

109TH CONGRESS
1ST SESSION

H. R. 3270

To improve the security of public transportation and rail systems in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2005

Ms. NORTON (for herself, Mr. MENENDEZ, Ms. PELOSI, Mr. HOYER, Mr. CLYBURN, Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. SPRATT, Mr. THOMPSON of Mississippi, Mr. OBERSTAR, Mr. DICKS, Mrs. CHRISTENSEN, Ms. MILLENDER-McDONALD, and Ms. ZOE LOFGREN of California) 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

A BILL

To improve the security of public transportation and rail systems 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
5 “Secure Transit and Rail Across America and Invest in
6 National Security Act of 2005” or the “Secure Trains
7 Act”.

1 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL TRANSPORTATION SECURITY STRATEGY AND
INTERAGENCY COOPERATION

Sec. 101. National Transportation Security Strategy.

Sec. 102. Interagency cooperation.

Sec. 103. Definitions.

TITLE II—PUBLIC TRANSIT SECURITY

Sec. 201. Homeland security public transportation grants.

Sec. 202. Training exercises.

Sec. 203. Security best practices.

Sec. 204. Public outreach.

Sec. 205. National Transportation Security Centers.

Sec. 206. Whistleblower protections.

Sec. 207. Definitions.

TITLE III—RAIL SECURITY

Sec. 301. Freight and passenger rail security upgrades.

Sec. 302. Fire and life-safety improvements.

Sec. 303. Rail security research and development program.

Sec. 304. Rail worker security training program.

Sec. 305. Whistleblower protection.

Sec. 306. Public outreach.

Sec. 307. Passenger, baggage, and cargo screening.

Sec. 308. Emergency responder training standards.

Sec. 309. Information for first responders.

Sec. 310. TSA personnel limitations.

Sec. 311. Rail safety regulations.

Sec. 312. Rail security.

Sec. 313. Definitions.

2 **TITLE I—NATIONAL TRANSPORTATION SECURITY STRATEGY**
3 **AND INTERAGENCY CO-**
4 **OPERATION**

6 **SEC. 101. NATIONAL TRANSPORTATION SECURITY STRAT-**
7 **EGY.**

8 (a) DEADLINE.—Not later than 30 days after the
9 date of enactment of this Act, the Secretary shall submit
10 to the appropriate congressional committees the National

1 Strategy for Transportation Security required under sec-
2 tion 114(t) of title 49, United States Code.

3 (b) ADDITIONAL REQUIREMENTS.—In addition to the
4 requirements of section 114(t) of such title, the Secretary
5 shall develop a supplement to the National Strategy for
6 Transportation Security. The supplement shall include the
7 following:

8 (1) Requirements for the Federal Government
9 to provide increased security support during high or
10 severe threat levels of alert.

11 (2) Procedures for establishing and maintaining
12 permanent and comprehensive consultative relations
13 among the parties described in subsection (c).

14 (3) A contingency plan to ensure the continued
15 movement of freight and passengers in the event of
16 an attack affecting the railroad or public transpor-
17 tation system, which shall contemplate—

18 (A) the possibility of rerouting traffic due
19 to the loss of critical infrastructure, such as a
20 bridge, tunnel, yard, or station; and

21 (B) methods of continuing railroad service
22 in the Northeast Corridor in the event of a
23 commercial power loss or a catastrophe affect-
24 ing a critical bridge, tunnel, yard, or station;
25 and

1 (4) An identification of actions taken or
2 planned by both public and private entities to ad-
3 dress security issues identified under paragraph (1)
4 and an assessment of the effective integration of
5 such actions.

6 (c) CONSULTATION.—In developing the supplement
7 under subsection (b) and recommendations under sub-
8 section (d), the Secretary shall work jointly with the Sec-
9 retary of Transportation and shall consult with appro-
10 priate public transportation entities and appropriate rail
11 entities.

12 (d) RECOMMENDATIONS.—The Secretary shall de-
13 velop prioritized recommendations for improving public
14 transportation and railroad security, including rec-
15 ommendations for—

16 (1) improving the security of public transpor-
17 tation and rail infrastructure to include subway plat-
18 forms, bus and ferry terminals, rail tunnels, rail
19 bridges, rail switching and car storage areas, infor-
20 mation systems, and other areas identified as posing
21 significant risks to public safety and the movement
22 of interstate commerce, taking into account the im-
23 pact that any proposed security measure might have
24 on the provision of public transportation or railroad
25 service;

1 (2) deploying surveillance equipment;

2 (3) deploying equipment to detect explosives
3 and hazardous chemical, biological, and radioactive
4 substances, and any appropriate countermeasures;

5 (4) installing redundant and backup systems to
6 ensure the continued operation of critical elements
7 of the railroad system in the event of an attack or
8 other incident, including disruption of commercial
9 electric power or communications networks;

10 (5) conducting public outreach campaigns on
11 public transportation and passenger railroad sys-
12 tems; and

13 (6) identifying the immediate and long-term
14 costs of measures that may be required to address
15 those risks.

16 (e) REPORT.—

17 (1) CONTENTS.—Not later than 60 days after
18 the date of enactment of this Act, the Secretary
19 shall transmit to the appropriate congressional com-
20 mittees a report containing the supplement devel-
21 oped under subsection (b) and recommendations de-
22 veloped under subsection (d), together with an esti-
23 mate of the cost to implement such recommenda-
24 tions.

1 (2) **FORMAT.**—The report may be submitted in
2 a classified format if the Secretary determines that
3 such action is necessary.

4 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There
5 are authorized to be appropriated to the Secretary
6 \$10,000,000 for the purpose of carrying out this section.

7 **SEC. 102. INTERAGENCY COOPERATION.**

8 (a) **IN GENERAL.**—The Secretary shall work jointly
9 with the Secretary of Transportation in carrying out the
10 provisions of this Act.

11 (b) **MEMORANDUM.**—Not later than 30 days after the
12 date of enactment of this Act, the Secretary and the Sec-
13 retary of Transportation shall execute a memorandum of
14 agreement governing the roles and responsibilities of the
15 Department of Homeland Security and the Department
16 of Transportation, respectively, in addressing public trans-
17 portation and rail security matters, including the process
18 their departments will follow to carry this Act and pro-
19 mote communications, efficiency, and nonduplication of ef-
20 fort.

21 **SEC. 103. DEFINITIONS.**

22 In this title, the following definitions apply:

23 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
24 **TEES.**—The term “appropriate congressional com-
25 mittees” means the Committee on Homeland Secu-

1 rity and the Committee on Transportation and In-
2 frastructure of the House of Representatives and the
3 Committee on Homeland Security and Governmental
4 Affairs and the Committee on Commerce, Science,
5 and Transportation of the Senate.

6 (2) APPROPRIATE PUBLIC TRANSPORTATION
7 ENTITIES.—The term “appropriate public transpor-
8 tation entities” means owners, operators, and pro-
9 viders of public transportation systems, public trans-
10 portation employee representatives, first responders,
11 industry associations, private sector experts, aca-
12 demic experts, and appropriate Federal, State, and
13 local officials.

14 (3) APPROPRIATE RAIL ENTITIES.—The term
15 “appropriate rail entities” means freight and pas-
16 senger railroad carriers, nonprofit employee organi-
17 zations representing rail workers, nonprofit employee
18 organizations representing emergency responders,
19 owners or lessors of rail cars used to transport haz-
20 ardous materials, shippers of hazardous materials,
21 manufacturers of rail tank cars, State Departments
22 of Transportation, public safety officials, and other
23 relevant parties.

24 (4) SECRETARY.—The term “Secretary” means
25 the Secretary of Homeland Security.

1 **TITLE II—PUBLIC TRANSIT**
2 **SECURITY**

3 **SEC. 201. HOMELAND SECURITY PUBLIC TRANSPORTATION**
4 **GRANTS.**

5 (a) AUTHORIZATION.—The Secretary of Homeland
6 Security is authorized to make grants for the purpose of
7 improving the security of public transportation systems
8 against acts of terrorism. The grant program shall be ad-
9 ministered by the Director of the Office of Domestic Pre-
10 paredness to ensure that the program is consistent with
11 other Department of Homeland Security grant programs.

12 (b) GRANT CRITERIA.—The Secretary shall make
13 grants under this section using the following criteria:

14 (1) Risk of terrorism, including threat assess-
15 ment, vulnerabilities of public transportation sys-
16 tems, potential effects of acts of terrorism against
17 public transportation systems, and past acts of ter-
18 rorism against modes of transportation.

19 (2) Merits of the proposed projects to increase
20 national security, based on a consideration of—

21 (A) threats;

22 (B) vulnerabilities;

23 (C) consequences, including human casual-
24 ties and economic impacts;

25 (D) consequence management;

1 (E) the likelihood that such projects would
2 have been pursued in the normal course of busi-
3 ness and in the absence of national security
4 considerations; and

5 (F) feasibility, based on the technical and
6 operational merits of the projects.

7 (c) ALLOWABLE USE OF FUNDS.—Grants made
8 under this section shall be used for the purposes of—

9 (1) support for increased capital investments in
10 cameras, close-circuit television, and other surveil-
11 lance systems;

12 (2) increased capital investment in command,
13 control, and communications systems, including in-
14 vestments for redundancy and interoperability and
15 for improved situational awareness, such as emer-
16 gency call boxes and vehicle locator systems;

17 (3) increased training, including for carrying
18 out exercises under section 202, and technical sup-
19 port for public transportation employees, especially
20 for security awareness, prevention, and emergency
21 response, including evacuation and decontamination;

22 (4) expanded deployment of equipment and
23 other measures, including canine detection teams,
24 for the detection of explosives and chemical, biologi-
25 cal, radiological, and nuclear agents;

1 (5) capital improvements and operating activi-
2 ties, including personnel expenditures, to increase
3 the physical security of stations, vehicles, bridges,
4 and tunnels;

5 (6) capital improvements and operating activi-
6 ties to improve passenger survivability in the event
7 of an attack, including improvements in ventilation,
8 drainage, fire safety technology, emergency commu-
9 nications systems, lighting systems, passenger
10 egress, and accessibility by emergency response per-
11 sonnel;

12 (7) acquisition of emergency response and sup-
13 port equipment, including fire suppression and de-
14 contamination equipment; and

15 (8) expansion of employee education and public
16 awareness campaigns regarding security on public
17 transportation systems.

18 (d) ELIGIBLE RECIPIENTS.—Grants shall be made
19 available under this section directly to owners, operators,
20 and providers of public transportation systems. Owners,
21 operators, and providers of infrastructure over which pub-
22 lic transportation operates, but which is not primarily
23 used for public transportation, may also be eligible for
24 grants at the discretion of the Secretary.

1 (e) ACCOUNTABILITY.—The Secretary shall adopt
2 necessary procedures, including audits, to ensure that
3 grants made under this section are expended in accord-
4 ance with the purposes of this title and the priorities and
5 other criteria developed by the Secretary. If the Secretary
6 determines that a recipient has used any portion of the
7 grant funds received under this section for a purpose other
8 than the allowable uses specified for that grant under this
9 section, the grantee shall return any amount so used to
10 the Treasury of the United States.

11 (f) PROCEDURES FOR GRANT AWARD.—The Sec-
12 retary shall prescribe procedures and schedules for the
13 awarding of grants under this section, including applica-
14 tion and qualification procedures, and a record of decision
15 on applicant eligibility. The Secretary shall issue a final
16 rule establishing the procedures not later than 90 days
17 after the date of enactment of this Act.

18 (g) COST SHARE.—Grants made under this section
19 shall account for no more than—

20 (1) 85 percent for fiscal year 2006;

21 (2) 80 percent for fiscal year 2007; and

22 (3) 75 percent for fiscal year 2008,

23 of the expense of the purposes for which the grants are
24 used.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary to carry
3 out the purposes of this section—

4 (1) \$1,200,000,000 for fiscal year 2006;

5 (2) \$900,000,000 for fiscal year 2007; and

6 (3) \$700,000,000 for fiscal year 2008.

7 Amounts appropriated pursuant to this subsection shall
8 remain available until expended.

9 **SEC. 202. TRAINING EXERCISES.**

10 (a) GUIDELINES.—Not later than 4 months after the
11 date of enactment of this Act, the Secretary of Homeland
12 Security shall publish guidelines for the conduct by recipi-
13 ents of grants under section 201 of appropriate exercises
14 for emergency response and public transportation em-
15 ployee training purposes.

16 (b) PLANS.—Not later than 6 months after receipt
17 of a grant under section 201, the recipient of such grant
18 shall transmit to the Secretary its emergency response
19 plan as well as a plan for conducting exercises for emer-
20 gency response and public transportation employee train-
21 ing purposes pursuant to the guidelines published under
22 subsection (a).

23 (c) EXERCISES.—

24 (1) REQUIREMENT.—Not later than 1 year
25 after receipt of a grant under section 201, the re-

1 cipient of such grant shall conduct an exercise pur-
2 suant to the plan for conducting exercises trans-
3 mitted under subsection (b).

4 (2) EXEMPTIONS.—The Secretary may exempt
5 a grant recipient from the requirement under para-
6 graph (1) if the recipient has recently conducted an
7 equivalent exercise.

8 (3) NOTICE AND REPORT.—Not later than 30
9 days after conducting an exercise under paragraph
10 (1) or as described in paragraph (2), the recipient
11 shall notify the Secretary that such exercise has
12 been completed, including a description of the re-
13 sults of the exercise and findings and lessons learned
14 from the exercise, and shall make recommendations
15 for changes, if necessary, to existing emergency re-
16 sponse plans. If the recipient revises an emergency
17 response plan as a result of an exercise under this
18 subsection, the recipient shall transmit the revised
19 plan to the Secretary not later than 6 months after
20 the date of the exercise.

21 (d) TECHNICAL ASSISTANCE.—The Secretary shall
22 provide technical assistance in the design, preparation for,
23 and conduct of emergency response exercises.

24 (e) USE OF PLANS.—The Secretary shall ensure that
25 information submitted to the Secretary under this section

1 is protected from any form of disclosure that might com-
2 promise public transportation security or trade secrets.
3 Notwithstanding the preceding sentence, the Secretary
4 may use such information, on a nonattributed basis unless
5 otherwise agreed to by the source of the information, to
6 aid in developing recommendations, best practices, and
7 materials for use by public transportation authorities to
8 improve security practices and emergency response capa-
9 bilities.

10 **SEC. 203. SECURITY BEST PRACTICES.**

11 Not later than 120 days after the date of enactment
12 of this Act, the Secretary of Homeland Security shall de-
13 velop, disseminate to appropriate owners, operators, and
14 providers of public transportation systems, public trans-
15 portation employees and employee representatives, and
16 Federal, State, and local officials, and transmit to Con-
17 gress, a report containing best practices for the security
18 of public transportation systems. In developing best prac-
19 tices, the Secretary shall be responsible for consulting with
20 and collecting input from owners, operators, and providers
21 of public transportation systems, public transportation
22 employee representatives, first responders, industry asso-
23 ciations, private sector experts, academic experts, and ap-
24 propriate Federal, State, and local officials.

1 **SEC. 204. PUBLIC OUTREACH.**

2 Not later than 90 days after the date of enactment
3 of this Act, the Secretary of Homeland Security shall de-
4 velop a national plan for public outreach and awareness.
5 Such plan shall be designed to increase awareness of
6 measures that the general public, public transportation
7 passengers, and public transportation employees can take
8 to increase public transportation system security. Such
9 plan shall also provide outreach to owners, operators, pro-
10 viders, and employees of public transportation systems to
11 improve their awareness of available technologies, ongoing
12 research and development efforts, and available Federal
13 funding sources to improve public transportation security.
14 Not later than 9 months after the date of enactment of
15 this Act, the Secretary shall implement the plan developed
16 under this section.

17 **SEC. 205. NATIONAL TRANSPORTATION SECURITY CEN-**
18 **TERS.**

19 (a) ESTABLISHMENT.—The Secretary of Homeland
20 Security, working jointly with the Secretary of Transpor-
21 tation, shall establish more than 1 but not more than 4
22 National Transportation Security Centers at institutions
23 of higher education to assist in carrying out this title, to
24 conduct research and education activities, and to develop
25 or provide professional training, including the training of
26 public transportation employees and public transportation-

1 related professionals, with emphasis on utilization of intel-
2 ligent transportation systems, technologies, and architec-
3 tures.

4 (b) CRITERIA.—The Secretary shall designate the
5 Centers according to the following selection criteria:

6 (1) The demonstrated commitment of the insti-
7 tution to transportation security issues.

8 (2) The use of and experience with partnerships
9 with other institutions of higher education, Federal
10 laboratories, or other nonprofit laboratories.

11 (3) Capability to conduct both practical and
12 theoretical research and technical systems analysis.

13 (4) Utilization of intelligent transportation sys-
14 tem technologies and architectures.

15 (5) Ability to develop professional training pro-
16 grams.

17 (6) Capability and willingness to conduct edu-
18 cation of transportation security professionals.

19 (7) Such other criteria as the Secretary may
20 designate.

21 (c) EXISTING CENTERS.—The Secretary may des-
22 ignate an existing national transportation research center
23 as a National Transportation Security Center under this
24 section.

1 (d) FUNDING.—The Secretary shall provide such
2 funding as is necessary to the National Transportation Se-
3 curity Centers established under subsection (a) to carry
4 out this section.

5 **SEC. 206. WHISTLEBLOWER PROTECTIONS.**

6 (a) IN GENERAL.—No covered individual may be dis-
7 charged, demoted, suspended, threatened, harassed, rep-
8 rimanded, investigated, or in any other manner discrimi-
9 nated against (including by a denial, suspension, or rev-
10 ocation of a security clearance or by any other security
11 access determination) if such discrimination is due, in
12 whole or in part, to any lawful act done, perceived to have
13 been done, or intended to be done by the covered indi-
14 vidual—

15 (1) to provide information, cause information to
16 be provided, or otherwise assist in an investigation
17 regarding any conduct which the covered individual
18 reasonably believes constitutes a violation of any
19 law, rule or regulation relating to national or home-
20 land security, which the covered individual reason-
21 ably believes constitutes a threat to national or
22 homeland security, or which the covered individual
23 reasonably believes constitutes fraud, waste or mis-
24 management of Government funds intended to be
25 used for national or homeland security, when the in-

1 formation or assistance is provided to or the inves-
2 tigation is conducted by—

3 (A) a Federal, State, or local regulatory or
4 law enforcement agency (including an office of
5 Inspector General under the Inspector General
6 Act of 1978);

7 (B) any Member of Congress, any com-
8 mittee of Congress, or the Government Ac-
9 countability Office; or

10 (C) a person with supervisory authority
11 over the covered individual (or such other per-
12 son who has the authority to investigate, dis-
13 cover, or terminate misconduct);

14 (2) to file, cause to be filed, testify, participate
15 in, or otherwise assist in a proceeding or action filed
16 or about to be filed relating to an alleged violation
17 of any law, rule or regulation relating to national or
18 homeland security; or

19 (3) to refuse to violate or assist in the violation
20 of any law, rule, or regulation relating to national or
21 homeland security.

22 (b) ENFORCEMENT ACTION.—

23 (1) IN GENERAL.—A covered individual who al-
24 leges discharge or other discrimination by any per-

son in violation of subsection (a) may seek relief
under subsection (c) by—

(A) filing a complaint with the Secretary of
Labor; or

(B) if the Secretary has not issued a final
decision within 180 days after the filing of the
complaint and there is no showing that such
delay is due to the bad faith of the claimant,
bringing an action at law or equity for de novo
review in the appropriate district court of the
United States, which shall have jurisdiction
over such an action without regard to the
amount in controversy.

(2) PROCEDURE.—

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

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

(C) BURDENS OF PROOF.—An action
brought under paragraph (1)(B) shall be gov-
erned by the legal burdens of proof set forth in

1 section 42121(b) of title 49, United States
2 Code.

3 (D) STATUTE OF LIMITATIONS.—An action
4 under paragraph (1) shall be commenced not
5 later than 1 year after the date on which the
6 violation occurs.

7 (c) REMEDIES.—

8 (1) IN GENERAL.—A covered individual pre-
9 vailing in any action under subsection (b)(1) shall be
10 entitled to all relief necessary to make the covered
11 individual whole.

12 (2) DAMAGES.—Relief for any action under
13 paragraph (1) shall include—

14 (A) reinstatement with the same seniority
15 status that the covered individual would have
16 had, but for the discrimination;

17 (B) the amount of any back pay, with in-
18 terest;

19 (C) compensation for any special damages
20 sustained as a result of the discrimination, in-
21 cluding litigation costs, expert witness fees, and
22 reasonable attorney fees; and

23 (D) punitive damages in an amount not to
24 exceed the greater of 3 times the amount of any

1 compensatory damages awarded under this sec-
2 tion or \$5,000,000.

3 (d) STATE SECRETS PRIVILEGE.—If, in any action
4 brought under subsection (b)(1)(B), the Government as-
5 serts as a defense the privilege commonly referred to as
6 the “state secrets privilege” and the assertion of such
7 privilege prevents the plaintiff from establishing a prima
8 facie case in support of the plaintiff’s claim, the court shall
9 enter judgment for the plaintiff and shall determine the
10 relief to be granted.

11 (e) CRIMINAL PENALTIES.—

12 (1) IN GENERAL.—It shall be unlawful for any
13 person employing a covered individual to commit an
14 act prohibited by subsection (a). Any person vio-
15 lating this paragraph shall be fined under title 18,
16 United States Code, imprisoned not more than 10
17 years, or both.

18 (2) REPORTING REQUIREMENT.—The Depart-
19 ment of Justice shall submit to Congress an annual
20 report on the enforcement of paragraph (1). Each
21 such report shall (A) identify each case in which for-
22 mal charges under paragraph (1) were brought, (B)
23 describe the status or disposition of each such case,
24 and (C) in any actions under subsection (b)(1)(B) in
25 which the covered individual was the prevailing party

1 or the substantially prevailing party, indicate wheth-
2 er or not any formal charges under paragraph (1)
3 have been brought and, if not, the reasons therefor.

4 (f) RIGHTS RETAINED BY COVERED INDIVIDUAL.—

5 Nothing in this section shall be deemed to diminish the
6 rights, privileges, or remedies of any covered individual
7 under any Federal or State law, or under any collective
8 bargaining agreement. The rights and remedies in this
9 section may not be waived by any agreement, policy, form,
10 or condition of employment.

11 (g) DEFINITIONS.—For purposes of this section—

12 (1) the term “covered individual” means an em-
13 ployee of—

14 (A) the Department of Homeland Security
15 (which, for purposes of this section, includes the
16 Transportation Security Administration);

17 (B) a Federal contractor or subcontractor;
18 and

19 (C) an employer within the meaning of sec-
20 tion 701(b) of the Civil Rights Act of 1964 (42
21 U.S.C. 2000e(b));

22 (2) the term “lawful” means not specifically
23 prohibited by law, except that, in the case of any in-
24 formation the disclosure of which is specifically pro-
25 hibited by law or specifically required by Executive

1 order to be kept secret in the interest of national de-
2 fense or the conduct of foreign affairs, any disclo-
3 sure of such information to any Member of Con-
4 gress, committee of Congress, or other recipient au-
5 thorized to receive such information, shall be deemed
6 lawful;

7 (3) the term “Federal contractor” means a per-
8 son who has entered into a contract with the De-
9 partment of Homeland Security;

10 (4) the term “employee” means—

11 (A) with respect to an employer referred to
12 in paragraph (1)(A), an employee as defined by
13 section 2105 of title 5, United States Code; and

14 (B) with respect to an employer referred to
15 in subparagraph (A) or (B) of paragraph (1),
16 any officer, partner, employee, or agent;

17 (5) the term “subcontractor”—

18 (A) means any person, other than the Fed-
19 eral contractor, who offers to furnish or fur-
20 nishes any supplies, materials, equipment, or
21 services of any kind under a contract with the
22 Department of Homeland Security or a sub-
23 contract entered into in connection with such a
24 contract; and

1 (B) includes any person who offers to fur-
2 nish or furnishes general supplies to the Fed-
3 eral contractor or a higher tier subcontractor;
4 and

5 (6) the term “person” means a corporation,
6 partnership, State entity, business association of any
7 kind, trust, joint-stock company, or individual.

8 (h) TERMS AND CONDITIONS.—A grant under this
9 title shall be subject to terms and conditions of section
10 5333 of title 49, United States Code.

11 **SEC. 207. DEFINITIONS.**

12 In this title, the following definitions apply:

13 (1) PUBLIC TRANSPORTATION EMPLOYEES.—
14 The term “public transportation employees” means
15 security personnel, dispatchers, vehicle and vessel
16 operators, other onboard employees, maintenance
17 and support personnel, and other appropriate em-
18 ployees of owners, operators, and providers of public
19 transportation systems.

20 (2) PUBLIC TRANSPORTATION SYSTEMS.—The
21 term “public transportation systems” means pas-
22 senger, commuter, and light rail, including subways,
23 buses, commuter ferries, and other modes of public
24 transit.

1 **TITLE III—RAIL SECURITY**

2 **SEC. 301. FREIGHT AND PASSENGER RAIL SECURITY UP-**
3 **GRADES.**

4 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
5 retary, in coordination with the Secretary of Transpor-
6 tation, is authorized to make grants to freight and pas-
7 senger railroad carriers, nonprofit employee organizations
8 that represent rail workers, shippers of hazardous mate-
9 rials by rail, owners of rail cars used in the transportation
10 of hazardous materials, manufacturers of rail tank cars,
11 and State and local governments, for costs incurred in the
12 conduct of activities to prevent or respond to acts of ter-
13 rorism or sabotage against railroads, or other railroad se-
14 curity threats, including—

15 (1) perimeter protection systems, including ac-
16 cess control, installation of better lighting, fencing,
17 and barricades at railroad facilities;

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

21 (3) technologies for reduction of tank car vul-
22 nerability;

23 (4) security improvements to passenger railroad
24 stations, trains, and infrastructure;

25 (5) tunnel protection systems;

1 (6) evacuation improvements;

2 (7) inspection technologies, including verified
3 visual inspection technologies using hand-held read-
4 ers and discs;

5 (8) security and redundancy for critical commu-
6 nications, computer, and train control systems essen-
7 tial for secure railroad operations or to continue rail-
8 road operations after an attack impacting railroad
9 operations;

10 (9) train tracking and interoperable commu-
11 nications systems;

12 (10) chemical, biological, radiological, or explo-
13 sive detection systems and devices;

14 (11) surveillance equipment;

15 (12) additional police and security officers, in-
16 cluding canine units;

17 (13) accommodation of cargo or passenger
18 screening equipment;

19 (14) employee security awareness, prepared-
20 ness, and response training (including compliance
21 with section 304);

22 (15) public security awareness campaigns;

23 (16) emergency response equipment, including
24 fire suppression and decontamination equipment;
25 and

1 (17) other improvements recommended by the
2 Secretary, including infrastructure, facilities, and
3 equipment upgrades.

4 (b) CONDITIONS.—The Secretary shall require recipi-
5 ents of funds for construction under this section and sec-
6 tion 302 of this Act to apply the standards of section
7 24312 of title 49, United States Code, as in effect on Sep-
8 tember 1, 2004, with respect to the construction in the
9 same manner as Amtrak is required to comply with such
10 standards for construction work financed under an agree-
11 ment made under section 24308(a) of such title 49.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary
14 \$600,000,000 to carry out the purposes of this section,
15 of which \$100,000,000 shall be used by the Secretary for
16 making grants to Amtrak, in accordance with this section.
17 Amounts appropriated pursuant to this subsection shall
18 remain available until expended.

19 **SEC. 302. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

20 (a) LIFE-SAFETY NEEDS.—There are authorized to
21 be appropriated to Amtrak for the purposes of carrying
22 out this section the following amounts:

23 (1) For the 6 New York Tunnels to provide
24 ventilation, electrical, and fire safety technology up-
25 grades, emergency communication and lighting sys-

1 tems, and emergency access and egress for pas-
2 sengers—

3 (A) \$100,000,000 for fiscal year 2006;

4 (B) \$100,000,000 for fiscal year 2007;

5 (C) \$100,000,000 for fiscal year 2008;

6 (D) \$100,000,000 for fiscal year 2009;

7 and

8 (E) \$170,000,000 for fiscal year 2010.

9 (2) For the Baltimore & Potomac Tunnel and
10 the Union Tunnel, together, to provide adequate
11 drainage, ventilation, communication, lighting, and
12 passenger egress upgrades—

13 (A) \$10,000,000 for fiscal year 2006;

14 (B) \$10,000,000 for fiscal year 2007;

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

16 (D) \$10,000,000 for fiscal year 2009; and

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

18 (3) For the Washington, District of Columbia,
19 Union Station Tunnels to improve ventilation, com-
20 munication, lighting, and passenger egress up-
21 grades—

22 (A) \$8,000,000 for fiscal year 2006;

23 (B) \$8,000,000 for fiscal year 2007;

24 (C) \$8,000,000 for fiscal year 2008;

25 (D) \$8,000,000 for fiscal year 2009; and

1 (E) \$8,000,000 for fiscal year 2010.

2 (b) AVAILABILITY OF APPROPRIATED FUNDS.—

3 Amounts appropriated pursuant to this section shall re-

4 main available until expended.

5 **SEC. 303. RAIL SECURITY RESEARCH AND DEVELOPMENT**
6 **PROGRAM.**

7 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
8 MENT PROGRAM.—The Secretary shall carry out a re-
9 search and development program for the purpose of im-
10 proving railroad security that may include research and
11 development projects to—

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

15 (2) test new emergency response techniques and
16 technologies;

17 (3) develop improved freight technologies, in-
18 cluding—

19 (A) technologies for sealing rail cars;

20 (B) automatic inspection of rail cars; and

21 (C) communication-based train controls;

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

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 and

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

10 (6) other projects recommended by the Sec-
11 retary.

12 (b) COORDINATION WITH OTHER RESEARCH INITIA-
13 TIVES.—The Secretary shall ensure that the research and
14 development program authorized by this section is coordi-
15 nated with other research and development initiatives at
16 the Department of Homeland Security, the Department
17 of Transportation, and other Federal agencies.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary
20 \$50,000,000 in each of fiscal years 2006 and 2007 to
21 carry out the purposes of this section. Amounts appro-
22 priated pursuant to this subsection shall remain available
23 until expended.

1 **SEC. 304. RAIL WORKER SECURITY TRAINING PROGRAM.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 date of enactment of this Act, the Secretary, in consulta-
4 tion with appropriate law enforcement, security, and ter-
5 rorism experts, representatives of railroad carriers, and
6 nonprofit employee organizations that represent rail work-
7 ers, shall develop and issue detailed guidance for a rail
8 worker security training program to prepare rail workers
9 for potential threat conditions.

10 (b) PROGRAM ELEMENTS.—The guidance developed
11 under subsection (a) shall require such a program to in-
12 clude, at a minimum, elements that address the following:

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

15 (2) Crew and passenger communication and co-
16 ordination.

17 (3) Appropriate responses to defend oneself.

18 (4) Use of protective devices.

19 (5) Evacuation procedures.

20 (6) Live situational training exercises regarding
21 various threat conditions, including tunnel evacu-
22 ation procedures.

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

25 (c) RAILROAD CARRIER PROGRAMS.—Not later than
26 60 days after the Secretary issues guidance under sub-

1 section (a) in final form, each railroad carrier shall develop
2 a rail worker security training program in accordance with
3 that guidance and submit it to the Secretary for approval.
4 Not later than 60 days after receiving a railroad carrier's
5 program under this subsection, the Secretary shall review
6 the program and approve it or require the railroad carrier
7 to make any revisions the Secretary considers necessary
8 for the program to meet the guidance requirements.

9 (d) TRAINING.—Not later than 1 year after the Sec-
10 retary approves the training program developed by a rail-
11 road carrier under this section, the railroad carrier shall
12 complete the training of all rail workers in accordance with
13 that program.

14 (e) UPDATES.—The Secretary shall update the train-
15 ing guidance issued under subsection (a) from time to
16 time to reflect new or different security threats, and re-
17 quire railroad carriers to revise their programs accordingly
18 and provide additional training to their rail workers.

19 **SEC. 305. WHISTLEBLOWER PROTECTION.**

20 (a) IN GENERAL.—Subchapter I of chapter 201 of
21 title 49, is amended by inserting after section 20115 the
22 following:

1 **“§ 20116. Whistleblower protection for railroad secu-**
2 **rity matters**

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

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

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

16 “(3) has assisted or participated, or is about to
17 assist or participate, in any manner in a proceeding
18 or any other action to enhance railroad security; or

19 “(4) refused to violate or assist in the violation
20 of any law, rule, or regulation related to railroad se-
21 curity.

22 “(b) ENFORCEMENT ACTION.—

23 “(1) IN GENERAL.—A person who alleges dis-
24 charge or other discrimination by any person in vio-
25 lation of subsection (a) may seek relief under sub-
26 section (c) by—

1 “(A) filing a complaint with the Secretary
2 of Labor; or

3 “(B) if the Secretary of Labor has not
4 issued a final decision within 180 days of the
5 filing of the complaint and there is no showing
6 that such delay is due to the bad faith of the
7 claimant, bringing an action at law or equity
8 for de novo review in the appropriate district
9 court of the United States, which shall have ju-
10 risdiction over such an action without regard to
11 the amount in controversy.

12 “(2) PROCEDURE.—

13 “(A) IN GENERAL.—An action under para-
14 graph (1)(A) shall be governed under the rules
15 and procedures set forth in section 42121(b) of
16 this title.

17 “(B) EXCEPTION.—Notification made
18 under section 42121(b)(1) of this title, shall be
19 made to the person named in the complaint and
20 to the employer.

21 “(C) BURDENS OF PROOF.—An action
22 brought under paragraph (1)(B) shall be gov-
23 erned by the legal burdens of proof set forth in
24 section 42121(b) this title.

1 “(D) STATUTE OF LIMITATIONS.—An ac-
2 tion under paragraph (1)(A) shall be com-
3 menced not later than 90 days after the date on
4 which the violation occurs.

5 “(c) REMEDIES.—

6 “(1) IN GENERAL.—An employee prevailing in
7 any action under subsection (b)(1) shall be entitled
8 to all relief necessary to make the employee whole.

9 “(2) COMPENSATORY DAMAGES.—Relief for any
10 action under paragraph (1) shall include—

11 “(A) reinstatement with the same seniority
12 status that the employee would have had, but
13 for the discrimination;

14 “(B) the amount of back pay, with inter-
15 est; and

16 “(C) compensation for any special damages
17 sustained as a result of the discrimination, in-
18 cluding litigation costs, expert witness fees, and
19 reasonable attorney fees.

20 “(d) RIGHTS RETAINED BY EMPLOYEE.—Except as
21 provided in subsection (e), nothing in this section shall be
22 deemed to diminish the rights, privileges, or remedies of
23 any employee under any Federal or State law, or under
24 any collective bargaining agreement.

1 “(e) ELECTION OF REMEDIES.—An employee of a
 2 railroad carrier may not seek protection under both this
 3 section and another provision of law for the same allegedly
 4 unlawful act of the railroad carrier.

5 “(f) DISCLOSURE OF IDENTITY.—

6 “(1) IN GENERAL.—Except as provided in para-
 7 graph (2), without the written consent of the em-
 8 ployee, the Secretary of Labor may not disclose the
 9 name of an employee of a railroad carrier who has
 10 provided information about an alleged violation of
 11 this section.

12 “(2) EXCEPTION.—The Secretary of Labor
 13 shall disclose to the Attorney General the name of
 14 an employee described in paragraph (1) of this sub-
 15 section if the matter is referred to the Attorney Gen-
 16 eral for enforcement.”.

17 “(b) CONFORMING AMENDMENT.—The table of sec-
 18 tions for chapter 201 of title 49, is amended by inserting
 19 after the item relating to section 20115 the following:

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

20 **SEC. 306. PUBLIC OUTREACH.**

21 Not later than 90 days after the date of enactment
 22 of this Act, the Secretary shall develop a national plan
 23 for public outreach and awareness. Such plan shall be de-
 24 signed to increase awareness of measures that the general
 25 public, railroad passengers, and railroad employees can

1 take to increase railroad system security. Such plan shall
2 also provide outreach to railroad carriers and their em-
3 ployees to improve their awareness of available tech-
4 nologies, ongoing research and development efforts, and
5 available Federal funding sources to improve railroad se-
6 curity. Not later than 9 months after the date of enact-
7 ment of this Act, the Secretary shall implement the plan
8 developed under this section.

9 **SEC. 307. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

10 The Secretary shall—

11 (1) analyze the cost and feasibility of requiring
12 security screening for passengers, baggage, and
13 cargo on passenger trains; and

14 (2) report the results of the study, together
15 with any recommendations that the Secretary may
16 have for implementing a rail security screening pro-
17 gram to the Committee on Transportation and In-
18 frastructure and the Committee on Homeland Secu-
19 rity of the House of Representatives and to the
20 Committee on Commerce, Science, and Transpor-
21 tation of the Senate not later than 1 year after the
22 date of enactment of this Act.

23 **SEC. 308. EMERGENCY RESPONDER TRAINING STANDARDS.**

24 Not later than 90 days after the date of enactment
25 of this Act, the Secretary of Transportation shall issue

1 training standards for persons responsible for responding
2 to emergency situations occurring during transportation
3 of hazardous materials by rail, in accordance with existing
4 regulations, to ensure their ability to protect nearby per-
5 sons, property, or the environment from the effects of acci-
6 dents involving hazardous materials.

7 **SEC. 309. INFORMATION FOR FIRST RESPONDERS.**

8 (a) IN GENERAL.—The Secretary of Transportation
9 shall provide grants to Operation Respond Institute for
10 the purpose of—

11 (1) deploying and expanding the Operation Re-
12 spond Emergency Information System software;

13 (2) developing, implementing, and maintaining
14 a railroad infrastructure mapping program that cor-
15 relates railroad right-of-way information with high-
16 way grid maps and overhead imagery of traffic
17 routes, hazardous materials routes, and commuter
18 rail lines; and

19 (3) establishing an alert and messaging capa-
20 bility for use during emergencies involving freight
21 and passenger railroads.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary of
24 Transportation to carry out this section \$2,500,000 for
25 each of fiscal years 2005, 2006, and 2007. Amounts ap-

1 appropriated pursuant to this subsection shall remain avail-
 2 able until expended.

3 **SEC. 310. TSA PERSONNEL LIMITATIONS.**

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

10 **SEC. 311. RAIL SAFETY REGULATIONS.**

11 Section 20103(a) of title 49, United States Code, is
 12 amended by striking “safety” the first place it appears,
 13 and inserting “safety, including security,”.

14 **SEC. 312. RAIL SECURITY.**

15 (a) RAIL POLICE OFFICERS.—

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

18 **“§ 28101. Rail and State public transit police officers**

19 **“(a) IN GENERAL.—**Under regulations prescribed by
 20 the Secretary of Transportation, a rail or public transit
 21 system police officer who is employed by a rail carrier or
 22 a public transportation system and certified or commis-
 23 sioned as a police officer under the laws of a State may
 24 enforce the laws of any jurisdiction in which any rail car-
 25 rier or public transit system owns property or provides

1 service, to the extent of the authority of a police officer
 2 certified or commissioned under the laws of that jurisdic-
 3 tion, to protect—

4 “(1) employees, passengers, or patrons of any
 5 rail carrier or public transit system;

6 “(2) property, equipment, and facilities owned,
 7 leased, operated, or maintained by any rail carrier or
 8 public transit system;

9 “(3) property moving in interstate or foreign
 10 commerce in the possession of any rail carrier or
 11 public transit system; and

12 “(4) personnel, equipment, and material moving
 13 by rail or public transit that are vital to the national
 14 defense.

15 “(b) DEFINITION.—In this section, the term ‘public
 16 transit’ has the meaning given that term by section
 17 5302(a) of this title.”.

18 (2) TABLE OF SECTIONS AMENDMENT.—The
 19 item relating to section 28101 in the table of sec-
 20 tions for chapter 281 of title 49, United States
 21 Code, is amended to read as follows:

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

22 (b) REVIEW OF RAIL REGULATIONS.—Within 1 year
 23 after the date of enactment of this Act, the Secretary of
 24 Transportation, in consultation with the Under Secretary
 25 of Homeland Security for Border and Transportation Se-

1 curity, shall review existing rail regulations of the Depart-
2 ment of Transportation for the purpose of identifying
3 areas in which those regulations need to be revised to im-
4 prove rail security.

5 **SEC. 313. DEFINITIONS.**

6 For purposes of this title—

- 7 (1) the terms “railroad” and “railroad carrier”
8 have the meaning given those terms in section
9 20102 of title 49, United States Code; and
10 (2) the term “Secretary” means the Secretary
11 of Homeland Security.

○