

Calendar No. 364

109TH CONGRESS
2^D SESSION

S. 1052

[Report No. 109-216]

To improve transportation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2005

Mr. STEVENS (for himself, Mr. INOUE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, Mr. SCHUMER, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

FEBRUARY 27, 2006

Reported by Mr. STEVENS, with an amendment

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

A BILL

To improve transportation security, 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 “Transportation Security Improvement Act of 2005”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

TITLE I—AUTHORIZATIONS

- Sec. 101. Transportation Security Administration authorization.
 Sec. 102. Department of Transportation authorization.
 Sec. 103. Certain personnel limitations not to apply.
 Sec. 104. Intermodal regional security managers.
 Sec. 105. Security threat assessment coordination policy.
 Sec. 106. Reorganizations.

TITLE II—IMPROVED AVIATION SECURITY

- Sec. 201. Post-fiscal year 2006 air carrier security fees.
 Sec. 202. Alternative collection methods for passenger security fee.
 Sec. 203. Screener training review.
 Sec. 204. Employee retention internship program.
 Sec. 205. Repair station security.
 Sec. 206. Waiver process for certain employment disqualifications.

TITLE III—IMPROVED RAIL SECURITY

- Sec. 301. Short title.
 Sec. 302. Rail transportation security risk assessment.
 Sec. 303. Systemwide Amtrak security upgrades.
 Sec. 304. Fire and life-safety improvements.
 Sec. 305. Freight and passenger rail security upgrades.
 Sec. 306. Rail security research and development.
 Sec. 307. Oversight and grant procedures.
 Sec. 308. Amtrak plan to assist families of passengers involved in rail passenger accidents.
 Sec. 309. Northern Border rail passenger report.
 Sec. 310. Rail worker security training program.
 Sec. 311. Whistleblower protection program.
 Sec. 312. High hazard material security threat mitigation plans.
 Sec. 313. Memorandum of agreement.
 Sec. 314. Rail security enhancements.
 Sec. 315. Welded rail and tank car safety improvements.
 Sec. 316. Report regarding impact on security of train travel in communities without grade separation.
 Sec. 317. Study of foreign rail transport security programs.
 Sec. 318. Passenger, baggage, and cargo screening.
 Sec. 319. Public awareness.
 Sec. 320. Railroad high hazard material tracking.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

- Sec. 401. Background checks for drivers hauling hazardous materials.
 Sec. 402. Written plans for hazardous materials highway routing.
 Sec. 403. Motor carrier high hazard material tracking.
 Sec. 404. Truck leasing security training guidelines.
 Sec. 405. Hazardous materials security inspections and enforcement.
 Sec. 406. Pipeline security and incident recovery plan.

Sec. 407. Pipeline security inspections and enforcement.
 Sec. 408. Memorandum of agreement.
 Sec. 409. National public sector response system.
 Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

Sec. 501. Establishment of additional joint operational centers for port security.
 Sec. 502. AMTS plan to include salvage response plan.
 Sec. 503. Priority to certain vessels in post-incident resumption of trade.
 Sec. 504. Assistance for foreign ports.
 Sec. 505. Improved data used for targeted cargo searches.
 Sec. 506. Increase in number of customs inspectors assigned overseas.
 Sec. 507. Random inspection of containers.
 Sec. 508. Cargo security.
 Sec. 509. Secure systems of international intermodal transportation.
 Sec. 510. Technology for maritime transportation security.
 Sec. 511. Deadline for transportation security cards.
 Sec. 512. Evaluation and report.
 Sec. 513. Port security grants.
 Sec. 514. Work stoppages and employee-employer disputes.
 Sec. 515. Appeal of denial of waiver for transportation security card.

1 **TITLE I—AUTHORIZATIONS**

2 **SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION** 3 **AUTHORIZATION.**

4 Section 114 of title 49, United States Code, is
 5 amended by adding at the end thereof the following:

6 “(a) **AUTHORIZATION OF APPROPRIATIONS.**—There
 7 are authorized to be appropriated to the Secretary of
 8 Homeland Security, (Transportation Security Administra-
 9 tion)—

10 “(1) for Aviation Security—

11 “(A) \$5,000,000,000 for fiscal year 2006;

12 “(B) \$5,250,000,000 for fiscal year 2007;

13 and

14 “(C) \$5,500,000,000 for fiscal year 2008;

15 “(2) for Maritime and Land Security—

1 “(A) \$394,000,000 for fiscal year 2006;

2 “(B) \$354,000,000 for fiscal year 2007;

3 and

4 “(C) \$354,000,000 for fiscal year 2008;

5 “(3) for Intelligence—

6 “(A) \$30,000,000 for fiscal year 2006;

7 “(B) \$32,000,000 for fiscal year 2007; and

8 “(C) \$34,000,000 for fiscal year 2008;

9 “(4) for Research and Development—

10 “(A) \$30,000,000 for fiscal year 2006;

11 “(B) \$32,000,000 for fiscal year 2007; and

12 “(C) \$34,000,000 for fiscal year 2008; and

13 “(5) for Administration—

14 “(A) \$530,000,000 for fiscal year 2006;

15 “(B) \$535,000,000 for fiscal year 2007;

16 and

17 “(C) \$540,000,000 for fiscal year 2008.”.

18 **SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZA-**

19 **TION.**

20 There are authorized to be appropriated to the Sec-

21 retary of Transportation to carry out title III of this Act

22 and sections 20118 and 24316 of title 49, United States

23 Code, as added by title III of this Act—

24 (1) \$261,000,000 for fiscal year 2006;

25 (2) \$258,000,000 for fiscal year 2007; and

1 (3) \$258,000,000 for fiscal year 2008.

2 **SEC. 103. CERTAIN PERSONNEL LIMITATIONS NOT TO**
3 **APPLY.**

4 (a) **IN GENERAL.**—Any statutory limitation on the
5 number of employees in the Transportation Security Ad-
6 ministration of the Department of Transportation, before
7 or after its transfer to the Department of Homeland Secu-
8 rity, does not apply to the extent that any such employees
9 are responsible for implementing the provisions of this
10 Act.

11 (b) **AVIATION SECURITY.**—Notwithstanding any
12 provision of law imposing a limitation on the recruiting
13 or hiring of personnel into the Transportation Security
14 Administration to a maximum number of permanent posi-
15 tions, the Secretary of Homeland Security shall recruit
16 and hire such personnel into the Administration as may
17 be necessary—

18 (1) to provide appropriate levels of aviation se-
19 curity; and

20 (2) to accomplish that goal in such a manner
21 that the average aviation security-related delay expe-
22 rienced by airline passengers is reduced.

23 **SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.**

24 (a) **ESTABLISHMENT, DESIGNATION, AND STA-**
25 **TIONING.**—The Under Secretary of Homeland Security for

1 Border and Transportation Security, acting through the
2 Transportation Security Administration, is authorized to
3 establish the position of Intermodal Manager within each
4 of at least 8 regional areas of the nation, as divided on
5 a geographical basis. The Under Secretary shall designate
6 individuals as Managers for, and station those Managers
7 within, those regions.

8 (b) DUTIES AND POWERS.—The regional offices
9 shall—

10 (1) receive intelligence information related to
11 maritime and land security within the region;

12 (2) assist in the development and implementa-
13 tion of vulnerability, threat, and risk assessments,
14 security plans, the identification of critical infra-
15 structure for the region undertaken by the Trans-
16 portation Security Administration and the Depart-
17 ment of Homeland Security, or other public or pri-
18 vate entity when appropriate;

19 (3) serve as the regional coordinator of the As-
20 sistant Secretary's response to terrorist incidents
21 and threats to maritime and land assets, operations
22 and infrastructure within the region;

23 (4) coordinate efforts related to maritime and
24 land security with other Department officials, State

1 and local law enforcement, and other public and pri-
2 vate entities;

3 (5) coordinate with other regional managers;

4 (6) assist the Assistant Secretary in prioritizing
5 maritime and land security improvements, grants,
6 and other efforts funded by the Transportation Se-
7 curity Administration or the Department of Home-
8 land Security within the region; and

9 (7) engage in outreach and promote public
10 awareness of maritime and land security efforts
11 when appropriate.

12 **SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION**

13 **POLICY.**

14 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
15 rity shall transmit to the Senate Committee on Commerce,
16 Science, and Transportation and the House of Represent-
17 atives Committee on Transportation and Infrastructure a
18 copy of the report on comprehensive terrorist-related
19 screening procedures required by Homeland Security
20 Presidential Directive 11 issued on August 27, 2004.

21 (b) **FORMAT.**—The Secretary may submit the report
22 in both classified and redacted formats if the Secretary
23 determines that such action is appropriate or necessary.

1 **SEC. 106. REORGANIZATIONS.**

2 The Secretary of Homeland Security shall notify the
 3 Senate Committee on Commerce, Science, and Transpor-
 4 tation, the Senate Committee on Homeland Security and
 5 Governmental Affairs, and the House of Representatives
 6 Committee on Homeland Security in writing not less than
 7 15 days before—

- 8 (1) reorganizing or renaming offices;
 9 (2) reorganizing programs or activities; or
 10 (3) contracting out or privatizing any functions
 11 or activities presently performed by Federal employ-
 12 ees.

13 **TITLE II—IMPROVED AVIATION**
 14 **SECURITY**

15 **SEC. 201. POST-FISCAL YEAR 2006 AIR CARRIER SECURITY**
 16 **FEEES.**

17 (a) AIR CARRIER SECURITY SERVICE FEES SUBJECT
 18 TO CONGRESSIONAL REVIEW.—Section 44940(a)(2) of
 19 title 49, United States Code, is amended by adding at the
 20 end the following:

21 “(D) FISCAL YEARS 2007 AND LATER.—

22 The Under Secretary may not impose a fee
 23 under subparagraph (A) after September 30,
 24 2006, unless—

25 “(i) the fee is imposed by rule promul-
 26 gated by the Under Secretary; and

1 “(ii) the Under Secretary submits the
2 rule to the Senate Committee on Com-
3 merce, Science, and Transportation and
4 the House of Representatives Committee
5 on Transportation and Infrastructure not
6 less than 60 days before its proposed effec-
7 tive date.

8 “(E) APPLICATION OF CHAPTER 8 OF
9 TITLE 5.—Chapter 8 of title 5 applies to any
10 rule promulgated by the Under Secretary im-
11 posing a fee under subparagraph (A) after Sep-
12 tember 30, 2006.”.

13 (b) REPORT ON TRANSPORTATION SECURITY SERV-
14 ICE FEES.—Each year, beginning with calendar year
15 2006, the Secretary of Homeland Security, shall transmit
16 a report to the Senate Committee on Commerce, Science,
17 and Transportation and the House of Representatives
18 Committee on Transportation and Infrastructure on fees,
19 substantially similar to the fee imposed under section
20 44940(a)(2) of title 49, United States Code, that are im-
21 posed under authority of law on competing modes of regu-
22 larly-scheduled commercial passenger transportation by
23 rail, vessel, or over-the-road bus to pay for the difference
24 between the Transportation Security Administration’s
25 costs of providing transportation security services in con-

1 nection with those modes of transportation and amounts
 2 collected from fees imposed under authority of law on pas-
 3 sengers using those modes of transportation, taking into
 4 account costs that are the same as or similar to the costs
 5 described in 44940(a)(1) of that title that are appropriate
 6 to the respective modes of transportation.

7 **SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PAS-**
 8 **SENGER SECURITY FEE.**

9 (a) IN GENERAL.—

10 (1) STUDY.—The Assistant Secretary of Home-
 11 land Security (Transportation Security Administra-
 12 tion) shall study the feasibility of collecting the pas-
 13 senger security service fee authorized by section
 14 44940(a) of title 49, United States Code, directly
 15 from passengers at, or before they reach, the airport
 16 through a system developed or approved by the As-
 17 sistant Secretary, including the use of vending ki-
 18 osks, other automated vending devices, the Internet,
 19 or other remote vending sites.

20 (2) SOLICITATION OF PROPOSALS.—In carrying
 21 out this subsection the Secretary shall solicit pro-
 22 posals for such alternative collection mechanisms.

23 (3) DEVELOPMENT OF ALTERNATIVES.—Based
 24 on the study conducted under paragraph (1) and an
 25 evaluation of proposals submitted pursuant to the

1 solicitation under paragraph (2), the Assistant Sec-
2 retary shall develop such alternative collection sys-
3 tems as the Assistant Secretary determines to be
4 feasible, including schedules and methods to ensure
5 the efficiency of such systems.

6 (b) REPORT.—The Secretary shall report the results
7 of the study, together with any recommendations the Sec-
8 retary deems appropriate, to the Congress within 6
9 months after the date of enactment of this Act.

10 (c) DEMONSTRATION PROJECTS.—If the Secretary
11 determines that a system of direct collection of such fees
12 from passengers at airports is feasible, the Secretary shall
13 conduct demonstration projects at no fewer than 3 air-
14 ports within 1 year after submitting the report required
15 by subsection (b) to the Congress.

16 **SEC. 203. SCREENER TRAINING REVIEW.**

17 Within 6 months after the date of enactment of this
18 Act, the Assistant Secretary of Homeland Security
19 (Transportation Security Administration), shall transmit
20 a report on the adequacy of training for Transportation
21 Security Administration screeners to the Congress. In ad-
22 dition to other issues, the Assistant Secretary shall specifi-
23 cally address any multi-hour weekly training requirement
24 for such screeners, including an assessment of the degree
25 to which such a requirement is observed and whether the

1 requirement is appropriate, workable, and desirable. The
2 Inspector General of the Department of Homeland Secu-
3 rity shall review the report submitted under this section.

4 **SEC. 204. EMPLOYEE RETENTION INTERNSHIP PROGRAM.**

5 The Assistant Secretary of Homeland Security
6 (Transportation Security Administration), shall establish
7 a pilot program at no fewer than 3 airports for training
8 students to perform screening of passengers and property
9 under section 44901 of title 49, United States Code. The
10 program shall be an internship for pre-employment train-
11 ing of final-year students from public and private sec-
12 ondary schools located in nearby communities. Under the
13 program, participants—

14 (1) shall be compensated for training and serv-
15 ices time while participating in the program, and

16 (2) shall be required to agree, as a condition of
17 participation in the program, to accept employment
18 as a screener upon successful completion of the in-
19 ternship and upon graduation from the secondary
20 school.

21 **SEC. 205. REPAIR STATION SECURITY.**

22 (a) CERTIFICATION OF FOREIGN REPAIR STATIONS
23 SUSPENSION.—If the Under Secretary of Homeland Secu-
24 rity for Border and Transportation Security does not issue
25 the regulations required by section 44924(e) of title 49,

1 United States Code, within 90 days after the date of en-
 2 actment of this Act, the Administrator of the Federal
 3 Aviation Administration may not certify any foreign repair
 4 station under part 145 of title 14, Code of Federal Regu-
 5 lations after such 90th day.

6 (b) 6-MONTH DEADLINE FOR SECURITY REVIEW
 7 AND AUDIT.—Subsections (a) and (d) of section 44924
 8 of title 49, United States Code, are each amended by strik-
 9 ing “18 months” and inserting “6 months”.

10 **SEC. 206. WAIVER PROCESS FOR CERTAIN EMPLOYMENT**
 11 **DISQUALIFICATIONS.**

12 Section 44936 of title 49, United States Code, is
 13 amended by adding at the end the following:

14 “(f) WAIVER PROCESS.—

15 “(1) IN GENERAL.—The Under Secretary for
 16 Border and Transportation Security of the Depart-
 17 ment of Homeland Security shall establish a process
 18 to permit an individual who was convicted of a crime
 19 listed in subsection (b) to obtain a waiver from the
 20 Under Secretary to permit that individual’s employ-
 21 ment.

22 “(2) FACTORS.—In deciding whether to grant a
 23 waiver under this subsection, the Under Secretary
 24 shall give consideration to the circumstances of the
 25 disqualifying crime, restitution made by the indi-

1 vidual, and other factors that would tend to indicate
2 that the individual does not pose a security or ter-
3 rorism risk.

4 “(3) APPEALS PROCESS.—The Under Secretary
5 shall establish a process that includes an opportunity
6 for a hearing for individuals who are denied waivers
7 under this subsection.

8 “(4) RESTRICTIONS ON USE AND MAINTENANCE
9 OF INFORMATION.—

10 “(A) Information submitted to or obtained
11 by the Attorney General or the Secretary under
12 this section about an individual may not be
13 made available to the public, including the indi-
14 vidual’s employer.

15 “(B) Any information submitted to or ob-
16 tained under this section shall be maintained
17 confidentially by the Under Secretary and may
18 be used only for making determinations under
19 this section. The Under Secretary may share
20 any such information with other Federal law
21 enforcement agencies. An individual’s employer
22 may only be informed whether or not the indi-
23 vidual has been granted unescorted access
24 under this section.

1 “(5) APPEAL.—An individual denied a waiver
2 under this subsection may file a civil action appeal-
3 ing that denial in any United States District Court
4 and those courts shall have jurisdiction of the ap-
5 peal.”.

6 **TITLE III—IMPROVED RAIL** 7 **SECURITY**

8 **SEC. 301. SHORT TITLE.**

9 This title may be cited as the “Rail Security Act of
10 2005”.

11 **SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESS-** 12 **MENT.**

13 (a) IN GENERAL.—

14 (1) VULNERABILITY AND RISK ASSESSMENT.—

15 The Secretary of Homeland Security shall establish
16 a task force, including the Transportation Security
17 Administration, the Department of Transportation,
18 and other appropriate agencies, to complete a vul-
19 nerability and risk assessment of freight and pas-
20 senger rail transportation (encompassing railroads,
21 as that term is defined in section 20102(1) of title
22 49, United States Code). The assessment shall in-
23 clude—

24 (A) identification and evaluation of critical
25 assets and infrastructures;

1 ~~(B)~~ identification of vulnerabilities and
2 risks to those assets and infrastructures;

3 ~~(C)~~ identification of vulnerabilities and
4 risks that are specific to the transportation of
5 hazardous materials via railroad; and

6 ~~(D)~~ identification of security weaknesses in
7 passenger and cargo security, transportation in-
8 frastructure, protection systems, procedural
9 policies, communications systems, employee
10 training, emergency response planning, and any
11 other area identified by the assessment.

12 ~~(2)~~ EXISTING PRIVATE AND PUBLIC SECTOR
13 EFFORTS.—The assessment shall take into account
14 actions taken or planned by both public and private
15 entities to address identified security issues and as-
16 sess the effective integration of such actions.

17 ~~(3)~~ RECOMMENDATIONS.—Based on the assess-
18 ment conducted under paragraph ~~(1)~~, the Secretary,
19 in consultation with the Secretary of Transportation,
20 shall develop prioritized recommendations for im-
21 proving rail security, including any recommendations
22 the Secretary has for—

23 ~~(A)~~ improving the security of rail tunnels,
24 rail bridges, rail switching and car storage
25 areas, other rail infrastructure and facilities, in-

1 formation systems, and other areas identified
2 by the Secretary as posing significant rail-re-
3 lated risks to public safety and the movement
4 of interstate commerce, taking into account the
5 impact that any proposed security measure
6 might have on the provision of rail service;

7 (B) deploying equipment to detect explo-
8 sives and hazardous chemical, biological, and
9 radioactive substances, and any appropriate
10 countermeasures;

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

14 (D) conducting public outreach campaigns
15 on passenger railroads;

16 (E) deploying surveillance equipment; and

17 (F) identifying the immediate and long-
18 term costs of measures that may be required to
19 address those risks.

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

22 (A) a plan, developed in consultation with
23 the freight and intercity passenger railroads,
24 and State and local governments, for the Fed-

1 eral government to provide increased security
2 support at high or severe threat levels of alert;

3 (B) a plan for coordinating existing and
4 planned rail security initiatives undertaken by
5 the public and private sectors; and

6 (C) a contingency plan, developed in con-
7 junction with freight and intercity and com-
8 muter passenger railroads, to ensure the contin-
9 ued movement of freight and passengers in the
10 event of an attack affecting the railroad system;
11 which shall contemplate—

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

16 (ii) methods of continuing railroad
17 service in the Northeast Corridor in the
18 event of a commercial power loss, or eatas-
19 trophe affecting a critical bridge, tunnel,
20 yard, or station.

21 (b) **CONSULTATION; USE OF EXISTING RE-**
22 **SOURCES.**—In carrying out the assessment and developing
23 the recommendations and plans required by subsection
24 (a), the Secretary of Homeland Security shall consult with
25 rail management, rail labor, owners or lessors of rail cars

1 used to transport hazardous materials, first responders,
2 shippers of hazardous materials, public safety officials,
3 and other relevant parties.

4 (c) REPORT.—

5 (1) CONTENTS.—Within 180 days after the
6 date of enactment of this Act, the Secretary shall
7 transmit to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Rep-
9 resentatives Committee on Transportation and In-
10 frastructure a report containing the assessment,
11 prioritized recommendations, and plans required by
12 subsection (a) and an estimate of the cost to imple-
13 ment such recommendations.

14 (2) FORMAT.—The Secretary may submit the
15 report in both classified and redacted formats if the
16 Secretary determines that such action is appropriate
17 or necessary.

18 (d) ANNUAL UPDATES.—The Secretary, in consulta-
19 tion with the Secretary of Transportation, shall update the
20 assessment and recommendations each year and transmit
21 a report, which may be submitted in both classified and
22 redacted formats, to the Committees named in subsection
23 (c)(1), containing the updated assessment and rec-
24 ommendations.

1 (e) FUNDING.—Out of funds appropriated pursuant
2 to section 114(u)(2) of title 49, United States Code, there
3 shall be made available to the Secretary of Homeland Se-
4 curity to carry out this section \$5,000,000 for fiscal year
5 2006.

6 **SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

7 (a) IN GENERAL—Subject to subsection (c) the Sec-
8 retary of Homeland Security, in consultation with the As-
9 sistant Secretary of Homeland Security (Transportation
10 Security Administration), is authorized to make grants to
11 Amtrak—

12 (1) to secure major tunnel access points and en-
13 sure tunnel integrity in New York, Baltimore, and
14 Washington, DC;

15 (2) to secure Amtrak trains;

16 (3) to secure Amtrak stations;

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

19 (5) to obtain train tracking and interoperable
20 communications systems that are coordinated to the
21 maximum extent possible;

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

24 (7) to expand emergency preparedness efforts.

1 (b) ~~CONDITIONS.—~~The Secretary of Transportation
2 shall disburse funds to Amtrak provided under subsection
3 ~~(a)~~ for projects contained in a systemwide security plan
4 approved by the Secretary of Homeland Security. The
5 plan shall include appropriate measures to address secu-
6 rity awareness, emergency response, and passenger evacu-
7 ation training.

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

14 (d) ~~AVAILABILITY OF FUNDS.—~~Out of funds appro-
15 priated pursuant to section 114(u)(2) of title 49, United
16 States Code, there shall be made available to the Secretary
17 of Homeland Security and the Assistant Secretary of
18 Homeland Security (~~Transportation Security Administra-~~
19 ~~tion~~) to carry out this section—

20 (1) \$63,500,000 for fiscal year 2006;

21 (2) \$30,000,000 for fiscal year 2007; and

22 (3) \$30,000,000 for fiscal year 2008.

23 Amounts appropriated pursuant to this subsection shall
24 remain available until expended.

1 **SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

2 (a) ~~LIFE-SAFETY NEEDS.~~—The Secretary of Trans-
 3 portation is authorized to make grants to Amtrak for the
 4 purpose of making fire and life-safety improvements to
 5 Amtrak tunnels on the Northeast Corridor in New York,
 6 NY, Baltimore, MD, and Washington, DC.

7 (b) ~~AUTHORIZATION OF APPROPRIATIONS.~~—Out of
 8 funds appropriated pursuant to section 102 of this Act,
 9 there shall be made available to the Secretary of Transpor-
 10 tation for the purposes of carrying out subsection (a) the
 11 following amounts:

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

17 (A) \$190,000,000 for fiscal year 2006;

18 (B) \$190,000,000 for fiscal year 2007; and

19 (C) \$190,000,000 for fiscal year 2008.

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

24 (A) \$19,000,000 for fiscal year 2006;

25 (B) \$19,000,000 for fiscal year 2007; and

26 (C) \$19,000,000 for fiscal year 2008.

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

4 (A) \$13,333,000 for fiscal year 2006;

5 (B) \$13,333,000 for fiscal year 2007; and

6 (C) \$13,333,000 for fiscal year 2008.

7 (e) INFRASTRUCTURE UPGRADES.—Out of funds ap-
8 propriated pursuant to section 102 of this Act, there shall
9 be made available to the Secretary of Transportation for
10 fiscal year 2006 \$3,000,000 for the preliminary design of
11 options for a new tunnel on a different alignment to aug-
12 ment the capacity of the existing Baltimore tunnels.

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

16 (e) PLANS REQUIRED.—The Secretary may not make
17 amounts available to Amtrak for obligation or expenditure
18 under subsection (a)—

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

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

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

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

1 an agreement with Amtrak within 15 days thereafter on
 2 a process for resolving the remaining portions of the plan.

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

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

9 (2) consider the feasibility of seeking a financial
 10 contribution from those other rail carriers toward
 11 the costs of the projects; and

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

16 **SEC. 305. FREIGHT AND PASSENGER RAIL SECURITY UP-**
 17 **GRADES.**

18 (a) **SECURITY IMPROVEMENT GRANTS.—**The Sec-
 19 retary of Homeland Security, through the Assistant Sec-
 20 retary of Homeland Security (Transportation Security Ad-
 21 ministration) and other appropriate agencies, is author-
 22 ized to make grants to freight railroads, the Alaska Rail-
 23 road, hazardous materials shippers, owners of rail cars
 24 used in the transportation of hazardous materials, univer-
 25 sities, colleges and research centers, State and local gov-

1 ernments (for rail passenger facilities and infrastructure
2 not owned by Amtrak), and, through the Secretary of
3 Transportation, to Amtrak, for full or partial reimburse-
4 ment of costs incurred in the conduct of activities to pre-
5 vent or respond to acts of terrorism, sabotage, or other
6 interstate passenger rail and freight rail security
7 vulnerabilities and risks identified under section 302, in-
8 cluding—

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

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

15 (3) the security of hazardous material transpor-
16 tation by rail;

17 (4) secure interstate passenger rail stations,
18 trains, and infrastructure;

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

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

1 (7) public security awareness campaigns for
2 passenger train operations;

3 (8) the sharing of intelligence and information
4 about security threats;

5 (9) to obtain train tracking and interoperable
6 communications systems that are coordinated to the
7 maximum extent possible;

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

10 (11) other improvements recommended by the
11 report required by section 302, including infrastruc-
12 ture, facilities, and equipment upgrades.

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

18 (c) ALLOCATION.—The Secretary shall distribute the
19 funds authorized by this section based on risk and vulner-
20 ability as determined under section 302, and shall encour-
21 age non-Federal financial participation in awarding
22 grants. With respect to grants for passenger rail security,
23 the Secretary shall also take into account passenger vol-
24 ume and whether a station is used by commuter rail pas-
25 sengers as well as intercity rail passengers.

1 (d) CONDITIONS.—The Secretary of Transportation
2 may not disburse funds to Amtrak under subsection (a)
3 unless Amtrak meets the conditions set forth in section
4 303(b) of this Act.

5 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
6 ERS.—Unless as a result of the assessment required by
7 section 302 the Secretary of Homeland Security deter-
8 mines that critical rail transportation security needs re-
9 quire reimbursement in greater amounts to any eligible
10 entity, no grants under this section may be made—

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

12 (2) in excess of \$100,000,000 for the purposes
13 described in paragraphs (3) and (5) of subsection
14 (a).

15 (f) AUTHORIZATION OF APPROPRIATIONS.—Out of
16 funds appropriated pursuant to section 114(u)(2) of title
17 49, United States Code, there shall be made available to
18 the Secretary of Homeland Security to carry out this sec-
19 tion—

20 (1) \$120,000,000 for fiscal year 2006;

21 (2) \$120,000,000 for fiscal year 2007; and

22 (3) \$120,000,000 for fiscal year 2008.

23 Amounts made available pursuant to this subsection shall
24 remain available until expended.

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

7 **SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

8 (a) **ESTABLISHMENT OF RESEARCH AND DEVELOP-**
 9 **MENT PROGRAM.**—The Secretary of Transportation, in
 10 conjunction with the Under Secretary of Homeland Secu-
 11 rity for Science and Technology and the Assistant Sec-
 12 retary of Homeland Security (Transportation Security Ad-
 13 ministration), shall carry out a research and development
 14 program for the purpose of improving freight and intercity
 15 passenger rail security that may include research and de-
 16 velopment projects to—

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

20 (2) test new emergency response techniques and
 21 technologies;

22 (3) develop improved freight technologies, in-
 23 cluding—

24 (A) technologies for sealing rail cars;

25 (B) automatic inspection of rail cars;

1 (C) communication-based train controls;
2 and

3 (D) emergency response training;

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

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

8 (A) technologies to detect a breach in a
9 tank car or other rail car used to transport haz-
10 ardous materials and transmit information
11 about the integrity of cars to the train crew or
12 dispatcher;

13 (B) research to improve tank car integrity,
14 with a focus on tank cars that carry high haz-
15 ard materials (as defined in section 305(g) of
16 this Act; and

17 (C) techniques to transfer hazardous mate-
18 rials from rail cars that are damaged or other-
19 wise represent an unreasonable risk to human
20 life or public safety; and

21 (6) other projects that address vulnerabilities
22 and risks identified under section 302.

23 (b) COORDINATION WITH OTHER RESEARCH INITIA-
24 TIVES.—The Secretary of Transportation shall ensure
25 that the research and development program authorized by

1 this section is coordinated with other research and devel-
 2 opment initiatives at the Department of Transportation
 3 and the Department of Homeland Security. The Secretary
 4 shall carry out any research and development project au-
 5 thorized by this section through a reimbursable agreement
 6 with the Under Secretary of Homeland Security for
 7 Science and Technology, if the Under Secretary—

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

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

12 (c) GRANTS AND ACCOUNTABILITY.—To carry out
 13 the research and development program, the Secretary may
 14 award grants to the entities described in section 305(a)
 15 and shall adopt necessary procedures, including audits, to
 16 ensure that grants made under this section are expended
 17 in accordance with the purposes of this Act and the prior-
 18 ities and other criteria developed by the Secretary.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—Out of
 20 funds appropriated pursuant to section 102 of this Act,
 21 there shall be made available to the Secretary of Transpor-
 22 tation to carry out this section—

23 (1) \$35,000,000 for fiscal year 2006;

24 (2) \$35,000,000 for fiscal year 2007; and

25 (3) \$35,000,000 for fiscal year 2008.

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

3 **SEC. 307. OVERSIGHT AND GRANT PROCEDURES.**

4 (a) **SECRETARIAL OVERSIGHT.**—The Secretary of
5 Homeland Security, in consultation with the Assistant
6 Secretary of Homeland Security (Transportation Security
7 Administration), may use up to 0.5 percent of amounts
8 made available for capital projects under the Rail Security
9 Act of 2005 to enter into contracts for the review of pro-
10 posed capital projects and related program management
11 plans and to oversee construction of such projects.

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

17 (c) **PROCEDURES FOR GRANT AWARD.**—The Sec-
18 retary shall prescribe procedures and schedules for the
19 awarding of grants under this Act, including application
20 and qualification procedures (including a requirement that
21 the applicant have a security plan), and a record of deci-
22 sion on applicant eligibility. The procedures shall include
23 the execution of a grant agreement between the grant re-
24 cipient and the Secretary and shall be consistent, to the
25 extent practicable, with the grant procedures established

1 under section 70107 of title 46, United States Code. The
 2 Secretary shall issue a final rule establishing the proce-
 3 dures not later than 90 days after the date of enactment
 4 of this Act.

5 **SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 6 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 7 **CIDENTS.**

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

11 **“§ 24316. Plans to address needs of families of pas-**
 12 **sengers involved in rail passenger acci-**
 13 **dents**

14 “(a) SUBMISSION OF PLAN.—Not later than 6
 15 months after the date of the enactment of the Rail Secu-
 16 rity Act of 2005, Amtrak shall submit to the Chairman
 17 of the National Transportation Safety Board and the Sec-
 18 retary of Transportation a plan for addressing the needs
 19 of the families of passengers involved in any rail passenger
 20 accident involving an Amtrak intercity train and resulting
 21 in a loss of life.

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

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

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

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

22 “(4) A process for providing the notice de-
23 scribed in paragraph (2) to the family of a pas-
24 senger as soon as Amtrak has verified that the pas-

1 senger was aboard the train (whether or not the
2 names of all of the passengers have been verified).

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

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

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

21 “(e) USE OF INFORMATION.—The National Trans-
22 portation Safety Board, the Secretary of Transportation,
23 and Amtrak may not release to any person information
24 on a list obtained under subsection (b)(1) but may provide
25 information on the list about a passenger to the family

1 of the passenger to the extent that the Board or Amtrak
2 considers appropriate.

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

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

15 “(f) ~~FUNDING.~~—Out of funds appropriated pursuant
16 to section 102 of the Rail Security Act of 2005, there shall
17 be made available to the Secretary of Transportation for
18 the use of Amtrak \$500,000 for fiscal year 2006 to carry
19 out this section. Amounts made available pursuant to this
20 subsection shall remain available until expended.”.

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

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

1 **SEC. 309. NORTHERN BORDER RAIL PASSENGER REPORT.**

2 Within 180 days after the date of enactment of this
3 Act, the Secretary of Transportation, in consultation with
4 the Secretary of Homeland Security, the Assistant Sec-
5 retary of Homeland Security (Transportation Security Ad-
6 ministration), heads of other appropriate Federal depart-
7 ments, and agencies and the National Railroad Passenger
8 Corporation, shall transmit a report to the Senate Com-
9 mittee on Commerce, Science, and Transportation and the
10 House of Representatives Committee on Transportation
11 and Infrastructure that contains—

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

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

22 (3) an assessment of the current program to
23 provide preclearance of freight railroad traffic be-
24 tween the United States and Canada as outlined in
25 the “Declaration of Principle for the Improved Secu-
26 rity of Rail Shipments by Canadian National Rail-

1 way and Canadian Pacific Railway from Canada to
2 the United States", dated April 2, 2003;

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

9 (5) a description of legislative, regulatory,
10 budgetary, or policy barriers within the United
11 States Government to providing pre-screened pas-
12 senger lists for rail passengers traveling between the
13 United States and Canada to the Department of
14 Homeland Security;

15 (6) a description of the position of the Govern-
16 ment of Canada and relevant Canadian agencies
17 with respect to preclearance of such passengers;

18 (7) a draft of any changes in existing Federal
19 law necessary to provide for pre-screening of such
20 passengers and providing pre-screened passenger
21 lists to the Department of Homeland Security; and

22 (8) an analysis of the feasibility of reinstating
23 United States Customs and Border Patrol rolling in-
24 spections onboard international Amtrak trains.

1 **SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.**

2 (a) **IN GENERAL.**—Not later than 60 days after the
3 date of enactment of this Act, the Secretary of Homeland
4 Security and the Secretary of Transportation, in consulta-
5 tion with appropriate law enforcement, security, and ter-
6 rorism experts, representatives of railroad carriers, and
7 nonprofit employee organizations that represent rail work-
8 ers, shall develop and issue detailed guidance for a rail
9 worker security training program to prepare front-line
10 workers for potential threat conditions.

11 (b) **PROGRAM ELEMENTS.**—The guidance developed
12 under subsection (a) shall require such a program to in-
13 clude, at a minimum, elements as appropriate to pas-
14 senger and freight rail service, that address the following:

15 (1) Determination of the seriousness of any oc-
16 currence.

17 (2) Crew communication and coordination.

18 (3) Appropriate responses to defend oneself.

19 (4) Use of protective devices.

20 (5) Evacuation procedures.

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

23 (7) Live situational training exercises regarding
24 various threat conditions, including tunnel evacu-
25 ation procedures.

1 (8) Any other subject the Secretary considers
2 appropriate.

3 (c) RAILROAD CARRIER PROGRAMS.—Not later than
4 60 days after the Secretary issues guidance under sub-
5 section (a) in final form, each railroad carrier shall develop
6 a rail worker security training program in accordance with
7 that guidance and submit it to the Secretary for approval.
8 Not later than 30 days after receiving a railroad carrier’s
9 program under this subsection, the Secretary shall review
10 the program and approve it or require the railroad carrier
11 to make any revisions the Secretary considers necessary
12 for the program to meet the guidance requirements.

13 (d) TRAINING.—Not later than 180 days after the
14 Secretary approves the training program developed by a
15 railroad carrier under this section, the railroad carrier
16 shall complete the training of all front-line workers in ac-
17 cordance with that program.

18 (e) UPDATES.—The Secretary shall update the train-
19 ing guidance issued under subsection (a) from time to
20 time to reflect new or different security threats, and re-
21 quire railroad carriers to revise their programs accordingly
22 and provide additional training to their front-line workers.

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

1 ployees, maintenance and support personnel, bridge
 2 tenders, and other appropriate employees of railroad ear-
 3 riers.

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

8 **SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.**

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

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

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

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

23 “(2) provided, caused to be provided, or is
 24 about to provide or cause to be provided, testimony

1 before Congress or at any Federal or State pro-
2 ceeding regarding a perceived threat to security; or
3 “(3) refused to violate or assist in the violation
4 of any law, rule or regulation related to rail security.

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

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

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

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

3 “(e) DISCLOSURE OF IDENTITY.—

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

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

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

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

18 **SEC. 312. HIGH HAZARD MATERIAL SECURITY THREAT**
19 **MITIGATION PLANS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity, in consultation with the Assistant Secretary of Home-
22 land Security (Transportation Security Administration)
23 and the Secretary of Transportation, shall require rail car-
24 riers transporting a high hazard material, as defined in
25 section 305(g) of this Act and of a quantity equal or ex-

1 ceeding the quantities of such material listed in subpart
2 172.800, title 49, Federal Code of Regulations, to develop
3 a high hazard material security threat mitigation plans
4 containing appropriate measures, including alternative
5 routing and temporary shipment suspension options, to
6 address assessed risks to high consequence targets.

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

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

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

19 (c) COMPLETION AND REVIEW OF PLANS.—

20 (1) PLANS REQUIRED.—Each rail carrier
21 shall—

22 (A) submit a list of routes used to trans-
23 port high hazard materials to the Secretary of
24 Homeland Security within 60 days after the
25 date of enactment of this Act; and

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

6 ~~(2)~~ REVIEW AND UPDATES.—The Secretary,
7 with assistance of the Secretary of Transportation,
8 shall review and approve the plans. Each rail carrier
9 shall update and resubmit its plan for review not
10 less than every 2 years.

11 ~~(d)~~ DEFINITIONS.—In this section:

12 ~~(1)~~ The term “high-consequence target” means
13 a building, buildings, infrastructure, public space, or
14 natural resource designated by the Secretary of
15 Homeland Security that is viable terrorist target of
16 national significance, the attack of which could re-
17 sult in—

18 ~~(A)~~ catastrophic loss of life; and

19 ~~(B)~~ significantly damaged national security
20 and defense capabilities; or

21 ~~(C)~~ national economic harm.

22 ~~(2)~~ The term “catastrophic impact zone” means
23 the area immediately adjacent to, under, or above an
24 active railroad right-of-way used to ship high hazard
25 materials in which the potential release or explosion

1 of the high hazard material being transported would
2 likely cause—

3 (A) loss of life; or

4 (B) significant damage to property or
5 structures.

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

9 **SEC. 313. MEMORANDUM OF AGREEMENT.**

10 (a) **MEMORANDUM OF AGREEMENT.**—Within 1 year
11 after the date of enactment of this Act, the Secretary of
12 Transportation and the Secretary of Homeland Security
13 shall execute and develop an annex to the memorandum
14 of agreement between the two departments signed on Sep-
15 tember 28, 2004, governing the specific roles, delineations
16 of responsibilities, resources and commitments of the De-
17 partment of Transportation and the Department of Home-
18 land Security, respectively, in addressing railroad trans-
19 portation security matters, including the processes the de-
20 partments will follow to promote communications, effi-
21 ciency, and nonduplication of effort.

22 (b) **RAIL SAFETY REGULATIONS.**—Section 20103(a)
23 of title 49, United States Code, is amended by striking
24 “safety” the first place it appears, and inserting “safety,
25 including security,”.

1 **SEC. 314. RAIL SECURITY ENHANCEMENTS.**

2 (a) **RAIL POLICE OFFICERS.**—Section 28101 of title
3 49, United States Code, is amended—

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

6 (2) by striking “the rail carrier” each place it
7 appears and inserting “any rail carrier”; and

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

9 “(b) **LIMITATION.**—Except to the extent necessary to
10 carry out subsection (a), a rail police officer employed by
11 a Class I or Class II railroad as identified by the Surface
12 Transportation Board has no authority to enforce any
13 rule, policy, or practice of, or labor agreement by, a rail
14 carrier relating to personnel management or labor rela-
15 tions other than those involving safety or security. Noth-
16 ing in this subsection shall preclude a rail police officer
17 from performing any activities not covered by subsection
18 (a) that may be performed by any other employee of a
19 railroad, provided that the rail police officer does not use
20 his or her position as a rail police officer in performing
21 such activities.”.

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 Secretary of
25 Homeland Security and the Assistant Secretary of Home-
26 land Security (Transportation Security Administration),

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

5 **SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**
6 **MENTS.**

7 (a) TRACK STANDARDS.—

8 (1) IN GENERAL.—Within 90 days after the
9 date of enactment of this Act, the Federal Railroad
10 Administration shall—

11 (A) require each track owner using contin-
12 uous welded rail track to include procedures (in
13 its procedures filed with the Administration
14 pursuant to section 213.119 of title 49, Code of
15 Federal Regulations) to improve the identifica-
16 tion of cracks in rail joint bars;

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

23 (C) establish a program to review contin-
24 uous welded rail joint bar inspection data from

1 railroads and Administration track inspectors
2 periodically.

3 ~~(2) INSPECTION.—Whenever the Administration~~
4 determines that it is necessary or appropriate the
5 Administration may require railroads to increase the
6 frequency of inspection, or improve the methods of
7 inspection, of joint bars in continuous welded rail.

8 ~~(b) TANK CAR STANDARDS.—The Federal Railroad~~
9 Administration shall—

10 ~~(1) validate a predictive model to quantify the~~
11 relevant dynamic forces acting on railroad tank cars
12 under accident conditions within 1 year after the
13 date of enactment of this Act; and

14 ~~(2) initiate a rulemaking to develop and imple-~~
15 ment appropriate design standards for pressurized
16 tank cars within 18 months after the date of enact-
17 ment of this Act.

18 ~~(c) OLDER TANK CAR IMPACT RESISTANCE ANAL-~~
19 YSIS AND REPORT.—Within 1 year after the date of enact-
20 ment of this Act the Federal Railroad Administration shall
21 conduct a comprehensive analysis to determine the impact
22 resistance of the steels in the shells of pressure tank cars
23 constructed before 1989. Within 6 months after com-
24 pleting that analysis the Administration shall—

1 fire, and other emergency vehicles, to perform public safe-
2 ty and security duties in the event of a terrorist attack.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary shall submit a re-
5 port to the Committee on Transportation and Infrastruc-
6 ture of the House of Representatives and the Committee
7 on Commerce, Science, and Transportation of the Senate
8 on the findings of the study conducted under subsection
9 (a) and recommendations for reducing the impact of
10 blocked crossings on emergency response capabilities.

11 **SEC. 317. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**
12 **PROGRAMS.**

13 (a) REQUIREMENT FOR STUDY.—Within one year
14 after the date of enactment of the Rail Security Act of
15 2005, the Comptroller General shall complete a study of
16 the rail passenger transportation security programs that
17 are carried out for rail transportation systems in Japan,
18 member nations of the European Union, and other foreign
19 countries.

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

1 (c) **REPORT.**—The Comptroller General shall submit
2 a report on the results of the study to the Senate Com-
3 mittee on Commerce, Science, and Transportation and the
4 House of Representatives Committee on Transportation
5 and Infrastructure. The report shall include the Comp-
6 troller General’s assessment regarding whether it is fea-
7 sible to implement within the United States any of the
8 same or similar security measures that are determined ef-
9 fective under the study.

10 **SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

11 (a) **REQUIREMENT FOR STUDY AND REPORT.**—The
12 Secretary of Homeland Security, in cooperation with the
13 Secretary of Transportation through the Assistant Sec-
14 retary of Homeland Security (Transportation Security Ad-
15 ministration) and other appropriate agencies, shall—

16 (1) study the cost and feasibility of requiring
17 security screening for passengers, baggage, and
18 cargo on passenger trains including an analysis of
19 any passenger train screening pilot programs under-
20 taken by the Department of Homeland Security; and

21 (2) report the results of the study, together
22 with any recommendations that the Secretary of
23 Homeland Security may have for implementing a
24 rail security screening program to the Senate Com-
25 mittee on Commerce, Science, and Transportation

1 and the House of Representatives Committee on
2 Transportation and Infrastructure within 1 year
3 after the date of enactment of this Act.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of
5 funds appropriated pursuant to section 114(u)(2) of title
6 49, United States Code, there shall be made available to
7 the Secretary of Homeland Security to carry out this sec-
8 tion \$1,000,000 for fiscal year 2006.

9 **SEC. 319. PUBLIC AWARENESS.**

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

1 **SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

2 (a) **WIRELESS COMMUNICATIONS.—**

3 (1) **IN GENERAL.—**Within 6 months after the
4 date of enactment of this Act, the Secretary of
5 Transportation shall develop a program that will en-
6 courage the equipping of rail cars transporting high
7 hazard materials (as defined in section 305(g) of
8 this Act) in quantities equal to or greater than the
9 quantities specified in subpart 171.800 of title 49,
10 Code of Federal Regulations, with wireless terres-
11 trial or satellite communications technology that pro-
12 vides—

13 (A) ear position location and tracking ca-
14 pabilities;

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

17 (C) notification of hazardous material re-
18 lease.

19 (2) **COORDINATION.—**In developing the pro-
20 gram required by paragraph (1), the Secretary
21 shall—

22 (A) consult with the Secretary of Home-
23 land Security and the Assistant Secretary of
24 Homeland Security (Transportation Security
25 Administration) to coordinate the program with
26 any ongoing or planned efforts for rail car

1 tracking at the Department of Homeland Secu-
2 rity; and

3 (B) ensure that the program is consistent
4 with recommendations and findings of the De-
5 partment of Homeland Security's hazardous
6 material tank rail car tracking pilot programs.

7 (b) FUNDING.—Out of funds appropriated pursuant
8 to section 102 of this Act, there shall be made available
9 to the Secretary of Homeland Security through the Assist-
10 ant Secretary of Homeland Security (Transportation Se-
11 curity Administration) to carry out this section
12 \$3,000,000 for each of fiscal years 2006, 2007, and 2008.

13 **TITLE IV—IMPROVED MOTOR**
14 **CARRIER, BUS, AND HAZ-**
15 **ARDOUS MATERIAL SECURITY**

16 **SEC. 401. BACKGROUND CHECKS FOR DRIVERS HAULING**
17 **HAZARDOUS MATERIALS.**

18 (a) FOREIGN DRIVERS.—

19 (1) IN GENERAL.—No commercial motor vehicle
20 operator registered to operate in Mexico or Canada
21 may operate a commercial motor vehicle trans-
22 porting a hazardous material in commerce in the
23 United States until the operator has undergone a
24 background records check similar to the background
25 records check required for commercial motor vehicle

1 operators licensed in the United States to transport
2 hazardous materials in commerce.

3 ~~(2) DEFINITIONS.—In this subsection:~~

4 ~~(A) HAZARDOUS MATERIALS.—The term~~
5 ~~“hazardous material” has the meaning given~~
6 ~~that term in section 5102(2) of title 49, United~~
7 ~~States Code.~~

8 ~~(B) COMMERCIAL MOTOR VEHICLE.—The~~
9 ~~term “commercial motor vehicle” has the mean-~~
10 ~~ing given that term by section 31101 of title~~
11 ~~49, United States Code.~~

12 ~~(b) OTHER DRIVERS.—~~

13 ~~(1) EMPLOYER NOTIFICATION.—Within 90 days~~
14 ~~after the date of enactment of this Act, the Assist-~~
15 ~~ant Secretary of Homeland Security (Transportation~~
16 ~~Security Administration), shall develop and imple-~~
17 ~~ment a process for the notification of a hazmat em-~~
18 ~~ployer (as defined in section 5102(4) of title 49,~~
19 ~~United States Code), if appropriate considering the~~
20 ~~potential security implications, designated by an ap-~~
21 ~~plicant seeking a threat assessment under part 1572~~
22 ~~of title 49, Code of Federal Regulations, if the~~
23 ~~Transportation Security Administration, in an initial~~
24 ~~notification of threat assessment or a final notifica-~~
25 ~~tion of threat assessment, served on the applicant~~

1 determines that the applicant does not meet the
2 standards set forth in section 1572.5(d) of title 49,
3 Code of Federal Regulations.

4 (2) RELATIONSHIP TO OTHER BACKGROUND
5 RECORDS CHECKS.—

6 (A) ELIMINATION OF REDUNDANT
7 CHECKS.—An individual with respect to whom
8 the Transportation Security Administration—

9 (i) has performed a security threat as-
10 sessment under part 1572 of title 49, Code
11 of Federal Regulations, and

12 (ii) has issued a notification of no se-
13 curity threat under section 1572.5(g) of
14 that title,

15 is deemed to have met the requirements of any
16 other background check that is equivalent to, or
17 less stringent than, the background check per-
18 formed under section 5103a of title 49, United
19 States Code, that is required for purposes of
20 any Federal law applicable to transportation
21 workers.

22 (B) DETERMINATION BY ASSISTANT SEC-
23 RETARY.—Within 30 days after the date of en-
24 actment of this Act, the Assistant Secretary of
25 Homeland Security (Transportation Security

1 Administration) shall initiate a rulemaking pro-
2 ceeding, including notice and opportunity for
3 comment, that sets forth the background checks
4 and other similar security or threat assessment
5 requirements applicable to transportation work-
6 ers under Federal law to which subparagraph
7 (A) applies.

8 (C) FUTURE RULEMAKINGS.—The Assist-
9 ant Secretary shall make a determination under
10 the criteria established under subparagraph (B)
11 with respect to any rulemaking proceeding to
12 establish or modify required background checks
13 for transportation workers initiated after the
14 date of enactment of this Act.

15 (c) APPEALS PROCESS FOR MORE STRINGENT STATE
16 PROCEDURES.—If a State establishes standards for appli-
17 cants for a hazardous materials endorsement to a commer-
18 cial driver's license that, as determined by the Secretary
19 of Homeland Security, are more stringent than the stand-
20 ards set forth in section 1572.5(d) of title 49, Code of
21 Federal Regulations, then the State shall also provide an
22 appeals process similar to the process provided under sec-
23 tion 1572.141 of title 49, Code of Federal Regulations,
24 by which an applicant denied a hazardous materials en-
25 dorsement to a commercial driver's license by that State

1 may appeal that denial in a manner substantially similar
2 to, and to the same extent as, an individual who received
3 an initial notification of threat assessment under part
4 1572 of that title.

5 (d) CLARIFICATION OF TERM DEFINED IN REGULA-
6 TIONS.—The term “severe transportation security inci-
7 dent”, as defined in section 1572.3 of title 49, Code of
8 Federal Regulations, does not include a work stoppage or
9 other nonviolent employee-related action resulting from an
10 employer-employee dispute. Within 30 days after the date
11 of enactment of this Act, the Secretary of Homeland Secu-
12 rity shall modify the definition of that term to reflect the
13 preceding sentence.

14 (e) BACKGROUND CHECK CAPACITY.—The Assistant
15 Secretary of Homeland Security (Transportation Security
16 Administration) shall transmit a report by October 1,
17 2005, to the Senate Committee on Commerce, Science,
18 and Transportation and the House of Representatives
19 Committee on Homeland Security on the implementation
20 of fingerprint-based security threat assessments and the
21 adequacy of fingerprinting locations, personnel, and re-
22 sources to accomplish the timely processing of fingerprint-
23 based security threat assessments for individuals holding
24 commercial driver’s licenses who are applying to renew
25 hazardous materials endorsements.

1 **SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS**
2 **HIGHWAY ROUTING.**

3 Within 180 days after the date of enactment of this
4 Act, the Secretary of Transportation shall require each
5 motor carrier that is required to have a hazardous mate-
6 rial safety permit under part 385 of title 49, Code of Fed-
7 eral Regulations, to maintain a written route plan that
8 meets the requirements of section 397.101 of that title
9 when transporting the type and quantity of hazardous ma-
10 terials described in section 385.403 of that title.

11 **SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIAL**
12 **TRACKING.**

13 (a) WIRELESS COMMUNICATIONS.—Within 2 years
14 after the date of enactment of this Act, the Assistant Sec-
15 retary of Homeland Security (Transportation Security Ad-
16 ministration), in consultation with the Secretary of Trans-
17 portation, shall require, consistent with the recommenda-
18 tions and finding contained in the report on the Haz-
19 ardous Material Safety and Security Operation Field Test
20 released by the Federal Motor Carrier Safety Administra-
21 tion on November 11, 2004, commercial motor vehicles
22 transporting high hazard materials (as defined in section
23 305(g) of this Act) in quantities equal to or greater than
24 the quantities specified in subpart 171.800 of title 49,
25 Code of Federal Regulations, to be equipped with wireless

1 terrestrial or satellite communications technology that
2 provides—

3 (1) continuous communications;

4 (2) vehicle position location and tracking capa-
5 bilities; and

6 (3) a feature that allows a driver of such vehi-
7 cles to broadcast an emergency message.

8 (b) EXEMPTIONS.—The Assistant Secretary may
9 grant a 2-year waiver of this requirement for a motor car-
10 rier for the commercial motor vehicles it operates if—

11 (1) adequate technology is not readily available;

12 (2) available technology is not sufficiently reli-
13 able; or

14 (3) the size of a motor carrier or the infre-
15 quency with which it transports high hazard mate-
16 rial shipments makes the requirement overly burden-
17 some.

18 (c) ASSISTANCE PROGRAM.—The Assistant Secretary
19 may develop an assistance program to provide technical
20 guidance and grants to motor carriers who receive waivers
21 under subsection (b)(3) to expedite compliance with sub-
22 section (a) of this section.

1 **SEC. 404. TRUCK LEASING SECURITY TRAINING GUIDE-**
2 **LINES.**

3 (a) **IN GENERAL.**—Within 180 days after the date
4 of enactment of this Act the Assistant Secretary of Home-
5 land Security (~~Transportation Security Administration~~),
6 in consultation with the Federal Motor Carrier Safety Ad-
7 ministration, shall develop and make available in written
8 or electronic form security training guidelines for short-
9 term truck leasing operations.

10 (b) **CONTENTS.**—The truck leasing security training
11 guidelines shall—

12 (1) include information for short-term truck
13 leasing companies on the appropriate contents of
14 employee security training efforts designed to enable
15 employees to recognize terrorist threats and criminal
16 activity; and

17 (2) contain a list of best practices developed by
18 the Assistant Secretary.

19 (c) **OUTREACH.**—The Assistant Secretary, through
20 each Federal maritime and land regional security man-
21 ager, shall hold public information and outreach sessions
22 to present the truck leasing security training guidelines
23 to short-term truck leasing companies.

24 (d) **FUNDING.**—Out of funds appropriated pursuant
25 to section 114(u)(2) of title 49, United States Code, there
26 shall be made available to the Assistant Secretary of

1 Homeland Security (Transportation Security Administra-
2 tion), to carry out this section \$1,000,000 for fiscal year
3 2006.

4 **SEC. 405. HAZARDOUS MATERIALS SECURITY INSPECTIONS**
5 **AND ENFORCEMENT.**

6 (a) **IN GENERAL.**—The Assistant Secretary of Home-
7 land Security (Transportation Security Administration)
8 shall establish a program within the Transportation Secu-
9 rity Administration, in consultation with the Secretary of
10 Transportation, for reviewing hazardous materials secu-
11 rity plans required under part 172, title 49, Code of Fed-
12 eral Regulations, within 180 days after the date of enact-
13 ment of this Act.

14 (b) **CIVIL PENALTY.**—The failure, by a shipper, ear-
15 rier, or other person subject to part 172 of title 49, Code
16 of Federal Regulations, to comply with any applicable sec-
17 tion of that part within 180 days after being notified by
18 the Assistant Secretary of such failure to comply, is pun-
19 ishable by a civil penalty imposed by the Assistant Sec-
20 retary under title 49, United States Code. For purposes
21 of this subsection, each day of noncompliance after the
22 181st day following the date on which the pipeline oper-
23 ator received notice of the failure shall constitute a sepa-
24 rate failure.

1 (c) COMPLIANCE REVIEW.—In reviewing the compli-
 2 ance of hazardous materials shippers, carriers, or other
 3 persons subject to part 172 of title 49, Code of Federal
 4 Regulations, with the provisions of that part, the Assistant
 5 Secretary shall utilize risk assessment methodologies to
 6 prioritize vulnerabilities and to target review and enforce-
 7 ment actions to the most vulnerable and critical hazardous
 8 materials transportation operations.

9 (d) FUNDING.—Out of funds appropriated pursuant
 10 to section 114(u)(2) of title 49, United States Code, there
 11 shall be made available to the Assistant Secretary of
 12 Homeland Security (Transportation Security Administra-
 13 tion), to carry out this section—

14 (1) \$2,000,000 for fiscal year 2006;

15 (2) \$2,000,000 for fiscal year 2007; and

16 (3) \$2,000,000 for fiscal year 2008.

17 **SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY**

18 **PLAN.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
 20 rity, in consultation with the Secretary of Transportation
 21 and the Pipeline and Hazardous Materials Safety Admin-
 22 istration, and in accordance with the Memorandum of Un-
 23 derstanding Annex executed under section 408, shall de-
 24 velop a Pipeline Security and Incident Recovery Protocols
 25 Plan. The plan shall include—

1 (1) a plan for the Federal Government to pro-
2 vide increased security support to the most critical
3 interstate and intrastate natural gas and hazardous
4 liquid transmission pipeline infrastructure and oper-
5 ations as determined under section 407—

6 (A) at high or severe security threat levels
7 of alert; and

8 (B) when specific security threat informa-
9 tion relating to such pipeline infrastructure or
10 operations exists; and

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

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

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

12 (d) REPORT.—

13 (1) CONTENTS.—Not later than 180 days after
14 the date of enactment of this Act, the Secretary
15 shall transmit to the Committee on Commerce,
16 Science, and Transportation of the Senate, the Com-
17 mittee on Homeland Security of the House of Rep-
18 resentatives, and the Committee on Transportation
19 and Infrastructure of the House of Representatives
20 a report containing the plan required by subsection
21 (a), along with an estimate of the cost to implement
22 any recommendations.

23 (2) FORMAT.—The Secretary may submit the
24 report in both classified and redacted formats if the

1 Secretary determines that such action is appropriate
2 or necessary.

3 (c) FUNDING.—Out of funds appropriated pursuant
4 to section 114(u)(2) of title 49, United States Code, there
5 shall be made available to the Secretary of Homeland Se-
6 curity to carry out this section \$1,000,000 for fiscal year
7 2006.

8 **SEC. 407. PIPELINE SECURITY INSPECTIONS AND EN-**
9 **FORCEMENT.**

10 (a) IN GENERAL.—Within 180 days after the date
11 of enactment of this Act the Assistant Secretary of Home-
12 land Security (Transportation Security Administration),
13 in consultation with the Secretary of Transportation, shall
14 establish a program within the Transportation Security
15 Administration for reviewing pipeline operator adoption of
16 recommendations in the September, 5, 2002, Department
17 of Transportation Research and Special Programs Admin-
18 istration Pipeline Security Information Circular, including
19 the review of pipeline security plans and critical facility
20 inspections, as determined by the Assistant Secretary.

21 (b) REVIEW AND INSPECTION.—Within 9 months
22 after the date of enactment of this Act the Assistant Sec-
23 retary shall complete a review of the pipeline security plan
24 and an inspection of the critical facilities of the 100 most

1 critical pipeline operators, as determined by the Assistant
2 Secretary, covered by the September, 5, 2002, circular.

3 (c) COMPLIANCE REVIEW METHODOLOGY.—In re-
4 viewing pipeline operator compliance under subsections (a)
5 and (b), the Assistant Secretary shall utilize risk assess-
6 ment methodologies to prioritize vulnerabilities and to tar-
7 get inspection and enforcement actions to the most vulner-
8 able and critical pipeline assets.

9 (d) REGULATIONS.—Within 1 year after the date of
10 enactment of this Act, the Assistant Secretary shall issue
11 security regulations for natural gas and hazardous liquid
12 pipelines and pipeline facilities. The regulations should in-
13 corporate the guidance provided to pipeline operators by
14 the September 5, 2002, Department of Transportation
15 Research and Special Programs Administration's Pipeline
16 Security Information Circular and contain additional re-
17 quirements as necessary based upon the results of the in-
18 spections performed under subsection (b). The regulations
19 shall include the imposition of civil penalties for non-com-
20 pliance. The Assistant Secretary shall publish a schedule
21 of those civil penalties.

22 (e) FUNDING.—Out of funds appropriated pursuant
23 to section 114(u)(2) of title 49, United States Code, there
24 shall be made available to the Assistant Secretary of

1 Homeland Security (Transportation Security Administra-
2 tion), to carry out this section—

3 (1) \$2,000,000 for fiscal year 2006;

4 (2) \$2,000,000 for fiscal year 2007; and

5 (3) \$2,000,000 for fiscal year 2008.

6 **SEC. 408. MEMORANDUM OF AGREEMENT.**

7 Within 1 year after the date of enactment of this Act,
8 the Secretary of Transportation and the Assistant Sec-
9 retary of Homeland Security (Transportation Security Ad-
10 ministration), shall execute and develop an annex to the
11 memorandum of agreement between the two departments
12 signed on September 28, 2004, governing the specific
13 roles, delineations of responsibilities, resources and com-
14 mitments of the Department of Transportation and the
15 Department of Homeland Security, respectively, in ad-
16 dressing pipeline security and hazardous material trans-
17 portation security matters, including the processes the de-
18 partments will follow to promote communications, effi-
19 ciency, and nonduplication of effort.

20 **SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

21 (a) DEVELOPMENT.—The Secretary of Homeland Se-
22 curity, in conjunction with the Secretary of Transpor-
23 tation, shall develop a national public sector response sys-
24 tem to receive security alerts, emergency messages, and
25 other information generated by various wireless terrestrial

1 or satellite communications technologies used to track the
2 transportation of high hazard materials which can provide
3 accurate, timely, and actionable information to appro-
4 priate first responder, law enforcement and public safety,
5 and homeland security officials, as appropriate, regarding
6 accidents, threats, thefts, or other safety and security
7 risks or incidents. In developing this system, they shall
8 consult with law enforcement and public safety officials,
9 hazardous material shippers, motor carriers, railroads, or-
10 ganizations representing hazardous material employees,
11 State transportation and hazardous materials officials,
12 Operation Respond, and commercial motor vehicle and
13 hazardous material safety groups. The development of the
14 national public sector response system shall be based upon
15 the public sector response center developed for the haz-
16 ardous material safety and security operational field test
17 undertaken by the Federal Motor Carrier Safety Adminis-
18 tration.

19 (b) CAPABILITY.—The national public sector re-
20 sponse system shall be able to receive, as appropriate—

- 21 (1) negative driver verification alerts;
- 22 (2) out-of-route alerts;
- 23 (3) driver panic or emergency alerts; and
- 24 (4) tampering or release alerts.

1 (e) CHARACTERISTICS.—The national public sector
2 response system shall—

3 (1) be an exception-based system;

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

9 (3) provide users the ability to create rules for
10 alert notification messages.

11 (d) CARRIER PARTICIPATION.—Within 180 days
12 after the national public sector response system is oper-
13 ational, as determined by the Secretary, each motor car-
14 rier and railroad transporting high hazard materials, or
15 entities acting on their behalf who receive such wireless
16 communication alerts from motor carriers or railroads,
17 shall provide the information listed in subsection (b) to
18 the national public sector response system and vehicle or
19 rail car location information to extent possible with the
20 wireless communication technology used by the motor car-
21 rier or railroad.

22 (e) CALL-IN NUMBER.—The national public sector
23 response system shall be designed to include an automated
24 call-in system that allows commercial motor vehicle driv-
25 ers, railroad employees, and hazardous material employees

1 involved in the transportation of high hazard materials to
2 report accidents, threats, thefts, or other safety and secu-
3 rity risks or incidents to the national public sector re-
4 sponse system using cellular or other telephone tech-
5 nology.

6 (f) DATA PRIVACY.—The national public sector re-
7 sponse system shall be designed to ensure appropriate pro-
8 tection of data and information relating to motor carriers
9 and drivers.

10 (g) REPORT.—Not later than 180 days after the date
11 of enactment of this Act, the Secretary shall transmit to
12 the Senate Committee on Commerce, Science, and Trans-
13 portation and the House of Representatives Committee on
14 Transportation and Infrastructure a report on the esti-
15 mated total cost to establish and annually operate the na-
16 tional public sector response system under subsection (a);
17 together with any recommendations for generating private
18 sector participation and investment in the development
19 and operation of the national public sector response sys-
20 tem.

21 (h) FUNDING.—Out of funds appropriated pursuant
22 to section 114(u)(2) of title 49, United States Code, there
23 shall be made available to the Secretary of Homeland Se-
24 curity to carry out this section—

25 (1) \$1,000,000 for fiscal year 2006;

1 (2) \$1,000,000 for fiscal year 2007; and

2 (3) \$1,000,000 for fiscal year 2008.

3 **SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

4 (a) IN GENERAL.—The Assistant Secretary of Home-
5 land Security (Transportation Security Administration),
6 shall establish a program for making grants to private op-
7 erators of over-the-road buses for system-wide security im-
8 provements to their operations, including—

9 (1) constructing and modifying terminals, ga-
10 rages, facilities, or over-the-road buses to assure
11 their security;

12 (2) protecting or isolating the driver;

13 (3) acquiring, upgrading, installing, or oper-
14 ating equipment, software, or accessorial services for
15 collection, storage, or exchange of passenger and
16 driver information through ticketing systems or oth-
17 erwise, and information links with government agen-
18 cies;

19 (4) training employees in recognizing and re-
20 sponding to security threats, evacuation procedures,
21 passenger screening procedures, and baggage inspec-
22 tion;

23 (5) hiring and training security officers;

1 (6) installing cameras and video surveillance
2 equipment on over-the-road buses and at terminals,
3 garages, and over-the-road bus facilities;

4 (7) creating a program for employee identifica-
5 tion or background investigation;

6 (8) establishing and upgrading an emergency
7 communications system linking operational head-
8 quarters, over-the-road buses, law enforcement, and
9 emergency personnel; and

10 (9) implementing and operating passenger
11 screening programs at terminals and on over-the-
12 road buses.

13 (b) REIMBURSEMENT.—A grant under this section
14 may be used to provide reimbursement to private opera-
15 tors of over-the-road buses for extraordinary security-re-
16 lated costs for improvements described in paragraphs (1)
17 through (9) of subsection (a); determined by the Assistant
18 Secretary to have been incurred by such operators since
19 September 11, 2001.

20 (c) FEDERAL SHARE.—The Federal share of the cost
21 for which any grant is made under this section shall be
22 90 percent.

23 (d) DUE CONSIDERATION.—In making grants under
24 this section, the Assistant Secretary shall give due consid-
25 eration to private operators of over-the-road buses that

1 have taken measures to enhance bus transportation secu-
2 rity from those in effect before September 11, 2001, and
3 shall prioritize grant funding based on the magnitude and
4 severity of the security threat to bus passengers and the
5 ability of the funded project to reduce, or respond to, that
6 threat.

7 (e) GRANT REQUIREMENTS.—A grant under this sec-
8 tion shall be subject to all the terms and conditions that
9 a grant is subject to under section 3038(f) of the Trans-
10 portation Equity Act for the 21st Century (49 U.S.C.
11 5310 note; 112 Stat. 393).

12 (f) PLAN REQUIREMENT.—

13 (1) IN GENERAL.—The Assistant Secretary
14 may not make a grant under this section to a pri-
15 vate operator of over-the-road buses until the oper-
16 ator has first submitted to the Assistant Secretary—

17 (A) a plan for making security improve-
18 ments described in subsection (a) and the As-
19 sistant Secretary has approved the plan; and

20 (B) such additional information as the As-
21 sistant Secretary may require to ensure ac-
22 countability for the obligation and expenditure
23 of amounts made available to the operator
24 under the grant.

1 (2) COORDINATION.—To the extent that an ap-
2 plication for a grant under this section proposes se-
3 curity improvements within a specific terminal
4 owned and operated by an entity other than the ap-
5 plicant, the applicant shall demonstrate to the satis-
6 faction of the Assistant Secretary that the applicant
7 has coordinated the security improvements for the
8 terminal with that entity.

9 (g) ~~OVER-THE-ROAD BUS DEFINED.~~—In this sec-
10 tion, the term “over-the-road bus” means a bus character-
11 ized by an elevated passenger deck located over a baggage
12 compartment.

13 (h) BUS SECURITY ASSESSMENT.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Assist-
16 ant Secretary of Homeland Security (Transportation
17 Security Administration), shall transmit to the Com-
18 mittee on Commerce, Science, and Transportation of
19 the Senate, the Committee on Transportation and
20 Infrastructure of the House of Representatives, a
21 preliminary report in accordance with the require-
22 ments of this section.

23 (2) CONTENTS OF PRELIMINARY REPORT.—The
24 preliminary report shall include—

1 (A) an assessment of the over-the-road bus
2 security grant program;

3 (B) an assessment of actions already taken
4 to address identified security issues by both
5 public and private entities and recommenda-
6 tions on whether additional safety and security
7 enforcement actions are needed;

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

11 (D) an assessment of the economic impact
12 that security upgrades of buses and bus facili-
13 ties may have on the over-the-road bus trans-
14 portation industry and its employees;

15 (E) an assessment of ongoing research and
16 the need for additional research on over-the-
17 road bus security, including engine shut-off
18 mechanisms, chemical and biological weapon de-
19 tection technology, and the feasibility of
20 compartmentalization of the driver; and

21 (F) an assessment of industry best prac-
22 tices to enhance security.

23 (3) CONSULTATION WITH INDUSTRY, LABOR,
24 AND OTHER GROUPS.—In carrying out this section,
25 the Assistant Secretary shall consult with over-the-

1 road bus management and labor representatives,
 2 public safety and law enforcement officials, and the
 3 National Academy of Sciences.

4 (i) FUNDING.—Out of funds appropriated pursuant
 5 to section 114(u)(2) of title 49, United States Code, there
 6 shall be made available to the Assistant Secretary of
 7 Homeland Security (Transportation Security Administra-
 8 tion), to carry out this section—

9 (1) \$50,000,000 for fiscal year 2006;

10 (2) \$50,000,000 for fiscal year 2007; and

11 (3) \$50,000,000 for fiscal year 2008.

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

14 **TITLE V—IMPROVED MARITIME**
 15 **SECURITY**

16 **SEC. 501. ESTABLISHMENT OF ADDITIONAL JOINT OPER-**
 17 **ATIONAL CENTERS FOR PORT SECURITY.**

18 (a) IN GENERAL.—In order to improve interagency
 19 cooperation, unity of command, and the sharing of intel-
 20 ligence information in a common mission to provide great-
 21 er protection for port and intermodal transportation sys-
 22 tems against acts of terrorism, the Secretary of Homeland
 23 Security, acting through the Commandant of the Coast
 24 Guard, shall establish joint operational centers for port se-

1 ecurity at all Tier 1 ports to the extent practicable within
2 2 years ater the date of enactment of this Act.

3 (b) CHARACTERISTICS.—The joint operational cen-
4 ters shall—

5 (1) be based on the most appropriate
6 compositional and operational characteristics of the
7 pilot project joint operational centers for port secu-
8 rity in Miami, Florida, Norfolk/Hampton Roads,
9 Virginia, Charleston, South Carolina, and San
10 Diego, California;

11 (2) be adapted to meet the security needs, re-
12 quirements, and resources of the individual port area
13 at which each is operating;

14 (3) provide for participation by the United
15 States Customs and Border Protection Agency, the
16 Transportation Security Administration, the Depart-
17 ment of Defense, and other Federal agencies, as de-
18 termined to be appropriate by the Secretary of
19 Homeland Security, and State and local law enforce-
20 ment or port security agencies and personnel; and

21 (4) be incorporated in the implementation of—

22 (A) maritime transportation security plans
23 developed under section 70103 of title 46,
24 United States Code;

1 (B) maritime intelligence activities under
2 section 70113 of that title;

3 (C) short and long range vessel tracking
4 under sections 70114 and 70115 of that title;

5 (D) secure transportation systems under
6 section 70116 of that title;

7 (E) the Bureau of Customs and Border
8 Protection's screening and high-risk cargo in-
9 spection programs; and

10 (F) the transportation security incident re-
11 sponse plans required by section 70104 of that
12 title.

13 (e) 2005 ACT REPORT REQUIREMENT.—Nothing in
14 this section relieves the Commandant of the Coast Guard
15 from compliance with the requirements of section 807 of
16 the Coast Guard and Maritime Transportation Act of
17 2004. The Commandant shall utilize the information de-
18 veloped in making the report required by that section in
19 carrying out the requirements of this section.

20 (d) BUDGET AND COST-SHARING ANALYSIS.—Within
21 180 days after the date of enactment of this Act, the Sec-
22 retary shall transmit to the Senate Committee on Com-
23 merce, Science, and Transportation and the House of Rep-
24 resentatives Committee on Transportation and Infrastruc-
25 ture a proposed budget analysis for implementing sub-

1 section (a), including cost-sharing arrangements with
 2 other Federal departments and agencies involved in the
 3 joint operation of the centers.

4 **SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE**
 5 **PLAN.**

6 Section 70103(b)(2) of title 46, United States Code,
 7 is amended—

8 (1) by striking “and” after the semicolon in
 9 subparagraph (E);

10 (2) by redesignating subparagraph (F) as sub-
 11 paragraph (G); and

12 (3) by inserting after subparagraph (E) the fol-
 13 lowing:

14 “(F) include a salvage response plan—

15 “(i) to identify salvage equipment ca-
 16 pable of restoring operational trade capae-
 17 ity; and

18 “(ii) to ensure that the flow of cargo
 19 through United States ports is re-estab-
 20 lished as efficiently and quickly as possible
 21 after a transportation security incident.”.

22 **SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCI-**
 23 **DENT RESUMPTION OF TRADE.**

24 Section 70103(a)(2)(J) of title 46, United States
 25 Code, is amended by inserting after “incident.” the fol-

1 lowing: “The plan shall provide, to the extent practicable,
 2 preference in the reestablishment of the flow of cargo
 3 through United States ports after a transportation secu-
 4 rity incident to—

5 “(i) vessels that have a vessel security plan
 6 approved under subsection (c); and

7 “(ii) vessels manned by individuals who are
 8 described in section 70105(b)(2)(B) and who
 9 have undergone a background records check
 10 under section 70105(d) or who hold transpor-
 11 tation security cards issued under section
 12 70105.”.

13 **SEC. 504. ASSISTANCE FOR FOREIGN PORTS.**

14 (a) IN GENERAL.—Section 70109 of title 46, United
 15 States Code, is amended—

16 (1) by adding at the end the following:

17 “(c) FOREIGN ASSISTANCE PROGRAMS.—

18 “(1) IN GENERAL.—The Administrator of the
 19 Maritime Administration, in coordination with the
 20 Secretary of State and the Secretary of Energy,
 21 shall identify foreign assistance programs that could
 22 facilitate implementation of port security
 23 antiterrorism measures in foreign countries. The Ad-
 24 ministrator and the Secretary shall establish a pro-
 25 gram to utilize those programs that are capable of

1 implementing port security antiterrorism measures
2 at ports in foreign countries that the Secretary
3 finds, under section 70108, to lack effective
4 antiterrorism measures:

5 “(2) CARIBBEAN BASIN.—The Administrator,
6 in coordination with the Secretary of State and in
7 consultation with the Organization of American
8 States, shall place particular emphasis on utilizing
9 programs to facilitate the implementation of port se-
10 curity antiterrorism measures at the ports located in
11 the Caribbean Basin, as such ports pose unique se-
12 curity and safety threats to the United States due
13 to—

14 “(A) the strategic location of such ports
15 between South America and United States;

16 “(B) the relative openness of such ports;

17 and

18 “(C) the significant number of shipments
19 of narcotics to the United States that are
20 moved through such ports.”

21 (b) REPORT ON SECURITY AT PORTS IN THE CARIB-
22 BEAN BASIN.—Not later than 60 days after the date of
23 enactment of this Act, the Secretary of Homeland Security
24 shall submit to the Committee on Commerce, Science, and
25 Transportation of the Senate and Committee on Trans-

1 portation and Infrastructure of the House of Representa-
2 tives a report on the security of ports in the Caribbean
3 Basin. The report shall include the following:

4 (1) An assessment of the effectiveness of the
5 measures employed to improve security at ports in
6 the Caribbean Basin and recommendations for any
7 additional measures to improve such security.

8 (2) An estimate of the number of ports in the
9 Caribbean Basin that will not be secured by January
10 1, 2006, and an estimate of the financial impact in
11 the United States of any action taken pursuant to
12 section 70110 of title 46, United States Code, that
13 affects trade between such ports and the United
14 States.

15 (3) An assessment of the additional resources
16 and program changes that are necessary to maxi-
17 mize security at ports in the Caribbean Basin.

18 **SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO**

19 **SEARCHES.**

20 (a) **IN GENERAL.**—In order to provide the best pos-
21 sible data for the automated target system that identifies
22 high-risk cargo for inspection, the Secretary of Homeland
23 Security shall require importers shipping goods to the
24 United State via cargo container to supply entry data

1 under the advance notification requirements under section
2 4.7 of the Customs Regulations (19 C.F.R. 4.7).

3 (b) DEADLINE.—The requirement imposed under
4 subsection (a) shall apply to goods entered after December
5 31, 2006.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary of
8 Homeland Security \$5,000,000 for each of fiscal years
9 2006, 2007, and 2008 to carry out the automated tar-
10 geting system program to identify high-risk oceanborne
11 container cargo for inspection. The amounts authorized by
12 this subsection shall be in addition to any other amounts
13 authorized to be appropriated to carry out that program.

14 (d) EVALUATION BY COMPTROLLER GENERAL.—

15 (1) IN GENERAL.—The Comptroller General
16 shall evaluate action taken by the Department of
17 Homeland Security to address the deficiencies in its
18 automated targeting system strategy identified in
19 the Government Accountability Office’s report enti-
20 tled “Homeland Security Challenges Remain in the
21 Targeting of Ooceangoing Cargo Containers for In-
22 spection” (GAO-04-352NI). In making the evalua-
23 tion, the Comptroller General shall assess whether
24 all key elements of a risk management framework

1 and recognized modeling practices have been incor-
2 porated in the Department's strategy, including—

3 (A) threat, criticality, vulnerability, and
4 risk assessments;

5 (B) external peer review of the automated
6 targeting system;

7 (C) a mandatory random sampling pro-
8 gram;

9 (D) simulated events to test the targeting
10 strategy; and

11 (E) effectiveness reviews of risk mitigation
12 actions.

13 (2) REPORT.—The Comptroller General shall
14 transmit a report to the Senate Committee on Com-
15 merce, Science, and Transportation and the House
16 of Representatives Committee on Transportation
17 and Infrastructure within 1 year after the date of
18 enactment of this Act containing the results of the
19 evaluation, together with any recommendations the
20 Comptroller General deems appropriate.

21 **SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS**
22 **ASSIGNED OVERSEAS.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-
24 rity shall substantially increase the number of United
25 States Customs Service inspectors assigned to duty out-

1 side the United States under the Container Security Ini-
2 tiative of the United States Customs Service with respon-
3 sibility for inspecting intermodal shipping containers being
4 shipped to the United States.

5 (b) STAFFING CRITERIA.—In carrying out subsection
6 (a) the Secretary of Homeland Security shall determine
7 the appropriate level for assignment and density of cus-
8 toms inspectors at selected international port facilities by
9 a threat, vulnerability, and risk analysis which, at a min-
10 imum, considers—

11 (1) the volume of containers shipped;

12 (2) the ability of the host government to assist
13 in both manning and providing equipment and re-
14 sources;

15 (3) terrorist intelligence known of importer ven-
16 dors, suppliers or manufactures; and

17 (4) other criteria as determined in consult with
18 experts in the shipping industry, terrorism, and
19 shipping container security.

20 (c) MINIMUM NUMBER.—The total number of cus-
21 toms inspectors assigned to international port facilities
22 shall not be less than the number determined as a result
23 of the threat, vulnerability, and risk assessment analysis
24 which is validated by the Administrator of the Transpor-

1 tation Security Administration within 180 days after the
2 date of enactment of this Act.

3 (d) **PLAN.**—The Secretary shall submit a plan to the
4 Senate Committee on Commerce, Science, and Transpor-
5 tation and the House of Representatives Committee on
6 Transportation and Infrastructure, with timelines, for
7 phasing inspectors into selected port facilities within 180
8 days after the enactment of this Act.

9 **SEC. 507. RANDOM INSPECTION OF CONTAINERS.**

10 (a) **IN GENERAL.**—The Under Secretary of Home-
11 land Security for Border and Transportation Security
12 shall develop and implement a plan for random inspection
13 of shipping containers in addition to any targeted or pre-
14 shipment inspection of such containers required by law or
15 regulation or conducted under any other program con-
16 ducted by the Under Secretary.

17 (b) **CIVIL PENALTY FOR ERRONEOUS MANIFEST.**—

18 (1) **IN GENERAL.**—Except as provided in para-
19 graph (2), if the Under Secretary determines on the
20 basis of an inspection conducted under subsection
21 (a) that there is a discrepancy between the contents
22 of a shipping container and the manifest for that
23 container, the Under Secretary may impose a civil
24 penalty.

1 (2) **MANIFEST DISCREPANCY REPORTING.**—The
2 Under Secretary may not impose a civil penalty
3 under paragraph (1) if a manifest discrepancy re-
4 port is filed with respect to the discrepancy within
5 the time limits established by Customs Directive No.
6 ~~3240-067A~~ (or any subsequently issued directive
7 governing the matters therein) for filing a manifest
8 discrepancy report.

9 **SEC. 508. CARGO SECURITY.**

10 (a) **IN GENERAL.**—Chapter 701 of title 46, United
11 States Code, is amended—

12 (1) by redesignating the second section 70118
13 (relating to firearms, arrests, and seizure of prop-
14 erty), as added by section 801(a) of the Coast Guard
15 and Maritime Transportation Act of 2004, as sec-
16 tion 70119;

17 (2) by redesignating the first section 70119 (re-
18 lating to enforcement by State and local officers), as
19 added by section 801(a) of the Coast Guard and
20 Maritime Transportation Act of 2004, as section
21 70120;

22 (3) by redesignating the second section 70119
23 (relating to civil penalty), as redesignated by section
24 802(a)(1) of the Coast Guard and Maritime Trans-
25 portation Act of 2004, as section 70122; and

1 (4) by inserting after section 70120 the fol-
2 lowing:

3 **“§ 70121. Container security initiative**

4 “(a) IN GENERAL.—Pursuant to the standards estab-
5 lished under subsection (b)(1) of section 70116—

6 “(1) the Secretary of Homeland Security shall
7 promulgate standards and procedures for—

8 “(A) the inspection of cargo in a foreign
9 port intended for shipment to the United States
10 by physical examination or nonintrusive exam-
11 ination by technological means; and

12 “(B) evaluating and screening cargo prior
13 to loading in a foreign port for shipment to the
14 United States, either directly or via a foreign
15 port; and

16 “(2) the Commissioner of Customs and Border
17 Protection shall—

18 “(A) execute inspection and screening pro-
19 tocols with authorities in foreign ports to en-
20 sure that the standards and procedures promul-
21 gated under paragraph (1) are implemented in
22 an effective manner; and

23 “(B) in consultation with the Transpor-
24 tation Security Oversight Board, develop and
25 maintain an antiterrorism cargo identification;

1 tracking, and screening system for container-
 2 ized cargo shipped to and from the United
 3 States, either directly or via a foreign port.

4 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to the Secretary of
 6 Homeland Security such sums as may be necessary to
 7 carry out this section.”

8 (b) CONFORMING AMENDMENTS.—

9 (1) The chapter analysis for chapter 701 of title
 10 46, United States Code, is amended by striking the
 11 items following the item relating to section 70116
 12 and inserting the following:

“70117. In rem liability for civil penalties and certain costs
 “70118. Withholding of clearance
 “70119. Firearms, arrests, and seizure of property
 “70120. Enforcement by State and local officers
 “70121. Container security initiative
 “70122. Civil penalty”.

13 (2) Section 70117(a) of title 46, United States
 14 Code, as redesignated by subsection (a)(3) of this
 15 section, is amended by striking “section 70120” and
 16 inserting “section 70122”.

17 (3) Section 70118(a) of such title is amended
 18 by striking “under section 70120,” and inserting
 19 “under that section.”

20 (4) Section 111 of the Maritime Transportation
 21 Security Act of 2002 is repealed.

1 **SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTER-**
2 **MODAL TRANSPORTATION.**

3 (a) **IN GENERAL.**—Section 70116(a) of title 46,
4 United States Code, is amended—

5 (1) by striking “transportation.” and inserting
6 “transportation—

7 “(1) to ensure the security and integrity of
8 shipments of goods to the United States from the
9 point at which such goods are initially packed or
10 loaded for international shipment until they reach
11 their ultimate destination; and

12 “(2) to facilitate the movement of such goods
13 through the entire supply chain through an expedited security and clearance program.”.

15 (b) **PROGRAM ENHANCEMENTS.**—Section 70116(b)
16 of title 46, United States Code, is amended to read as
17 follows:

18 “(b) **PROGRAM ELEMENTS.**—In establishing and con-
19 ducting the program under subsection (a) the Assistant
20 Secretary shall—

21 “(1) establish standards and procedures for
22 verifying, at the point at which goods are placed in
23 a cargo container for shipping, that the container is
24 free of unauthorized hazardous chemical, biological,
25 or nuclear material and for securely sealing such
26 containers after the contents are so verified;

1 “(2) establish standards and procedures for se-
2 curing cargo and monitoring that security while in
3 transit from the point at which it is loaded to the
4 point at which it is finally unloaded;

5 “(3) develop performance standards to enhance
6 the physical security of shipping containers, includ-
7 ing performance standards for seals and locks as
8 part of the container security initiative;

9 “(4) establish standards and procedures for allow-
10 ing the United States Government to ensure and
11 validate compliance with this program; and

12 “(5) incorporate any other measures the Assistant
13 Secretary considers necessary to ensure the security
14 and integrity of international intermodal transport
15 movements.”.

16 (e) PORT SECURITY USER FEE STUDY.—The Sec-
17 retary of Homeland Security shall conduct a study of the
18 feasibility and desirability of establishing a system of
19 oceanborne and port-related intermodal transportation
20 user fees that could be imposed and collected as a dedi-
21 cated revenue source, on a temporary or continuing basis,
22 to provide necessary funding for the improvement and
23 maintenance of enhanced port security. The Assistant Sec-
24 retary shall submit a report containing the Assistant Sec-
25 retary’s findings, conclusions, and recommendations (in-

1 eluding legislative recommendations if appropriate) to the
2 Senate Committee on Commerce, Science, and Transpor-
3 tation and the House of Representatives Committee on
4 Transportation and Infrastructure within 1 year after
5 date of enactment of this Act.

6 **SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION**
7 **SECURITY.**

8 (a) **MINIMUM TECHNOLOGY IMPLEMENTATION AU-**
9 **THORIZATION.**—Section 70107(i)(2)(B) of title 46, United
10 States Code, is amended by inserting “not less than” after
11 “Secretary”.

12 (b) **SET-ASIDES FOR RESEARCH AND DEVELOP-**
13 **MENT.**—Notwithstanding any provision of law to the con-
14 trary, in the administration of the Department of Home-
15 land Security, the Secretary of Homeland Security shall
16 ensure that, for each fiscal year beginning after the date
17 of enactment of this Act, not less than—

18 (1) 8 percent of the amounts appropriated to
19 the Transportation Security Administration and the
20 Directorate of Science and Technology for research
21 and development for the fiscal year are obligated or
22 expended for maritime security related projects or
23 programs; and

1 (2) 2 percent of such amounts are obligated or
2 expended for rail security related projects or pro-
3 grams.

4 (c) STRATEGIC PLAN.—

5 (1) IN GENERAL.—Within 90 days after the
6 date of enactment of this Act, the Secretary of
7 Homeland Security shall promulgate a strategic plan
8 for transportation research and development. The
9 Secretary shall update the plan no less frequently
10 than every 2 years thereafter.

11 (2) CONTENTS.—In the strategic plan, the Sec-
12 retary shall—

13 (A) ensure that the research needs for se-
14 curity of all modes of transportation, including
15 aviation, maritime, rail, pipeline, and transit se-
16 curity, are addressed;

17 (B) identify goals and include measurable
18 objectives;

19 (C) include an adequate amount of basic
20 research;

21 (D) define the research and development
22 roles of the Transportation Security Adminis-
23 tration and the Directorate of Science and
24 Technology, respectively, to ensure that—

25 (i) they are aligned;

1 (ii) the efficient use of research funds
2 is maximized; and

3 (iii) duplication of projects is pre-
4 vented or minimized;

5 (E) coordinate transportation research and
6 development under the plan with the transpor-
7 tation research and development activities of
8 other Federal agencies, including the Depart-
9 ment of Transportation and the National Aero-
10 nautics and Space Administration; and

11 (F) base the plan on vulnerability and
12 criticality assessments.

13 (3) ANNUAL EVALUATION.—The Homeland Se-
14 curity Science and Technology Advisory Committee
15 shall evaluate the plan by October 15th each year,
16 measure progress under the plan against the goals
17 set forth in the plan, and recommend changes to the
18 transportation security research program under the
19 plan.

20 (4) ANNUAL REPORT TO CONGRESS.—The Sec-
21 retary shall transmit a copy of the strategic plan,
22 and any revisions of that plan, and a copy of the an-
23 nual evaluations and recommendations made by the
24 Advisory Committee to the Congress.

1 (d) NIST TRANSPORTATION SECURITY PROGRAM.—

2 The Secretary of Homeland Security may transfer up to
3 \$15,000,000 each fiscal year to the National Institute of
4 Science and Technology to be obligated or expended for
5 a focused program in transportation security under sec-
6 tion 28 of the National Institute of Science and Tech-
7 nology Act (15 U.S.C. 278n).

8 (e) SECURE WORKFORCE INITIATIVE.—Section
9 70107 of title 46, United States Code, is amended by add-
10 ing at the end the following:

11 “(j) SECURE WORKFORCE INITIATIVE.—

12 “(1) IN GENERAL.—The Secretary shall develop
13 a program in conjunction with technical and commu-
14 nity colleges to train port security workforces. The
15 program shall focus on teaching port workers to uti-
16 lize new technologies and processes to improve port
17 security through the use of screening technologies,
18 information technologies, detection devices, incident
19 response training, and other advanced technologies.

20 “(2) AUTHORIZATION OF APPROPRIATIONS.—

21 There are authorized to be appropriated to the Sec-
22 retary of Homeland Security \$15,000,000 for each
23 of fiscal years 2005 through 2009 to carry out the
24 program developed under paragraph (1).”.

1 (f) ESTABLISHMENT OF COMPETITIVE RESEARCH
2 PROGRAM.—

3 (1) IN GENERAL.—Title III of the Homeland
4 Security Act of 2002 (6 U.S.C. 181 et seq.) is
5 amended by adding at the end the following:

6 **“SEC. 314. COMPETITIVE RESEARCH PROGRAM.**

7 “(a) IN GENERAL.—

8 “(1) ESTABLISHMENT.—The Secretary, acting
9 through the Under Secretary for Science and Tech-
10 nology, shall establish a competitive research pro-
11 gram within the Directorate.

12 “(2) DIRECTOR.—The program shall be headed
13 by a Director, who shall be appointed by the Sec-
14 retary. The Director shall report to the Under Sec-
15 retary.

16 “(3) DUTIES OF DIRECTOR.—In the adminis-
17 tration of the program, the Director shall—

18 “(A) establish a cofunding mechanism for
19 States with academic facilities that have not
20 fully developed security-related science and
21 technology to support burgeoning research ef-
22 forts by the faculty or link them to established
23 investigators;

24 “(B) provide for conferences, workshops,
25 outreach, and technical assistance to research-

1 ers and institutions of higher education in
2 States on topics related to developing science
3 and technology expertise in areas of high inter-
4 est and relevance to the Department;

5 “(C) monitor the efforts of States to de-
6 velop programs that support the Department’s
7 mission;

8 “(D) implement a merit review program,
9 consistent with program objectives, to ensure
10 the quality of research conducted with Program
11 funding; and

12 “(E) provide annual reports on the
13 progress and achievements of the Program to
14 the Secretary.

15 “(b) ASSISTANCE UNDER THE PROGRAM.—

16 “(1) SCOPE.—The Director shall provide assist-
17 ance under the program for research and develop-
18 ment projects that are related to, or qualify as,
19 homeland security research (as defined in section
20 307(a)(2)) under the program.

21 “(2) FORM OF ASSISTANCE.—Assistance under
22 the program can take the form of grants, contracts,
23 or cooperative arrangements.

24 “(3) APPLICATIONS.—Applicants shall submit
25 proposals or applications in such form, at such

1 times, and containing such information as the Direc-
2 tor may require.

3 “(c) IMPLEMENTATION.—

4 “(1) START-UP PHASES.—For the first 3 fiscal
5 years beginning after the date of enactment of the
6 Border Infrastructure and Technology Integration
7 Act of 2004, assistance under the program shall be
8 limited to institutions of higher education located in
9 States in which an institution of higher education
10 with a grant from, or a contract or cooperative
11 agreement with, the National Science Foundation
12 under section 113 of the National Science Founda-
13 tion Act of 1988 (42 U.S.C. 1862) is located.

14 “(2) SUBSEQUENT FISCAL YEARS.—

15 “(A) IN GENERAL.—Beginning with the
16 4th fiscal year after the date of enactment of
17 this Act, the Director shall rank order the
18 States (excluding any noncontiguous State (as
19 defined in section 2(14)) other than Alaska,
20 Hawaii, the Commonwealth of Puerto Rico, and
21 the Virgin Islands) in descending order in terms
22 of the average amount of funds received by in-
23 stitutions of higher education (as that term is
24 defined in section 101(a) of the Higher Edu-
25 cation Act of 1965 (20 U.S.C. 1001(a)) in each

1 State that received financial assistance in the
2 form of grants, contracts, or cooperative ar-
3 rangements under this title during each of the
4 preceding 3 fiscal years.

5 “(B) ALLOCATION.—Beginning with the
6 4th fiscal year after the date of enactment of
7 this Act, assistance under the program for any
8 fiscal year is limited to institutions of higher
9 education located in States in the lowest third
10 of those ranked under subparagraph (A) for
11 that fiscal year.

12 “(C) DETERMINATION OF LOCATION.—For
13 purposes of this paragraph, an institution of
14 higher education shall be considered to be lo-
15 cated in the State in which its home campus is
16 located, except that assistance provided under
17 the program to a division, institute, or other fa-
18 cility located in another State for use in that
19 State shall be considered to have been provided
20 to an institution of higher education located in
21 that other State.

22 “(D) MULTIYEAR ASSISTANCE.—For pur-
23 poses of this paragraph, assistance under the
24 program that is provided on a multi-year basis

1 shall be counted as provided in each such year
2 in the amount so provided for that year.

3 “(d) FUNDING.—The Secretary shall ensure that no
4 less than 5 percent of the amount appropriated for each
5 fiscal year to the Acceleration Fund for Research and De-
6 velopment of Homeland Security Technologies established
7 by section 307(e)(1) is allocated to the program estab-
8 lished by subsection (a).”.

9 (2) CONFORMING AMENDMENT.—The table of
10 contents of the Homeland Security Act of 2002 is
11 amended by inserting after the item relating to sec-
12 tion 313 the following:

“Sec. 314. Competitive research program.”.

13 **SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY**
14 **CARDS.**

15 The Secretary shall issue a final rule under section
16 70105 of title 46, United States Code, no later than Janu-
17 ary 1, 2006.

18 **SEC. 512. EVALUATION AND REPORT.**

19 Within 90 days after the date of enactment of this
20 Act the Secretary of Homeland Security shall transmit a
21 report to the Senate Committee on Commerce, Science,
22 and Transportation and the House of Representatives
23 Committee on Transportation and Infrastructure con-
24 taining—

1 (1) an evaluation of the Operation Safe Com-
2 merce program and the Customs-Trade Partnership
3 Against Terrorism program;

4 (2) a report on the establishment and imple-
5 mentation of performance standards for oceanborne
6 and intermodal cargo seals and locks under section
7 70116(b) of title 46, United States Code;

8 (3) a report on progress made and current
9 operational practices for monitoring oceanborne
10 cargo through the entire supply chain;

11 (4) recommendations as to how the practices,
12 programs, and procedures can be further integrated
13 into a wider screening network for oceanborne cargo
14 that can be applied on an international basis;

15 (5) recommendations as to how inspection and
16 screening procedures developed for oceanborne cargo
17 might be adapted for application to the shipment of
18 domestically-produced cargo within the United
19 States;

20 (6) a status report on progress in preparing the
21 plan for implementing secure systems of transpor-
22 tation required by section 809(e) of the Coast Guard
23 and Maritime Transportation Act of 2004 (Pub. L.
24 108-293; 118 Stat. 1086);

1 (7) a report on the security of noncontainerized
2 cargo including roll-on roll-off cargo, break bulk
3 cargo, and liquid and dry bulk cargo; and

4 (8) a report on whether the increased use of
5 waterborne transportation in the domestic movement
6 of hazardous materials would be an effective and ef-
7 ficient means to enhance the safety of hazardous
8 material shipments.

9 **SEC. 513. PORT SECURITY GRANTS.**

10 (a) BASIS FOR GRANTS.—Section 70107(a) of title
11 46, United States Code, is amended by striking “for mak-
12 ing a fair and equitable allocation of funds” and inserting
13 “based on risk and vulnerability”.

14 (b) LETTERS OF INTENT.—Section 70107(e) of title
15 46, United States Code, is amended by adding at the end
16 the following:

17 “(5) LETTERS OF INTENT.—The Secretary may
18 execute letters of intent to commit funding to port
19 sponsors from the Fund.”.

20 **SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER**
21 **DISPUTES.**

22 Section 70101(6) is amended by inserting after
23 “area.” the following: “In this paragraph, the term ‘eco-
24 nomic disruption’ does not include a work stoppage or

1 other nonviolent employee-related action resulting from an
 2 employee-employer dispute.”.

3 **SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPOR-**
 4 **TATION SECURITY CARD.**

5 Section 70105(e)(3) of title 46, United States Code,
 6 is amended by inserting “or a waiver under paragraph
 7 (2)” after “card”.

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

9 (a) *SHORT TITLE.*—*This Act may be cited as the*
 10 *“Transportation Security Improvement Act of 2005”.*

11 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 12 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Transportation Security Administration authorization.

Sec. 102. Department of Transportation authorization.

Sec. 103. Technology for transportation security.

Sec. 104. Reorganizations.

Sec. 105. TSA acquisition management policy.

TITLE II—IMPROVED AVIATION SECURITY

Sec. 201. Post-fiscal year 2006 air carrier security fees.

Sec. 202. Alternative collection methods for passenger security fee.

Sec. 203. Employee retention internship program.

Sec. 204. Repair station security.

TITLE III—IMPROVED RAIL SECURITY

Sec. 301. Short title.

Sec. 302. Rail transportation security risk assessment.

Sec. 303. Systemwide AMTRAK security upgrades.

Sec. 304. Fire and life-safety improvements.

Sec. 305. Freight and passenger rail security upgrades.

Sec. 306. Rail security research and development.

Sec. 307. Oversight and grant procedures.

Sec. 308. AMTRAK plan to assist families of passengers involved in rail pas-
senger accidents.

Sec. 309. Northern border rail passenger report.

Sec. 310. Rail worker security training program.

- Sec. 311. Whistleblower protection program.*
Sec. 312. High hazard material security threat mitigation plans.
Sec. 313. Memorandum of agreement.
Sec. 314. Rail security enhancements.
Sec. 315. Public awareness.
Sec. 316. Railroad high hazard material tracking.

**TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS
MATERIAL SECURITY**

- Sec. 401. Written plans for hazardous materials highway routing.*
Sec. 402. Motor carrier high hazard material tracking.
Sec. 403. Truck leasing security training guidelines.
Sec. 404. Hazardous materials security inspections and enforcement.
Sec. 405. Truck security assessment.
Sec. 406. Pipeline security and incident recovery plan.
Sec. 407. Pipeline security inspections and enforcement.
Sec. 408. Memorandum of agreement.
Sec. 409. National public sector response system.
Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

- Sec. 501. Establishment of additional interagency operational centers for port security.*
Sec. 502. Area maritime transportation security plan to include salvage response plan.
Sec. 503. Post-incident resumption of trade.
Sec. 504. Assistance for foreign ports.
Sec. 505. Improved data for targeted cargo searches.
Sec. 506. Technical requirements for non-intrusive inspection equipment.
Sec. 507. Random inspection of containers.
Sec. 508. Cargo security.
Sec. 509. Secure systems of international intermodal transportation.
Sec. 510. Port security user fee study.
Sec. 511. Deadline for transportation security cards.
Sec. 512. Port security grants.
Sec. 513. Customs-Trade Partnership Against Terrorism security validation program.
Sec. 514. Work stoppages and employee-employer disputes.
Sec. 515. Appeal of denial of waiver for transportation security card.
Sec. 516. Inspection of car ferries entering from Canada.

1 TITLE I—AUTHORIZATIONS

2 SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION

3 AUTHORIZATION.

4 Section 114 of title 49, United States Code, is amended

5 by adding at the end thereof the following:

1 “(u) *AUTHORIZATION OF APPROPRIATIONS.—There*
2 *are authorized to be appropriated to the Secretary of Home-*
3 *land Security—*

4 “(1) *for Aviation Security—*

5 “(A) *\$5,000,000,000 for fiscal year 2007;*

6 “(B) *\$5,250,000,000 for fiscal year 2008;*

7 *and*

8 “(C) *\$5,500,000,000 for fiscal year 2009;*

9 “(2) *for Surface Transportation Security—*

10 “(A) *\$265,000,000 for fiscal year 2007;*

11 “(B) *\$228,000,000 for fiscal year 2008; and*

12 “(C) *\$230,000,000 for fiscal year 2009;*

13 “(3) *for Intelligence—*

14 “(A) *\$30,000,000 for fiscal year 2007;*

15 “(B) *\$32,000,000 for fiscal year 2008; and*

16 “(C) *\$34,000,000 for fiscal year 2009;*

17 “(4) *for Research and Development—*

18 “(A) *\$65,000,000 for fiscal year 2007;*

19 “(B) *\$67,000,000 for fiscal year 2008; and*

20 “(C) *\$69,000,000 for fiscal year 2009; and*

21 “(5) *for Administration—*

22 “(A) *\$530,000,000 for fiscal year 2007;*

23 “(B) *\$535,000,000 for fiscal year 2008;*

24 *and*“(C) *\$540,000,000 for fiscal year*

25 *2009.”.*

1 **SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZA-**
2 **TION.**

3 *There are authorized to be appropriated to the Sec-*
4 *retary of Transportation to carry out title III of this Act*
5 *and sections 20118 and 24316 of title 49, United States*
6 *Code, as added by title III of this Act—*

7 (1) \$225,000,000 for fiscal year 2007;

8 (2) \$223,000,000 for fiscal year 2008; and

9 (3) \$223,000,000 for fiscal year 2009.

10 **SEC. 103. TECHNOLOGY FOR TRANSPORTATION SECURITY.**

11 (a) **MINIMUM TECHNOLOGY IMPLEMENTATION AU-**
12 **THORIZATION.**—*Section 70107(i)(2)(B) of title 46, United*
13 *States Code, is amended by inserting “not less than” after*
14 *“Secretary”.*

15 (b) **SET-ASIDES FOR RESEARCH AND DEVELOP-**
16 **MENT.**—*Notwithstanding any provision of law to the con-*
17 *trary, in the administration of the Department of Home-*
18 *land Security, the Secretary of Homeland Security shall*
19 *ensure that, for each fiscal year beginning after the date*
20 *of enactment of this Act, not less than—*

21 (1) *8 percent of the amounts appropriated to the*
22 *Transportation Security Administration and the Di-*
23 *rectorate of Science and Technology for research and*
24 *development for the fiscal year are obligated or ex-*
25 *pended for maritime security related projects or pro-*
26 *grams, including ferry systems;*

1 (2) 2 percent of such amounts are obligated or
2 expended for rail security related projects or pro-
3 grams.

4 (c) *STRATEGIC PLAN.*—

5 (1) *IN GENERAL.*—Within 120 days after the
6 date of enactment of this Act, the Secretary of Home-
7 land Security shall promulgate a strategic plan for
8 transportation research and development. The Sec-
9 retary shall update the plan no less frequently than
10 every 2 years thereafter.

11 (2) *CONTENTS.*—In the strategic plan, the Sec-
12 retary shall—

13 (A) ensure that the research needs for secu-
14 rity of all modes of transportation, including
15 aviation, maritime, rail, pipeline, and transit
16 security, are addressed;

17 (B) identify goals and include measurable
18 objectives;

19 (C) include an adequate amount of basic re-
20 search;

21 (D) define the research and development
22 roles of the Transportation Security Administra-
23 tion and the Directorate of Science and Tech-
24 nology, respectively, to ensure that—

25 (i) they are aligned;

1 (ii) the efficient use of research funds
2 is maximized; and

3 (iii) duplication of projects is pre-
4 vented or minimized;

5 (E) coordinate transportation research and
6 development under the plan with the transpor-
7 tation research and development, including
8 interoperable communications, activities of other
9 Federal agencies, including the Department of
10 Transportation and the National Aeronautics
11 and Space Administration; and

12 (F) base the plan on vulnerability and
13 criticality assessments.

14 (3) ANNUAL EVALUATION.—The Homeland Secu-
15 rity Science and Technology Advisory Committee
16 shall evaluate the plan by October 15th each year,
17 measure progress under the plan against the goals set
18 forth in the plan, and recommend changes to the
19 transportation security research program under the
20 plan.

21 (4) ANNUAL REPORT TO CONGRESS.—The Sec-
22 retary shall transmit a copy of the strategic plan, and
23 any revisions of that plan, and a copy of the annual
24 evaluations and recommendations made by the Advi-
25 sory Committee to the Congress.

1 (d) *NIST TRANSPORTATION SECURITY PROGRAM.*—
2 *The Secretary of Homeland Security may transfer up to*
3 *\$15,000,000 each fiscal year to the National Institute of*
4 *Science and Technology to be obligated or expended for a*
5 *focused program in transportation security under section*
6 *28 of the National Institute of Science and Technology Act*
7 *(15 U.S.C. 278n).*

8 (e) *ESTABLISHMENT OF COMPETITIVE RESEARCH*
9 *PROGRAM.*—

10 (1) *IN GENERAL.*—*Title III of the Homeland Se-*
11 *curity Act of 2002 (6 U.S.C. 181 et seq.) is amended*
12 *by adding at the end the following:*

13 **“SEC. 314. COMPETITIVE RESEARCH PROGRAM.**

14 “(a) *IN GENERAL.*—

15 “(1) *ESTABLISHMENT.*—*The Secretary, acting*
16 *through the Under Secretary for Science and Tech-*
17 *nology, shall establish a competitive research program*
18 *within the Directorate.*

19 “(2) *DIRECTOR.*—*The program shall be headed*
20 *by a Director, who shall be appointed by the Sec-*
21 *retary. The Director shall report to the Under Sec-*
22 *retary.*

23 “(3) *DUTIES OF DIRECTOR.*—*In the administra-*
24 *tion of the program, the Director shall—*

1 “(A) establish a cofunding mechanism for
2 States with academic facilities that have not
3 fully developed security-related science and tech-
4 nology to support burgeoning research efforts by
5 the faculty or link them to established investiga-
6 tors;

7 “(B) provide for conferences, workshops,
8 outreach, and technical assistance to researchers
9 and institutions of higher education in States on
10 topics related to developing science and tech-
11 nology expertise in areas of high interest and rel-
12 evance to the Department;

13 “(C) monitor the efforts of States to develop
14 programs that support the Department’s mis-
15 sion;

16 “(D) implement a merit review program,
17 consistent with program objectives, to ensure the
18 quality of research conducted with Program
19 funding; and

20 “(E) provide annual reports on the progress
21 and achievements of the Program to the Sec-
22 retary.

23 “(b) ASSISTANCE UNDER THE PROGRAM.—

24 “(1) SCOPE.—The Director shall provide assist-
25 ance under the program for research and development

1 *projects that are related to, or qualify as, homeland*
2 *security research (as defined in section 307(a)(2))*
3 *under the program.*

4 “(2) *FORM OF ASSISTANCE.*—*Assistance under*
5 *the program can take the form of grants, contracts, or*
6 *cooperative arrangements.*

7 “(3) *APPLICATIONS.*—*Applicants shall submit*
8 *proposals or applications in such form, at such times,*
9 *and containing such information as the Director may*
10 *require.*

11 “(c) *IMPLEMENTATION.*—

12 “(1) *START-UP PHASES.*—*For the first 3 fiscal*
13 *years beginning after the date of enactment of the*
14 *Border Infrastructure and Technology Integration Act*
15 *of 2004, assistance under the program shall be limited*
16 *to institutions of higher education located in States*
17 *in which an institution of higher education with a*
18 *grant from, or a contract or cooperative agreement*
19 *with, the National Science Foundation under section*
20 *113 of the National Science Foundation Act of 1988*
21 *(42 U.S.C. 1862) is located.*

22 “(2) *SUBSEQUENT FISCAL YEARS.*—

23 “(A) *IN GENERAL.*—*Beginning with the 4th*
24 *fiscal year after the date of enactment of this*
25 *Act, the Director shall rank order the States (ex-*

1 *cluding any noncontiguous State (as defined in*
2 *section 2(14)) other than Alaska, Hawaii, the*
3 *Commonwealth of Puerto Rico, and the Virgin*
4 *Islands) in descending order in terms of the av-*
5 *erage amount of funds received by institutions of*
6 *higher education (as that term is defined in sec-*
7 *tion 101(a) of the Higher Education Act of 1965*
8 *(20 U.S.C. 1001(a)) in each State that received*
9 *financial assistance in the form of grants, con-*
10 *tracts, or cooperative arrangements under this*
11 *title during each of the preceding 3 fiscal years.*

12 “(B) *ALLOCATION.*—*Beginning with the 4th*
13 *fiscal year after the date of enactment of this*
14 *Act, assistance under the program for any fiscal*
15 *year is limited to institutions of higher edu-*
16 *cation located in States in the lowest third of*
17 *those ranked under subparagraph (A) for that*
18 *fiscal year.*

19 “(C) *DETERMINATION OF LOCATION.*—*For*
20 *purposes of this paragraph, an institution of*
21 *higher education shall be considered to be located*
22 *in the State in which its home campus is lo-*
23 *cated, except that assistance provided under the*
24 *program to a division, institute, or other facility*
25 *located in another State for use in that State*

1 *shall be considered to have been provided to an*
2 *institution of higher education located in that*
3 *other State.*

4 “(D) *MULTIYEAR ASSISTANCE.*—*For pur-*
5 *poses of this paragraph, assistance under the*
6 *program that is provided on a multi-year basis*
7 *shall be counted as provided in each such year*
8 *in the amount so provided for that year.*

9 “(d) *FUNDING.*—*The Secretary shall ensure that no*
10 *less than 5 percent of the amount appropriated for each*
11 *fiscal year to the Acceleration Fund for Research and Devel-*
12 *opment of Homeland Security Technologies established by*
13 *section 307(c)(1) is allocated to the program established by*
14 *subsection (a).”.*

15 “(2) *CONFORMING AMENDMENT.*—*The table of*
16 *contents of the Homeland Security Act of 2002 is*
17 *amended by inserting after the item relating to sec-*
18 *tion 313 the following:*

 “*Sec. 314. Competitive research program.*”.

19 **SEC. 104. REORGANIZATIONS.**

20 *The Secretary of Homeland Security shall notify the*
21 *Senate Committee on Commerce, Science, and Transpor-*
22 *tation, the Senate Committee on Homeland Security and*
23 *Governmental Affairs, and the House of Representatives*
24 *Committee on Homeland Security in writing not less than*
25 *15 days before—*

1 “(i) the fee or increase is imposed by
2 rule promulgated by the Assistant Sec-
3 retary; and

4 “(ii) not less than 60 days before its
5 proposed effective date, the Assistant Sec-
6 retary submits the rule to—

7 “(I) the Senate Committee on
8 Commerce, Science, and Transpor-
9 tation;

10 “(II) the Senate Committee on
11 Appropriations;

12 “(III) the House of Representa-
13 tives Committee on Transportation
14 and Infrastructure;

15 “(IV) the House of Representa-
16 tives Committee on Homeland Secu-
17 rity; and

18 “(V) the House of Representatives
19 Committee on Appropriations .

20 “(E) APPLICATION OF CHAPTER 8 OF TITLE
21 5.—Chapter 8 of title 5 applies to any rule pro-
22 mulgated by the Assistant Secretary imposing a
23 fee or increasing fees under subparagraph (A)
24 after September 30, 2006.”.

1 **SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PAS-**
2 **SENGER SECURITY FEE.**

3 (a) *IN GENERAL.*—

4 (1) *STUDY.*—*The Assistant Secretary of Home-*
5 *land Security (Transportation Security Administra-*
6 *tion) shall study the feasibility of collecting the pas-*
7 *senger security service fee authorized by section*
8 *44940(a) of title 49, United States Code, directly from*
9 *passengers at, or before they reach, the airport*
10 *through a system developed or approved by the Assist-*
11 *ant Secretary, including the use of vending kiosks,*
12 *other automated vending devices, the Internet, or*
13 *other remote vending sites.*

14 (2) *SOLICITATION OF PROPOSALS.*—*In carrying*
15 *out this subsection the Assistant Secretary shall solicit*
16 *proposals for such alternative collection mechanisms.*

17 (3) *DEVELOPMENT OF ALTERNATIVES.*—*Based*
18 *on the study conducted under paragraph (1) and an*
19 *evaluation of proposals submitted pursuant to the so-*
20 *licitation under paragraph (2), the Assistant Sec-*
21 *retary shall develop such alternative collection systems*
22 *as the Assistant Secretary determines to be feasible,*
23 *including schedules and methods to ensure the effi-*
24 *ciency of such systems.*

25 (b) *REPORT.*—*The Assistant Secretary shall report the*
26 *results of the study, together with any recommendations the*

1 *Assistant Secretary deems appropriate, to the Congress*
2 *within 6 months after the date of enactment of this Act.*

3 (c) *DEMONSTRATION PROJECTS.*—*If the Assistant Sec-*
4 *retary determines that a system of direct collection of such*
5 *fees from passengers at airports is feasible, the Assistant*
6 *Secretary shall conduct demonstration projects at a small*
7 *hub airport, a medium hub airport, and a large hub airport*
8 *(as those terms are defined in paragraphs (42), (31), and*
9 *(29), respectively, of section 40102 of title 49, United States*
10 *Code) within 1 year after submitting the report required*
11 *by subsection (b) to the Congress.*

12 **SEC. 203. EMPLOYEE RETENTION INTERNSHIP PROGRAM.**

13 *The Assistant Secretary of Homeland Security (Trans-*
14 *portation Security Administration), shall establish a pilot*
15 *program at a small hub airport, a medium hub airport,*
16 *and a large hub airport (as those terms are defined in para-*
17 *graphs (42), (31), and (29), respectively, of section 40102*
18 *of title 49, United States Code) for training students to per-*
19 *form screening of passengers and property under section*
20 *44901 of title 49, United States Code. The program shall*
21 *be an internship for pre-employment training of final-year*
22 *students from public and private secondary schools located*
23 *in nearby communities. Under the program, participants—*

24 (1) *shall be compensated for training and serv-*
25 *ices time while participating in the program, and*

1 (2) shall be required to agree, as a condition of
 2 participation in the program, to accept employment
 3 as a screener upon successful completion of the intern-
 4 ship and upon graduation from the secondary school.

5 **SEC. 204. REPAIR STATION SECURITY.**

6 (a) *CERTIFICATION OF FOREIGN REPAIR STATIONS*
 7 *SUSPENSION.*—If the regulations required by section
 8 44924(f) of title 49, United States Code, are not issued
 9 within 90 days after the date of enactment of this Act, the
 10 Administrator of the Federal Aviation Administration may
 11 not certify any foreign repair station under part 145 of
 12 title 14, Code of Federal Regulations after such 90th day.

13 (b) *6-MONTH DEADLINE FOR SECURITY REVIEW AND*
 14 *AUDIT.*—Subsections (a) and (d) of section 44924 of title
 15 49, United States Code, are each amended by striking “18
 16 months” and inserting “6 months”.

17 **TITLE III—IMPROVED RAIL**
 18 **SECURITY**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “Rail Security Act of
 21 2005”.

22 **SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
 23 **MENT.**

24 (a) *IN GENERAL.*—

1 (1) *VULNERABILITY AND RISK ASSESSMENT.*—
2 *The Secretary of Homeland Security shall establish a*
3 *task force, including the Transportation Security Ad-*
4 *ministration, the Department of Transportation, and*
5 *other appropriate agencies, to complete a vulner-*
6 *ability and risk assessment of freight and passenger*
7 *rail transportation (encompassing railroads, as that*
8 *term is defined in section 20102(1) of title 49, United*
9 *States Code). The assessment shall include—*

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

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

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

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

1 (E) identification of security weaknesses in
2 passenger and cargo security, transportation in-
3 frastructure, protection systems, procedural poli-
4 cies, communications systems, employee training,
5 emergency response planning, and any other
6 area identified by the assessment; and

7 (F) an account of actions taken or planned by
8 both public and private entities to address identified
9 rail security issues and assess the effective integration
10 of such actions.

11 (2) *RECOMMENDATIONS.*—Based on the assess-
12 ment conducted under paragraph (1), the Secretary,
13 in consultation with the Secretary of Transportation,
14 shall develop prioritized recommendations for improv-
15 ing rail security, including any recommendations the
16 Secretary has for—

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

1 (B) *deploying equipment to detect explosives*
2 *and hazardous chemical, biological, and radio-*
3 *active substances, and any appropriate counter-*
4 *measures;*

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

8 (D) *conducting public outreach campaigns*
9 *on passenger railroads;*

10 (E) *deploying surveillance equipment; and*

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

14 (3) *PLANS.—The report required by subsection*
15 *(c) shall include—*

16 (A) *a plan, developed in consultation with*
17 *the freight and intercity passenger railroads, and*
18 *State and local governments, for the Federal gov-*
19 *ernment to provide increased security support at*
20 *high or severe threat levels of alert;*

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

24 (C) *a contingency plan, developed in con-*
25 *junction with freight and intercity and com-*

1 *muter passenger railroads, to ensure the contin-*
2 *ued movement of freight and passengers in the*
3 *event of an attack affecting the railroad system,*
4 *which shall contemplate—*

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

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

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

22 *(c) REPORT.—*

23 *(1) CONTENTS.—Within 180 days after the date*
24 *of enactment of this Act, the Secretary shall transmit*
25 *to the Senate Committee on Commerce, Science, and*

1 *Transportation, the House of Representatives Com-*
2 *mittee on Transportation and Infrastructure, and the*
3 *House of Representatives Committee on Homeland*
4 *Security a report containing the assessment,*
5 *prioritized recommendations, and plans required by*
6 *subsection (a) and an estimate of the cost to imple-*
7 *ment such recommendations.*

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

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

19 (e) *FUNDING.*—*Out of funds appropriated pursuant to*
20 *section 114(u)(2) of title 49, United States Code, there shall*
21 *be made available to the Secretary of Homeland Security*
22 *to carry out this section \$5,000,000 for fiscal year 2007.*

23 **SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

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

1 *Assistant Secretary of Homeland Security (Transportation*
2 *Security Administration), is authorized to make grants to*
3 *Amtrak—*

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

7 (2) *to secure Amtrak trains;*

8 (3) *to secure Amtrak stations;*

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

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

14 (6) *to hire additional police and security officers,*
15 *including canine units;*

16 (7) *to expand emergency preparedness efforts;*
17 *and*

18 (8) *for employee security training.*

19 (b) *CONDITIONS.—The Secretary of Transportation*
20 *shall disburse funds to Amtrak provided under subsection*
21 *(a) for projects contained in a systemwide security plan*
22 *approved by the Secretary of Homeland Security. The plan*
23 *shall include appropriate measures to address security*
24 *awareness, emergency response, and passenger evacuation*
25 *training.*

1 (c) *EQUITABLE GEOGRAPHIC ALLOCATION.*—*The Sec-*
2 *retary shall ensure that, subject to meeting the highest secu-*
3 *rity needs on Amtrak’s entire system and consistent with*
4 *the risk assessment required under section 302, stations and*
5 *facilities located outside of the Northeast Corridor receive*
6 *an equitable share of the security funds authorized by this*
7 *section.*

8 (d) *AVAILABILITY OF FUNDS.*—*Out of funds appro-*
9 *priated pursuant to section 114(u)(2) of title 49, United*
10 *States Code, there shall be made available to the Secretary*
11 *of Homeland Security and the Assistant Secretary of Home-*
12 *land Security (Transportation Security Administration) to*
13 *carry out this section—*

14 (1) *\$63,500,000 for fiscal year 2007;*

15 (2) *\$30,000,000 for fiscal year 2008; and*

16 (3) *\$30,000,000 for fiscal year 2009.*

17 *Amounts appropriated pursuant to this subsection shall re-*
18 *main available until expended.*

19 **SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

20 (a) *LIFE-SAFETY NEEDS.*—*The Secretary of Trans-*
21 *portation, in consultation with the Secretary of Homeland*
22 *Security, is authorized to make grants to Amtrak for the*
23 *purpose of making fire and life-safety improvements to Am-*
24 *trak tunnels on the Northeast Corridor in New York, NY,*
25 *Baltimore, MD, and Washington, DC.*

1 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*Out of*
2 *funds appropriated pursuant to section 102 of this Act,*
3 *there shall be made available to the Secretary of Transpor-*
4 *tation for the purposes of carrying out subsection (a) the*
5 *following amounts:*

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

11 (A) *\$190,000,000 for fiscal year 2007;*

12 (B) *\$190,000,000 for fiscal year 2008; and*

13 (C) *\$190,000,000 for fiscal year 2009.*

14 (2) *For the Baltimore & Potomac tunnel and the*
15 *Union tunnel, together, to provide adequate drainage,*
16 *ventilation, communication, lighting, and passenger*
17 *egress upgrades—*

18 (A) *\$19,000,000 for fiscal year 2007;*

19 (B) *\$19,000,000 for fiscal year 2008; and*

20 (C) *\$19,000,000 for fiscal year 2009.*

21 (3) *For the Washington, DC, Union Station tun-*
22 *nels to improve ventilation, communication, lighting,*
23 *and passenger egress upgrades—*

24 (A) *\$13,333,000 for fiscal year 2007;*

25 (B) *\$13,333,000 for fiscal year 2008; and*

1 (C) \$13,333,000 for fiscal year 2009.

2 (c) *INFRASTRUCTURE UPGRADES.*—Out of funds ap-
3 propriated pursuant to section 102 of this Act, there shall
4 be made available to the Secretary of Transportation for
5 fiscal year 2007 \$3,000,000 for the preliminary design of
6 options for a new tunnel on a different alignment to aug-
7 ment the capacity of the existing Baltimore tunnels.

8 (d) *AVAILABILITY OF APPROPRIATED FUNDS.*—
9 Amounts made available pursuant to this section shall re-
10 main available until expended.

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

14 (1) until Amtrak has submitted to the Secretary,
15 and the Secretary has approved, an engineering and
16 financial plan for such projects; and

17 (2) unless, for each project funded pursuant to
18 this section, the Secretary has approved a project
19 management plan prepared by Amtrak addressing
20 appropriate project budget, construction schedule, re-
21 cipient staff organization, document control and
22 record keeping, change order procedure, quality con-
23 trol and assurance, periodic plan updates, and peri-
24 odic status reports.

1 (f) *REVIEW OF PLANS.*—*The Secretary of Transpor-*
2 *tation shall complete the review of the plans required by*
3 *paragraphs (1) and (2) of subsection (e) and approve or*
4 *disapprove the plans within 45 days after the date on which*
5 *each such plan is submitted by Amtrak. If the Secretary*
6 *determines that a plan is incomplete or deficient, the Sec-*
7 *retary shall notify Amtrak of the incomplete items or defi-*
8 *ciencies and Amtrak shall, within 30 days after receiving*
9 *the Secretary’s notification, submit a modified plan for the*
10 *Secretary’s review. Within 15 days after receiving addi-*
11 *tional information on items previously included in the*
12 *plan, and within 45 days after receiving items newly in-*
13 *cluded in a modified plan, the Secretary shall either ap-*
14 *prove the modified plan, or, if the Secretary finds the plan*
15 *is still incomplete or deficient, the Secretary shall identify*
16 *in writing to the Senate Committee on Commerce, Science,*
17 *and Transportation, the House of Representatives Com-*
18 *mittee on Transportation and Infrastructure, and the*
19 *House of Representatives Committee on Homeland Security*
20 *the portions of the plan the Secretary finds incomplete or*
21 *deficient, approve all other portions of the plan, obligate*
22 *the funds associated with those other portions, and execute*
23 *an agreement with Amtrak within 15 days thereafter on*
24 *a process for resolving the remaining portions of the plan.*

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

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

7 (2) *consider the feasibility of seeking a financial*
8 *contribution from those other rail carriers toward the*
9 *costs of the projects; and*

10 (3) *obtain financial contributions or commit-*
11 *ments from such other rail carriers at levels reflecting*
12 *the extent of their use or planned use of the tunnels,*
13 *if feasible.*

14 **SEC. 305. FREIGHT AND PASSENGER RAIL SECURITY UP-**
15 **GRADES.**

16 (a) *SECURITY IMPROVEMENT GRANTS.*—*The Secretary*
17 *of Homeland Security, through the Assistant Secretary of*
18 *Homeland Security (Transportation Security Administra-*
19 *tion) and other appropriate agencies, is authorized to make*
20 *grants to freight railroads, the Alaska Railroad, hazardous*
21 *materials shippers, owners of rail cars used in the transpor-*
22 *tation of hazardous materials, universities, colleges and re-*
23 *search centers, State and local governments (for rail pas-*
24 *senger facilities and infrastructure not owned by Amtrak),*
25 *and, through the Secretary of Transportation, to Amtrak,*

1 *for full or partial reimbursement of costs incurred in the*
2 *conduct of activities to prevent or respond to acts of ter-*
3 *rorism, sabotage, or other intercity passenger rail and*
4 *freight rail security vulnerabilities and risks identified*
5 *under section 302, including—*

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

9 (2) *accommodation of rail cargo or passenger*
10 *screening equipment at the United States-Mexico bor-*
11 *der, the United States-Canada border, or other ports*
12 *of entry;*

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 *rail cars transporting high hazard materials to im-*
19 *prove their resistance to 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 pas-*
24 *senger train operations;*

1 (8) *the sharing of intelligence and information*
2 *about security threats;*

3 (9) *to obtain train tracking and interoperable*
4 *communications systems that are coordinated to the*
5 *maximum extent possible;*

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

8 (11) *other improvements recommended by the re-*
9 *port required by section 302, including infrastructure,*
10 *facilities, and equipment upgrades.*

11 (b) *ACCOUNTABILITY.*—*The Secretary shall adopt nec-*
12 *essary procedures, including audits, to ensure that grants*
13 *made under this section are expended in accordance with*
14 *the purposes of this Act and the priorities and other criteria*
15 *developed by the Secretary.*

16 (c) *ALLOCATION.*—*The Secretary shall distribute the*
17 *funds authorized by this section based on risk and vulner-*
18 *ability as determined under section 302, and shall encour-*
19 *age non-Federal financial participation in awarding*
20 *grants. With respect to grants for intercity passenger rail*
21 *security, the Secretary shall also take into account pas-*
22 *senger volume and whether a station is used by commuter*
23 *rail passengers as well as intercity rail passengers.*

24 (d) *CONDITIONS.*—*The Secretary of Transportation*
25 *may not disburse funds to Amtrak under subsection (a) un-*

1 *less Amtrak meets the conditions set forth in section 303(b)*
2 *of this Act.*

3 (e) *ALLOCATION BETWEEN RAILROADS AND OTH-*
4 *ERS.—Unless as a result of the assessment required by sec-*
5 *tion 302 the Secretary of Homeland Security determines*
6 *that critical rail transportation security needs require re-*
7 *imbursement in greater amounts to any eligible entity, no*
8 *grants under this section may be made—*

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

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

12 (f) *AUTHORIZATION OF APPROPRIATIONS.—Out of*
13 *funds appropriated pursuant to section 114(u)(2) of title*
14 *49, United States Code, there shall be made available to*
15 *the Secretary of Homeland Security to carry out this sec-*
16 *tion—*

17 (1) *\$100,000,000 for fiscal year 2007;*

18 (2) *\$100,000,000 for fiscal year 2008; and*

19 (3) *\$100,000,000 for fiscal year 2009.*

20 *Amounts made available pursuant to this subsection shall*
21 *remain available until expended.*

22 (g) *HIGH HAZARD MATERIALS DEFINED.—In this sec-*
23 *tion, the term “high hazard materials” means quantities*
24 *of poison inhalation hazard materials, Class 2.3 gases,*
25 *Class 6.1 materials, and anhydrous ammonia that the Sec-*

1 *retary, in consultation with the Secretary of Transpor-*
2 *tation, determines pose a security risk.*

3 **SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

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

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

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

18 *(3) develop improved freight technologies, includ-*
19 *ing—*

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

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

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

23 *and*

24 *(D) emergency response training;*

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

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

5 (A) *technologies to detect a breach in a tank*
6 *car or other rail car used to transport hazardous*
7 *materials and transmit information about the*
8 *integrity of cars to the train crew or dispatcher;*

9 (B) *research to improve tank car integrity,*
10 *with a focus on tank cars that carry high hazard*
11 *materials (as defined in section 305(g) of this*
12 *Act; and*

13 (C) *techniques to transfer hazardous mate-*
14 *rials from rail cars that are damaged or other-*
15 *wise represent an unreasonable risk to human*
16 *life or public safety; and*

17 (6) *other projects that address vulnerabilities*
18 *and risks identified under section 302.*

19 (b) *COORDINATION WITH OTHER RESEARCH INITIA-*
20 *TIVES.—The Secretary of Homeland Security shall ensure*
21 *that the research and development program authorized by*
22 *this section is coordinated with other research and develop-*
23 *ment initiatives at the Department of Homeland Security*
24 *and the Department of Transportation. The Secretary shall*
25 *carry out any research and development project authorized*

1 *by this section through a reimbursable agreement with the*
2 *Secretary of Transportation, if the Secretary of Transpor-*
3 *tation—*

4 (1) *is already sponsoring a research and develop-*
5 *ment project in a similar area; or*

6 (2) *has a unique facility or capability that*
7 *would be useful in carrying out the project.*

8 (c) *GRANTS AND ACCOUNTABILITY.—To carry out the*
9 *research and development program, the Secretary may*
10 *award grants to the entities described in section 305(a) and*
11 *shall adopt necessary procedures, including audits, to en-*
12 *sure that grants made under this section are expended in*
13 *accordance with the purposes of this Act and the priorities*
14 *and other criteria developed by the Secretary.*

15 (d) *AUTHORIZATION OF APPROPRIATIONS.—Out of*
16 *funds appropriated pursuant to section 114(u)(4) of title*
17 *49, United States Code, there shall be made available to*
18 *the Secretary of Homeland Security to carry out this sec-*
19 *tion—*

20 (1) *\$35,000,000 for fiscal year 2007;*

21 (2) *\$35,000,000 for fiscal year 2008; and*

22 (3) *\$35,000,000 for fiscal year 2009.*

23 *Amounts made available pursuant to this subsection shall*
24 *remain available until expended.*

1 **SEC. 307. OVERSIGHT AND GRANT PROCEDURES.**

2 (a) *SECRETARIAL OVERSIGHT.*—*The Secretary of*
3 *Homeland Security may use up to 0.5 percent of amounts*
4 *made available for capital projects under the Rail Security*
5 *Act of 2005 to enter into contracts for the review of proposed*
6 *capital projects and related program management plans*
7 *and to oversee construction of such projects.*

8 (b) *USE OF FUNDS.*—*The Secretary may use amounts*
9 *available under subsection (a) of this subsection to make*
10 *contracts to audit and review the safety, procurement, man-*
11 *agement, and financial compliance of a recipient of*
12 *amounts under this Act.*

13 (c) *PROCEDURES FOR GRANT AWARD.*—*The Secretary*
14 *shall, within 90 days after the date of enactment of this*
15 *Act, prescribe procedures and schedules for the awarding*
16 *of grants under this Act, including application and quali-*
17 *fication procedures (including a requirement that the appli-*
18 *cant have a security plan), and a record of decision on ap-*
19 *plicant eligibility. The procedures shall include the execu-*
20 *tion of a grant agreement between the grant recipient and*
21 *the Secretary and shall be consistent, to the extent prac-*
22 *ticable, with the grant procedures established under section*
23 *70107 of title 46, United States Code.*

1 **SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
2 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
3 **CIDENTS.**

4 (a) *IN GENERAL.*—Chapter 243 of title 49, United
5 States Code, is amended by adding at the end the following:

6 **“§24316. Plans to address needs of families of pas-**
7 **sengers involved in rail passenger acci-**
8 **dents**

9 “(a) *SUBMISSION OF PLAN.*—Not later than 6 months
10 after the date of the enactment of the Rail Security Act of
11 2005, Amtrak shall submit to the Chairman of the National
12 Transportation Safety Board, the Secretary of Transpor-
13 tation, and the Secretary of Homeland Security a plan for
14 addressing the needs of the families of passengers involved
15 in any rail passenger accident involving an Amtrak inter-
16 city train and resulting in a loss of life.

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

20 “(1) A process by which Amtrak will maintain
21 and provide to the National Transportation Safety
22 Board and the Secretary of Transportation, imme-
23 diately upon request, a list (which is based on the best
24 available information at the time of the request) of
25 the names of the passengers aboard the train (whether
26 or not such names have been verified), and will peri-

1 *odically update the list. The plan shall include a pro-*
2 *cedure, with respect to unreserved trains and pas-*
3 *sengers not holding reservations on other trains, for*
4 *Amtrak to use reasonable efforts to ascertain the num-*
5 *ber and names of passengers aboard a train involved*
6 *in an accident.*

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

11 *“(3) A process for notifying the families of the*
12 *passengers, before providing any public notice of the*
13 *names of the passengers, by suitably trained individ-*
14 *uals.*

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

20 *“(5) A process by which the family of each pas-*
21 *senger will be consulted about the disposition of all*
22 *remains and personal effects of the passenger within*
23 *Amtrak’s control; that any possession of the passenger*
24 *within Amtrak’s control will be returned to the family*
25 *unless the possession is needed for the accident inves-*

1 *tigation or any criminal investigation; and that any*
2 *unclaimed possession of a passenger within Amtrak's*
3 *control will be retained by the rail passenger carrier*
4 *for at least 18 months.*

5 *“(6) A process by which the treatment of the*
6 *families of nonrevenue passengers will be the same as*
7 *the treatment of the families of revenue passengers.*

8 *“(7) An assurance that Amtrak will provide ade-*
9 *quate training to its employees and agents to meet the*
10 *needs of survivors and family members following an*
11 *accident.*

12 *“(c) USE OF INFORMATION.—The National Transpor-*
13 *tation Safety Board, the Secretary of Transportation, and*
14 *Amtrak may not release any personal information on a list*
15 *obtained under subsection (b)(1) but may provide informa-*
16 *tion on the list about a passenger to the family of the pas-*
17 *senger to the extent that the Board or Amtrak considers ap-*
18 *propriate.*

19 *“(d) LIMITATION ON LIABILITY.—Amtrak shall not be*
20 *liable for damages in any action brought in a Federal or*
21 *State court arising out of the performance of Amtrak in*
22 *preparing or providing a passenger list, or in providing*
23 *information concerning a train reservation, pursuant to a*
24 *plan submitted by Amtrak under subsection (b), unless such*
25 *liability was caused by Amtrak's conduct.*

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

6 “(f) *FUNDING.*—*Out of funds appropriated pursuant*
7 *to section 102 of the Rail Security Act of 2005, there shall*
8 *be made available to the Secretary of Transportation for*
9 *the use of Amtrak \$500,000 for fiscal year 2007 to carry*
10 *out this section. Amounts made available pursuant to this*
11 *subsection shall remain available until expended.”.*

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

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

15 **SEC. 309. NORTHERN BORDER RAIL PASSENGER REPORT.**

16 *Within 180 days after the date of enactment of this*
17 *Act, the Secretary of Homeland Security, in consultation*
18 *with the Assistant Secretary of Homeland Security (Trans-*
19 *portation Security Administration), the Secretary of*
20 *Transportation, heads of other appropriate Federal depart-*
21 *ments, and agencies and the National Railroad Passenger*
22 *Corporation, shall transmit a report to the Senate Com-*
23 *mittee on Commerce, Science, and Transportation, the*
24 *House of Representatives Committee on Transportation and*

1 *Infrastructure, and the House of Representatives Committee*
2 *on Homeland Security that contains—*

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

6 (2) *an assessment of the current program to pro-*
7 *vide preclearance of airline passengers between the*
8 *United States and Canada as outlined in “The Agree-*
9 *ment on Air Transport Preclearance between the Gov-*
10 *ernment of Canada and the Government of the United*
11 *States of America”, dated January 18, 2001;*

12 (3) *an assessment of the current program to pro-*
13 *vide preclearance of freight railroad traffic between*
14 *the United States and Canada as outlined in the*
15 *“Declaration of Principle for the Improved Security*
16 *of Rail Shipments by Canadian National Railway*
17 *and Canadian Pacific Railway from Canada to the*
18 *United States”, dated April 2, 2003;*

19 (4) *information on progress by the Department*
20 *of Homeland Security and other Federal agencies to-*
21 *wards finalizing a bilateral protocol with Canada*
22 *that would provide for preclearance of passengers on*
23 *trains operating between the United States and Can-*
24 *ada;*

1 (5) a description of legislative, regulatory, budg-
2 etary, or policy barriers within the United States
3 Government to providing pre-screened passenger lists
4 for rail passengers traveling between the United
5 States and Canada to the Department of Homeland
6 Security;

7 (6) a description of the position of the Govern-
8 ment of Canada and relevant Canadian agencies with
9 respect to preclearance of such passengers;

10 (7) a draft of any changes in existing Federal
11 law necessary to provide for pre-screening of such
12 passengers and providing pre-screened passenger lists
13 to the Department of Homeland Security; and

14 (8) an analysis of the feasibility of reinstating
15 in-transit inspections onboard international Amtrak
16 trains.

17 **SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.**

18 (a) *IN GENERAL.*—Not later than 180 days after the
19 date of enactment of this Act, the Secretary of Homeland
20 Security and the Secretary of Transportation, in consulta-
21 tion with appropriate law enforcement, security, and ter-
22 rorism experts, representatives of railroad carriers, and
23 nonprofit employee organizations that represent rail work-
24 ers, shall develop and issue detailed guidance for a rail
25 worker security training program to prepare front-line

1 *workers for potential threat conditions. The guidance shall*
2 *take into consideration any current security training re-*
3 *quirements or best practices.*

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

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

10 (2) *Crew communication and coordination.*

11 (3) *Appropriate responses to defend or protect*
12 *oneself.*

13 (4) *Use of protective devices.*

14 (5) *Evacuation procedures.*

15 (6) *Psychology of terrorists to cope with hijacker*
16 *behavior and passenger responses.*

17 (7) *Situational training exercises regarding var-*
18 *ious threat conditions.*

19 (8) *Any other subject the Secretary considers ap-*
20 *propriate.*

21 (c) *RAILROAD CARRIER PROGRAMS.—Not later than*
22 *90 days after the Secretary of Homeland Security issues*
23 *guidance under subsection (a) in final form, each railroad*
24 *carrier shall develop a rail worker security training pro-*
25 *gram in accordance with that guidance and submit it to*

1 *the Secretary for review. Not later than 30 days after receiv-*
2 *ing a railroad carrier's program under this subsection, the*
3 *Secretary shall review the program and transmit comments*
4 *to the railroad carrier concerning any revisions the Sec-*
5 *retary considers necessary for the program to meet the guid-*
6 *ance requirements. A railroad carrier shall respond to the*
7 *Secretary's comments within 30 days after receiving them.*

8 (d) *TRAINING.*—*Not later than 1 year after the Sec-*
9 *retary reviews the training program developed by a rail-*
10 *road carrier under this section, the railroad carrier shall*
11 *complete the training of all front-line workers in accordance*
12 *with that program. The Secretary shall review implementa-*
13 *tion of the training program of a representative sample of*
14 *railroad carriers and report to the Senate Committee on*
15 *Commerce, Science, and Transportation, the House of Rep-*
16 *resentatives Committee on Transportation and Infrastruc-*
17 *ture, and the House of Representatives Committee on*
18 *Homeland Security on the number of reviews conducted and*
19 *the results. The Secretary may submit the report in both*
20 *classified and redacted formats as necessary.*

21 (e) *UPDATES.*—*The Secretary shall update the train-*
22 *ing guidance issued under subsection (a) as appropriate to*
23 *reflect new or different security threats. Railroad carriers*
24 *shall revise their programs accordingly and provide addi-*

1 tional training to their front-line workers within a reason-
2 able time after the guidance is updated.

3 (f) *FRONT-LINE WORKERS DEFINED.*—In this section,
4 the term “front-line workers” means security personnel, dis-
5 patchers, train operators, other onboard employees, mainte-
6 nance and maintenance support personnel, bridge tenders,
7 as well as other appropriate employees of railroad carriers,
8 as defined by the Secretary.

9 (g) *OTHER EMPLOYEES.*—The Secretary of Homeland
10 Security shall issue guidance and best practices for a rail
11 shipper employee security program containing the elements
12 listed under subsection (b) as appropriate.

13 **SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.**

14 (a) *IN GENERAL.*—Subchapter A of chapter 201 of title
15 49, United States Code, is amended by inserting after sec-
16 tion 20117 the following:

17 **“§20118. Whistleblower protection for rail security**
18 **matters**

19 “(a) *DISCRIMINATION AGAINST EMPLOYEE.*—No rail
20 carrier engaged in interstate or foreign commerce may dis-
21 charge a railroad employee or otherwise discriminate
22 against a railroad employee because the employee (or any
23 person acting pursuant to a request of the employee)—

24 “(1) provided, caused to be provided, or is about
25 to provide or cause to be provided, to the employer or

1 *the Federal Government information relating to a*
2 *reasonably perceived threat, in good faith, to security;*
3 *or*

4 *“(2) provided, caused to be provided, or is about*
5 *to provide or cause to be provided, testimony before*
6 *Congress or at any Federal or State proceeding re-*
7 *garding a reasonably perceived threat, in good faith,*
8 *to security; or*

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

11 *“(b) DISPUTE RESOLUTION.—A dispute, grievance, or*
12 *claim arising under this section is subject to resolution*
13 *under section 3 of the Railway Labor Act (45 U.S.C. 153).*
14 *In a proceeding by the National Railroad Adjustment*
15 *Board, a division or delegate of the Board, or another board*
16 *of adjustment established under section 3 to resolve the dis-*
17 *pute, grievance, or claim the proceeding shall be expedited*
18 *and the dispute, grievance, or claim shall be resolved not*
19 *later than 180 days after it is filed. If the violation is a*
20 *form of discrimination that does not involve discharge, sus-*
21 *pension, or another action affecting pay, and no other rem-*
22 *edy is available under this subsection, the Board, division,*
23 *delegate, or other board of adjustment may award the em-*
24 *ployee reasonable damages, including punitive damages, of*
25 *not more than \$20,000.*

1 “(c) *PROCEDURAL REQUIREMENTS.*—*Except as pro-*
2 *vided in subsection (b), the procedure set forth in section*
3 *42121(b)(2)(B) of this title, including the burdens of proof,*
4 *applies to any complaint brought under this section.*

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

9 “(e) *DISCLOSURE OF IDENTITY.*—

10 “(1) *Except as provided in paragraph (2) of this*
11 *subsection, or with the written consent of the em-*
12 *ployee, the Secretary of Transportation may not dis-*
13 *close the name of an employee of a railroad carrier*
14 *who has provided information about an alleged viola-*
15 *tion of this section.*

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

20 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
21 *for chapter 201 of title 49, United States Code, is amended*
22 *by inserting after the item relating to section 20117 the fol-*
23 *lowing:*

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

1 **SEC. 312. HIGH HAZARD MATERIAL SECURITY THREAT MITI-**
2 **GATION PLANS.**

3 (a) *IN GENERAL.*—The Secretary of Homeland Secu-
4 rity, in consultation with the Assistant Secretary of Home-
5 land Security (Transportation Security Administration)
6 and the Secretary of Transportation, shall require rail car-
7 riers transporting a high hazard material, as defined in
8 section 305(g) of this Act and of a quantity equal or exceed-
9 ing the quantities of such material listed in subpart
10 172.800, title 49, Federal Code of Regulations, to develop
11 a high hazard material security threat mitigation plan con-
12 taining appropriate measures, including alternative rout-
13 ing and temporary shipment suspension options, to address
14 assessed risks to high consequence targets. The plan, and
15 any information submitted to the Secretary under this sec-
16 tion shall be protected as sensitive security information
17 under the regulations prescribed under section 114(s) of title
18 49, United States Code.

19 (b) *IMPLEMENTATION.*—A high hazard material secu-
20 rity threat mitigation plan shall be put into effect by a
21 rail carrier for the shipment of high hazardous materials
22 by rail on the rail carrier's right-of-way when the threat
23 levels of the Homeland Security Advisory System are high
24 or severe and specific intelligence of probable or imminent
25 threat exists towards—

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

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

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

7 (1) *PLANS REQUIRED.—Each rail carrier*
8 *shall—*

9 (A) *submit a list of routes used to transport*
10 *high hazard materials to the Secretary of Home-*
11 *land Security within 60 days after the date of*
12 *enactment of this Act;*

13 (B) *develop and submit a high hazard ma-*
14 *terial security threat mitigation plan to the Sec-*
15 *retary within 180 days after it receives the no-*
16 *tice of high consequence targets on such routes by*
17 *the Secretary; and*

18 (C) *submit any subsequent revisions to the*
19 *plan to the Secretary within 30 days after mak-*
20 *ing the revisions.*

21 (2) *REVIEW AND UPDATES.—The Secretary, with*
22 *assistance of the Secretary of Transportation, shall*
23 *review the plans and transmit comments to the rail-*
24 *road carrier concerning any revisions the Secretary*
25 *considers necessary. A railroad carrier shall respond*

1 *to the Secretary's comments within 30 days after re-*
2 *ceiving them. Each rail carrier shall update and re-*
3 *submit its plan for review not less than every 2 years.*

4 *(d) DEFINITIONS.—In this section:*

5 *(1) The term “high-consequence target” means a*
6 *building, buildings, infrastructure, public space, or*
7 *natural resource designated by the Secretary of*
8 *Homeland Security that is viable terrorist target of*
9 *national significance, the attack of which could result*
10 *in—*

11 *(A) catastrophic loss of life; and*

12 *(B) significantly damaged national security*
13 *and defense capabilities; or*

14 *(C) national economic harm.*

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

21 *(A) loss of life; or*

22 *(B) significant damage to property or*
23 *structures.*

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

4 **SEC. 313. MEMORANDUM OF AGREEMENT.**

5 (a) *MEMORANDUM OF AGREEMENT.—Similar to the*
6 *public transportation security annex between the two de-*
7 *partments signed on September 8, 2005, within 1 year after*
8 *the date of enactment of this Act, the Secretary of Transpor-*
9 *tation and the Secretary of Homeland Security shall exe-*
10 *cute and develop an annex to the memorandum of agree-*
11 *ment between the two departments signed on September 28,*
12 *2004, governing the specific roles, delineations of respon-*
13 *sibilities, resources and commitments of the Department of*
14 *Transportation and the Department of Homeland Security,*
15 *respectively, in addressing railroad transportation security*
16 *matters, including the processes the departments will follow*
17 *to promote communications, efficiency, and nonduplication*
18 *of effort.*

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

23 **SEC. 314. RAIL SECURITY ENHANCEMENTS.**

24 (a) *RAIL POLICE OFFICERS.—Section 28101 of title*
25 *49, United States Code, is amended—*

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

3 (2) by striking “*the rail carrier*” each place it
4 appears and inserting “*any rail carrier*”.

5 (b) *REVIEW OF RAIL REGULATIONS.*—*Within 1 year*
6 *after the date of enactment of this Act, the Secretary of*
7 *Transportation, in consultation with the Secretary of*
8 *Homeland Security and the Assistant Secretary of Home-*
9 *land Security (Transportation Security Administration),*
10 *shall review existing rail regulations of the Department of*
11 *Transportation for the purpose of identifying areas in*
12 *which those regulations need to be revised to improve rail*
13 *security.*

14 **SEC. 315. PUBLIC AWARENESS.**

15 *Not later than 90 days after the date of enactment of*
16 *this Act, the Secretary of Homeland Security, in consulta-*
17 *tion with the Secretary of Transportation, shall develop a*
18 *national plan for public outreach and awareness. Such plan*
19 *shall be designed to increase awareness of measures that the*
20 *general public, railroad passengers, and railroad employees*
21 *can take to increase railroad system security. Such plan*
22 *shall also provide outreach to railroad carriers and their*
23 *employees to improve their awareness of available tech-*
24 *nologies, ongoing research and development efforts, and*
25 *available Federal funding sources to improve railroad secu-*

1 *riety. Not later than 9 months after the date of enactment*
2 *of this Act, the Secretary of Homeland Security shall imple-*
3 *ment the plan developed under this section.*

4 **SEC. 316. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

5 *(a) WIRELESS COMMUNICATIONS.—*

6 *(1) IN GENERAL.—In conjunction with the re-*
7 *search and development program established under*
8 *section 306 and consistent with the results of research*
9 *relating to wireless tracking technologies, the Sec-*
10 *retary of Homeland Security, in consultation with*
11 *the Assistant Secretary of Homeland Security (Trans-*
12 *portation Security Administration), shall develop a*
13 *program that will encourage the equipping of rail*
14 *cars transporting high hazard materials (as defined*
15 *in section 305(g) of this Act) in quantities equal to*
16 *or greater than the quantities specified in subpart*
17 *171.800 of title 49, Code of Federal Regulations, with*
18 *wireless terrestrial or satellite communications tech-*
19 *nology that provides—*

20 *(A) car position location and tracking ca-*
21 *pabilities;*

22 *(B) notification of rail car depressurization,*
23 *breach, or unsafe temperature; and*

24 *(C) notification of hazardous material re-*
25 *lease.*

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

3 (A) *consult with the Secretary of Transpor-*
 4 *tation to coordinate the program with any ongo-*
 5 *ing or planned efforts for rail car tracking at the*
 6 *Department of Transportation; and*

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

11 (b) *FUNDING.*—*Out of funds appropriated pursuant to*
 12 *section 114(u)(2) of title 49, United States Code, there shall*
 13 *be made available to the Secretary of Homeland Security*
 14 *to carry out this section \$3,000,000 for each of fiscal years*
 15 *2007, 2008, and 2009.*

16 ***TITLE IV—IMPROVED MOTOR***
 17 ***CARRIER, BUS, AND HAZ-***
 18 ***ARDOUS MATERIAL SECURITY***

19 ***SEC. 401. WRITTEN PLANS FOR HAZARDOUS MATERIALS***
 20 ***HIGHWAY ROUTING.***

21 *Within 180 days after the date of enactment of this*
 22 *Act, the Secretary of Transportation shall require each*
 23 *motor carrier that is required to have a hazardous material*
 24 *safety permit under part 385 of title 49, Code of Federal*
 25 *Regulations, to maintain a written route plan that meets*

1 *the requirements of section 397.101 of that title when trans-*
2 *porting the type and quantity of hazardous materials de-*
3 *scribed in section 385.403 of that title.*

4 **SEC. 402. MOTOR CARRIER HIGH HAZARD MATERIAL**
5 **TRACKING.**

6 (a) *WIRELESS COMMUNICATIONS—*

7 (1) *IN GENERAL.—Consistent with the findings*
8 *of the Transportation Security Administration’s*
9 *Hazmat Truck Security Pilot Program and within 6*
10 *months after the date of enactment of this Act, the*
11 *Secretary of Homeland Security, through the Trans-*
12 *portation Security Administration and in consulta-*
13 *tion with the Secretary of Transportation, shall de-*
14 *velop a program to encourage the equipping of motor*
15 *carriers transporting high hazard materials (as de-*
16 *defined in section 305(g) of this Act) in quantities equal*
17 *to or greater than the quantities specified in subpart*
18 *171.800 of title 49, Code of Federal Regulations, with*
19 *wireless communications technology that provides—*

20 (A) *continuous communications;*

21 (B) *vehicle position location and tracking*
22 *capabilities; and*

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

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

3 (A) *consult with the Secretary of Transpor-*
4 *tation to coordinate the program with any ongo-*
5 *ing or planned efforts for motor carrier tracking*
6 *at the Department of Transportation; and*

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

13 (b) *FUNDING.*—*Out of funds appropriated pursuant to*
14 *section 114(u)(2) of title 49, United States Code, there shall*
15 *be made available to the Secretary of Homeland Security*
16 *to carry out this section \$3,000,000 for each of fiscal years*
17 *2007, 2008, and 2009.*

18 **SEC. 403. TRUCK LEASING SECURITY TRAINING GUIDE-**
19 **LINES.**

20 (a) *IN GENERAL.*—*Within 180 days after the date of*
21 *enactment of this Act the Secretary of Homeland Security,*
22 *through the Transportation Security Administration and*
23 *in consultation with the Federal Motor Carrier Safety Ad-*
24 *ministration, shall develop and make available in written*
25 *or electronic form security training guidelines for short-*

1 *term truck leasing operations consistent with existing best*
2 *practices as determined by the Secretary.*

3 (b) *CONTENTS.*—*The truck leasing security training*
4 *guidelines shall—*

5 (1) *include information for short-term truck leas-*
6 *ing companies on the appropriate contents of em-*
7 *ployee security training efforts designed to enable em-*
8 *ployees to recognize terrorist threats and criminal ac-*
9 *tivity; and*

10 (2) *contain a list of best practices developed by*
11 *the Assistant Secretary.*

12 (c) *OUTREACH.*—*The Secretary may hold public infor-*
13 *mation and outreach sessions to present the truck leasing*
14 *security training guidelines to short-term truck leasing*
15 *companies.*

16 (d) *FUNDING.*—*Out of funds appropriated pursuant to*
17 *section 114(u)(2) of title 49, United States Code, there shall*
18 *be made available to the Assistant Secretary of Homeland*
19 *Security (Transportation Security Administration), to*
20 *carry out this section \$1,000,000 for fiscal year 2007.*

21 **SEC. 404. HAZARDOUS MATERIALS SECURITY INSPECTIONS**

22 **AND ENFORCEMENT.**

23 (a) *IN GENERAL.*—*The Secretary of Homeland Secu-*
24 *rity shall establish a program within the Transportation*
25 *Security Administration, in consultation with the Sec-*

1 *retary of Transportation, for reviewing hazardous mate-*
2 *rials security plans required under part 172, title 49, Code*
3 *of Federal Regulations, within 180 days after the date of*
4 *enactment of this Act.*

5 **(b) CIVIL PENALTY.**—*The failure, by a shipper, car-*
6 *rier, or other person subject to part 172 of title 49, Code*
7 *of Federal Regulations, to comply with any applicable sec-*
8 *tion of that part within 180 days after being notified by*
9 *the Secretary of such failure to comply, is punishable by*
10 *a civil penalty imposed by the Secretary under title 49,*
11 *United States Code. For purposes of this subsection, each*
12 *day of noncompliance after the 181st day following the date*
13 *on which the shipper, carrier, or other person received no-*
14 *tice of the failure shall constitute a separate failure.*

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

22 **(d) TRANSPORTATION COSTS STUDY.**—*Within 1 year*
23 *after the date of enactment of this Act, the Secretary of*
24 *Transportation, in conjunction with the Secretary of Home-*
25 *land Security, shall study to what extent the insurance, se-*

1 *curity, and safety costs borne by railroad carriers, motor*
2 *carriers, pipeline carriers, air carriers, and maritime car-*
3 *riers associated with the transportation of hazardous mate-*
4 *rials are reflected in the rates paid by shippers of such com-*
5 *modities as compared to the costs and rates respectively for*
6 *the transportation of non-hazardous materials.*

7 *(e) FUNDING.—Out of funds appropriated pursuant to*
8 *section 114(u)(2) of title 49, United States Code, there shall*
9 *be made available to the Assistant Secretary of Homeland*
10 *Security (Transportation Security Administration), to*
11 *carry out this section—*

12 *(1) \$2,000,000 for fiscal year 2007;*

13 *(2) \$2,000,000 for fiscal year 2008; and*

14 *(3) \$2,000,000 for fiscal year 2009.*

15 **SEC. 405. TRUCK SECURITY ASSESSMENT.**

16 *Not later than 1 year after the date of enactment of*
17 *this Act, the Secretary of Transportation shall transmit to*
18 *the Senate Committee on Commerce, Science, and Trans-*
19 *portation, the House of Representatives Committee on*
20 *Transportation and Infrastructure, and the House of Rep-*
21 *resentatives Committee on Homeland Security a report on*
22 *security issues related to the trucking industry that in-*
23 *cludes—*

1 (1) *an assessment of actions already taken to ad-*
2 *dress identified security issues by both public and*
3 *private entities;*

4 (2) *an assessment of the economic impact that*
5 *security upgrades of trucks, truck equipment, or truck*
6 *facilities may have on the trucking industry and its*
7 *employees, including independent owner-operators;*

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

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

12 **SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY**

13 **PLAN.**

14 (a) *IN GENERAL.*—*The Secretary of Homeland Secu-*
15 *rity, in consultation with the Secretary of Transportation*
16 *and the Pipeline and Hazardous Materials Safety Adminis-*
17 *tration, and in accordance with the Memorandum of Un-*
18 *derstanding Annex executed under section 407, shall develop*
19 *a Pipeline Security and Incident Recovery Protocols Plan.*
20 *The plan shall include—*

21 (1) *a plan for the Federal Government to provide*
22 *increased security support to the most critical inter-*
23 *state and intrastate natural gas and hazardous liquid*
24 *transmission pipeline infrastructure and operations*
25 *as determined under section 406—*

1 (A) at high or severe security threat levels
2 of alert; and

3 (B) when specific security threat informa-
4 tion relating to such pipeline infrastructure or
5 operations exists; and

6 (2) an incident recovery protocol plan, developed
7 in conjunction with interstate and intrastate trans-
8 mission and distribution pipeline operators and ter-
9 minals and facilities operators connected to pipelines,
10 to develop protocols to ensure the continued transpor-
11 tation of natural gas and hazardous liquids to essen-
12 tial markets and for essential public health or na-
13 tional defense uses in the event of an incident affect-
14 ing the interstate and intrastate natural gas and haz-
15 ardous liquid transmission and distribution pipeline
16 system, which shall include protocols for granting ac-
17 cess to pipeline operators for pipeline infrastructure
18 repair, replacement or bypass following an incident.

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

24 (c) *CONSULTATION.*—In developing the plan under
25 subsection (a), the Secretary of Homeland Security shall

1 *consult with the Secretary of Transportation, interstate and*
2 *intrastate transmission and distribution pipeline operators,*
3 *pipeline labor, first responders, shippers of hazardous mate-*
4 *rials, State Departments of Transportation, public safety*
5 *officials, and other relevant parties.*

6 (d) *REPORT.—*

7 (1) *CONTENTS.—Not later than 1 year after the*
8 *date of enactment of this Act, the Secretary of Home-*
9 *land Security shall transmit to the Committee on*
10 *Commerce, Science, and Transportation of the Senate,*
11 *the Committee on Homeland Security of the House of*
12 *Representatives, and the Committee on Transpor-*
13 *tation and Infrastructure of the House of Representa-*
14 *tives a report containing the plan required by sub-*
15 *section (a), along with an estimate of the private and*
16 *public sector costs to implement any recommenda-*
17 *tions.*

18 (2) *FORMAT.—The Secretary may submit the re-*
19 *port in both classified and redacted formats if the*
20 *Secretary determines that such action is appropriate*
21 *or necessary.*

22 (e) *FUNDING.—Out of funds appropriated pursuant to*
23 *section 114(u)(2) of title 49, United States Code, there shall*
24 *be made available to the Secretary of Homeland Security*
25 *to carry out this section \$1,000,000 for fiscal year 2007.*

1 **SEC. 407. PIPELINE SECURITY INSPECTIONS AND ENFORCE-**
2 **MENT.**

3 (a) *IN GENERAL.*—Within 1 year after the date of en-
4 actment of this Act the Secretary of Homeland Security,
5 in consultation with the Secretary of Transportation, shall
6 establish a program for reviewing pipeline operator adop-
7 tion of recommendations in the September, 5, 2002, Depart-
8 ment of Transportation Research and Special Programs
9 Administration Pipeline Security Information Circular,
10 including the review of pipeline security plans and critical
11 facility inspections.

12 (b) *REVIEW AND INSPECTION.*—Within 9 months after
13 the date of enactment of this Act the Secretary shall com-
14 plete a review of the pipeline security plan and an inspec-
15 tion of the critical facilities of the 100 most critical pipeline
16 operators covered by the September, 5, 2002, circular, where
17 such facilities have not been inspected for security purposes
18 since September 5, 2002, by either the Department of Home-
19 land Security or the Department of Transportation, as de-
20 termined by the Secretary in consultation with the Sec-
21 retary of Transportation.

22 (c) *COMPLIANCE REVIEW METHODOLOGY.*—In review-
23 ing pipeline operator compliance under subsections (a) and
24 (b), the Secretary shall utilize risk assessment methodologies
25 to prioritize vulnerabilities and to target inspection and en-

1 *forcement actions to the most vulnerable and critical pipe-*
2 *line assets.*

3 (d) *REGULATIONS.*—*Within 1 year after the date of*
4 *enactment of this Act, the Secretary shall transmit to pipe-*
5 *line operators and the Secretary of Transportation security*
6 *recommendations for natural gas and hazardous liquid*
7 *pipelines and pipeline facilities. If the Secretary of Home-*
8 *land Security determines that regulations are appropriate,*
9 *the Secretary shall promulgate such regulations and carry*
10 *out necessary inspection and enforcement actions. Any reg-*
11 *ulations should incorporate the guidance provided to pipe-*
12 *line operators by the September 5, 2002, Department of*
13 *Transportation Research and Special Programs Adminis-*
14 *tration’s Pipeline Security Information Circular and con-*
15 *tain additional requirements as necessary based upon the*
16 *results of the inspections performed under subsection (b).*
17 *The regulations shall include the imposition of civil pen-*
18 *alties for non-compliance.*

19 (e) *FUNDING.*—*Out of funds appropriated pursuant to*
20 *section 114(u)(2) of title 49, United States Code, there shall*
21 *be made available to the Secretary of Homeland Security*
22 *to carry out this section—*

23 (1) *\$2,000,000 for fiscal year 2007; and*

24 (2) *\$2,000,000 for fiscal year 2008.*

1 **SEC. 408. MEMORANDUM OF AGREEMENT.**

2 *Within 6 months after the date of enactment of this*
3 *Act, the Secretary of Transportation and the Secretary of*
4 *Homeland Security shall execute and develop an annex to*
5 *the memorandum of agreement between the 2 departments*
6 *signed on September 28, 2004, governing the specific roles,*
7 *delineations of responsibilities, resources and commitments*
8 *of the Department of Transportation and the Department*
9 *of Homeland Security, respectively, in addressing pipeline*
10 *security and hazardous materials transportation security*
11 *matters, including the processes the Departments will follow*
12 *to promote communications, efficiency, and nonduplication*
13 *of effort.*

14 **SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

15 *(a) DEVELOPMENT.—The Secretary of Homeland Se-*
16 *curity, in conjunction with the Secretary of Transportation,*
17 *shall develop a national public sector response system to*
18 *receive security alerts, emergency messages, and other infor-*
19 *mation used to track the transportation of high hazard ma-*
20 *terials which can provide accurate, timely, and actionable*
21 *information to appropriate first responder, law enforcement*
22 *and public safety, and homeland security officials, as ap-*
23 *propriate, regarding accidents, threats, thefts, or other safe-*
24 *ty and security risks or incidents. In developing this sys-*
25 *tem, they shall consult with law enforcement and public*
26 *safety officials, hazardous material shippers, motor car-*

1 riers, railroads, organizations representing hazardous ma-
2 terial employees, State transportation and hazardous mate-
3 rials officials, Operation Respond, private for-profit emer-
4 gency response organizations, and commercial motor vehicle
5 and hazardous material safety groups. The development of
6 the national public sector response system shall be based
7 upon the public sector response center developed for the
8 Transportation Security Administration hazardous mate-
9 rial truck security pilot program and hazardous material
10 safety and security operational field test undertaken by the
11 Federal Motor Carrier Safety Administration.

12 (b) *CAPABILITY*.—The national public sector response
13 system shall be able to receive, as appropriate—

- 14 (1) negative driver verification alerts;
15 (2) out-of-route alerts;
16 (3) driver panic or emergency alerts; and
17 (4) tampering or release alerts.

18 (c) *CHARACTERISTICS*.—The national public sector re-
19 sponse system shall—

- 20 (1) be an exception-based system;
21 (2) be integrated with other private and public
22 sector operation reporting and response systems and
23 all Federal homeland security threat analysis systems
24 or centers (including the National Response Center);
25 and

1 (3) provide users the ability to create rules for
2 alert notification messages.

3 (d) *CARRIER PARTICIPATION.*—The Secretary of
4 *Homeland Security shall coordinate with motor carriers*
5 *and railroads transporting high hazard materials, entities*
6 *acting on their behalf who receive communication alerts*
7 *from motor carriers or railroads, or other Federal agencies*
8 *that receive security and emergency related notification re-*
9 *garding high hazard materials in transit to facilitate the*
10 *provisions of the information listed in subsection (b) to the*
11 *national public sector response system to the extent possible.*

12 (e) *DATA PRIVACY.*—The national public sector re-
13 *sponse system shall be designed to ensure appropriate pro-*
14 *tection of data and information relating to motor carriers,*
15 *railroads, and employees.*

16 (f) *REPORT.*—Not later than 180 days after the date
17 *of enactment of this Act, the Secretary shall transmit to*
18 *the Senate Committee on Commerce, Science, and Trans-*
19 *portation, the House of Representatives Committee on*
20 *Transportation and Infrastructure, and the House of Rep-*
21 *resentatives Committee on Homeland Security a report on*
22 *the estimated total public and private sector costs to estab-*
23 *lish and annually operate the national public sector re-*
24 *sponse system under subsection (a), together with any rec-*
25 *ommendations for generating private sector participation*

1 *and investment in the development and operation of the na-*
2 *tional public sector response system.*

3 (g) *FUNDING.*—*Out of funds appropriated pursuant to*
4 *section 114(u)(2) of title 49, United States Code, there shall*
5 *be made available to the Secretary of Homeland Security*
6 *to carry out this section—*

7 (1) *\$1,000,000 for fiscal year 2007;*

8 (2) *\$1,000,000 for fiscal year 2008; and*

9 (3) *\$1,000,000 for fiscal year 2009.*

10 **SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

11 (a) *IN GENERAL.*—*The Secretary of Homeland Secu-*
12 *rity shall establish a program within the Transportation*
13 *Security Administration for making grants to private oper-*
14 *ators of over-the-road buses or over-the-road-bus terminal*
15 *operators for system-wide security improvements to their*
16 *operations, including—*

17 (1) *constructing and modifying terminals, ga-*
18 *rages, facilities, or over-the-road buses to assure their*
19 *security;*

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

21 (3) *acquiring, upgrading, installing, or oper-*
22 *ating equipment, software, or accessorial services for*
23 *collection, storage, or exchange of passenger and driv-*
24 *er information through ticketing systems or otherwise,*
25 *and information links with government agencies;*

1 (4) *training employees in recognizing and re-*
2 *spending to security threats, evacuation procedures,*
3 *passenger screening procedures, and baggage inspec-*
4 *tion;*

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

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

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

11 (8) *establishing and upgrading an emergency*
12 *communications system linking operational head-*
13 *quarters, over-the-road buses, law enforcement, and*
14 *emergency personnel; and*

15 (9) *implementing and operating passenger*
16 *screening programs at terminals and on over-the-road*
17 *buses.*

18 (b) *FEDERAL SHARE.*—*The Federal share of the cost*
19 *for which any grant is made under this section shall be*
20 *80 percent.*

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

1 *grant funding based on the magnitude and severity of the*
2 *security threat to bus passengers and the ability of the fund-*
3 *ed project to reduce, or respond to, that threat.*

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

9 (e) *PLAN REQUIREMENT.*—

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

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

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

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

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

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

8 *(g) BUS SECURITY ASSESSMENT.—*

9 *(1) IN GENERAL.—Not later than 180 days after*
10 *the date of enactment of this Act, the Secretary shall*
11 *transmit to the Senate Committee on Commerce,*
12 *Science, and Transportation, the House of Represent-*
13 *atives Committee on Transportation and Infrastruc-*
14 *ture, and the House of Representatives Committee on*
15 *Homeland Security a preliminary report in accord-*
16 *ance with the requirements of this section.*

17 *(2) CONTENTS OF PRELIMINARY REPORT.—The*
18 *preliminary report shall include—*

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

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

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

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

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

14 (F) *an assessment of industry best practices*
15 *to enhance security.*

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

22 (h) *FUNDING.—Out of funds appropriated pursuant to*
23 *section 114(u)(2) of title 49, United States Code, there shall*
24 *be made available to the Assistant Secretary of Homeland*

1 *Security (Transportation Security Administration), to*
 2 *carry out this section—*

3 *(1) \$50,000,000 for fiscal year 2007;*

4 *(2) \$50,000,000 for fiscal year 2008; and*

5 *(3) \$50,000,000 for fiscal year 2009.*

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

8 ***TITLE V—IMPROVED MARITIME***
 9 ***SECURITY***

10 ***SEC. 501. ESTABLISHMENT OF ADDITIONAL INTERAGENCY***

11 ***OPERATIONAL CENTERS FOR PORT SECU-***
 12 ***RITY.***

13 *(a) IN GENERAL.—In order to improve interagency co-*
 14 *operation, unity of command, and the sharing of intel-*
 15 *ligence information in a common mission to provide greater*
 16 *protection for port and intermodal transportation systems*
 17 *against acts of terrorism, the Secretary of Homeland Secu-*
 18 *rity, acting through the Commandant of the Coast Guard,*
 19 *shall establish interagency operational centers for port secu-*
 20 *rity at all high priority ports.*

21 *(b) CHARACTERISTICS.—The interagency operational*
 22 *centers shall—*

23 *(1) be based on the most appropriate*
 24 *compositional and operational characteristics of the*
 25 *pilot project interagency operational centers for port*

1 *security in Miami, Florida, Norfolk/Hampton Roads,*
2 *Virginia, Charleston, South Carolina, and San Diego,*
3 *California;*

4 *(2) be adapted to meet the security needs, re-*
5 *quirements, and resources of the individual port area*
6 *at which each is operating;*

7 *(3) provide for participation by representatives*
8 *of the United States Customs and Border Protection,*
9 *the Transportation Security Administration, the De-*
10 *partment of Defense, and other Federal agencies, as*
11 *determined to be appropriate by the Secretary of*
12 *Homeland Security, and State and local law enforce-*
13 *ment or port security agencies and personnel; and*

14 *(4) be incorporated in the implementation of—*

15 *(A) maritime transportation security plans*
16 *developed under section 70103 of title 46, United*
17 *States Code;*

18 *(B) maritime intelligence activities under*
19 *section 70113 of that title;*

20 *(C) short and long range vessel tracking*
21 *under sections 70114 and 70115 of that title;*

22 *(D) secure transportation systems under*
23 *section 70116 of that title;*

1 (E) the United States Customs and Border
2 Protection's screening and high-risk cargo in-
3 spection programs; and

4 (F) the transportation security incident re-
5 sponse plans required by section 70104 of that
6 title.

7 (c) 2005 ACT REPORT REQUIREMENT.—Nothing in
8 this section relieves the Commandant of the Coast Guard
9 from compliance with the requirements of section 807 of the
10 Coast Guard and Maritime Transportation Act of 2004.
11 The Commandant shall utilize the information developed
12 in making the report required by that section in carrying
13 out the requirements of this section.

14 (d) BUDGET AND COST-SHARING ANALYSIS.—Within
15 180 days after the date of enactment of this Act, the Sec-
16 retary shall transmit to the Senate Committee on Com-
17 merce, Science, and Transportation, the House of Rep-
18 resentatives Committee on Transportation and Infrastruc-
19 ture, and the House of Representatives Committee on
20 Homeland Security a proposed budget analysis for imple-
21 menting subsection (a), including cost-sharing arrange-
22 ments with other Federal departments and agencies in-
23 volved in the interagency operation of the centers.

1 **SEC. 502. AREA MARITIME TRANSPORTATION SECURITY**

2 **PLAN TO INCLUDE SALVAGE RESPONSE PLAN.**

3 *Section 70103(b)(2) of title 46, United States Code, is*
4 *amended—*

5 *(1) by striking “and” after the semicolon in sub-*
6 *paragraph (E);*

7 *(2) by redesignating subparagraph (F) as sub-*
8 *paragraph (G); and*

9 *(3) by inserting after subparagraph (E) the fol-*
10 *lowing:*

11 *“(F) include a salvage response plan—*

12 *“(i) to identify salvage equipment ca-*
13 *pable of restoring operational trade capac-*
14 *ity; and*

15 *“(ii) to ensure that the flow of cargo*
16 *through United States ports is re-established*
17 *as efficiently and quickly as possible after a*
18 *transportation security incident.”.*

19 **SEC. 503. POST-INCIDENT RESUMPTION OF TRADE.**

20 *Section 70103(a)(2)(J) of title 46, United States Code,*
21 *is amended by inserting after “incident.” the following:*

22 *“The plan shall provide, to the extent practicable, preference*
23 *in the reestablishment of the flow of cargo through United*
24 *States ports after a transportation security incident to—*

25 *“(i) vessels that have a vessel security plan*
26 *approved under subsection (c);*

1 “(ii) vessels manned by individuals who are
2 described in section 70105(b)(2)(B) and who
3 have undergone a background records check
4 under section 70105(d) or who hold transpor-
5 tation security cards issued under section 70105;
6 and

7 “(iii) vessels on which all the cargo has un-
8 dergone screening and inspection under stand-
9 ards and procedures established under section
10 70116(b)(2) of this title.”.

11 **SEC. 504. ASSISTANCE FOR FOREIGN PORTS.**

12 (a) *IN GENERAL.*—Section 70109 of title 46, United
13 States Code, is amended—

14 (1) by striking the section heading and inserting
15 the following:

16 **“§ 70109. International cooperation and coordination”**

17 ; and

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

19 “(c) *FOREIGN ASSISTANCE PROGRAMS.*—

20 “(1) *IN GENERAL.*—The Secretary, in consulta-
21 tion with the Secretary of Transportation, the Sec-
22 retary of State, the Secretary of Energy, and the
23 Commandant of the United States Coast Guard, shall
24 identify foreign assistance programs that could facili-
25 tate implementation of port security antiterrorism

1 *measures in foreign countries. The Secretary shall es-*
2 *tablish a program to utilize those programs that are*
3 *capable of implementing port security antiterrorism*
4 *measures at ports in foreign countries that the Sec-*
5 *retary finds, under section 70108, to lack effective*
6 *antiterrorism measures.*

7 “(2) *CARIBBEAN BASIN.*—*The Secretary, in co-*
8 *ordination with the Secretary of State and in con-*
9 *sultation with the Organization of American States*
10 *and the Commandant of the United States Coast*
11 *Guard, shall place particular emphasis on utilizing*
12 *programs to facilitate the implementation of port se-*
13 *curity antiterrorism measures at the ports located in*
14 *the Caribbean Basin, as such ports pose unique secu-*
15 *rity and safety threats to the United States due to—*

16 “(A) *the strategic location of such ports be-*
17 *tween South America and United States;*

18 “(B) *the relative openness of such ports; and*

19 “(C) *the significant number of shipments of*
20 *narcotics to the United States that are moved*
21 *through such ports.*

22 “(d) *INTERNATIONAL CARGO SECURITY STANDARDS.*—
23 *The Secretary of State, in consultation with the Secretary*
24 *acting through the Commissioner of Customs and Border*
25 *Protection, shall enter into negotiations with foreign gov-*

1 *ernments and international organizations, including the*
2 *International Maritime Organization, the World Customs*
3 *Organization, the International Labor Organization, and*
4 *the International Standards Organization, as appro-*
5 *priate—*

6 “(1) *to promote standards for the security of con-*
7 *tainers and other cargo moving within the inter-*
8 *national supply chain;*

9 “(2) *to encourage compliance with minimum*
10 *technical requirements for the capabilities of non-*
11 *intrusive inspection equipment, including imaging*
12 *and radiation detection devices, established under sec-*
13 *tion 506 of the Transportation Security Improvement*
14 *Act of 2005;*

15 “(3) *to implement the requirements of the con-*
16 *tainer security initiative under section 70121; and*

17 “(4) *to implement standards and procedures es-*
18 *tablished under section 70116.”*

19 **(b) REPORT ON SECURITY AT PORTS IN THE CARIB-**
20 *BEAN BASIN.—Not later than 180 days after the date of*
21 *enactment of this Act, the Comptroller General shall submit*
22 *to the Senate Committee on Commerce, Science, and Trans-*
23 *portation, the House of Representatives Committee on*
24 *Transportation and Infrastructure, and the House of Rep-*

1 *representatives Committee on Homeland Security a report on*
2 *the security of ports in the Caribbean Basin. The report—*

3 *(1) shall include—*

4 *(A) an assessment of the effectiveness of the*
5 *measures employed to improve security at ports*
6 *in the Caribbean Basin and recommendations*
7 *for any additional measures to improve such se-*
8 *curity;*

9 *(B) an estimate of the number of ports in*
10 *the Caribbean Basin that will not be secured by*
11 *January 1, 2007, and an estimate of the finan-*
12 *cial impact in the United States of any action*
13 *taken pursuant to section 70110 of title 46,*
14 *United States Code, that affects trade between*
15 *such ports and the United States; and*

16 *(C) an assessment of the additional re-*
17 *sources and program changes that are necessary*
18 *to maximize security at ports in the Caribbean*
19 *Basin; and*

20 *(2) may be submitted in both classified and re-*
21 *dacted formats.*

22 *(c) CONFORMING AMENDMENT.—The chapter analysis*
23 *for chapter 701 of title 46, United States Code, is amended*
24 *by striking the item relating to section 70901 and inserting*
25 *the following:*

“70901. International cooperation and coordination.”.

1 **SEC. 505. IMPROVED DATA FOR TARGETED CARGO**
2 **SEARCHES.**

3 (a) *IN GENERAL.*—*In order to provide the best possible*
4 *data for the automated targeting system developed and op-*
5 *erated by United States Customs and Border Protection*
6 *under section 70116(b)(1) of title 46, United States Code,*
7 *that identifies high-risk cargo for inspection before it is*
8 *loaded in a foreign port for shipment to the United States,*
9 *the Secretary of Homeland Security, acting through the*
10 *Commissioner of Customs and Border Protection, shall re-*
11 *quire importers shipping goods to the United States via*
12 *cargo container to supply entry data not later than 24*
13 *hours before loading a container under the advance notifica-*
14 *tion requirements under section 484(a)(2) of the Tariff Act*
15 *of 1930 (19 U.S.C. 1484(a)(2)).*

16 (b) *DEADLINE.*—*The requirement imposed under sub-*
17 *section (a) shall apply to goods entered after July 1, 2006.*

18 (c) *AUTHORIZATION OF APPROPRIATIONS.*—

19 (1) *There are authorized to be appropriated to*
20 *the Secretary of Homeland Security to carry out the*
21 *automated targeting system program to identify high-*
22 *risk oceanborne container cargo for inspection—*

23 (A) *\$30,700,000 for fiscal year 2007;*

24 (B) *\$33,200,000 for fiscal year 2008; and*

25 (C) *\$35,700,000 for fiscal year 2009.*

1 (2) *The amounts authorized by this subsection*
2 *shall be in addition to any other amounts authorized*
3 *to be appropriated to carry out that program.*

4 **SEC. 506. TECHNICAL REQUIREMENTS FOR NON-INTRUSIVE**
5 **INSPECTION EQUIPMENT.**

6 *Within 2 years after the date of enactment of this Act,*
7 *the Commissioner of Customs and Border Protection, in*
8 *consultation with the National Institute of Science and*
9 *Technology, shall initiate a rulemaking to establish min-*
10 *imum technical requirements for the capabilities of non-*
11 *intrusive inspection equipment, including imaging and ra-*
12 *diation detection devices, that help ensure that all equip-*
13 *ment used can detect risks and threats as determined appro-*
14 *priate by the Secretary, while considering the need not to*
15 *endorse specific companies or to create sovereignty conflicts*
16 *with participating countries.*

17 **SEC. 507. RANDOM INSPECTION OF CONTAINERS.**

18 *Within 1 year after the date of enactment of this Act,*
19 *the Commissioner of Customs and Border Protection shall*
20 *develop and implement a plan, utilizing best practices for*
21 *empirical scientific research design and random sampling*
22 *standards for random physical inspection of shipping con-*
23 *tainers in addition to any targeted or pre-shipment inspec-*
24 *tion of such containers required by law or regulation or*
25 *conducted under any other program conducted by the Com-*

1 *missioner. Nothing in this section shall be construed to*
 2 *mean that implementation of the random sampling plan*
 3 *would preclude the additional physical inspection of ship-*
 4 *ping containers not inspected pursuant to the plan.*

5 **SEC. 508. CARGO SECURITY.**

6 (a) *IN GENERAL.*—Chapter 701 of title 46, United
 7 States Code, is amended—

8 (1) *by redesignating the second section 70118*
 9 *(relating to withholding of clearance), as added by*
 10 *section 802(a)(2) of the Coast Guard and Maritime*
 11 *Transportation Act of 2004, as section 70119;*

12 (2) *by redesignating the first section 70119 (re-*
 13 *lating to enforcement by State and local officers), as*
 14 *added by section 801(a) of the Coast Guard and Mar-*
 15 *itime Transportation Act of 2004, as section 70120;*

16 (3) *by redesignating the second section 70119*
 17 *(relating to civil penalty), as redesignated by section*
 18 *802(a)(1) of the Coast Guard and Maritime Trans-*
 19 *portation Act of 2004, as section 70122; and*

20 (4) *by inserting after section 70120, as redesi-*
 21 *gnated by paragraph (2), the following:*

22 **“§ 70121. Container security initiative**

23 “(a) *IN GENERAL.*—Pursuant to the standards estab-
 24 *lished under subsection (b)(1) of section 70116—*

1 “(1) *the Secretary, through the Commissioner of*
2 *Customs and Border Protection, shall issue regula-*
3 *tions to—*

4 “(A) *evaluate and screen cargo documents*
5 *prior to loading in a foreign port for shipment*
6 *to the United States, either directly or via a for-*
7 *ign port; and*

8 “(B) *inspect high-risk cargo in a foreign*
9 *port intended for shipment to the United States*
10 *by physical examination or nonintrusive exam-*
11 *ination by technological means; and*

12 “(2) *the Commissioner of Customs and Border*
13 *Protection shall execute inspection and screening pro-*
14 *ocols with authorities in foreign ports to ensure that*
15 *the standards and procedures promulgated under*
16 *paragraph (1) are implemented in an effective man-*
17 *ner.*

18 “(b) *EXTENSION OF CONTAINER SECURITY INITIATIVE*
19 *TO OTHER PORTS.—The Secretary, through the Commis-*
20 *sioner of Customs and Border Protection, may designate*
21 *foreign seaports under this section if, with respect to any*
22 *such seaport, the Secretary determines that—*

23 “(1) *the seaport—*

24 “(A) *presents a significant level of risk;*

1 “(B) is a significant port or origin or
2 transshipment, in terms of volume or value, for
3 cargo being imported to the United States; and

4 “(C) is potentially capable of validating a
5 secure system of transportation pursuant to sec-
6 tion 70116; and

7 “(2) the Department of State and representatives
8 of the country with jurisdiction over the port have
9 completed negotiations to ensure compliance with the
10 requirements of the container security initiative.

11 “(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
12 authorized to be appropriated to the Secretary to carry out
13 this section—

14 “(1) \$142,000,000 for fiscal year 2007;

15 “(2) \$144,000,000 for fiscal year 2008; and

16 “(3) \$146,000,000 for fiscal year 2009.”.

17 (b) *CONFORMING AMENDMENTS.*—

18 (1) The chapter analysis for chapter 701 of title
19 46, United States Code, is amended by striking the
20 items following the item relating to section 70116 and
21 inserting the following:

“70117. *In rem liability for civil penalties and certain costs.*

“70118. *Firearms, arrests, and seizure of property.*

“70119. *Withholding of clearance.*

“70120. *Enforcement by State and local officers.*

“70121. *Container security initiative.*

“70122. *Civil penalty.*”.

1 (2) *Section 70117(a) of title 46, United States*
2 *Code, is amended by striking “section 70120” and in-*
3 *serting “section 70122”.*

4 (3) *Section 70119(a) of such title, as redesign-*
5 *ated by subsection (a)(1) of this section, is amend-*
6 *ed—*

7 (A) *by striking “under section 70119,” and*
8 *inserting “under section 70122,”; and*

9 (B) *by striking “under section 70120,” and*
10 *inserting “under that section,”.*

11 (4) *Section 111 of the Maritime Transportation*
12 *Security Act of 2002 is repealed.*

13 **SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTER-**
14 **MODAL TRANSPORTATION.**

15 *Section 70116 of title 46, United States Code, is*
16 *amended—*

17 (1) *by striking “transportation.” in subsection*
18 *(a) and inserting “transportation—*

19 *“(1) to ensure the security and integrity of ship-*
20 *ments of goods to the United States from the point at*
21 *which such goods are initially packed or loaded into*
22 *a cargo container for international shipment until*
23 *they reach their ultimate destination; and*

1 “(2) to facilitate the movement of such goods
2 through the entire supply chain through an expedited
3 security and clearance program.”; and

4 (2) by striking subsection (b) and inserting the
5 following:

6 “(b) *PROGRAM ELEMENTS.*—In establishing and con-
7 ducting the program under subsection (a) the Secretary,
8 acting through the Commissioner of Customs and Border
9 Protection, shall—

10 “(1) establish standards and procedures for
11 verifying, at the point at which goods are placed in
12 a cargo container for shipping, that the container is
13 free of unauthorized hazardous chemical, biological, or
14 nuclear material and for securely sealing such con-
15 tainers after the contents are so verified;

16 “(2) establish standards and procedures for
17 screening and evaluating cargo prior to loading in a
18 foreign port for shipment to the United States either
19 directly or via a foreign port;

20 “(3) establish standards and procedures for se-
21 curing cargo and monitoring that security while in
22 transit;

23 “(4) develop performance standards to enhance
24 the physical security of shipping containers, includ-
25 ing performance standards for seals and locks;

1 “(5) establish standards and procedures for allow-
2 ing the United States Government to ensure and vali-
3 date compliance with this program; and

4 “(6) incorporate any other measures the Secretary
5 considers necessary to ensure the security and integ-
6 rity of international intermodal transport movements.

7 “(c) *BENEFITS FROM PARTICIPATION.*—The Commis-
8 sioner of Customs and Border Protection may provide expe-
9 dited clearance of cargo to an entity that—

10 “(1) meets or exceeds the standards established
11 under subsection (b); and

12 “(2) certifies the security of its supply chain not
13 less often than once every 2 years to the Secretary.”.

14 **SEC. 510. PORT SECURITY USER FEE STUDY.**

15 *The Secretary of Homeland Security shall conduct a*
16 *study of the need for, and feasibility of, establishing a sys-*
17 *tem of oceanborne and port-related intermodal transpor-*
18 *tation user fees that could be imposed and collected as a*
19 *dedicated revenue source, on a temporary or continuing*
20 *basis, to provide necessary funding for the improvement*
21 *and maintenance of enhanced port security. Within 1 year*
22 *after date of enactment of this Act, the Secretary shall sub-*
23 *mit a report to the Senate Committee on Commerce,*
24 *Science, and Transportation, the House of Representatives*
25 *Committee on Transportation and Infrastructure, and the*

1 *House of Representatives Committee on Homeland Security*
2 *that—*

3 (1) *contains the Secretary’s findings, conclu-*
4 *sions, and recommendations (including legislative rec-*
5 *ommendations if appropriate); and*

6 (2) *includes an assessment of the annual amount*
7 *of customs fees and duties collected through ocean-*
8 *borne and port-related transportation and the amount*
9 *and percentage of such fees and duties that are dedi-*
10 *cated to improve and maintain security.*

11 **SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY**

12 **CARDS.**

13 *The Secretary shall issue a final rule under section*
14 *70105 of title 46, United States Code, no later than Janu-*
15 *ary 1, 2007.*

16 **SEC. 512. PORT SECURITY GRANTS.**

17 (a) **BASIS FOR GRANTS.**—*Section 70107(a) of title 46,*
18 *United States Code, is amended by striking “for making*
19 *a fair and equitable allocation of funds” and inserting*
20 *“based on risk and vulnerability”.*

21 (b) **ELIGIBLE COSTS.**—*Section 70107(b) of title 46,*
22 *United States Code, is amended by striking paragraph (1)*
23 *and redesignating paragraphs (2) through (4) as para-*
24 *graphs (1) through (3), respectively.*

1 (c) *LETTERS OF INTENT.*—Section 70107(e) of title 46,
2 *United States Code*, is amended by adding at the end the
3 *following*:

4 “(5) *LETTERS OF INTENT.*—The Secretary may
5 *execute letters of intent to commit funding to port*
6 *sponsors from the Fund.*”.

7 **SEC. 513. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**
8 **RORISM SECURITY VALIDATION PROGRAM.**

9 (a) *IN GENERAL.*—Chapter 701 of title 46, *United*
10 *States Code*, as amended by section 508 of this title, is fur-
11 *ther amended—*

12 (1) *by redesignating section 70122 (as redesign-*
13 *ated by section 508(a)(3) of this title) as section*
14 *70123; and*

15 (2) *by inserting after section 70121 the fol-*
16 *lowing:*

17 **“§ 70122. Customs-Trade Partnership Against Ter-**
18 **rorism validation program.**

19 “(a) *VALIDATION; RECORDS MANAGEMENT.*—The Sec-
20 *retary of Homeland Security, through the Commissioner of*
21 *Customs and Border Protection, shall issue regulations—*

22 “(1) *to strengthen the validation process to verify*
23 *that security programs of members of the Customs-*
24 *Trade Partnership Against Terrorism have been im-*
25 *plemented and that the program benefits should con-*

1 *tinue by providing appropriate guidance to special-*
2 *ists conducting such validations, including estab-*
3 *lishing what level of review is adequate to determine*
4 *whether member security practices are reliable, accu-*
5 *rate, and effective; and*

6 *“(2) to implement a records management system*
7 *that documents key decisions and significant oper-*
8 *ational events accurately and in a timely manner, in-*
9 *cluding a reliable system for—*

10 *“(A) documenting and maintaining records*
11 *of all decisions in the application through vali-*
12 *dation processes, including documentation of the*
13 *objectives, scope, methodologies, and limitations*
14 *of validations; and*

15 *“(B) tracking member status.*

16 *“(b) HUMAN CAPITAL PLAN.—Within 6 months after*
17 *the date of enactment of the Transportation Security Im-*
18 *provement Act of 2005, the Secretary shall complete a*
19 *human capital plan, that clearly describes how the Cus-*
20 *toms-Trade Partnership Against Terrorism program will*
21 *recruit, train, and retain sufficient staff to conduct the work*
22 *of the program successfully, including reviewing security*
23 *profiles, vetting, and conducting validations to mitigate*
24 *program risk.”.*

1 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 2 *authorized to be appropriated to the Secretary of Homeland*
 3 *Security to carry out section 70122 of title 49, United*
 4 *States Code, not to exceed—*

5 (1) *\$60,000,000 for fiscal year 2007;*

6 (2) *\$65,000,000 for fiscal year 2008; and*

7 (3) *\$72,000,000 for fiscal year 2009.*

8 (c) *CONFORMING AMENDMENTS.*—

9 (1) *The chapter analysis for chapter 701 of title*
 10 *46, United States Code, as amended by section 508(b)*
 11 *of this title, is further amended by striking the item*
 12 *relating to section 70122 and inserting the following:*

“70122. Customs-Trade Partnership Against Terrorism validation program.
“70123. Civil penalty.”.

13 (2) *Section 70117(a) and 70119(a) of title 46,*
 14 *United States Code, as amended by section 508(b)(2)*
 15 *and (3), respectively, of this Act, are each amended*
 16 *by striking “section 70122,” and inserting “section*
 17 *70123.”.*

18 **SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER**
 19 **DISPUTES.**

20 Section 70101(6) is amended by inserting after “area.”
 21 *the following: “In this paragraph, the term ‘economic dis-*
 22 *ruption’ does not include a work stoppage or other non-*
 23 *violent employee-related action resulting from an employee-*
 24 *employer dispute.”.*

1 **SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPOR-**
2 **TATION SECURITY CARD.**

3 *Section 70105(c)(3) of title 46, United States Code, is*
4 *amended by inserting “or a waiver under paragraph (2)”*
5 *after “card”.*

6 **SEC. 516. INSPECTION OF CAR FERRIES ENTERING FROM**
7 **CANADA.**

8 *Within 120 days after the date of enactment of this*
9 *Act, the Secretary of Homeland Security, acting through*
10 *the Commissioner of Customs and Border Protection, in co-*
11 *ordination with the Secretary of State, and their Canadian*
12 *counterparts, shall develop a plan for the inspection of pas-*
13 *sengers and vehicles before such passengers board, or such*
14 *vehicles are loaded onto, a ferry bound for a United States*
15 *port.*

Calendar No. 364

109TH CONGRESS
2^D SESSION

S. 1052

[Report No. 109-216]

A BILL

To improve transportation security, and for other purposes.

FEBRUARY 27, 2006

Reported with an amendment