 The plan shall include a procedure, with respect to
18 unreserved trains and passengers not holding res-
19 ervations on other trains, for Amtrak to use reason-
20 able efforts to ascertain the number and names of
21 passengers aboard a train involved in an accident.

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

1 “(3) A process for notifying the families of the
2 passengers, before providing any public notice of the
3 names of the passengers, by suitably trained individ-
4 uals.

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

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

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

24 “(7) An assurance that Amtrak will provide
25 adequate training to its employees and agents to

1 meet the needs of survivors and family members fol-
2 lowing an accident.

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

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

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

21 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of
23 Transportation for the use of Amtrak \$500,000 for fiscal
24 year 2005 to carry out this section. Amounts appropriated

1 pursuant to this subsection shall remain available until ex-
 2 pended.”.

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

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

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

7 (a) IN GENERAL.—Subject to subsection (c), the
 8 Under Secretary of Homeland Security for Border and
 9 Transportation Security is authorized to make grants,
 10 through the Secretary of Transportation, to Amtrak—

11 (1) to secure major tunnel access points and en-
 12 sure tunnel integrity in New York, Baltimore, and
 13 Washington, District of Columbia;

14 (2) to secure Amtrak trains;

15 (3) to secure Amtrak stations;

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

18 (5) to obtain train tracking and communica-
 19 tions systems that are coordinated to the maximum
 20 extent possible;

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

23 (7) to expand emergency preparedness efforts.

1 (b) CONDITIONS.—The Secretary of Transportation
 2 may not disburse funds to Amtrak under subsection (a)
 3 unless the projects are contained in a systemwide security
 4 plan approved by the Under Secretary, in consultation
 5 with the Secretary of Transportation, and meet the re-
 6 quirements of section 8(e)(2).

7 (c) EQUITABLE GEOGRAPHIC ALLOCATION.—The
 8 Secretary shall ensure that, subject to meeting the highest
 9 security needs on Amtrak’s entire system, stations and fa-
 10 cilities located outside of the Northeast Corridor receive
 11 an equitable share of the security funds authorized by this
 12 section.

13 (d) AVAILABILITY OF FUNDS.—There are authorized
 14 to be appropriated to the Under Secretary of Homeland
 15 Security for Border and Transportation Security
 16 \$62,500,000 for fiscal year 2005 for the purposes of car-
 17 rying out this section. Amounts appropriated pursuant to
 18 this subsection shall remain available until expended.

19 **SEC. 14. FREIGHT AND PASSENGER RAIL SECURITY UP-**
 20 **GRADES.**

21 (a) SECURITY IMPROVEMENT GRANTS.—The Under
 22 Secretary of Homeland Security for Border and Transpor-
 23 tation Security is authorized to make grants to freight
 24 railroads, the Alaska Railroad, hazardous materials ship-
 25 pers, owners of rail cars used in the transportation of haz-

1 arduous materials, and, through the Secretary of Transpor-
2 tation, to Amtrak, for full or partial reimbursement of
3 costs incurred in the conduct of activities to prevent or
4 respond to acts of terrorism, sabotage, or other intercity
5 passenger rail and freight rail security threats, includ-
6 ing—

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

10 (2) accommodation of cargo or passenger
11 screening equipment at the United States-Mexico
12 border or the United States-Canada border;

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

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

17 (5) structural modification or replacement of
18 pressurized tank cars to improve their resistance to
19 acts of terrorism;

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

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

1 (8) other improvements recommended by the re-
2 port required by section 3, including infrastructure,
3 facilities, and equipment upgrades.

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

9 (c) CONDITIONS.—The Secretary of Transportation
10 may not disburse funds to Amtrak under subsection (a)
11 unless Amtrak meets the conditions set forth in section
12 11(a)(2) of this Act.

13 (d) TANK CAR REPLACEMENT INCENTIVE.—A grant
14 under subsection (a)(5) may be for up to 15 percent of
15 the cost of the modification or replacement of a pressur-
16 ized tank car.

17 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
18 ERS.—Unless as a result of the assessment required by
19 section 3 the Under Secretary of Homeland Security for
20 Border and Transportation Security determines that crit-
21 ical rail transportation security needs require reimburse-
22 ment in greater amounts to any eligible entity, no grants
23 under this section may be made—

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

1 (2) in excess of \$100,000,000 for the purposes
2 described in paragraphs (3) and (4) of subsection
3 (a).

4 (f) PROCEDURES FOR GRANT AWARD.—The Under
5 Secretary shall prescribe procedures and schedules for the
6 awarding of grants under this section, including applica-
7 tion and qualification procedures (including a requirement
8 that the applicant have a security plan), and a record of
9 decision on applicant eligibility. The procedures shall in-
10 clude the execution of a grant agreement between the
11 grant recipient and the Under Secretary. The Under Sec-
12 retary shall issue a final rule establishing the procedures
13 not later than 90 days after the date of enactment of this
14 Act.

15 (g) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Under Secretary
17 of Homeland Security for Border and Transportation Se-
18 curity \$250,000,000 for fiscal year 2005 to carry out the
19 purposes of this section. Amounts appropriated pursuant
20 to this subsection shall remain available until expended.

21 **SEC. 15. DEPARTMENT OF TRANSPORTATION OVERSIGHT.**

22 (a) SECRETARIAL OVERSIGHT.—The Secretary of
23 Transportation may use up to 0.5 percent of amounts ap-
24 propriated for Amtrak for capital projects under this Act
25 to enter into contracts for the review of proposed capital

1 projects and related program management plans and to
2 oversee construction of such projects.

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

8 **SEC. 16. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**
9 **MENTS.**

10 (a) TRACK STANDARDS.—Within 90 days after the
11 date of enactment of this Act, the Federal Railroad Ad-
12 ministration shall—

13 (1) require each railroad using continuous weld-
14 ed rail track to include procedures (in its program
15 filed with the Administration) that improve the iden-
16 tification of cracks in rail joint bars;

17 (2) instruct Administration track inspectors to
18 obtain copies of the most recent continuous welded
19 rail programs of each railroad within the inspectors'
20 areas of responsibility and require that inspectors
21 use those programs when conducting track inspec-
22 tions; and

23 (3) establish a program to periodically review
24 continuous welded rail joint bar inspection data from
25 railroads and Administration track inspectors and,

1 whenever the Administration determines that it is
2 necessary or appropriate, require railroads to in-
3 crease the frequency or improve the methods of in-
4 spection of joint bars in continuous welded rail.

5 (b) TANK CAR STANDARDS.—The Federal Railroad
6 Administration shall—

7 (1) within 1 year after the date of enactment
8 of this Act, validate the predictive model it is devel-
9 oping to quantify the maximum dynamic forces act-
10 ing on railroad tank cars under accident conditions;
11 and

12 (2) within 18 months after the date of enact-
13 ment of this Act, initiate a rulemaking to develop
14 and implement appropriate design standards for
15 pressurized tank cars.

16 (c) OLDER TANK CAR IMPACT RESISTANCE ANAL-
17 YSIS AND REPORT.—Within 2 years after the date of en-
18 actment of this Act, the Federal Railroad Administration,
19 in coordination with the National Transportation Safety
20 Board, shall—

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

24 (2) transmit a report to the Committee on
25 Transportation and Infrastructure of the House of

1 Representatives and the Committee on Commerce,
2 Science, and Transportation of the Senate with rec-
3 ommendations for measures to eliminate or mitigate
4 the risk of catastrophic failure.

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

6 Within 180 days after the date of enactment of this
7 Act, the Under Secretary of Homeland Security for Bor-
8 der and Transportation Security, in consultation with the
9 heads of other appropriate Federal departments and agen-
10 cies and Amtrak, shall transmit a report to the Committee
11 on Transportation and Infrastructure of the House of
12 Representatives and the Committee on Commerce,
13 Science, and Transportation of the Senate that contains—

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

17 (2) an assessment of the current program to
18 provide preclearance of airline passengers between
19 the United States and Canada as outlined in “The
20 Agreement on Air Transport Preclearance between
21 the Government of Canada and the Government of
22 the United States of America”, dated January 18,
23 2001;

24 (3) an assessment of the current program to
25 provide preclearance of freight railroad traffic be-

1 tween the United States and Canada as outlined in
2 the “Declaration of Principle for the Improved Secu-
3 rity of Rail Shipments by Canadian National Rail-
4 way and Canadian Pacific Railway from Canada to
5 the United States”, dated April 2, 2003;

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

12 (5) a description of legislative, regulatory,
13 budgetary, or policy barriers within the United
14 States Government to providing prescreened pas-
15 senger lists for rail passengers travelling between the
16 United States and Canada to the Department of
17 Homeland Security;

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

21 (7) a draft of any changes in existing Federal
22 law necessary to provide for prescreening of such
23 passengers and providing prescreened passenger lists
24 to the Department of Homeland Security.

1 **SEC. 18. MASS TRANSPORTATION SYSTEM SECURITY IM-**
2 **PROVEMENTS.**

3 (a) GRANT PROGRAMS.—The Under Secretary of
4 Homeland Security for Border and Transportation Secu-
5 rity may make operating grants under subsection (e) and
6 capital grants under subsection (f).

7 (b) CONSISTENCY WITH ASSESSMENT.—The Under
8 Secretary shall require that all operating grants made
9 under subsection (e) and capital grants made under sub-
10 section (f) shall be consistent with the most recent find-
11 ings and recommendations of the Federal Transit Admin-
12 istration criticality and vulnerability assessments.

13 (c) PROCEDURES FOR GRANT AWARDS.—

14 (1) IN GENERAL.—The Under Secretary shall
15 establish procedures, schedules, and requirements
16 for making grants under this section, including ap-
17 plication and qualification procedures.

18 (2) AGREEMENTS.—Except as provided in sub-
19 section (f)(3)(D), the procedures shall include the
20 execution of a grant agreement between the grant
21 recipient and the Under Secretary.

22 (3) FINAL RULE.—The Under Secretary shall
23 issue a final rule establishing the procedures not
24 later than 90 days after the date of enactment of
25 this Act.

1 (d) ACCOUNTABILITY.—The Under 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 section and the prior-
5 ities and other criteria developed by the Under Secretary.

6 (e) SECURITY IMPROVEMENT OPERATING GRANTS.—

7 (1) IN GENERAL.—The Under Secretary may
8 make operating grants to eligible transit agencies to
9 prevent or respond to threats or acts of terrorism,
10 including—

11 (A) sabotage, hijackings, and hostage situ-
12 ations;

13 (B) seizure and control of communications,
14 signal, power and systems control infrastruc-
15 ture;

16 (C) chemical, biological, radiological, nu-
17 clear, or explosive device attacks; or

18 (D) other security threats.

19 (2) PREVENTION AND RESPONSE.—Prevention
20 and response measures referred to in paragraph (1)
21 may include—

22 (A) increased transit police and security
23 personnel, deployment expenses including over-
24 time, training, K–9 units, and helicopter pa-
25 trols;

1 (B) inter-operable communications systems
2 between and within transit agencies, local gov-
3 ernmental agencies, state governmental agen-
4 cies, and other transit systems and railroads;

5 (C) operational redundancy and increased
6 protection for critical communications, com-
7 puter, and train control systems, assets and in-
8 frastructure essential for public transit oper-
9 ations;

10 (D) increased security for light rail, heavy
11 rail and bus stations, rights of way, mainte-
12 nance and storage facilities, trains, grade cross-
13 ings, critical locations, and other assets and in-
14 frastructure;

15 (E) increased employee security prepared-
16 ness through training on observing and report-
17 ing suspicious activities and objects, passenger
18 evacuation, and emergency response procedures;

19 (F) public security awareness campaigns
20 for public transit passengers; and

21 (G) other improvements indicated by cur-
22 rent best practices and technological innova-
23 tions, risk response, needs, capabilities and sys-
24 tem security assessments.

1 (3) AUTHORIZATION OF APPROPRIATIONS AND
2 APPORTIONMENTS.—

3 (A) In general.—There are authorized to
4 be appropriated to the Secretary of Homeland
5 Security, for use by the Under Secretary, to
6 carry out of this subsection \$800,000,000 for
7 each of fiscal years 2005 through 2009.

8 (B) APPORTIONMENT.—Except as provided
9 in subparagraph (C), of the funds made avail-
10 able under subparagraph (A)—

11 (i) 80 percent shall be apportioned to
12 each eligible transit agency (as defined in
13 subsection (g)(1)) in an amount equal to
14 the total apportioned under this subsection
15 for a fiscal year multiplied by the ratio
16 equal to the annual passenger miles of the
17 eligible transit agency divided by the total
18 passenger miles of all eligible transit agen-
19 cies; and

20 (ii) 20 percent shall be apportioned to
21 each eligible transit agency in an amount
22 equal to the total apportioned under this
23 subsection for a fiscal year multiplied by
24 the ratio equal to the annual fixed guide-
25 way miles of the eligible transit agency di-

1 vided by the total passenger fixed guideway
2 miles of all eligible transit agencies.

3 (C) LIMITATION.—No eligible transit agen-
4 cy may receive more than 10 percent of the cur-
5 rent fiscal year’s appropriation in a fiscal year,
6 excluding high priority projects described in
7 subsection (f) or, at the discretion of the Under
8 Secretary, if an elevated threat (red) level re-
9 quires extreme deployment of personnel or
10 equipment.

11 (f) SECURITY IMPROVEMENT CAPITAL GRANTS.—

12 (1) IN GENERAL.—The Under Secretary may
13 make capital grants to eligible transit agencies to
14 prevent or respond to threats or acts of terrorism,
15 including—

16 (A) sabotage, hijackings, and hostage situ-
17 ations;

18 (B) seizure and control of communications,
19 signal, power and systems control infrastruc-
20 ture;

21 (C) chemical, biological, radiological, nu-
22 clear or explosive device attacks; or

23 (D) other security threats.

1 (2) PREVENTION AND RESPONSE.—Prevention
2 and response measures referred to in paragraph (1)
3 may include—

4 (A) operational redundancy and increased
5 protection for critical communications, com-
6 puter, and train control systems assets and
7 other infrastructure essential for public transit
8 operations;

9 (B) security surveillance equipment for
10 trains, light rail, buses, stations, tunnels,
11 bridges, control centers, maintenance and stor-
12 age facilities, grade crossings, and other critical
13 locations and infrastructure;

14 (C) train, light rail, and bus tracking Glob-
15 al Positioning System;

16 (D) protection and detection equipment for
17 biological, chemical, radiological, nuclear, and
18 explosive device threats;

19 (E) modifications to stations, depots,
20 trains, rights of way, maintenance and storage
21 facilities, light rail, buses, and other assets and
22 infrastructure to increase security prevention
23 measures and improve emergency response ef-
24 forts; and

1 (F) other improvements indicated by cur-
2 rent best practices and technological innovation,
3 risk response, needs capabilities and system se-
4 curity assessments.

5 (3) AUTHORIZATION OF APPROPRIATIONS.—

6 (A) IN GENERAL.—There are authorized to
7 be appropriated to the Secretary of Homeland
8 Security, for use by the Under Secretary, to
9 carry out this subsection \$1,040,000,000 for
10 each of fiscal years 2005 through 2009.

11 (B) SET ASIDE FOR CRITICAL HIGH RISK
12 LOCATIONS.—Of the funds made available
13 under subparagraph (A), the Under Secretary
14 shall make available to eligible transit agencies
15 not more than 20 percent of that fiscal year's
16 appropriation for high priority discretionary
17 grants (determined by the Under Secretary of
18 Homeland Defense in consultation with the Ad-
19 ministrator of the Federal Transit Administra-
20 tion) based on a threat-based risk management
21 analysis in which assessment for criticality,
22 threat, vulnerability, impact and risk are con-
23 sidered.

24 (C) REQUIREMENTS.—The Under Sec-
25 retary shall make a grant under subparagraph

1 (B) only if there is a specific, recognized, or
2 identified threat to an area that—

3 (i) has been targeted,

4 (ii) has the potential to be targeted,

5 or

6 (iii) is in the national interest.

7 (D) AWARDS.—An eligible transit agency
8 may apply for a grant under subparagraph (B)
9 for a specific project or the Secretary may
10 make an award, without an application being
11 submitted, based on the national interest.

12 (E) APPORTIONMENT.—Except as provided
13 in subparagraph (F), of the funds that remain
14 after the set aside under subparagraph (B)—

15 (i) 80 percent shall be apportioned to
16 each eligible transit agency in an amount
17 equal to the total apportioned under this
18 subsection for a fiscal year multiplied by
19 the ratio equal to the annual passenger
20 miles of the eligible transit agency divided
21 by the total passenger miles of all eligible
22 transit agencies; and

23 (ii) 20 percent shall be apportioned to
24 each eligible transit agency in an amount
25 equal to the total apportioned under this

1 subsection for a fiscal year multiplied by
2 the ratio equal to the annual fixed guide-
3 way miles of the eligible transit agency di-
4 vided by the total passenger fixed guideway
5 miles of all eligible transit agencies.

6 (F) LIMITATION.—No eligible transit agen-
7 cy may receive more than 10 percent of the
8 amount made available under subparagraph (A)
9 in a fiscal year, excluding high priority projects
10 described in subparagraph (B) or, at the discre-
11 tion of the Under Secretary, if an elevated
12 threat (red) level requires extreme deployment
13 of personnel or equipment.

14 (g) DEFINITIONS.—For purposes of this section the
15 following definitions shall apply:

16 (1) ELIGIBLE TRANSIT AGENCY.—The term “el-
17 igible transit agency” means a designated recipient
18 of public transit assistance as defined under section
19 5307(a)(2) of title 49, United States Code, serving
20 an urbanized area.

21 (2) MASS TRANSPORTATION.—The term “public
22 transit” has the same meaning as such term has in
23 section 5302(a) of title 49, United States Code.

1 (3) UNDER SECRETARY.—The term “Under
2 Secretary” means the Under Secretary of Homeland
3 Security for Border and Transportation Security.

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