

110TH CONGRESS
1ST SESSION

H. R. 1269

To improve the security of railroad, public transportation, and over-the-road bus systems in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2007

Mr. OBERSTAR (for himself, Ms. CORRINE BROWN of Florida, and Mr. DEFazio) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the security of railroad, public transportation, and over-the-road bus systems in the United States, and for other purposes.

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

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

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

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. National strategy for rail and public transportation security.

Sec. 4. Assignment of providers of covered transportation to risk-based tiers.
 Sec. 5. Rail and public transportation assessments and plans.
 Sec. 6. Strategic information sharing plan.
 Sec. 7. Rail security assistance.
 Sec. 8. Public transportation security assistance.
 Sec. 9. Over-the-road bus security assistance.
 Sec. 10. Fire and life safety improvements.
 Sec. 11. Security training program.
 Sec. 12. Security exercises.
 Sec. 13. Security research and development.
 Sec. 14. Whistleblower protections.
 Sec. 15. Increase in surface transportation security inspectors.
 Sec. 16. National domestic preparedness consortium.
 Sec. 17. TSA personnel limitations.
 Sec. 18. Penalties.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

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

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

15 (A) providers of covered transportation;

16 (B) organizations representing providers of
 17 covered transportation;

1 (C) nonprofit employee labor organizations
2 representing one or more of the following: rail-
3 road workers, public transportation workers,
4 and over-the-road bus workers;

5 (D) shippers of hazardous materials;

6 (E) manufacturers of rail and transit cars;

7 (F) State departments of transportation;

8 (G) public safety officials;

9 (H) law enforcement and fire service offi-
10 cials; and

11 (I) other relevant persons.

12 (3) COVERED TRANSPORTATION.—The term
13 “covered transportation” means transportation pro-
14 vided by a railroad carrier, public transportation,
15 and transportation provided by an over-the-road bus.

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

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

21 (6) PROVIDER OF COVERED TRANSPOR-
22 TATION.—The term “provider of covered transpor-
23 tation” means—

24 (A) with respect to transportation provided
25 by a railroad carrier, the railroad carrier;

1 (B) with respect to public transportation,
2 the designated recipient; and

3 (C) with respect to transportation provided
4 by an over-the-road bus, the private operator
5 providing the transportation.

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

9 (8) PUBLIC TRANSPORTATION.—The term
10 “public transportation” has the meaning that term
11 has in section 5302(a) of title 49, United States
12 Code.

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

16 (10) RAILROAD CARRIER.—The term “railroad
17 carrier” has the meaning that term has in section
18 20102 of title 49, United States Code.

19 (11) SECRETARY.—The term “Secretary”
20 means the Secretary of Homeland Security.

21 (12) STATE.—The term “State” means any one
22 of the 50 States, the District of Columbia, Puerto
23 Rico, the Northern Mariana Islands, the Virgin Is-
24 lands, Guam, and American Samoa.

1 (13) **TERRORISM.**—The term “terrorism” has
 2 the meaning that term has in section 2 of the Home-
 3 land Security Act of 2002 (6 U.S.C. 101).

4 (14) **TRANSPORTATION.**—The term “transporta-
 5 tion”, as used with respect to an over-the-road-
 6 bus, means the movement of passengers or property
 7 by the over-the-road-bus—

8 (A) in the jurisdiction of the United States
 9 between a place in a State and a place outside
 10 the State (including a place outside the United
 11 States); or

12 (B) in a State that affects trade, traffic,
 13 and transportation described in subparagraph
 14 (A).

15 (15) **UNITED STATES.**—The term “United
 16 States” means the 50 States, the District of Colum-
 17 bia, Puerto Rico, the Northern Mariana Islands, the
 18 Virgin Islands, Guam, American Samoa, and any
 19 other territory or possession of the United States.

20 **SEC. 3. NATIONAL STRATEGY FOR RAIL AND PUBLIC**
 21 **TRANSPORTATION SECURITY.**

22 Not later than 6 months after the date of enactment
 23 of this Act, the Secretary, in coordination with the Sec-
 24 retary of Transportation, shall develop and implement the
 25 modal plan for covered transportation as required by sec-

tion 114(t)(1)(B) of title 49, United States Code. The modal plan shall be entitled the “National Strategy for Rail and Public Transportation Security” and shall include, at a minimum—

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

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

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

(4) a process for expediting security clearances to facilitate intelligence and information sharing with the entities described in paragraph (1);

(5) a description of—

(A) how the Department and the Department of Transportation have reviewed terrorist attacks on covered transportation throughout the world in the last 25 years;

1 (B) the lessons learned from those reviews;
2 and

3 (C) how those lessons are being used in
4 current and future efforts to secure covered
5 transportation;

6 (6) a strategy and timeline for the Department,
7 the Department of Transportation, and other appro-
8 priate Federal agencies to research and develop new
9 technologies for securing covered transportation;

10 (7) measurable goals, including objectives,
11 mechanisms, and a schedule for enhancing the secu-
12 rity of covered transportation;

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

17 (9) a description of current and future public
18 outreach and educational initiatives designed to in-
19 form the public on how to prevent, prepare for, and
20 respond to a terrorist attack on covered transpor-
21 tation; and

22 (10) a process for coordinating covered trans-
23 portation security strategies and plans, including—

1 (A) the National Infrastructure Protection
 2 Plan required by Homeland Security Presi-
 3 dential Directive 7;

4 (B) the Executive Order entitled
 5 “Strengthening Surface Transportation Secu-
 6 rity”, dated December 5, 2006;

7 (C) the Memorandum of Understanding
 8 between the Department and the Department of
 9 Transportation on Roles and Responsibilities
 10 dated September 28, 2004;

11 (D) the annex to such memorandum of un-
 12 derstanding concerning railroad security dated
 13 September 28, 2006; and

14 (E) the annex executed under section
 15 3028(b) of the Safe, Accountable, Flexible, and
 16 Efficient Transportation Equity Act: A Legacy
 17 for Users (49 U.S.C. 5321 note; 119 Stat.
 18 1624).

19 **SEC. 4. ASSIGNMENT OF PROVIDERS OF COVERED TRANS-**
 20 **PORTATION TO RISK-BASED TIERS.**

21 (a) ASSIGNMENT.—The Secretary shall assign each
 22 provider of covered transportation to one of three risk-
 23 based tiers established by the Secretary.

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

1 shall provide, information necessary for the Secretary to
 2 assign a provider of covered transportation to the appro-
 3 priate tier under subsection (a).

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

9 (d) HIGH- AND MEDIUM-RISK TIERS.—At least 2 of
 10 the tiers established by the Secretary under this section
 11 shall be tiers designated for high- and medium-risk pro-
 12 viders of covered transportation.

13 **SEC. 5. RAIL AND PUBLIC TRANSPORTATION ASSESSMENTS**
 14 **AND PLANS.**

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

19 (1) require each provider of covered transpor-
 20 tation assigned to a high- or medium-risk tier under
 21 section 4—

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

24 (B) to prepare and implement a security
 25 plan in accordance with this section that ad-

1 dresses the vulnerabilities identified under sub-
2 section (c);

3 (2) establish standards, protocols, and proce-
4 dures for vulnerability assessments under subsection
5 (c) and security plans under subsection (d) and for
6 developing and implementing such security plans;
7 and

8 (3) implement a security program for providers
9 of covered transportation not assigned to a high- or
10 medium-risk tier under section 4, including a proc-
11 ess for such providers to conduct vulnerability as-
12 sessments and prepare and implement security
13 plans, as determined appropriate by the Secretary.

14 (b) DEADLINE FOR SUBMISSION.—Not later than 6
15 months after the date of issuance of the regulations under
16 subsection (a), the vulnerability assessments and security
17 plans required by such regulations or allowed by such reg-
18 ulations shall be completed and submitted to the Secretary
19 for review and approval.

20 (c) VULNERABILITY ASSESSMENTS.—

21 (1) REQUIREMENTS.—The Secretary, in coordi-
22 nation with the Secretary of Transportation, shall
23 provide technical assistance and guidance to pro-
24 viders of covered transportation in conducting vul-
25 nerability assessments under this section and shall

1 require that each vulnerability assessment of a pro-
2 vider of covered transportation assigned to a high-
3 or medium-risk tier under section 4 include, at a
4 minimum—

5 (A) identification and evaluation of critical
6 covered transportation assets and infrastruc-
7 tures of the provider, including platforms, sta-
8 tions, bus and intermodal terminals, tunnels,
9 bridges, switching and storage areas, and infor-
10 mation systems;

11 (B) identification of the threats to those
12 assets and infrastructures;

13 (C) identification of the security weak-
14 nesses of the covered transportation in—

15 (i) physical security;

16 (ii) passenger and cargo security;

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

21 (iv) alarms, cameras, and other pro-
22 tection systems;

23 (v) communications systems, including
24 dispatching services and mobile service
25 equipment systems, to provide access to

1 emergency services in underground fixed
2 guideway systems;

3 (vi) utilities;

4 (vii) emergency response planning;

5 (viii) employee training; and

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

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

14 (2) THREAT INFORMATION.—

15 (A) INCORPORATION.—A provider of cov-
16 ered transportation conducting a vulnerability
17 assessment under this section shall incorporate
18 in the assessment any threat information pro-
19 vided by the Secretary.

20 (B) PROVIDED BY SECRETARY.—The Sec-
21 retary shall provide, in a timely manner to the
22 maximum extent practicable under applicable
23 authority and in the interest of national secu-
24 rity, to the provider of the covered transpor-
25 tation threat information that is relevant to the

1 provider, including an assessment of the most
2 likely method that could be used by terrorists to
3 exploit weaknesses in the covered transportation
4 security and the likelihood of success by such
5 terrorists.

6 (d) SECURITY PLANS.—

7 (1) REQUIREMENTS.—The Secretary, in coordi-
8 nation with the Secretary of Transportation, shall
9 provide technical assistance and guidance to pro-
10 viders of covered transportation in preparing and
11 implementing security plans under this section and
12 shall require that each security plan of each provider
13 of covered transportation assigned to a high- or me-
14 dium-risk tier under section 4 include, at a min-
15 imum—

16 (A) identification of a security coordinator
17 having authority to implement security actions
18 under the plan to—

19 (i) coordinate security improvements
20 described in sections 7, 8, and 9; and

21 (ii) require immediate communications
22 from appropriate Federal officials regard-
23 ing covered transportation security;

1 (B) security measures to address the weak-
2 nesses of covered transportation identified
3 under subsection (c);

4 (C) plans for periodic exercises under sec-
5 tion 12 that include participation by local law
6 enforcement agencies and emergency responders
7 as appropriate;

8 (D) a list of needed capital and operational
9 covered transportation security improvements
10 described in sections 7, 8, and 9;

11 (E) procedures to be implemented or used
12 by the provider in response to a terrorist at-
13 tack, including evacuation and passenger com-
14 munication plans;

15 (F) identification of steps taken with State
16 and local law enforcement agencies, emergency
17 responders, and Federal officials to coordinate
18 security measures and plans for response to a
19 terrorist attack;

20 (G) a strategy and timeline for conducting
21 training under section 11, including recurrent
22 training and periodic unannounced exercises for
23 employees of the provider to be carried out
24 under the plan to prevent, prepare for, or re-
25 spond to a terrorist attack;

1 (H) enhanced security measures to be
2 taken by the provider when the Secretary de-
3 clares a period of heightened security risk;

4 (I) plans for redundant and backup sys-
5 tems required to ensure the continued operation
6 of critical covered transportation elements of
7 the provider in the event of a terrorist attack
8 or other incident;

9 (J) plans for locating, including by elec-
10 tronic devices, railroad cars transporting haz-
11 ardous materials so that, if the assets are lost
12 or stolen, the provider may locate, track, and
13 recover the assets; and

14 (K) such other actions or procedures as
15 the Secretary determines are appropriate to ad-
16 dress the covered transportation security of the
17 provider to a terrorist attack.

18 (2) CONSISTENCY WITH OTHER PLANS.—The
19 Secretary shall ensure that each security plan under
20 this section is consistent with the requirements of
21 the National Strategy for Rail and Public Transpor-
22 tation Security described in section 3.

23 (e) DEADLINE FOR REVIEW PROCESS.—Not later
24 than 12 months after the date of the issuance of the regu-
25 lations under subsection (a), the Secretary shall—

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

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

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

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

13 (f) INTERIM SECURITY MEASURES.—The Secretary
14 shall require, during the period before the deadline estab-
15 lished under subsection (b), each provider of covered
16 transportation to implement any necessary interim secu-
17 rity measures to deter, mitigate, and respond to, to the
18 maximum extent practicable, a transportation security in-
19 cident with respect to the provider of covered transpor-
20 tation or a substantive threat of such an incident until
21 the security plan of the provider is approved.

22 (g) NONDISCLOSURE OF INFORMATION.—

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of law, information developed under this
25 section is not required to be disclosed to the public.

1 Such information includes vulnerability assessments
2 and security plans of providers of covered transpor-
3 tation.

4 (2) OTHER OBLIGATIONS UNAFFECTED.—Noth-
5 ing in this section shall affect any obligation of a
6 provider of covered transportation to submit or
7 make available information to covered transportation
8 employees, nonprofit employee labor organizations,
9 or a Federal, State, or local government agency
10 under, or otherwise to comply with, any other law.

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

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

22 (h) PENALTIES.—

23 (1) ADMINISTRATIVE PENALTIES.—

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

1 \$75,000 for failure to comply with this section,
2 including regulations issued under subsection
3 (a).

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

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

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

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

20 (2) CIVIL PENALTIES.—

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

1 (a), or a security plan approved by the Sec-
2 retary under this section.

3 (B) RELIEF.—In any action under sub-
4 paragraph (A), a court may issue an order for
5 injunctive relief and may impose a civil penalty
6 of not more than \$50,000 for each day on
7 which a violation occurs or a failure to comply
8 continues.

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

15 (i) EXISTING PROCEDURES, PROTOCOLS AND STAND-
16 ARDS.—

17 (1) DETERMINATION.—In response to a peti-
18 tion by a provider of covered transportation or at
19 the discretion of the Secretary, the Secretary may
20 recognize existing procedures, protocols, and stand-
21 ards of a provider of covered transportation that the
22 Secretary determines to meet all or part of the re-
23 quirements of this section, including regulations
24 issued under subsection (a), regarding vulnerability
25 assessments and security plans.

1 (2) ELECTION.—Upon review and written de-
2 termination by the Secretary that existing proce-
3 dures, protocols, or standards of a provider of cov-
4 ered transportation satisfy all of the requirements of
5 this section, including regulations issued under sub-
6 section (a), the provider may elect to comply with
7 those procedures, protocols, or standards instead of
8 the requirements of this section.

9 (3) PARTIAL APPROVAL.—If the Secretary de-
10 termines that the existing procedures, protocols, or
11 standards of a provider of covered transportation
12 satisfy only part of the requirements of this section,
13 including regulations issued under subsection (a),
14 the Secretary may accept those submissions, but
15 shall require submission by the provider of any addi-
16 tional information relevant to vulnerability assess-
17 ments and security plans of the provider to ensure
18 that the remaining requirements of this section are
19 fulfilled.

20 (4) NOTIFICATION.—If the Secretary deter-
21 mines that particular existing procedures, protocols,
22 or standards of a provider of covered transportation
23 under this subsection do not satisfy the require-
24 ments of this section, including regulations issued
25 under subsection (a), the Secretary shall notify the

1 provider, in writing, of the determination and an ex-
2 planation of the reasons for the determination.

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

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

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

10 (j) PERIODIC REVIEW.—Not later than 3 years after
11 the date of approval of a vulnerability assessment and se-
12 curity plan of a provider of covered transportation under
13 this section, and not less often than every 5 years there-
14 after, the provider—

15 (1) shall review the adequacy of the vulner-
16 ability assessment and security plan; and

17 (2) shall submit for approval to the Secretary,
18 at such time and in such form as the Secretary may
19 require, the results of the review, including a de-
20 scription of any changes to the vulnerability assess-
21 ment or security plan, or both.

22 (k) SHARED FACILITIES.—The Secretary may permit
23 under this section the development and implementation of
24 coordinated vulnerability assessments and security plans
25 to the extent 2 or more providers of covered transportation

1 have shared facilities (such as tunnels, bridges, or sta-
2 tions, or facilities) that are geographically close or other-
3 wise co-located.

4 **SEC. 6. STRATEGIC INFORMATION SHARING PLAN.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of enactment of this Act, the Secretary shall develop
7 and submit to the appropriate congressional committees
8 a railroad, public transportation, and over-the-road bus
9 strategic information sharing plan to ensure the develop-
10 ment of both tactical and strategic intelligence products
11 pertaining to the threats and vulnerabilities to covered
12 transportation for dissemination to Federal, State, and
13 local agencies, tribal governments, and appropriate stake-
14 holders.

15 (b) CONTENT OF PLAN.—The plan submitted under
16 subsection (a) shall include—

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

22 (2) reasonable deadlines for the completion of
23 any organizational changes within the Department
24 to accommodate implementation of the plan; and

1 (3) a description of resource needs for fulfilling
2 the plan.

3 (c) UPDATES.—

4 (1) CERTIFICATION OF IMPLEMENTATION.—

5 After the plan is submitted under subsection (a), the
6 Secretary shall certify to the appropriate congressional
7 committees when the plan has been implemented.
8

9 (2) ANNUAL REPORTS.—After the Secretary
10 provides the certification under paragraph (1), the
11 Secretary shall provide a report to the appropriate
12 congressional committees each year thereafter on the
13 following:

14 (A) The number and brief description of
15 each railroad, public transportation, and over-
16 the-road bus intelligence report created and dis-
17 seminated under the plan.

18 (B) The classification of each report as
19 tactical or strategic.

20 (C) The numbers of different government,
21 law enforcement, and public or private sector
22 partners who were provided with each intel-
23 ligence product.

24 (d) ANNUAL SURVEYS.—The Secretary shall conduct
25 an annual survey of the satisfaction of each of the recipi-

1 ents of railroad, public transportation, and over-the-road
2 bus intelligence reports created and disseminated under
3 the plan and include the results of the survey as part of
4 the corresponding annual report provided under sub-
5 section (c)(2).

6 (e) SECURITY CLEARANCES.—The Department shall
7 ensure that the appropriate Federal, State, regional, local,
8 and tribal authorities, in addition to appropriate stake-
9 holders, have the security clearances needed to receive
10 classified covered transportation security information as
11 necessary if this information cannot be disseminated in an
12 unclassified format.

13 (f) CLASSIFICATION OF MATERIAL.—To the greatest
14 extent possible, the Department shall provide appropriate
15 stakeholders with information in an unclassified format.

16 **SEC. 7. RAIL SECURITY ASSISTANCE.**

17 (a) ESTABLISHMENT OF PROGRAM.—The Secretary,
18 in coordination with the Secretary of Transportation, shall
19 establish a program for the Secretary of Transportation
20 to make grants under this section.

21 (b) SECURITY ASSISTANCE.—The Secretary of
22 Transportation, in coordination with the Secretary, shall
23 make, in accordance with the priorities established under
24 subsection (e), grants to eligible railroad carriers for secu-
25 rity improvements described in subsection (c).

1 (c) USES OF FUNDS.—A recipient of a grant under
2 subsection (a) may use the grant funds for one or more
3 of the following:

4 (1) Perimeter protection systems, including ac-
5 cess control, installation of improved lighting, fenc-
6 ing, and barricades at railroad facilities.

7 (2) Technologies for reduction of rail car vul-
8 nerability.

9 (3) Security improvements to passenger rail-
10 road stations and other railroad transportation in-
11 frastructure.

12 (4) Tunnel protection systems.

13 (5) Evacuation improvements.

14 (6) Inspection technologies, including verified
15 visual inspection technologies using hand-held read-
16 ers and discs.

17 (7) Communications equipment, including
18 equipment that is interoperable with Federal, State,
19 and local agencies and tribal governments.

20 (8) Chemical, biological, radiological, or explo-
21 sive detection, including canine patrols for such de-
22 tection.

23 (9) Surveillance equipment.

24 (10) Cargo or passenger screening equipment.

1 (11) Emergency response equipment, including
2 fire suppression and decontamination equipment,
3 personal protective equipment, and defibrillators.

4 (12) Global positioning or electronic tracking
5 equipment.

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

8 (14) Public awareness campaigns for enhanced
9 railroad security.

10 (15) Security awareness, preparedness, and re-
11 sponse training for railroad employees, including
12 training under section 11.

13 (16) Live or simulated exercises described in
14 section 12.

15 (17) Overtime reimbursement for additional se-
16 curity personnel during significant national and
17 international public events.

18 (18) Such other security improvements as the
19 Secretary, in coordination with the Secretary of
20 Transportation, considers appropriate.

21 (d) ELIGIBILITY.—A railroad carrier is eligible for a
22 grant under this section if the carrier has developed a se-
23 curity plan that the Secretary has approved under section
24 5.

25 (e) SECURITY IMPROVEMENT PRIORITIES.—

1 (1) IN GENERAL.—The Secretary, in coordina-
2 tion with the Secretary of Transportation, shall es-
3 tablish security improvement priorities for each rail-
4 road carrier that conducts or updates a vulnerability
5 assessment under section 5.

6 (2) CONSULTATION; PRIORITIZED LIST.—The
7 Secretary shall establish priorities under paragraph
8 (1) for a railroad carrier—

9 (A) in consultation with the management
10 and employee representatives of the carrier; and

11 (B) in a manner that is consistent with the
12 carrier’s list of needed security improvements
13 described in section 5(d)(1).

14 (f) FEDERAL SHARE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3), a grant for a project under this
17 section shall be for 80 percent of the net cost of the
18 project.

19 (2) SMALL PROJECT EXCEPTION.—If a grant
20 under this section is for a project with a net cost of
21 \$25,000 or less, the Federal share for the grant
22 shall be for 100 percent of such cost.

23 (3) NATIONAL SECURITY EXCEPTION.—If the
24 Secretary determines, upon written notice to the ap-
25 propriate congressional committees, that a higher

1 Federal share for a grant under this section is nec-
2 essary to respond to an urgent threat to national se-
3 curity, the Secretary may increase the Federal share
4 for the grant to up to 100 percent of the net cost
5 of the project.

6 (g) SUBJECT TO CERTAIN STANDARDS.—The Sec-
7 retary and the Secretary of Transportation shall require
8 a recipient of a grant under this section and section 10
9 to comply with the standards of section 24312 of title 49,
10 United States Code, as in effect on January 1, 2007, with
11 respect to the grant in the same manner as the National
12 Railroad Passenger Corporation is required to comply with
13 such standards for construction work financed under an
14 agreement made under section 24308(a) of that title.

15 (h) LIMITATION ON USES OF FUNDS.—A grant made
16 under this section may not be used to—

17 (1) supplant State or local funds for activities
18 described in subsection (c); and

19 (2) make any State or local government cost-
20 sharing contribution under any other law.

21 (i) ANNUAL REPORTS.—Each recipient of a grant
22 under this section shall report annually to the Secretary
23 and the Secretary of Transportation on the use of grant
24 funds.

25 (j) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) SECURITY ASSISTANCE.—There is author-
2 ized to be appropriated to the Secretary
3 \$600,000,000 for each of fiscal years 2008 through
4 2011 to make grants under this section.

5 (2) TRANSFER OF FUNDS.—Not later than 5
6 days after the date on which funds are appropriated
7 to carry out this section for a fiscal year, the Sec-
8 retary shall transfer such funds to the Secretary of
9 Transportation to make grants under this section.

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

13 **SEC. 8. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.**

14 (a) ESTABLISHMENT OF PROGRAM.—The Secretary,
15 in coordination with the Secretary of Transportation, shall
16 establish a program for the Secretary of Transportation
17 to make grants under this section.

18 (b) SECURITY ASSISTANCE.—The Secretary of
19 Transportation, in coordination with the Secretary, shall
20 make, in accordance with the priorities established under
21 subsection (e), grants to eligible designated recipients for
22 security improvements described in subsection (c).

23 (c) USES OF FUNDS.—A recipient of a grant under
24 subsection (a) may use the grant funds for one or more
25 of the following:

1 (1) Perimeter protection systems, including ac-
2 cess control, installation improved lighting, fencing,
3 and barricades.

4 (2) Security improvements to stations and other
5 public transportation infrastructure.

6 (3) Tunnel protection systems.

7 (4) Evacuation improvements.

8 (5) Inspection technologies, including verified
9 visual inspection technologies using hand-held read-
10 ers and discs.

11 (6) Communications equipment, including mo-
12 bile service equipment to provide access to emer-
13 gency services in an underground fixed guideway
14 system.

15 (7) Chemical, biological, radiological, or explo-
16 sive detection, including canine patrols for such de-
17 tection.

18 (8) Surveillance equipment.

19 (9) Emergency response equipment, including
20 fire suppression and decontamination equipment,
21 personal protective equipment, and defibrillators.

22 (10) Global positioning or electronic tracking
23 equipment.

24 (11) Redundant critical operations control sys-
25 tems.

1 (12) Public awareness campaigns for enhanced
2 public transportation security.

3 (13) Security awareness, preparedness, and re-
4 sponse training for public transportation employees,
5 including training under section 11.

6 (14) Live or simulated exercises described in
7 section 12.

8 (15) Overtime reimbursement for additional se-
9 curity personnel during significant national and
10 international public events.

11 (16) Such other security improvements as the
12 Secretary, in coordination with the Secretary of
13 Transportation, considers appropriate.

14 (d) ELIGIBILITY.—A designated recipient is eligible
15 for a grant under this section if the designated recipient
16 has developed a security plan that the Secretary has ap-
17 proved under section 5.

18 (e) SECURITY IMPROVEMENT PRIORITIES.—

19 (1) IN GENERAL.—The Secretary, in coordina-
20 tion with the Secretary of Transportation, shall es-
21 tablish security improvement priorities for each des-
22 ignated recipient that conducts or updates a vulner-
23 ability assessment described in section 5.

1 (2) CONSULTATION; PRIORITIZED PLAN.—The
2 Secretary shall establish priorities under paragraph
3 (1) for a designated recipient—

4 (A) in consultation with the management
5 and employee representatives of the designated
6 recipient; and

7 (B) in a manner that is consistent with the
8 list of needed security improvements described
9 in section 5(d)(1).

10 (f) FEDERAL SHARE.—

11 (1) IN GENERAL.—Except as provided in para-
12 graphs (2) and (3), a grant for a project under this
13 section shall be for 80 percent of the net cost of the
14 project.

15 (2) SMALL PROJECT EXCEPTION.—If a grant
16 under this section is for a project with a net cost of
17 \$25,000 or less, the Federal share for the grant
18 shall be for 100 percent of such cost.

19 (3) NATIONAL SECURITY EXCEPTION.—If the
20 Secretary determines, upon written notice to the ap-
21 propriate congressional committees, that a higher
22 Federal share for a grant under this section is nec-
23 essary to respond to an urgent threat to national se-
24 curity, the Secretary may increase the Federal share

1 for the grant to up to 100 percent of the net cost
2 of the project.

3 (g) SUBJECT TO CERTAIN TERMS AND CONDI-
4 TIONS.—Except as otherwise specifically provided in this
5 section, a grant provided under this section shall be sub-
6 ject to the terms and conditions applicable to a grant
7 made under section 5307 of title 49, United States Code,
8 and such other terms and conditions as are determined
9 necessary by the Secretary or the Secretary of Transpor-
10 tation.

11 (h) LIMITATION ON USES OF FUNDS.—Grants made
12 under this section may not be used to—

13 (1) supplant State or local funds for activities
14 described in subsection (c); and

15 (2) make any State or local government cost-
16 sharing contribution under any other law.

17 (i) ANNUAL REPORTS.—Each recipient of a grant
18 under this section shall report annually to the Secretary
19 and the Secretary of Transportation on the use of the
20 grant funds.

21 (j) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) SECURITY ASSISTANCE.—There are author-
23 ized to be appropriated to the Secretary to make
24 grants under this section—

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

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

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

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

4 (2) TRANSFER OF FUNDS.—Not later than 5
5 days after the date on which funds are appropriated
6 to carry out this section for a fiscal year, the Sec-
7 retary shall transfer such funds to the Secretary of
8 Transportation to make grants under this section.

9 (3) PERIOD OF AVAILABILITY.—Sums appro-
10 priated to carry out this section shall remain avail-
11 able until expended.

12 **SEC. 9. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

13 (a) ESTABLISHMENT OF PROGRAM.—The Secretary,
14 in coordination with the Secretary of Transportation, shall
15 establish a program for the Secretary of Transportation
16 to make grants under this section.

17 (b) SECURITY ASSISTANCE.—The Secretary of
18 Transportation, in coordination with the Secretary, shall
19 make, in accordance with the priorities established under
20 subsection (e), grants to eligible private operators pro-
21 viding transportation by over-the-road bus for security im-
22 provements described in subsection (c).

23 (c) USES OF FUNDS.—A recipient of a grant received
24 under subsection (a) may use the grant funds for one or
25 more of the following:

1 (1) Constructing and modifying terminals, ga-
2 rages, facilities, or over-the-road buses to assure
3 their security.

4 (2) Protecting or isolating the driver of an over-
5 the-road bus.

6 (3) Acquiring, upgrading, installing, or oper-
7 ating equipment, software, or accessorial services for
8 collection, storage, or exchange of passenger and
9 driver information through ticketing systems or oth-
10 erwise and for information links with government
11 agencies.

12 (4) Installing cameras and video surveillance
13 equipment on over-the-road buses and at terminals,
14 garages, and over-the-road bus facilities.

15 (5) Establishing and improving an emergency
16 communications system linking drivers and over-the-
17 road buses to the recipient's operations center or
18 linking the operations center to law enforcement and
19 emergency personnel.

20 (6) Implementing and operating passenger
21 screening programs for weapons and explosives.

22 (7) Chemical, biological, radiological, or explo-
23 sives detection, including canine patrols for such de-
24 tection.

1 (8) Public awareness campaigns for enhanced
2 over-the-road bus security.

3 (9) Security awareness, preparedness, and re-
4 sponse training for over-the-road bus employees, in-
5 cluding training under section 11.

6 (10) Live or simulated exercises described in
7 section 12.

8 (11) Overtime reimbursement for additional se-
9 curity personnel during significant national and
10 international public events.

11 (12) Such other security improvements as the
12 Secretary, in coordination with the Secretary of
13 Transportation, considers appropriate.

14 (d) ELIGIBILITY.—A private operator providing
15 transportation by an over-the-road bus is eligible for a
16 grant under this section if the operator has developed a
17 security plan that the Secretary has approved under sec-
18 tion 5.

19 (e) SECURITY IMPROVEMENT PRIORITIES.—

20 (1) IN GENERAL.—The Secretary, in coordina-
21 tion with the Secretary of Transportation, shall es-
22 tablish security improvement priorities for each pri-
23 vate operator providing transportation by an over-
24 the-road bus that conducts or updates a vulner-
25 ability assessment under section 5.

1 (2) CONSULTATION.—In carrying out this sub-
2 section, the Secretary and the Secretary of Trans-
3 portation shall consult with over-the-road bus man-
4 agement and labor representatives, public safety and
5 law enforcement officials, and the National Academy
6 of Sciences.

7 (f) FEDERAL SHARE.—

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

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

16 (3) NATIONAL SECURITY EXCEPTION.—If the
17 Secretary determines, upon written notice to the ap-
18 propriate congressional committees, that a higher
19 Federal share for a grant under this section is nec-
20 essary to respond to an urgent threat to national se-
21 curity, the Secretary may increase the Federal share
22 for the grant to up to 100 percent of the net cost
23 of the project.

24 (g) TERMS AND CONDITIONS.—Except as otherwise
25 specifically provided in this section, a grant made under

1 this section shall be subject to the terms and conditions
2 applicable to subrecipients who provide intercity bus trans-
3 portation under section 5311(f) of title 49, United States
4 Code, and such other terms and conditions as are deter-
5 mined necessary by the Secretary or the Secretary of
6 Transportation.

7 (h) LIMITATION ON USES OF FUNDS.—A grant made
8 under this section may not be used to—

9 (1) supplant State or local funds for activities
10 described in subsection (c); and

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

13 (i) ANNUAL REPORTS.—Each recipient of a grant
14 under this section shall report annually to the Secretary
15 and the Secretary of Transportation on the use of such
16 grant funds.

17 (j) AUTHORIZATION.—

18 (1) IN GENERAL.—There is authorized to be
19 appropriated to the Secretary make grants under
20 this section—

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

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

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

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

1 (2) TRANSFER OF FUNDS.—Not later than 5
 2 days after the date on which funds are appropriated
 3 to carry out this section for a fiscal year, the Sec-
 4 retary shall transfer such funds to the Secretary of
 5 Transportation to make grants under this section.

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

9 **SEC. 10. FIRE AND LIFE SAFETY IMPROVEMENTS.**

10 (a) AUTHORIZATION OF APPROPRIATIONS.—There
 11 are authorized to be appropriated to the Secretary of
 12 Transportation for making grants to the National Rail-
 13 road Passenger Corporation (in this section referred to as
 14 “Amtrak”) for the purpose of carrying out projects to
 15 make fire and life safety improvements to Amtrak tunnels
 16 on the Northeast Corridor the following amounts:

17 (1) For the 6 tunnels in New York City, New
 18 York, to provide ventilation, electrical, and fire safe-
 19 ty technology improvements, emergency communica-
 20 tion and lighting systems, and emergency access and
 21 egress for passengers—

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

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

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

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

1 (2) For the Baltimore & Potomac Tunnel and
2 the Union Tunnel in Baltimore, Maryland, to pro-
3 vide adequate drainage and ventilation, communica-
4 tion, lighting, and passenger egress improvements—

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

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

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

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

9 (3) For the Union Station tunnels in the Dis-
10 trict of Columbia to provide ventilation, communica-
11 tion, lighting, and passenger egress improvements—

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

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

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

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

16 (b) AVAILABILITY OF AMOUNTS.—Amounts appro-
17 priated pursuant to this section shall remain available
18 until expended.

19 **SEC. 11. SECURITY TRAINING PROGRAM.**

20 (a) IN GENERAL.—Not later than 90 days after the
21 date of enactment of this Act, the Secretary, in coordina-
22 tion with the Secretary of Transportation, shall—

23 (1) develop a security training program to pre-
24 pare railroad, public transportation, and over-the-
25 road bus workers for potential threat conditions; and

1 (2) issue detailed guidance for the program.

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

4 (1) appropriate law enforcement, fire service,
5 security, and terrorism experts;

6 (2) representatives of providers of covered
7 transportation; and

8 (3) nonprofit employee labor organizations rep-
9 resenting one or more of the following: railroad
10 workers, public transportation workers, and over-
11 the-road bus workers.

12 (c) PROGRAM ELEMENTS.—The guidance developed
13 under subsection (a)(2) shall require security training pro-
14 grams described in subsection (a) to include, at a min-
15 imum, elements to address the following:

16 (1) Determination of the seriousness of any oc-
17 currence or threat.

18 (2) Crew and passenger communication and co-
19 ordination.

20 (3) Appropriate responses to defend oneself, in-
21 cluding using nonlethal self-defense devices.

22 (4) Use of protective devices.

23 (5) Evacuation procedures for passengers and
24 workers, including individuals with disabilities.

1 (6) Live situational training exercises regarding
2 various threat conditions, including tunnel evacu-
3 ation procedures.

4 (7) Recognition and reporting of dangerous
5 substances and suspicious packages, persons, and
6 situations.

7 (8) Understanding security incident procedures,
8 including procedures for communicating with gov-
9 ernmental and nongovernmental emergency response
10 providers.

11 (9) Operation and maintenance of security
12 equipment and systems.

13 (10) Any other subject the Secretary considers
14 appropriate.

15 (d) REQUIRED PROGRAMS.—

16 (1) DEVELOPMENT AND SUBMISSION TO SEC-
17 RETARY.—Not later than 60 days after the Sec-
18 retary issues guidance under subsection (a)(2) in
19 final form, each provider of covered transportation
20 shall develop a security training program in accord-
21 ance with the guidance and submit the program to
22 the Secretary for approval.

23 (2) APPROVAL.—Not later than 60 days after
24 receiving a security training program under this sub-
25 section, the Secretary shall approve the program or

1 require the provider of covered transportation that
2 developed the program to make any revisions to the
3 program that the Secretary considers necessary for
4 the program to meet the guidance requirements.

5 (3) TRAINING.—Not later than 1 year after the
6 Secretary approves a security training program
7 under this subsection, the provider of covered trans-
8 portation that developed the program shall complete
9 the training of all workers covered under the pro-
10 gram.

11 (4) UPDATES.—The Secretary shall update the
12 training guidance issued under subsection (a)(2)
13 from time to time to reflect new or different security
14 threats and require providers of covered transpor-
15 tation to revise their programs accordingly and pro-
16 vide additional training to their workers.

17 **SEC. 12. SECURITY EXERCISES.**

18 (a) IN GENERAL.—The Secretary shall establish a
19 program for conducting security exercises for covered
20 transportation for the purpose of testing and evaluating
21 the capabilities of entities described in subsection (b) to
22 prevent, prepare for, mitigate against, respond to, and re-
23 cover from acts of terrorism involving covered transpor-
24 tation.

1 (b) COVERED ENTITIES.—Entities to be tested and
2 evaluated under the program shall include—

3 (1) Federal, State, and local agencies and tribal
4 governments;

5 (2) employees and managers of providers of
6 covered transportation;

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

10 (4) any other organization or entity that the
11 Secretary determines appropriate.

12 (c) REQUIREMENTS.—The Secretary shall ensure
13 that the program—

14 (1) consolidates all existing security exercises
15 for covered transportation administered by the De-
16 partment;

17 (2) requires, on a periodic basis at the facilities
18 of a provider of covered transportation, exercises to
19 be conducted that are—

20 (A) scaled and tailored to the needs of the
21 facilities;

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

1 (C) as realistic as practicable and based on
2 current risk assessments, including credible
3 threats, vulnerabilities, and consequences; and

4 (D) consistent with the National Incident
5 Management System, the National Response
6 Plan, the National Infrastructure Protection
7 Plan, the National Preparedness Guidance, the
8 National Preparedness Goal, and other such na-
9 tional initiatives;

10 (3) provides that exercises described in para-
11 graph (2) will be—

12 (A) evaluated against clear and consistent
13 performance measures;

14 (B) assessed to learn best practices, which
15 shall be shared with appropriate Federal, State,
16 local, and tribal officials, governmental and
17 nongovernmental emergency response providers,
18 law enforcement personnel, including railroad
19 and transit police, and appropriate stake-
20 holders; and

21 (C) followed by remedial action in response
22 to lessons learned; and

23 (4) assists State and local governments and
24 providers of covered transportation in designing, im-

1 plementing, and evaluating exercises that conform to
2 the requirements of paragraph (2).

3 (d) REMEDIAL ACTION MANAGEMENT PROGRAM.—

4 The Secretary shall utilize the remedial action manage-
5 ment program of the Federal Emergency Management
6 Agency to—

7 (1) identify and analyze each exercise conducted
8 under the program for lessons learned and best
9 practices;

10 (2) disseminate lessons learned and best prac-
11 tices to participants in the program;

12 (3) monitor the implementation of lessons
13 learned and best practices by participants in the
14 program; and

15 (4) conduct remedial action tracking and long-
16 term trend analysis.

17 **SEC. 13. SECURITY RESEARCH AND DEVELOPMENT.**

18 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
19 MENT PROGRAM.—The Secretary shall carry out a re-
20 search and development program for the purpose of im-
21 proving the security of covered transportation.

22 (b) ELIGIBLE PROJECTS.—The research and develop-
23 ment program may include projects—

24 (1) to reduce the vulnerability of passenger
25 trains, stations, and equipment to explosives and

1 hazardous chemical, biological, and radioactive sub-
2 stances;

3 (2) to test new emergency response and recov-
4 ery techniques and technologies;

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

7 (A) technologies for sealing and modifying
8 rail tank cars;

9 (B) automatic inspection of railroad cars;

10 (C) communication-based train controls;

11 (D) signal system integrity at switches;

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

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

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

19 (4) to test wayside detectors that can detect
20 tampering with railroad equipment;

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

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

1 (7) to address other vulnerabilities and risks
2 identified by the Secretary.

3 (c) COORDINATION WITH OTHER RESEARCH INITIA-
4 TIVES.—The Secretary shall—

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

9 (2) to the greatest extent practicable, coordi-
10 nate the research and development activities of the
11 Department with other ongoing research and devel-
12 opment security related initiatives, including re-
13 search being conducted by—

14 (A) the National Academy of Sciences;

15 (B) the Department of Transportation, in-
16 cluding university transportation centers and
17 other institutes, centers, and simulators funded
18 by the Department of Transportation;

19 (C) the Technical Support Working Group;

20 (D) other Federal departments and agen-
21 cies; and

22 (E) other Federal and private research lab-
23 oratories and research entities with the capa-
24 bility to conduct both practical and theoretical
25 research and technical systems analysis.

1 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
2 RTIES ISSUES.—

3 (1) CONSULTATION.—In carrying out research
4 and development projects under this section, the
5 Secretary shall consult with the Chief Privacy Offi-
6 cer of the Department and the Officer for Civil
7 Rights and Civil Liberties of the Department as ap-
8 propriate.

9 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
10 cordance with sections 222 and 705 of the Home-
11 land Security Act of 2002 (6 U.S.C. 142; 345), the
12 Chief Privacy Officer shall conduct privacy impact
13 assessments and the Officer for Civil Rights and
14 Civil Liberties shall conduct reviews, as appropriate,
15 for research and development initiatives developed
16 under this section.

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

- 20 (1) \$50,000,000 for fiscal year 2008;
21 (2) \$50,000,000 for fiscal year 2009
22 (3) \$50,000,000 for fiscal year 2010; and
23 (4) \$50,000,000 for fiscal year 2011.

24 Such sums shall remain available until expended.

1 **SEC. 14. WHISTLEBLOWER PROTECTIONS.**

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

11 (1) to provide information, cause information to
12 be provided, or otherwise assist in an investigation
13 regarding any conduct which the covered individual
14 reasonably believes constitutes a violation of any
15 law, rule, or regulation relating to national or home-
16 land security, which the covered individual reason-
17 ably believes constitutes a threat to national or
18 homeland security, or which the covered individual
19 reasonably believes constitutes fraud, waste, or mis-
20 management of Government funds intended to be
21 used for national or homeland security, if the infor-
22 mation or assistance is provided to or the investiga-
23 tion is conducted by—

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

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

3 (B) any Member of Congress, any com-
4 mittee of Congress, or the Government Ac-
5 countability Office; or

6 (C) a person with supervisory authority
7 over the covered individual (or such other per-
8 son who has the authority to investigate, dis-
9 cover, or terminate misconduct);

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

15 (3) to refuse to violate or assist in the violation
16 of any law, rule, or regulation relating to national or
17 homeland security.

18 (b) ENFORCEMENT ACTION.—

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

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

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

10 (2) PROCEDURE.—

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

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

19 (C) BURDENS OF PROOF.—An action
20 brought under paragraph (1)(B) shall be gov-
21 erned by the legal burdens of proof set forth in
22 section 42121(b) of title 49, United States
23 Code.

24 (D) STATUTE OF LIMITATIONS.—An action
25 under paragraph (1) shall be commenced not

1 later than 1 year after the date on which the
2 violation occurs.

3 (c) REMEDIES.—

4 (1) IN GENERAL.—A covered individual pre-
5 vailing in any action under subsection (b)(1) shall be
6 entitled to all relief necessary to make the covered
7 individual whole.

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

10 (A) reinstatement with the same seniority
11 status that the covered individual would have
12 had, but for the discrimination;

13 (B) the amount of any backpay, with inter-
14 est;

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

19 (D) punitive damages in an amount not to
20 exceed the greater of 3 times the amount of any
21 compensatory damages awarded under this sec-
22 tion or \$5,000,000.

23 (d) STATE SECRETS PRIVILEGE.—If, in any action
24 brought under subsection (b)(1)(B), the Government as-
25 serts as a defense the privilege commonly referred to as

1 the “state secrets privilege” and the assertion of such
2 privilege prevents the plaintiff from establishing a prima
3 facie case in support of the plaintiff’s claim, the court shall
4 enter judgment for the plaintiff and shall determine the
5 relief to be granted.

6 (e) CRIMINAL PENALTIES.—

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

13 (2) REPORTING REQUIREMENT.—

14 (A) IN GENERAL.—The Attorney General
15 shall submit to the appropriate congressional
16 committees an annual report on the enforce-
17 ment of paragraph (1).

18 (B) CONTENTS.—Each such report shall—

19 (i) identify each case in which formal
20 charges under paragraph (1) were brought;

21 (ii) describe the status or disposition
22 of each such case; and

23 (iii) in any actions under subsection
24 (b)(1)(B) in which the covered individual
25 was the prevailing party or the substan-

1 tially prevailing party, indicate whether or
 2 not any formal charges under paragraph
 3 (1) have been brought and, if not, the rea-
 4 sons therefor.

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

12 (g) DEFINITIONS.—In this section, the following defi-
 13 nitions apply:

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

16 (A) the Department;

17 (B) the Department of Transportation;

18 (C) a contractor or subcontractor; and

19 (D) an employer within the meaning of
 20 section 701(b) of the Civil Rights Act of 1964
 21 (42 U.S.C. 2000e(b)) and who is a provider of
 22 covered transportation.

23 (2) LAWFUL.—The term “lawful” means not
 24 specifically prohibited by law, except that, in the
 25 case of any information the disclosure of which is

1 specifically prohibited by law or specifically required
2 by Executive order to be kept secret in the interest
3 of national defense or the conduct of foreign affairs,
4 any disclosure of such information to any Member of
5 Congress, committee of Congress, or other recipient
6 authorized to receive such information, shall be
7 deemed lawful.

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

12 (4) EMPLOYEE.—The term “employee”
13 means—

14 (A) with respect to an employer referred to
15 in paragraph (1)(A) or (1)(B), an employee as
16 defined by section 2105 of title 5, United States
17 Code; and

18 (B) with respect to an employer referred to
19 in paragraph (1)(A) or (1)(B), any officer,
20 partner, employee, or agent.

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

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

1 any kind under a contract with the Depart-
 2 ment, the Department of Transportation, or a
 3 provider of covered transportation; and

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

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

11 **SEC. 15. INCREASE IN SURFACE TRANSPORTATION SECU-**
 12 **RITY INSPECTORS.**

13 (a) IN GENERAL.—The Secretary shall increase the
 14 total number of positions for full-time surface transpor-
 15 tation security inspectors of the Department so that by
 16 December 31, 2010, the total number of such positions
 17 is at least 500.

18 (b) QUALIFICATIONS.—Surface transportation secu-
 19 rity inspectors hired by the Secretary shall have at least
 20 5 years experience in transportation security.

21 (c) ROLES AND RESPONSIBILITIES.—The Secretary,
 22 in coordination with the Secretary of Transportation, shall
 23 develop a standard operating procedure clearly defining
 24 the relationship between—

1 (1) surface transportation security inspectors of
2 the Department;

3 (2) safety and security inspectors of the De-
4 partment of Transportation;

5 (3) State and local law enforcement officers;
6 and

7 (4) other law enforcement personnel, including
8 railroad and transit police.

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

13 **SEC. 16. NATIONAL DOMESTIC PREPAREDNESS CONSOR-**
14 **TIUM.**

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

18 (b) MEMBERS.—The National Domestic Prepared-
19 ness Consortium that identifies, develops, tests, and deliv-
20 ers training to State, local, and tribal emergency response
21 providers, provides onsite and mobile training at the per-
22 formance and management and planning levels, and facili-
23 tates the delivery of awareness level training by the train-
24 ing partners of the Department shall consist of—

25 (1) the Center for Domestic Preparedness;

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

4 (3) the National Center for Biomedical Re-
5 search and Training, Louisiana State University;

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

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

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

12 **SEC. 17. TSA PERSONNEL LIMITATIONS.**

13 Any statutory limitation on the number of employees
14 in the Transportation Security Administration does not
15 apply to employees carrying out this Act.

16 **SEC. 18. PENALTIES.**

17 (a) REGULATIONS AND ORDERS OF THE SECRETARY
18 OF HOMELAND SECURITY UNDER TITLE 49, UNITED
19 STATES CODE.—Section 114 of title 49, United States
20 Code, is amended by adding at the end the following:

21 “(u) CIVIL PENALTIES AND ENFORCEMENT OF REG-
22 ULATIONS AND ORDERS OF THE SECRETARY OF HOME-
23 LAND SECURITY.—

24 “(1) APPLICATION.—This subsection applies to
25 the enforcement of regulations prescribed, and or-

1 ders issued, by the Secretary of Homeland Security
2 under a provision of chapter 701 of title 46 and this
3 title (other than chapter 449) (in this subsection re-
4 ferred to as an ‘applicable provision of this title’).
5 Penalties for violation of regulations prescribed, and
6 orders issued, by the Secretary of Homeland Secu-
7 rity under a provision of chapter 449 are provided
8 under chapter 463.

9 “(2) GENERAL CIVIL PENALTIES.—

10 “(A) MAXIMUM CIVIL PENALTIES.—A per-
11 son is liable to the United States Government
12 for a civil penalty of not more than \$10,000 for
13 a violation of a regulation prescribed, or order
14 issued, by the Secretary of Homeland Security
15 under an applicable provision of this title.

16 “(B) SEPARATE VIOLATIONS.—A separate
17 violation occurs under this paragraph for each
18 day the violation continues.

19 “(3) ADMINISTRATIVE IMPOSITION OF CIVIL
20 PENALTIES.—

21 “(A) IN GENERAL.—The Secretary of
22 Homeland Security may impose a civil penalty
23 for a violation of a regulation prescribed, or
24 order issued, under an applicable provision of
25 this title. The Secretary shall give written no-

1 tice of the finding of a violation and the pen-
2 alty.

3 “(B) CIVIL ACTIONS TO COLLECT PEN-
4 ALTIES.—In a civil action to collect a civil pen-
5 alty imposed by the Secretary under this para-
6 graph, the issues of liability and the amount of
7 the penalty may not be reexamined.

8 “(C) EXCLUSIVE JURISDICTION OF DIS-
9 TRICT COURTS.—Notwithstanding subpara-
10 graph (A) of this paragraph, the district courts
11 of the United States have exclusive jurisdiction
12 of a civil action involving a penalty that the
13 Secretary initiates if—

14 “(i) the amount in controversy is
15 more than—

16 “(I) \$400,000 if the violation
17 was committed by a person other than
18 an individual or small business con-
19 cern; or

20 “(II) \$50,000 if the violation was
21 committed by an individual or small
22 business concern;

23 “(ii) the action is in rem or another
24 action in rem based on the same violation
25 has been brought; or

1 “(iii) another action has been brought
2 for an injunction based on the same viola-
3 tion.

4 “(D) MAXIMUM CIVIL PENALTIES IMPOSED
5 BY THE SECRETARY.—The maximum civil pen-
6 alty the Secretary may impose under this para-
7 graph is—

8 “(i) \$400,000 if the violation was
9 committed by a person other than an indi-
10 vidual or small business concern; or

11 “(ii) \$50,000 if the violation was com-
12 mitted by an individual or small business
13 concern.

14 “(E) NOTICE AND OPPORTUNITY FOR
15 HEARING.—Before imposing a penalty under
16 this section the Secretary shall provide to the
17 person against whom the penalty is to be im-
18 posed—

19 “(i) written notice of the proposed
20 penalty; and

21 “(ii) the opportunity to request, not
22 later than 30 days after the date on which
23 the person receives the notice, a hearing on
24 the proposed penalty.

25 “(4) COMPROMISE AND SETOFF.—

1 “(A) COMPROMISE.—The Secretary may
2 compromise the amount of a civil penalty im-
3 posed under this subsection.

4 “(B) SETOFF.—The Government may de-
5 duct the amount of a civil penalty imposed or
6 compromised under this subsection from
7 amounts it owes the person liable for the pen-
8 alty.

9 “(5) INVESTIGATIONS AND PROCEEDINGS.—The
10 provisions set forth in chapter 461 shall be applica-
11 ble to investigations and proceedings brought under
12 this subsection to the same extent that they are ap-
13 plicable to investigations and proceedings brought
14 with respect to aviation security duties designated to
15 be carried out by the Secretary.

16 “(6) NONAPPLICATION.—

17 “(A) PERSONS SUBJECT TO PENALTIES
18 DETERMINED BY THE SECRETARY OF DE-
19 FENSE.—Paragraphs (1) through (4) of this
20 subsection do not apply to the following per-
21 sons, who shall be subject to penalties as deter-
22 mined by the Secretary of Defense or the Sec-
23 retary’s designee:

24 “(i) The transportation of personnel
25 or shipments of materials by contractors

1 where the Department of Defense has as-
 2 sumed control and responsibility.

3 “(ii) A member of the Armed Forces
 4 of the United States when performing offi-
 5 cial duties.

6 “(iii) A civilian employee of the De-
 7 partment of Defense when performing offi-
 8 cial duties.

9 “(B) POSTAL SERVICE; DEPARTMENT OF
 10 DEFENSE.—In this subsection, the term ‘per-
 11 son’ does not include—

12 “(i) the United States Postal Service;
 13 or

14 “(ii) the Department of Defense.

15 “(7) SMALL BUSINESS CONCERN DEFINED.—In
 16 this subsection, the term ‘small business concern’
 17 has the meaning given that term in section 3 of the
 18 Small Business Act (15 U.S.C. 632).”.

19 (b) CONFORMING AMENDMENT.—Section
 20 46301(a)(4) of title 49, United States Code, is amended
 21 by striking “or another requirement under this title ad-
 22 ministered by the Under Secretary of Transportation for
 23 Security”.

○